

LAND ADMINISTRATION MANUAL

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PUNJAB LAND ADMINISTRATION MANUAL
CHAPTER I
INTRODUCTORY

1. Land revenue not a tax, but rent payable to the State. In the first edition of this work it was contended that the land revenue was a rent and not a land tax, and this view has been retained in the opening paragraphs of the fourth edition of the Settlement Manual. This is not the place to embark upon a summary of the prolonged controversy on the subject; the question was examined with care

by the Indian Taxation Enquiry Committee of 1926, which was found itself unable to arrive at any agreed finding. As that committee pointed (*See paragraph 53 of this Manual*) out “according to the description given by Manual of the fiscal administration of an ancient Hindu State, The main source of the State revenue was a share of the gross produce of all land, varying according to the soil and the labour necessary to cultivate it. In normal times the share varied between one twelfth and one-sixth, but was liable to rise even to one-fourth in times of war or other public calamity. The revenue was collected not from individual cultivators but from the community represented by the headman.... In the early days of Muhammadan administration, the State share of the gross produce demanded by the Hindu kings was converted into the khiraj or tribute payable on land in countries under Muhammadan rule though the share taken was greater than before.” The committee found that the land revenue has ceased to represent a portion of gross produce.... That in the Punjabthe Government demand is theoretically based on an economic rent, but actually takes many other factors into consideration...Under both Hindu and Muhammadan rule, the State never claimed the absolute or exclusive ownership of the land and definitely recognized the existence of private property in it.”(*See paragraph 80 of this Manual*).

The General finding of the Committee was that in some cases the revenue was a pure rent and in others it is more difficult to maintain this view. In this province, the theory still holds that the revenue is of the nature of a rent charged by the State as overlord of the land.

Commentary

The term “Rent” includes the payment of land revenue and cesses on behalf of the landlord.”

2. Collector, and steward. The officer entrusted with the duty of realizing the land revenue is not a mere rent collector, especially in provinces like the Punjab, where the demand is fixed for a period only, and the State continues to have a direct and immediate interest in the improvement of the land. His position is rather that of the steward of a great landowner. As such, he is bound to respect, and preserve from encroachment by others every private right in the soil which has been created or confirmed by the state. Where the revenue has been fixed for a term only, he has not only to collect it, but also to look forward to a time when it will be revised, and to collect and record in systematic manner statistical information, which will facilitate its equitable reassessment. He must initiate and assist measures to prevent, so far as may be the loss of crops from causes which are in any degree controllable by man, and must prepare in ordinary times for those graver natural calamities which produce intense and widespread scarcity of food. In particular the collector must do everything in his power to conserve the soil of his district and to maintain its fertility. The top –soil contains most of the fertility of the land, but on sloping ground in many parts of the Punjab, especially in districts bordering on the Himalayas and in the Salt range it is being rapidly removed by erosion. Erosion is assisted by the long periods of drought, the short growing periods of grass and the heavy rainstorms characteristics of the Punjab. Conservation of soil is effected by the control of grazing, felling and lopping in uncultivated land and by the embanking and where necessary terracing of cultivated land. Fertility is maintained by ploughing, manuring, cultivation, hoeing, weeding and following, and by suitable rotations of crops. It is the first duty to a farmer to keep his land in good heart, to ensure its stability and if possible to increase its fertility. This is done by the best farmers, but many allow their land to deteriorate.

The aim of land policy is the true symbiosis, or permanent association, of man his animals and the land. It is wrong that any man, by slothful cultivation, by excessive grazing, or by exploitation of the surrounding vegetation should imperil the stability of the soil of his own or his neighbors holdings. It is his duty to hand on his fields intact to his successor. The Collector must, therefore, encourage and assist every effort made by right holders to maintain the fertility of their land, to conserve the valuable top-soil, and to develop their estates. In addition he must in co-operation with the Forest, the Agricultural, Veterinary and Co-operative Departments devise means of combating the menace of erosion throughout his district as a whole.

He must encourage and assist every effort made by right holders for the development of their estates. In many parts of the province, such as the colony districts, the State is not only supreme landowner of the soil generally, but also sole landowner of a considerable part of it, and it is the duty of its local representation to administer this property so that it may be profitable to the State as representing the people as a whole, and at the same time beneficial to the colonists, whose prosperity is the first care of a progressive Government.

3. Scope of handbook. It is the object of this book to describe how these various functions can best be carried out by the officer incharge of a district. As a revenue officer, he is legally known as the Collector, but the more familiar title of Deputy Commissioner will generally be used in this work. His functions will be described in the several capacities in which he is called upon to act: --

- (i) As a recorder of agricultural statistics.
- (ii) As guardian and registrar of the rights in the soil enjoyed by private persons.
- (iii) As a collector of the land revenue;

- (iv) As a promoter of the stability and improvement of landed property;
- (v) As a custodian of State property;
- (vi) As a judge between landlords and tenants.

The head of a district has many other important duties to perform, but the discussion in this work is confined to his functions in connection with the administration of the land.

CHAPTER II

LANDOWNERS AND TENANTS

4. Rural communities. Before describing the machinery of the administration, it is well to say something of the agricultural communities for whose benefit mainly it exists. The reader is supposed to be familiar with the chapters in the Settlement Manual, which deal with “Tenures and the Rights of Landowners” and “The Rights of Tenants.” (*Chapters VIII and IX. The former may be usefully supplemented by “Tribal Law in the Punjab” by Roe and Rattigan 4th edition. As regards the other classes found in village communities – the grain dealers, artisans and menials – see paragraphs 130,338 and 390 and as regards rents, see paragraphs 311,312,322,339,344 and 355 of the Settlement Manual, 4th edition*) The former may usefully be supplemented by some account of the law of presumption applicable to village lands and of the important restrictions impressed upon landowners of the agricultural class by the passing of the Punjab Alienation of Land Act, XIII of 1900.

Commentary

Perpetuity cultivation with condition that cultivator will maintain peachy creates relationship of landlord and tenant.

5. Punjab, a country of peasant landowners. The Punjab is essentially an agricultural country one-half of which is owned and tilled by peasant landowners. There are a few large proprietors in most districts but in the whole province of number who pay more than Rs. 500 land revenue is less than 2,500. The majority of owners holding in the plains are less than ten acres, in the hills they are mostly under three acres. The bulk of the population of the Punjab consists of landowners and their dependents and their prosperity and contentment must always be the chief solicitude of Government.

6. Dangers to peasant ownership from division of holdings and misappropriation by money-lenders - There are two grave economic dangers, which beset the ownership of land in small parcels by peasant proprietors. The first of these is the reduction of the size of many holdings below an area sufficient to support a family in comfort. This is due to the operation of the law of inheritance under which sons, on the death of their father, each take an equal share of the family land. It is easy to exaggerate the effect of this law. Most small owners are able to get additional land on rent, and where means of livelihood are scanty, the difficulties in finding brides are apt to prove insuperable. Apart from the unpopular remedy of interfering with the law of inheritance, there are indirect means of mitigating the evil of over population. One has been found in the colonization of large tracts of State land rendered culturable by the construction of new canals. Another has been the increasing diversification of occupations in towns.

The second, and more serious, danger was the transfer of land by sale and mortgage to those whose outlook on life prevented them from cultivating it with

their own hands. (*See in connection with this subject paragraph 379-381 and 402-406 of the settlement Manual 4th edition*)

7. Oscillations of opinion on subject - The political advantage of maintaining the existing framework of society, and of keeping the land in the hands of those whose hereditary occupations was tillage, was fully recognized by the first administrators of the Punjab. There followed a time in which the importance of this object was less keenly felt and the possibility of attaining it was denied. The third phase of opinion, which is that now predominant, regards the expropriation of the old landowning tribes with at least as much aversion as did the earliest administrators of the province, maintaining that it is not only politically, but also economically, disadvantageous. The causes of these remarkable oscillations of opinion form a curious chapter in the revenue history of the Punjab, which may be noticed briefly before describing the actual provisions in force at different times regarding pre-emption and restrictions on the transfer of land.

8. Apologetic tone adopted by early administrators as to measures adopted to preserve stability of village communities - While experience acquired elsewhere led shortly after annexation to the adoption of measures to prevent the intrusion of aliens into village communities by the purchase of land, some of the ablest officers held that these measures were open to the reproach of economic unsoundness, and that the prospect of agricultural improvement by the attraction to the soil of the capital of the moneyed classes was being sacrificed to the importance of political stability. IN his commentary on the Punjab Civil Code, Mr. Montgomery felt constrained to apologize for the maintenance of the law of pre-emption. Later, Mr. Cust remarked in his Revenue Manual: "The principle (of

pre-emption) is not defended on any economic grounds, but is maintained for social and political reasons,” and contemplated without regret” a gradual process” by which the existing village communities might “melt away and give place to a more modern, and perhaps more politically nice, distribution of property.”

9. Causes of increase of transfers. The disposition to look on unlimited power of transfers as an essential feature of proprietary right and a necessity of economic progress was strengthened by the assimilation of the law and procedure of the Punjab with that of the older provinces, which resulted from the extension of the Code of Civil Procedure to the province in 1866, and the establishment of a Chief Court in Lahore in the same year. About the same time the policy of moderation and fixation of the land revenue began to make land attractive as an investment. Titles had been clearly determined, and the moderation of the demand made the ownership of land a source of income. The peasant proprietor found his credit rapidly expanding. The old system of limited borrowing on the security of crops, cattle, and ornaments was supplanted by one of extravagant borrowing on the security of the land.

10. Increase looked on as beneficial or at least inevitable. Sales and mortgages of land to money-lenders became a feature of village life. By some this was looked upon with little alarm and even with complacency. It was maintained that the resources of the country would be developed by the application to the improvement of the land of capital of the moneyed classes. Even those who disliked the process, were disposed for a time to look on it as the outcome of an irresistible economic law.

11. Growth of opinion hostile to free transfer. But, with each quinquennium

the alienation of land proceeded everywhere at a more rapid rate and in some parts of the country the area which had passed out of the hands of the original owners amounted to a considerable total. The social and political evils likely to spring from the expropriation of the old landowning classes again came to be keenly felt, and acquiescence became increasingly difficult, and ceased to be regarded as inevitable. The policy of laissez faire expounded by the English economists was no longer considered as applicable to every country and stage of society. Experience also showed that the expectation that the new proprietors and mortgages would be improving landlords was not fulfilled. Very few turned out to be anything but rent receivers, and their tenants lacked the devotion and pain-taking labour of peasant owners.

12. Reasons for change of opinion. The interest in primitive institutions aroused by the works of Sir Henry Mayne, and stimulated by the abundant evidence of their survival in India, worked in the same direction. The records of tribal law compiled by Settlement Officers supplied unmistakable evidence that ownership of the modern western type was alien to the ideas of the rural population. It was seen that the Indian conception of property in the soil is that it is vested in family, and not in an individual, and that the owner for the time being is not entitled to dispose of it how and to whom he will.

13. Civil courts accept doctrine of limited ownership - This doctrine invaded the civil courts, which were bound by section 5 of the Punjab Laws Act to decide questions of inheritance, adoption and gifts primarily on evidence of custom, and from 1887 onwards it formed the foundation of a series of decisions by the Chief Court on sales and mortgages by sonless proprietors, adoption, gifts and pre-emption. (*See chapter III of "Tribal Law in the Punjab" By Roe and*

Rattigan) But these decisions, valuable though they were, did not prove effective restraints on the actions of landowners, and in no way reduced the seriousness of the problem which Government had to face.

14. Necessity of restricting credit basis of Punjab Alienation of Land Act.

The position was at last accepted that the root of the evil was to be found in the inflation of the peasant owners credit and that the only hope of checking it lay in lessening his powers of borrowing by imposing legal restrictions of the sale and mortgage of land. This policy was embodied in the Punjab Alienation of Land Act, XIII of 1900, the provisions of which will be noticed presently.

15. Classification of measures taken at different times to protect landowners. The measures taken at various times for the protection of the landowners of the Punjab may be classed under the heads: -

- (a) The legal enforcement of the custom of pre-emption:
- (b) The restriction of transfers by landowners belonging to agricultural tribes:
- (c) The exemption from sale in execution of decree of land and other property of hereditary agriculturists.

16. Pre-emption: its nature - The origin of pre-emption is clearly explained in "Tribal Law of the Punjab". "It has been usual to regard this as a village, not as a tribal, custom and as originating in the Mohammedan law. I think that this is quite an erroneous view, and that pre-emption is merely a corollary of the general principles regulating the succession to, and power of disposal of land. In these matters the holder of the estate for the time being is subject, generally speaking to the control of the group of agnates who would naturally succeed him..... They can

, as a general rule, altogether prevent allegations by adoption or gift, or by sale for the holder's own benefit, it would be only a natural rule that, when a proprietor was compelled by necessity to sell, these agnates should be offered the opportunity of advancing the money required, and thus saving what is really their own property." (*Tribal Law in the Punjab, by Roe and Rattigan pages 82-83*)

17. Early provisions in Punjab Civil Code, etc. The first administrators of the Punjab brought a knowledge of the existence of pre-emption in village communities from what is now the united provinces. In 1852 the Board of Administration issued a circular (No. 28 of 1852) requiring a landowner who wished to sell his share to offer it in the first instance to the whole community or to some individual co-parcener at a reasonable price to be fixed by agreement, failing which the revenue officer and three assessors were to determine the fair value. Two years later this instruction was embodied and elaborated in section XIII of the Punjab Civil Code. Pre-emption was there declared to apply to village lands and sites in villages and kasbas occupied by shareholders in the estate and to extend to private sales, sales in execution of decree and foreclosures of mortgage. If none of the owners wished to buy, the hereditary tenants (if any) might exercise the right. Provision was made for the valuation of land in case of dispute by committee appointed by the revenue authorities. Pre-emption suits were to be brought in the civil courts, but any issues as to priority among contending claimants and the value of the land were to be referred for decision to the revenue authorities. The chief Commissioner, in 1856, with the object of preserving the integrity of village communities, extended the right to usufructuary mortgages. (*Financial Commissioner's Circular No. 41 of 1856*)

18. Entries in village administration papers. The customs governing pre-

emption were also recorded in village administration papers draw up at settlements made before the passing of the Punjab Laws Act, IV of 1872. “In nearly all the old wajib-ul-arz we find a provision securing this right either to the next heirs, or to the agnates generally, and after them to all members of the village community to the exclusion of strangers.(“*Tribal Law of Punjab by Roe and Rattigan page 88*)

19. Right restricted by Civil Courts. Two early judgements of the Chief Court robbed pre-emption of most of its value . The court held that the right did not extend to usufructuary mortgages, (*Punjab Record case No. 87*)except where the village administration paper provided otherwise, and that proprietor by purchase through a stranger to, and at bitter strife with, the original village brotherhood , had as good a title to claim pre-emption as any member of it.(*Punjab Record case No. 4*)

20. Provision of Punjab Act, IV of 1872. The same limitation of the right as regards the transaction in respect of which it exists, and the same extension of it as regards the persons who may claim to exercise it, were unfortunately embodied in the sections of the Punjab Laws Act, IV of 1872, which dealt with pre-emption. That Act, as amended by Act XII of 1878. Provided that the right arises in the case of sales under a decree of otherwise and foreclosures of mortgage, (*Section 9*)and that unless a custom or contract to the contrary is proved, it exists in all village communities , and extends---

- (a) to the village site and houses;
- (b) to all lands within the village boundary;
- (c) to all transferable rights of occupancy in such lands. (*Section 10*)

In the absence of custom to the contrary. the right was declared to belong to the

following persons in the order stated:-

- (a) first, in the case of joint undivided immovable property, to the co-sharers;
- (b) secondly, in the case of villages held on ancestral shares, to co-sharers in the village , in order of their relationship to the vendor or mortgagor;
- (c) thirdly, if no co-sharer or relation of the vendor or mortgagor claims to exercise such right, to the landowners of the Patti or other sub-division of the village in which the property is situate jointly;
- (d) fourthly, if the landowner of the Patti or other sub-division make no joint claim to exercise such right, to such landholders, severally;
- (e) fifthly, to any landholder of the village;
- (f) sixthly, to the tenants (if any) with rights of occupancy in the property;
- (g) seventhly, to the tenants(if any) with rights of occupancy in the village.

In case of transfers of rights of occupancy under section 5 of the Punjab Tenancy Act, XVI of 1887, the prior right of the landlord was secured by section 53 of that Act. If he failed to exercise it, pre-emption belonged, first, t the tenants (if any)having a share in the occupancy right proposed to be sold and secondly, to the other occupancy tenant in the village. (*Section 12. By a proviso to the section if Government owned the trees growing on land, it had a right of pre-emption in the land superior to that of any private individual*)Where the charkadari tenure prevails(*See paragraph 167-170*) of the *Statement Manual*), the **adna maliks** possessing shares in a well had a right of pre-emption in these shares in preference to the ala malik.(*Section 20*)

Where tow or more persons were equally entitled to pre-emption, the vendor or mortgagor might determine which of them should exercise it(*Section 12*). Section

13 to 18 of the Act provided for the enforcement of the right. The matter was left entirely to the civil courts, no provision being made for the reference of any question in dispute to the revenue officer.

21. Interpretation applied as regards customary rights of pre-emption. It will be observed that, as regards the persons entitled to pre-emption, the Act expressly saved custom. (*Section 12*) But in practice its 12th section was usually taken, both by Settlement Officers and civil courts as, disposing of the whole matter. The entry on the subject usually made by the former in codes of tribal custom (riwaj-iam) was that pre-emption was regulated by the Punjab Laws Act. (*“Tribal Law in the Punjab” by Roe and Rattigan page 83*) The chief Courts has held that the village administration papers furnish valuable evidence of custom as regards the persons entitled to claim pre-emption. (*Punjab Record No. 98 of 1894. See “Tribal Law in the Punjab “ Page 128 and 130*)

22. Punjab Act, II of 1905. The recasting of the law of pre-emption with the object of bringing it into accord with village custom and ideas became imperative when the Punjab Alienation Land Act came into force the necessary amendments were effected by Punjab Act II of 1905. The right of preemption was declared to exist in respect of agricultural land, as defined in the Punjab Alienation of Land Act, and village immovable property i.e. immovable property within the limits of village sites other than agricultural land. (*See Section 3(1) and (2) and section 5 of Act II of 1905. The provisions which relate to urban immovable property lie outside the scope of this work.*) It extends to sales of both proprietary and occupancy right in agricultural land.” (*Section 3(4) and 11 of Act II of 1905*) . In respect of such land , no one has a right of pre-emption except “a member of an agricultural ,” as defined in the Alienation of Land Act . But this is subject to the

proviso that “if the vendor is not a member of an agricultural tribe, the right of pre-emption may be exercised also by a member of the same tribe as the vendor, who is recorded as the owner or as the occupancy tenant of agricultural land in the estate in which the property is situate and has been so recorded for twenty years previous to the date of the sale either in his own name or in that of any agnate who has previously held his agricultural land.(Sections 3(4) and 11 of Act II of 1905)”

The most important section of the Ac is section 12, which declares the persons who are entitled to pre-emption and the order in which they can claim it. The intention of sections 22 and 12 of course, is to bring the law into conformity with village custom. Section 12 runs-

Subject to the provisions of section 11(*Now see section 15 of Act I of 1913*), the right of pre-emption in respect shall vest ----

- (a) in the case of the sale of such land or property by a sole owner of occupancy tenant, or when such land or property is held jointly, by the co-sharers in the persons who but for such sale would be entitled to inherit the property in the event of his or their decease, in order of succession;
- (b) in the case of a sale of a share of such land or property held jointly, first in the lineal descendants of the vendor in the male line, in order of succession;

Secondly, in the co-sharers, if any, who are agnates; in order of succession;

Thirdly, in the persons described in sub clause(a) of this sub-section and not herein before provided for;

Fourthly , in the co-sharers, (I) jointly (ii) severally;

- (c) If no person having a right of pre-emption under sub-clause (a) or sub-clause (b) seeks to exercise the right---

First, when the sale effects the superior or inferior proprietary right and the superior proprietary right is sold, in the inferior, proprietors, and when the

inferior proprietary right is sold in the superior proprietors.

Secondly, in the owners of the Patti or other sub-division of the estate within the limits of which such land or property is situate, (I) jointly, (ii) severally;

Thirdly, in the owners of the estate, (I) jointly (ii) severally;

Fourthly, in the case of a sale of the proprietary right in such land or property, in the tenants(if any)having rights of occupancy in such land or property, (I) jointly, (ii) severally;

Fifthly, in any tenant having a right of occupancy in any agricultural land in the estate within the limits of which the property is situate.

Explanation 1.- In the case of a sale of a right of occupancy, clauses (a) ,(b),and (c) of this sub-section with the exception of sub –clause fourthly of clause (c), shall be applicable.

Explanation 2. – In the case of sale by a female of property to which she has succeeded through her husband , son , brother or father, the word “agnates” in this section shall mean the agnates of the person through whom she has so succeeded.

Chapter IV of the Act deals with procedure. It maintains the jurisdictions of the civil courts. but makes careful provision to prevent pre-emption being used to defeat the objects of the Punjab Alienation of Land Act, XIII of 1900.(*Section 20,21,26 and 27 of Act II of 1905*)

22-A. Punjab Pre-emption Act, 1 of 1913. The experience gained after the passing of the Punjab pre-emption Act of 1905 showed that several alterations and amendments were necessary. In the Punjab the law of preemption must march hand in hand with the law governing the alienation of land; and although the

proposal to amend the Act of 1905 originated in the necessities for removing certain ambiguities and defects of drafting and for rendering more precise the application of section 8, one of the main changes introduced, to wit, the change in section 14, was designed to bring the law of pre-emption more closely into line with the Land Alienation Act. As the statutory agriculturist had disappeared from the latter Act, it was felt that the only differentiating restrictions required were in respect of agricultural land sold by the member of an agricultural tribe, and in respect of such land the right of pre-emption was limited to persons who were members of an agricultural tribe in the same group as the vendor. For all other lands membership of an agricultural tribe in itself created no special preferential right. Another main change was in section 8. In the Act of 1905 section 8(2) was introduced mainly to protect from pre-emption land required for commercial and industrial purposes, but it was found inadequate to accomplish the object without the issue of separate notifications by the local Government in the case of each plot concerned. It was, therefore, amplified so as to allow for a general notification exempting all agricultural land sold in good faith for industrial, commercial or residential objects. Punjab Act II of 1905 was, therefore, repealed; and the new Act I of 1913 referred to above it was found that the provisions of the law of pre-emption were being defeated by the purchaser splitting his transaction into two parts by purchasing one kanal of land on the first day and the balance on the second day. If a suit for pre-emption was brought with respect to the second sale by the village proprietors, he could successfully defend the suit on the ground that he acquired proprietary right in the village one day prior to the second purchase. (*See case of Nadir Ali Shah versus Wali & C. Published at page 486 of Indian Law Reports Lahore series volume V of 1924*) To prevent such cases occurring in the future, a new section, No. 28-A; was inserted in the main Act by an amending Act. No. II of 1928 which came into force from the 1st December, 1928. By this

addition it should be impossible for a purchaser to defeat the law of pre-emption by splitting his transactions into two parts and to retain the property acquired by the second purchase, even though he may subsequently lose the property acquired by his first purchase.

23. Commissioner's sanction to transfers to strangers formerly required.

There used to be an old rule which required the sanction of the Commissioner to the transfer to a stranger of a share of land in a village community. It was more a device to ensure that reversions had an opportunity of exercising their right of pre-emption than an attempt to restrict freedom of contract. Mr. Cust, in 1860, explained it as follows:” The right of pre-emption is not to be evaded; the sanction of the Commissioner must precede all such mutations and. Within a period of three months from the transfer taking place or being made known to the parties concerned, the validity of the transfer may be dispute by a regular revenue suit under paragraph II, part I, Chapter XIII; of the Punjab Civil Code.”(*paragraph 13 of Financial Commissioner's Book Circular No. XLVII of 1860*)

The rule was retained in the instructions on mutation procedure under the first Punjab Land Revenue Act , XXXIII of 1871 . But it was there directed that “if the transferee has obtained possession, and no suit for pre-emption is brought within the term of limitation, or if such suit, when brought is dismissed, mutation of names shall be sanctioned.” This may have had some effect in discouraging transfers to strangers, the tendency being to regard a transaction of the sort as incomplete till it had been recognized by an entry in the record of rights.

24. Far-reaching change effected by Punjab Land Alienation Act. The causes which led to the passing of the Punjab Alienation of Land Act, XIII of 1900 , have already been explained. The direct restraints which it imposed on

freedom of transfer appeared novel at the time although restrictions on free transfer are found in one form or another in many countries.

25. Scope of the Act. The Act came into force on the 8th of June, 1901. It extends to the whole of the Punjab(*Section 1(2)*), but power is given to exempt by notification any area, person, or class of persons wholly or partially from its operation(*Section 24*). The only exempted district ins Simla, except the ilaqa of Kotgarh in the Kot Khai Tahsil, but all municipal and cantonment areas in other districts have been excluded from the operation of the provisions restricting freedom of transfer(*Punjab Government notification No. 16176-R. & A dated 21st June 1919. The provisions forbidding mortgages by way of conditional sale (section 10) and sale in execution of a decree of land belonging to a member of an agricultural tribe(section 16) apply to municipal and cantonment areas.*). The Act applies to the rights of occupancy tenants as well as to those of landowners(*See section 2(3) of Act XIII of 1900 . As to transfers by occupancy tenants see also chapter V of the Punjab Tenancy Act XVI of 1887*). It classifies alienation's as permanent and temporary. The former includes sales, exchanges, gifts and wills(*Section 2(4) Gifts for a religious or charitable purpose , whether made inter vivos by will are not permanent alienation's for the purpose of the Act,*); the later mortgages and leases.

26. Usufructuary and collateral mortgages. Mortgages are broadly divided into usufructuary and collateral mortgages. In the former the mortgagee takes possessions of the mortgaged land, enjoying the rents and paying the land revenue, the difference between the rent and the revenue being regarded as equivalent to the interest on the mortgage debt(*This was the almost universal form of usufructuary mortgage in the Punjab before the passing of Act XIII of 1900 .*

“(Possession means of course possession of the rights of a landlord. The mortgagor was often retained in cultivating possessions as tenant at will under the mortgagee. For the legal definition of usufructuary mortgage see section 2(5). It embraces cases in which the rent and profits are appropriated not only in lieu of interest, but also “in payment of the mortgage –money, or partly in lieu of interests and partly in payment of the mortgage money.). In a collateral mortgage the mortgagor retains possession of the land so long as he pays interest and installments of principal according to the terms of the mortgage-deed. If he makes default, the mortgagee can claim to be put in possession.

27. “Members of Agricultural Tribes” And “Agriculturists”. The provisions of the Act which deal with temporary alienation’s only recognize two classes of persons—

- (a) Those who are members of agricultural tribes and
- (b) Those who are not members of agricultural tribes.

Upon the latter no restrictions of any kind are imposed. Those relating to permanent transfer originally introduced a third class described as –

- (c) Agriculturists.

28. “Members of Agricultural Tribes” meaning of term.- The first class consists of persons belonging to the tribes notified as “Agricultural” under the powers conferred by section 4 of the Act, and the second obviously includes all other persons. Subject to the exceptions noted below, the lists of agricultural tribes which have been gazette(*Punjab Government Notification No. 63, dated 18th April 1904 and Appendix A to Financial Commissioner Standing Order No. 1 –Alienation of Land*) comprise every tribe dependent on the land for support

which owns any considerable area of land in the district under which its name is shown. Brahmans have been excluded for the present even from the main group of those districts in which they own much land and cultivate with their own hands because they are largely engaged in money-lending and other non-agricultural pursuits. They have been notified in separate groups.

29. “Agriculturists”; meaning of term. The first two groups are in the main natural ones, but the third, or that of “agriculturist” was defined as “a person holding agricultural land who, either in his own name or in the name of his ancestor in the male line, was recorded as the owner of land or as an occupancy tenant in any estate at the first regular settlement; or if the first regular settlement was made in or since the year 1870, then at the first regular settlement or at such previous settlement as the local Government may by order in writing, determine.” The provision was introduced to mitigate what appeared to be the hardship of preventing acquisition by those who were old landowners . Experience proved that it was unsuitable and it was repealed in 1907.

30. Cancelled.

31. Restrictions on sales. There are no restrictions on the purchase of land but only on its sale. The sale by the member of an agricultural tribe to anyone not belonging to such a tribe in the same district requires the sanction of the Deputy Commissioner(*Sections 3(1) and (2)*). Sanction may be given either before or after a deed of sale has been drawn up and possession given . If sanction is refused the sale takes affect as an usufructuary mortgage in the first of the three forms described below (*See paragraphs 40-42 of this manual*)for such term not exceeding twenty years and on such conditions as the Deputy Commissioner may

think reasonable.(*Section 14*).

32. All agricultural tribes in each district from a single group. For the present all the agricultural tribes in each district, with a few exceptions noted below. Have been notified as forming a single group(*Punjab Government notifications No.21-S dated 22nd May 1901 and No. 114, dated 16th July 1902*). Members of agricultural tribes have therefore, with these exceptions, full powers of selling and buying inter se within the limits of the district in which they own land . Should this broad system of grouping lead anywhere to the rapid expropriation of one tribe by another, the formation of small groups of tribes may become necessary. Brahmans and other agriculturists in some districts have been declared as separate groups of agricultural tribes within their respective districts from 1909 onwards. (*See part B of the appendix to Financial Commissioner's Standing Order No. 1*)

33. Cancelled.

34. Cancelled.

35. Order sanctioning sale does not affect rights of reversions . The executive order by which a Deputy Commissioner sanctions a sale in no way affects any right which reversion's or other have to contest the validity of the transfer by legal proceedings or to claim pre-emption.(*Section 5*)

36. Exchanges gifts and wills. All that has been said above of sales applies equally to exchanges , gifts and wills . Death –bed gifts to Brahmans often known as dohli, are not usually regarded as subject to the provisions of the Act. But the amount which can be alienated in this way is limited by custom, and if it is

exceeded. The donor's heir can sue to have the area reduced to what is permissible by tribal law.

37. Instructions as to giving or withholding sanction to sales. The following instructions have been issued by the financial commissioners with the approval of Government as to the considerations, which should influence a Deputy Commissioner in giving or withholding sanction. Subject to the proviso to sub-section (iii) below he need not concern himself with the possible rights of reversions or pre-emptors. –

(i) Sanctions should not be given unless the Deputy Commissioner is satisfied that the transfer is really advantageous to the vendor and his family. If a zamindar depends entirely or mainly on his land, no alienation should ordinarily be allowed which will reduce the land he retains to less than is required for the support of himself and his family.

(ii) Sanction should be given if the Deputy Commissioner is satisfied that there is no intention of evading the Act when the object of the purchase is to obtain.-

(a) A site for a workshop or factory, for building for the accommodation or welfare of persons to be employed in them, for a power installation for working industrial enterprise, the health of persons engaged as laborers or otherwise in connection with such;

(b) A building site close to a town or village site.

(iii) Sanction may be given to an alienation of land-

(a) by wealthy zamindars owning much land, for commercial reasons or to improve or consolidate their properties;

(b) by indebted zamindars owning mortgaged land, and desiring to sell a part of their land, in order to raise money to redeem the whole or part of the rest only if the Deputy Commissioner is satisfied that the transfer is really advantageous to the vendor and his family, and that the vendor is not able to sell the land to a member of an agricultural tribe included

in the same group as the vendor at a price which will enable him to attain his object;

(c) proposed or effected in favour of zamidars who, by reason of their insignificant numbers, have not been classed in the particular district as members of agricultural tribes;

(d) to bonafied artisans who are not professional money-lenders. It is desirable to encourage thrifty members of the artisan class to become owners of small plots of land when the alienation is not disadvantageous to the vendor and his family;

(e) by a member of an agricultural tribe in one Punjab district to a member of the same tribe or group of tribes in another Punjab district. In such a case sanction should usually be given as a matter of course unless the allegation is clearly contrary to the intention of the Act.

These instructions also apply in the case of persons holding land in districts of the other provinces adjoining Punjab districts who, if they had held land in the Punjab districts, would have been deemed to belong to agricultural tribes. To applications for sanction in favour of subjects of Indian states adjoining Punjab districts somewhat different considerations; apply and such applications should be deal with on their merits:

provided that in cases (a),(b).(c) (d) and (e) no member of an agricultural tribe included in the same group as the vendor has offered, or is ready to offer, a fair price for the land.

38. Mortgages by way of conditional sale abolished. The only restraint on mortgage which the Act makes generally applicable is contained in its 10th section, which abolishes the form of mortgage by way of conditional sale. This was a form whereby the mortgagor agreed that if he failed to redeem by a certain date the mortgage would be changed to sale. All that the money-lender had to do was to prevent repayment of the debt by any will or artifice and the rights of the owner became extinguished without recourse to court.

39. Scope of other restrictions. The other provisions regarding mortgages apply only to those made by members of agricultural tribes in favour of persons who are not members of the same tribe or of a tribe in the same group, or in other words, as matters at present stand in the same district (*Section 6(1)*). When hypothecating his land to such persons, a member of an agricultural tribe must choose between three kinds of mortgages. Two of these are usufructuary mortgages, the mortgagee acquiring for the time being the rights of landlord.

40. Usufructuary mortgage for limited period, usufruct extinguishing principal and interest. The first is a mortgage for a limited period not exceeding twenty years, all the rights of the mortgagor being suspend, and the rents and profits enjoyed by the mortgagee being taken as extinguishing by the end of the term his claim for both principal and interest (*Section 6(1)(a)*). This form of mortgage was rare in the Punjab before the act was passed (*In Ambala a mortgage of this description was known as “chakota rihn”*).

41. Usufructuary mortgage for unlimited period with reservation of right of occupancy. In the second form of usufructuary mortgage the term is subject to no statutory limitation; the mortgagor reserves the rights of an occupancy tenant at such cash rent as may be agreed upon consisting of –

- (a) the land revenue, plus,
- (b) the rates and cesses, plus
- (c) an additional sum of exceeding (a)

and this rent is taken as equipment to interest. The mortgagor tenant can not alienate his right of cultivation, and he can only be ejected on some ground which would, under section 39 of the tenancy Act, Justify the ejection of an occupancy

tenant(*Section 6(1)(c)*). Should he abandon the land or be ejected from it, the mortgage takes effect as one in the first form for such term no exceeding twenty years from the date on which his possessions came to an end, and for such a sum of money as the Deputy Commissioner may think reasonable(*Section 6(2)*). This form of mortgage is very rarely adopted.

42. Collateral mortgage. The third form of mortgage is a collateral one in which the mortgagor retains all rights of ownership and cultivation, a subject however, to be the condition that if he fails to pay principal and interest in accordance with the terms of the contract, the mortgagee may apply the Deputy Commissioner to put him in possession of the land. The mortgage then becomes converted to a usufructary one of the first form for such reasonable. It is also his duty to determine what the principal of the debt in the case of the new mortgage shall be. This will consist of whatever amount he finds to be due on account of the balance of principal and interest outstanding on the old mortgage. In making up the account the Deputy commissioner, need not accept the rate of interest contracted for but may award whatever amount of simple interest he thinks reasonable (*Section 6(1)(b)*).

43. Conditions which may be inserted in statutory mortgages - In these statutory mortgages conditions may be inserted limiting the right of a mortgagor or mortgagee in possession to cut, sell or mortgage trees. Or to do any act affecting the permanent value of the land(*Section 8(b)*). The time in the agricultural year at which a mortgagor who redeems his land may resume possession of it may also be fixed(*Section 8(a)*). Any conditions not permitted by the Act which are inserted in these mortgages are null and void(*Section 8(2)see also paragraph 47*)).

44. Revision of terms of unauthorized mortgages. If a member of an agricultural tribe mortgages his land in any unpermitted form, the deputy Commissioner is authorized to revise the terms so as to bring the transaction into conformity with whichever of the statutory forms the mortgagee appears equitably entitled to claim (*Section 9(1)*). In the case of mortgages by way of conditional sale executed by members of agricultural tribes before the commencement of the Act, the deputy Commissioner may call on the mortgagee to choose whether he will retain the existing mortgage with the sale condition struck out, or accept, in lieu of it, a mortgage in the first or third of the forms described above(*Section 9(2)*).

45. Procedure in suits to enforce unauthorized mortgages - If a suit is instituted in a civil court on a mortgage by way of conditional sale or in a form unauthorized by the Act executed by a member of an agricultural tribe, the court is bound to make a reference to the deputy Commissioner so that the court is bound to make a reference to the deputy commissioner so that he may exercise the powers referred to in the last two paragraphs.

46. Mortgagor's right of redemption unrestricted - The execution of a mortgage in one of the statutory forms in no way interferes with the mortgagor's right to redeem his land at any time on payment of the mortgage debt, or in the case of a mortgage in the first or third form, of such proportion of the mortgage debt as the Deputy Commissioner determines to be still due.

47. Question whether statutory mortgages will come into use - The local Government has power to permit any therefrom of mortgages to be used by

members of agricultural tribes and to the conditions admissible in the forms permitted by the act. Thirty years experience has shown that only the first form of mortgage has proved acceptable. The second form is almost unknown. The conditional sale clause has now practically disappeared.

48. Leases - As it would be easy to evade the provisions regarding mortgages by making transfers for long periods in the form of lease the term of leases made by members of agricultural tribes in favor of persons who are not members of the same tribe or a tribe in the same group has been limited to twenty years.

49. Restriction on extensions of mortgages and leases. The object of the Act would also benefited if, during the currency of a mortgage or lease for a term limited by law to twenty years, the mortgagor or lessor were free to extend the period by executing a fresh transfer. If the alienation already effected is for twenty years, no further transfer by way either of mortgage or of lease is permitted; if it is for less, a further mortgage or lease is allowed for such a number of years as will bring the whole period of transfer up to twenty years.

50. Restriction on hypothecation of crops. Another device for evading the Act had also to be guarded against. There is little difference in effect between a mortgage of land and mortgage of its produce. Members of agricultural tribes are, therefore, forbidden to aliendage or charge the produce or any part of the produce of their land for a period exceeding a year without the sanction of the deputy commissioner. There is no interference with borrowing on the security of the next two harvests. The period of one year will as a rule, cover contracts made by landowners with the agents of largess firms engaged in the wheat and oil –seed export trade? Such dealings have been of great benefit to the zamidars in may

parts of the country, and if engagements of the sort for a period exceeding one year come before a deputy commissioner, he need feel no hesitation about sanctioning them.

51. Sale in execution of decree. The sale of agricultural land in execution of a decree has always been subject to severe restrictions in the Punjab. At first the sanction of commissioners was sufficient. In 1859 that of the Judicial Commissioner was required when the property was ancestral, and not acquired. Afterwards the Financial commissioner became the authority to whom sale proposals had to be submitted. The direct result of these rules was that sales in execution were almost unknown; the indirect that loan without the security of a mortgage on the debtor's land were discouraged. The same Act, which has put restrictions on mortgages, has forbidden the sale in execution of a decree of land belonging to a member of an agricultural tribe. The provisions of section 72 of the Civil Procedure Code (Act V of 1908) have therefore ceased to be of much practical importance so far as the Punjab is concerned. Orders issued by any court for the attachment, sale or delivery of land or interest in land or for the attachment or sale of produce. Must be executed by the collector or some revenue officer appointed by him. The rules on the subject will be found in chapter 12-m and 12-n of the Rules and Orders of the High Court, volume I and Financial Commissioners Standing Order No. 64.

51-A Temporary alienation's in execution of decrees. Sale of land belonging to a member of an agricultural tribe in execution of a decree is forbidden by section 16, but at one time a learned judge of the High Court held that the land of an insolvent agriculturist vested in the official receiver who could sell it to another member of an agricultural tribe in satisfaction of a decree passed by an

insolvency court. Division Bench of the same court subsequently overruled this interpretation of the law.

It is, however, a settled question that a civil court can in execution of a decree, orders a temporary alienation of the land of a judgment –debtor who is not a temporary alienation of such land. (Vide Full Bench rulings in one Lahore 192). Following that ruling, a learned judge held that an order by a civil court, directing the temporary alienation of the land of a member of an agricultural tribe for more than twenty years, even if the lease be ordered in favor of a person who is not a member of an agricultural tribe, did not contravene the provisions of the Punjab Alienation of Land Act. Formerly it had been the settled practice of the civil courts not to order temporary alienation's for more than twenty years in such cases. But as result of this ruling the practice was departed from. And in not a few cases civil courts ordered alienation's for as long as fifty years. As such action was a violation of the original objects and scope of the Act, the Punjab Alienation of Land (Amendment) Act, 1 of 1931, was passed. The new Act, which sought to re-establish and preserve the status quo ante, has absolutely limited temporary alienation's in all cases whatsoever, to a maximum period of twenty years and permits mortgages only in one of the forms mentioned in section 6 of the original Act.

52. Other exemptions in favor of agriculturists. By section 60(1),(b) and (c) of the Civil Procedure Code (V of 1908) the following kinds of property belonging to an agriculturist are exempted from attachments :-

- (a) implements of husbandry:
- (b) Such cattle and seed grain as may, in the opinion of the court, be necessary to enable him to earn his livelihood as such;
- (c) The materials of houses and other buildings owned and occupied by him.

When the agriculturist is person liable for the payment of land revenue the proviso to section 70 of the land Revenue Act, XVII of 1887, becomes applicable, and if an order to attach produce is issued, the court should ask the collector to decide what portion of it should be exempted as being necessary for seed grain, and for the subsistence until the harvest next following of the defaulter and his family.”

No revenue court or officer must, except for reasons of urgency to be recorded, issue any process of arrest against tenant or against a landowner who cultivates his own land during either of the two harvesting seasons.

53. Provisions of Tenancy Act regulating relations of landlords and tenants at will. The chapter on the Rights of Tenants” in the Settlement Manual treats mainly of the history of hereditary tenant right in the Punjab and of the existing law on the subject contained in Act XVI of 1887. The remainder of the present chapter deals mostly with the relations of landlords and tenants –at will.

54. Proportion of land cultivated by tenants –at-will. About 43 percent of the land in the province is tilled by the landowners themselves, 9 percent by occupancy tenants at will, a few of whom pay no rent, if the five south western districts of Jhang, Montgomery, Multan Muzaffargarh and Dera Ghazi Khan are excluded, 44 percent are cultivated by tenants – at will, 47 percent by the landowners and 9 percent by occupancy tenants. The tenants –at –will are for the most part also landowners in the same village who owns too little land of their own to provide a decent livelihood.

55. Lien of Landlord on produce. The rent of a tenant’s holding is a first

charge on its crops. If any other creditor gets the produce attached in execution of a decree against the tenant, the landlord can insist on the its sale and on being paid from the proceeds whatever he proves to be due on account of the rent of the current harvest and of any unpaid rent which fell due within the year immediately preceding the date of his application to the revenue of fiber on the subject. The finding of the revenue officer as to the amount to which the landlord is entitled has theforce of a decree.

56. Rights and duties of landlords and tenants as regards produce. Except in the case just mentioned t, the landlord must not intermeddle with the tending, cutting or harvesting of his tenants crops. But of course where the rent cossets or a portion of the produce he has a right to take part in the division, and to remove his own share. The tenant on his part is bound, where thereunto is taken by division battle or appraisement (kankut) not to remove any portion of the produce at such a time or in such a manner as to prevent the due division or appraisement thereof” and to abstain from dealing with it in a manner contrary to established usage. If he wrongs his landlord in either of these ways, and a rent suit is the result “ the produce may be deemed to have been as full as the fullest crop of the same description on similar land in the neighborhood for that harvest.”

57. Division by referee appointed by Tahsildar. Delay in dividing a garnered crop may result in very serious loss from the sprouting or rotting of therein. The landlord or tenant who is injured by the failure of the other party to attend may apply to the tehsildar for the appointment of a referee to divide or appraise the produce. The referee may carry out the division or appraisement in the absence of one. Of the parties, if after due notice he fails to appear. The result of the referee’s proceedings must be reported to the tehsildar for confirmation.

The same procedure may be adopted when there is an dispute between the landlord and the tenant about the division or appraisement.

58. Payment of rent though tahsil. When two or more persons are landlords in respect of a single tenancy the tenant is not bound to pay part of his rent to one and part to another. It is their business to appoint one of their numbers to receive the whole rent. Where rent is payable in cash, the landlord may, for some reason refuse, to receive it, or to grant a receipt. Their may for example, be a dispute about the amount and he may refuse to sign an acquittance unless the tenant will give him all the claims. Again a tenant may occasionally be in doubt that the person is who is entitled to be paid the rent. In either case it is open to him to apply to the tahsildar to accept the rent as a deposit, and pay it to the person whom he considers entitled to receive it.

59. Notice of relinquishment. Tenants at –will usually hold by the year only, leases for a term of years being still uncommon. Arrangements are as a rule, made for the agricultural year (Kharif –rabi) the outgoing tenant giving up the land after the spring crops have been harvested. The law provides that neither party to a contract of letting shall be able to put the other in difficulty by failing to give timely notice of his intentions as regards the next agricultural year, which means in the tenancy act, the twelve months beginning on the 16th of June. A tenant who proposes to quit his holding after the Rabi harvest must inform his landlord on or before 15 January. If he fails to do so he becomes liable for the rent of the next agricultural year unless the landlord arranges for the cultivation of the land by someone else. Except with the consent of the landlord a notice of relinquishment must apply to the whole of the lease land. If the tenant thinks it desirable for his own security. He can give notice to the landlord through the tahsil.

60. Notice of ejectment of yearly tenants. A landlord who wishes to eject a tenant at will can apply to a naib tahsildar or tahsildar for the issue of a notice. The application must be made in time for service to be effected on or before the 15th of November. Subject to that qualification, the application can be lodged at any time after the beginning of the agricultural year. The above date is a very suitable one as it falls before the kharif crop has been completely cleared off the ground and before the winter rains. The tenant therefore gets notice before ploughing for the harvests of the next agricultural year begins.

61. Contents of notice. The notice requires the tenant to give up the land before the 1st of May and informs him that if for any reason he disputes his liability to ejectment, he must bring a revenue suit for that purpose within two months from the date of service. It also warns him that, in the event of his having any claim to receive compensation for improvements or disturbance before ejectment. He must, within two months, present an application to an Assistant Collector of the first grade. The circumstances under which such a claim arises will be discussed later. It is enough to say here that if it is established ejectment must be stayed until it is satisfied.

62. Ejectment order. The tenant may obey the notice and relinquish the land before the 1 May. If without instituting a suit to contest liability to ejectment or lodging an application for payment of compensation. He simply remains in possession, the tahsildar, on being satisfied that the notice has been served passes an ejectment order. If compensation is claimed the order must be issued by an Assistant Collector of the first grade. An ejectment order is enforced in the same way as a decree of a civil court for the possession of land. It can only be executed

between the 1 May and 15 June. Falling execution at the proper time the tenant is entitled to keep the land for the next agricultural year. Applications for compensation on account of improvements or disturbance should be dealt with promptly. It is unfair that a landlord should be kept out of his rights by the dilatoriness of a revenue officer.

63. Protection of standing crops. If, when the order is executed. It is found that the tenant has crops standing on any part of the land he must not be ejected from that part till they ripen and he has had a reasonable time for harvesting them. On the landlord's application, the revenue officer who ordered the ejection may fix a fair rent to be paid by the tenant for his extended use of the land or the officer may value the crop and allow the landlord to take possession on paying the amount into his office. Where the tenant has prepared land for sowing but has not sown it he may ask the revenue officer to determine what amount is due to him from the landlord on that account. His right to receive anything is contingent on his having acted conformably with local usage in the method of tillage adopted.

64. Ejection of tenants for a fixed term and occupancy tenants. So far we have been dealing with the method by which a landlord can get rid of a yearly tenant. The law as regards the ejection of occupancy tenants is briefly described in paragraph 213 of the Settlement Manual but it will be convenient to state it more fully here in connection with that which governs the case of tenants for a fixed term exceeding one year under a lease or a decree or order of a competent authority. A tenant of the latter class may throw up his holding at the end of the term without giving any notice to his landlord. Till then he is like an occupancy tenant protected from ejection by any summary process. A landlord seeking to oust him must bring a regular suit against him.

65. Order for ejectment of occupancy tenant failing to satisfy decree for rent. There is one case in which summary process can be used against an occupancy tenant but not apparently against a tenant for a fixed term exceeding one year. An Assistant Collector of the 1st grade can order the ejectment of an occupancy tenant when a decree for an arrears of rent has been passed and remains unsatisfied. But he must first give the tenant an opportunity of satisfying the landlord's claim by warning him that ejectment will be ordered unless within 15 days he pays the amount due into the Assistant Collector's Office. These provisions, if worked mechanically may cause hardship where there is much difference between the amount of the arrears and the value of the tenant right. It must be borne in mind that the tenant is often a very ignorant person. A considerate revenue officer will in such a case summon him to receive the written notice in his presence and explain to him the result which will follow on failure to pay within the appointed time. There is no legal objection to granting a short extension of time for payment for the issue of ejectment order may be deferred if good cause is shown for so doing. The assistant Collector should also ascertain whether the tenant has any claim to compensation for improvements or for disturbances. If he has it must be gone into before any further action is taken. Where an ejectment order is passed it can as rule as in the case of a tenant at will only executed between the 1st May and 15th June. But where this limitation would be unfair to the landlord, as it might be for example where the tenant had delayed matters by a bases claim for compensation execution can be allowed at any time.

66. Remedy of tenant dispossessed before receipt of compensation due. If by any accident or mistake a tenant entitled to compensation for improvements or disturbance or for the value of unharvested crops or the preparation of land for

sowing is ejected before the amount due has been determined he will not be reinstated but he can within one year from the date of his dispossession, apply to the court which decreed or to the revenue officer who ordered his ejection to fix the sum due and require the landlord to pay it. An order passed on such application has the same effect as a decree for money.

67. Grounds of action for ejection and reinstatement. The grounds on which an action for ejection may be brought and the circumstances under which a tenant who considers that he has been wrongfully dispossessed may sue for reinstatement or for compensation will be dealt with in the chapter on Revenue courts.

68. Nullity of entries in records of rights or agreements increasing landlord's power of ejection. Any clause in a record of rights whenever made or in an agreement made after the passing of Act XVI of 1887 empowering a landlord to eject a tenant otherwise than in accordance with that enactment is void.

69. Leases current when new assessment is introduced. Provision is made in section 34 of the Act for the avoiding of leases whose term is still running when the revenue is altered at a general reassessment, failing a revision of terms made with the assistance of a revenue court and accepted by the tenant, when the assessment has been raised and by the landlord when it has been reduced. Leases for the term of settlement continue in force until a revised assessment actually takes effect unless a contrary intention clearly appears in the agreement.

70. Improvements - The question of "Improvements in tenants holdings may

occasionally cause some little difficulty for no very broad line of distinction can be drawn between the simplest kinds of improvements and some of the operations carried out by tenants in the ordinary course of tillage. An exhaustive explanation of the terms as applied to a work executed on an agricultural tenancy is given in section 4(19) of the tenancy Act. The important point is that the work must be one by which the value of the tenancy has been and continues to be increased. The term does not embrace every operations which increases for a time the value of the holding. But only such are outside the everyday course of husbandry and possess a greater or less degree of permanency. The sinking of a masonry well to irrigate a field hitherto dependent on the rainfall is obviously an "Improvement" So is the making of a kacha well in stiffest soil for this involves a good deal of labour and the well will last for several years. But the digging of a shallow kacha well of the ordinary type which waters a few bighas of crops in the rabi and falls in the rainy season. Is not improvement."

71. Improvements by landlords. In a country of peasant proprietors like the Punjab the bulk of agricultural improvements is made by the landowners on lands over which they have full control. The question of improvements in tenants holding is only of practical importance as regards those which are affected by occupancy tenants and the particular class of improvements known as Jangal tarashi or clearance of waste carried out by tenants at will. It is true that by Act XVI of 1887 landlords have the right to make improvements in the lands of occupancy tenants with the previous permission of the Deputy Commissioner and that provision is made in the Act for enhancing the rent of the improved holdings. But as a matter of fact landlords are very chary of spending money on lands with which their concern is mainly confined to receiving a rent fixed by authority. Should an application for permission to do so be presented the tenant ought to be heard. The

point is really of little importance as disputes are very rare.

The Act permits the local Government to issue rules on the subject of landlords improvements but none have been framed so far.

72. Improvements by tenant at will - A tenant at will can only make an improvement with the assent of his landlord but consent may be assumed from circumstances. The courts have now given a number of ruling which are of value as guides. It must be remembered that the question of improvements by tenants is only of importance when compensation is demanded by the tenant.

73. Compensation for disturbance. In any case every tenant “who has cleared and brought under cultivation waste land in which he has not a right of occupancy is entitled to compensation great or small . If he is ejected before he has got a full return for his expenditure compensation for disturbance must in no case exceed five years rent of the land and would in many cases probably be far less. If a substantial and lasting improvements has been made the recant will receive compensation for it in addition to compensation for disturbance. A village proprietor tilling part of the common land of the estate or one of several co-sharers cultivating the joint holding cannot claim compensation for disturbance on ejectment. Where rent is paid in grain or by a money rate on crop (Zabti) or by a cash rent consisting only of the land revenue and cesses the rent for the purpose of calculating compensation may be taken as four time the land revenue. The same rule applies where no rent at all has been paid. As the land was ex-hypothesis waste when the tenant got it it will in many cases not be assessed to land revenue. In such a case the above provision must be interpreted as meaning that the rent may be assumed to be equal to four times the land revenue reduced by applying to the holding the rate at which similar cultivated lands in the same

estate are assessed .

74. Improvements by occupancy tenants. The little of occupancy tenants to make improvements on their own holding is asserted in the 63rd section of the Act. But, when the Punjab was first annexed and for many years afterwards their right to do so was held to be subject to freight restrictions. The points is really of little practical importance now as the law is generally well understood.

75. Provisions of the Tenancy Act as to tenants improvements. The first Punjab Tenancy Act. XXVIII of 1868 put the law to tenants improvements substantially on its present footing except that the provisions of that enactment on the subject could be overridden by written agreements or properly attested entries in the records of a regular settlement. This has now been altered. An entry in a record of fights whenever framed or condition in an agreements made after the passing of Act XVI 1887 which purports to limit the rights of tenants to make improvements or to receive on ejectments compensation for improvements already made or for disturbance. Is null and void. A tenant is however free covenant to pay an enhanced rent on account of an improvement made or to be made by his landlord. A written agreement made before the 1st November, 1887, restraining a tenant at will from making improvements is a bar to any claim for compensation. But with this exception improvements made before the Act came into force are deemed to have been made in accordance with the Act.

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76. Ejectment and enhancement of rent barred till tenant has received compensation - A tenant who starts an improvement after his landlord has used for his ejectment, or caused a notice of ejectment to be served upon him, does so at his own risk and has no claim for compensation if he is turned out of holding. But subject to that reasonable exception a tenant who has improved his holding is protected both from ejectment and from enhancement of rent till he has received compensation from his landlord.

77. Calculation of compensation. In estimating compensation the points for consideration are---

- (a) The amount by which the value or the produce or the tenancy or the value of that produce is increased by the improvement.
- (b) The conditions of the improvement and the probable duration of its effects;
- (c) The labour and capital required for the making of such an improvement;
- (d) Any reduction or remission of rent or other advantage allowed to the tenant by the landlord in consideration of the improvements; and
- (e) In the case of a reclamation or the conversion of un-irrigated into irrigated land the length of time during which the tenant has had the benefit of the improvement.

78. Compensation by grant of lease or reduction of rate of battle.

Compensation must be assessed and paid in money unless the parties agree that it should be made in whole or in part by the grant of a beneficial lease of land or in some other way. It is always open to a landlord and a tenant to settle any claim for compensation by the offer and acceptance of a twenty years lease at the existing rent or at any other rent that may mutually agreed upon. Where a well has been sunk a reduction of the landlord's batal share in consideration of the

extra expenditure incurred and required is a very suitable form of compensation. When crops are divided, it is quite common to find the customary rate for well crops lower than for rain crops.

CHAPTER III

ASSIGNMENTS OF LAND REVENUE

79. Importance of Land revenue assignments in the Punjab. Grants of land revenue by the State to private individuals are often compendiously described as “jogirs” and muafis”. No broad distinction can be drawn between these two terms “Jagir” is usually appropriated to the larger grants and especially to those given for services of a military or official character and “uafi” to assignments of less value and importance. The subject is one of much interest in the Punjab where such alienation’s form a larger proportion of the total land revenue than in any other province in India. How this has come to pass will appear in the sequel . It is the more curious because the views which prevailed among the men who had the greatest influence on the early administration of the Punjab were not favorable to the maintenance of a privileged class and a rapid reduction of the amount of revenue diverted from public purposes was looked for. Eleven years after annexation the Financial Commissioner estimated the assigned land and revenue at 33 lakhs. Forty years later its gross amount was still much the same; but owing to the great expansion of the land revenue of the Punjab the proportion in 1928 was only 1/13th.

80. Assignments under Native Government - The Government which preceded our own found it convenient to secure the swords of brave and the prayers of pious men to pacify deposed chiefs and to reward powerful servants,

by assigning to them the ruler's share (hakimi hissa) of the produce of the land in particular villages or tracts. This was an easier mode of payment for the State than the regular disbursement of salaries or cash pensions and it was much more gratifying to the recipients. The amount which a jagirdar could take as the ruler's share was only limited by his own judgment of the capacity of the cultivators to withstand oppression by force or to escape from it by detrain, and he enjoyed in practice most of the rights which we now regard as special evidences of ownership. Large assignees of land revenue also exercised within their own estates the power over life and limb, which is sometimes regarded as the peculiar mark of sovereignty. The system referred to above was too deep rooted for the new administration to destroy. Prudence dictated its continuance, but demanded the limitation of the drain on the resources of the State which it involved, and the removal of the encroachments which the jagirdars had made on the prerogatives of Government on the one hand and on what we conceived to be the rights of landholders on the other.

81. Subject must be tested separately for different tracts - In treating of the subject it will be convenient to deal separately with.

(a) the territories included in the Punjab state as Maharaja Ranjit Singh bequeathed it to his successors. Here a distinction must be drawn between the jagir tenures of (1) Kangra and the tract between the Beas and Sutlej comprising the present districts of Jullundur and Hoshiarpur and (2) the districts lying to the west of Beas and Sutlej annexed later;

(b) The Cis-Sutlej territory the plains portion of which was taken under our protection in 1809 and the hill tract in 1815. This includes the present districts of Simla, Ambala, Ludhiana, Ferozepore (except the Fazilka tahsil) and tahsil Kaithal and pargana Indiri in Karnal;

(c) The Delhi and Bhatti territories conquered in 1803 and transferred from the North – Western Provinces to the Punjab in 1858. These

comprise the districts of Hisar, Rohtak , Gurgaon , Delhi, tahsil Panipat and paragana Karnal in Karnal and tahsil Fzilka in Ferozpur.

82. Assignments under the Sikh Government. In the first Punjab administration Report it was estimated that under Maharaja Ranjit Singh more than 1/3rd of the revenues of the State was assigned to private individuals. This curious state of things was not due to any sentiment of generosity on the part of that astute ruler. It was the natural result of the process by which his power had been built up and of the convenience under a rude system of administration of making the servants of the State collect their wages direct from its subjects. Ranjit Singh was originally only the head of one of the misls or confederacies into which the followers of Guru Gobind Singh were divided. Although he made himself the master of the whole Sikh common wealth in the Punjab he felt that it was impolitic and perhaps impossible to deprive the powerful Sardars whom he converted from his equals into his vassals of the revenues they had enjoyed and the powers they had exercised within their own estates. He contented himself therefore with making their tenure conditional on furnishing contingents of horsemen to reinforce in time of war that powerful army of trained foot soldiers which was the real foundation of his power. The same motives led him to leave to the Rajput Rajas of the hills and the powerful Muhamadan Chief of the western Punjab whom he brought under subjection some fragments of their ancient possessions in the shape of jagirs. A part even of the regular troops was paid by assignments of land revenue and he found it convenient to remunerate in the same way the great officers of the State and to make similar grants for the support of the ladies and the servants of his household. As an Indian ruler it behoved him also to be liberal in grants to holy men and religious in situations. It was worth while to conciliate the leading men in many estates the maliks or mukaddims or

chaudhris as they were called by giving them a part of their own lands revenue free or even a considerable share of the village collections. These petty grants were known as inams and where they consisted of a definite share of the revenue of an estate as chaharams.

83. Insecurity of tenure of assignments under Sikh Government - There was of course no security of tenure. Each grant was held at the leisure of Maharaja which usually meant for so long as the recipient was worth conciliating. More especially every assignment was in practice open to reconsideration on the death of the holder and when renewed a fine or nazrana was often exacted which sometimes equaled the collections of several years.

84. Position of assignees under Sikh Government - Assignees were entitled to the States' share of the Produce and took it, as the State usually did in kind that is by actual division of crop or by appraisement. Where the grants consisted of whole villages the grantee exercised the right of extending cultivation by bringing in tenants to break up the waste. He sunk wells and planted gardens and if he was strong enough turned out existing cultivators who fell under his displeasure. The larger jagirdars also held the powers comprehensively described as faujdari that is to say they carried out so far as their power of their disposition led them the rude system for the exaction of fines or the lopping off of limbs as a penalty for crime or the enforcement of arbitration in civil cases which then constituted criminal and civil justice. They in their turn made grants within their own estates to the men who fought for them in the field or prayed for them at home.

85. Assignments in districts annexed in 1846. The territory ceded by the

Lahore Darbar in 1946 was known in official literature as the “Trans Sutlej States”. In the hill tracts the jagirs were held by the Rajput Rajas who had been deposed by Ranjit Singh and who were not restored to independence when we took their country. The Rajas of Mandi and Suket were never reduced to the status of Jagirdars by the Sikhs though the former suffered much at their hands and their territories continued to be separate chiefdoms under the suzerainty of the British Government. In the plains the Kapurthala Chief occupied a similar position for Ranjit Singh’s ally. Sardar Fateh Singh Ahluwalia had managed with difficulty to maintain his rights But the other Sikh Sardars between the Beas and the Sutlej had been reduced to subjection like their brethren to the west of the Beas and held their estates on condition of furnishing horsemen in time of war. Other Jagirdars of the Cis-Sutlej States had received their Jagirs as rewards for services rendered to the Lahore Darbar.

86. Orders issued by Lord Hardinge - Lord Hardinge’s orders regarding the treatment of revenue free tenures in the Trans-Sutlej States may be reproduced as they were adopted with some modifications in the instructions given by Lord Dalhousie to the Board of Administration after the annexation of the rest of the Punjab. He prefaced the rules which he laid down by remarking “there is certainly no reason why we should maintain in perpetuity an alienation of the Government revenues which would not have been maintained by the power we have succeeded . * * * All grants were resumed by the Sikh rules at will without reference to the terms of the grants whenever State exigencies or even caprice dictated. On the death of the granter they lapped as a matter of course, and were only renewed on payment of large nazrana equal in some instances to may year collections ***** The decision of the British Government on these claims will give a permanency validity and value to the tenures hitherto unknown notwithstanding

sanads from Native Governments of perpetual release from all demands which the holders know mean nothing.” The rules, seven in number were as follows :-

1st –All grants for the provision or maintenance of former rulers deposed or former proprietors dispossessed to be maintained on their present tenures in perpetuity.

“2nd – All endowments , bonafide made for the maintenance of religious establishments or buildings or buildings for public accommodation to be maintained as long as the establishments or buildings are kept up.

“3rd – All persons holding villages or portions of villages free of rent or money payment and for which no service was to be reddened by grants made by Maharajas Ranjit Singh Kharak Singh or Sher Singh to be maintained in their holding free of rent during their lives each case to be open to the consideration and orders of Government on the death of holder to be decided according to its merits.

“4th – All persons holding land or grants as above, subject to a payment of nazrana, peshkash or the like to hold for their lives subject to the payment of quarter jama and on the death of the holders the land to be resumed or assessed at full jama.

“5th – All persons holding land for which service of any kind was to be rendered to the Sikh rules including Bedis and Sodhis who were expected to perform religious services for the benefit of the donors to hold for life subject to a payment of ¼ jama the case of each such tenure to be reported

for the consideration of Government on the death of the holder.

“6th – Grants made by persons not having authority to alienate the Government revenues to be resumed.

“7th- Where no sanad exists a holding for three generations to constitute a title and entitle the holders to have his case adjudicated by the foregoing rules.”

87. Treatment of Jagirs in tract between Beas and Sutlej. Jagirs in the Trans-Sutlej States which the ancestors of existing holders had won by their swords before Maharaja Ranjit Singh Established his ascendancy were known as “Conquest Jagirs”. In the case of the assignments held by the Sikh Sardars in the plains the policy at first followed appears to have been to resume a portion considered equivalent to the military service which was no longer required and to maintain the remainder for life. A large number of these life tenures were afterwards reconsidered in pursuance of orders passed in 1856 and were ultimately released in perpetuity. The question then arose whether succession should be confined to the heirs of the persons in whose favour the perpetuity grant was made or of the person in possession when the first enquiry after annexation took place. The latter alternative was adopted and it was decided to apply to the Trans-Sutlej Conquest Jagirs the following five rules which were modeled on those laid down some years previously in the case of Cis-Sutlej jagirs :-

“I – That no widow shall succeed to a jagir share.

“II – That no descendants in the female line shall inherit.

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

“IV – That allegation by the Jagirdar of portion of his holding whether to his relations or strangers shall neither be officially recognized nor officially recorded.

“V – That one or more sons of a common ancestor in possession at the period of the first investigation being entitled to the whole share possessed by such common ancestor shall be held and be declared responsible for the maintenance of windows left by deceased brothers who had they lived would have shared with such son or sons.

The Jagirs of the hill Rajas of Kangra were upheld in perpetuity .

Assignments in territory west of the Beas.

88. Treatment of assignments in territory west of Beas - When the annexation of the Punjab was proclaimed on the 30th March, 1849 the members of the newly constituted Board of Administration were instructed by Lord Dalhousie that “the very first object to which they should direct their attention was the determination of all questions affecting the validity of grants to hold land rent free.” It was obvious that annexation must be followed by a great reduction in land revenue assignments . The British Government had no need of the military contingents of the Sardars and it paid its servants by drafts upon the treasury. But it was also a fixed part of Lord Dalhousie’s policy to lower the position of great Sardars and to trust to the contentment of the common people and to the presence of a sufficient military force to secure the peaceful

development of the new province. Of the two great brothers who were the leading members of the Board of Administration sir Henry Lawrence accepted with reluctance a policy which differed widely from his own views while Sir John Lawrence welcomed it because he was himself convinced of its soundness. This is not the place to discuss the merit's of the course which was actually followed. It is enough to note that the settlement made was not in fact an illiberal one. It is also the case that men's faith in this , as in some other parts of Lord Dalhousie's policy was a good deal shaken by the events of 1857 and that in many cases the original conditions of the Jagirs grants to leading families in the Punjab have been revised as opportunity offered in generous spirit.

89. Lord Dalhousie's Views. Lord Dalhousie laid down emphatically that by our occupation of the country after the whole Sikh nation had been in arms against us . We have acquired the absolute right of conquerors and would be justified in declaring ever acre of land liable to Government assessment." He ordered the resumption without exception of grants held by men who had taken up arms against the British Government, whether by choice or compulsion . He repeated Lord Hardinge's description of the insecurity of the tenure of jagirs under the Sikh Government and of the increased value which the decision of the British Government would give to any assignment that was maintained. Every assignee whose tenure was upheld was to give up all deeds of grant which he held from former Governments and to receive instead a sanad from the Board declaring that the assignment was the free gift of the British Government. Except in a few special cases the Jagirdars were to be deprived of all policy powers and every assigned estate was to be assessed "so that the jagridars or other holder should not be allowed to rack rent his tenants or derive more from the land than would be taken by the Government whose place he occupies." Where grants held

on condition of service were maintained a cash commutation for the aid which was no longer required was to be fixed.

90. Rules issued by Lord Dalhousie - Lord Dalhousie reproduced Lord Hardinge's seven rules with some modifications and added one of his own. In the first rule for the words "on their present tenures in perpetuity" the words "on their present terms subject to future diminution after the death of incumbents" were substituted. This alteration was not without significance. To the second rule a rider was added providing for the reduction of endowments which appeared to be exorbitant and it was remarked that when grants of great value have been conferred for the maintenance of the State religion.... They should be restricted to a smaller amount from obvious motives of political expediency." An addition was made to rule 3 to the effect that long occupancy would of course receive the consideration of Government. The alterations in the other rules were only verbal. The additional rule was as follows :-

"8. Where chiefs or other hold lands rent free which were not granted by Maharaja Ranjit Singh or any other ruler but won by their own swords they will deserve consideration and their cases should be specially reported to Government with the Board's Recommendation in each case. Any particular cases not provided for in the foregoing rules to be reported separately to government for special orders.

Land Dalhousie added :-

"Should cases of individual hardship arise from a strict observance of these rules whether from indigence infirmity age or sex the Governor-General on such being represented will be happy to relax the severity of the rules or

confer a pension upon the object.”

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91. Instructions of Board of Administration - In circulating these instructions the Board of Administration remarked :-

(a) with reference to (Rule 2) that religious endowments should be upheld in perpetuity subject to the good behavior of the grantees and conditional on the income being devoted to the objects originally proposed by the grantor :

(b) that the third rule should usually be held to apply to grants made by the three Maharajas mentioned before their accession or by other Chiefs before their time :

(c) with reference to the 6th and 7th rules that assignments unsupported by sanads or held under invalid sanads granted by kardars nazims and the like should nevertheless be maintained for the lives of the present occupants where possession was of long standing and that unbroken occupation of 20,25 or 30 years whether by one individual or for two or more generations should entitle the holder to a life interest :

(d) that grants of recent date should when the occupants were old or infirm or for any other reason objects of charity be maintained for life :

(e) that where a jagir had been confiscated because the Jagirdar had borne arms against the British Government all grants made by him to his dependents should at once be resumed . But in cases of small assignments of long standing special recommendations to maintain for life might be made if the holder appeared to be entitled to this indulgence :

(f) that grants of land free of assessment enjoyed by the headmen of Villages if supported by sanads were to be upheld. If they had been enjoyed for many years and the amount was not excessive they were to be maintained for life or at any rate; until the revised settlement even though no sanad could be produced;

(g) that lands held revenue free by village servants if the amount was moderate were to be upheld until the revised settlement;

(h) that the tenures under which gardens were held were to be liberally dealt with and if supported by valid sandals or possessed by several generations were to be recommended for maintenance in perpetuity . If resumption was resolved on settlement was to be made with the ex mafidar at the ordinary village rates and not at garden rates . Where the grant was new and the garden existed before it was made. It was to be resumed and the land assessed to the best advantage.

92. Chaudhris inams. Shortly after the Board directed that inams or money allowances enjoyed by leading members of village communities before annexation should be upheld for life subject to good behavior. On the death of the inamdar the inam was to be continued to his son or resumed as might seem expedient. The inam was to be considered as remuneration for service to Government and to the village community and the possession of it entitled the holder to be called chadhri.

93. Grants to takiyas -Lord Dalhousie's second rule put religious establishments and buildings for public accommodation on the same footing and

directed the maintenance of their endowments for as long as the establishment or buildings were kept up. In 1853 the question was raised whether these orders applied to Hindu dharamsalas or to the small roadside takiyas occupied by Muhammadan fakirs. Sir John Lawrence ruled that except in special cases grants in support of such buildings should not be released in perpetuity. The reasons he gave are characteristic and are worth quoting –

“5th- The Chief Commissioner cannot admit that the existence of such grants does not encourage mendicancy but further considers that the existence of these takiyas has often a mischievous effect. Doubtless men who're now fakirs will for the most part remain such; their idle habits will prevent their taking to any honest or respectable mode of livelihood. But there will no longer exist the same inducement for the young and active to join such people and the number of their disciples will at once fall off. The abolition of monasteries in Protestant countries caused that class of men to disappear in a few years and so will a similar system operate on the commentates of fakirs. In the North – Western Provinces where such endowments are rare, the number of this class bear no proportion to those existing in the Punjab where they have been fostered and cherished.

“6th – The people are very zealous, no doubt for the support of such endowments because they cost them nothing but if their zeal is genuine and sincere they will support the takiyas themselves. Government have sacrificed much revenue in reducing the land tax, in abolishing customs and giving up vexatious cesses of various kinds which the people are well aware of. We can therefore afford that they should murmur a little at the loss of their takiyas.

“7th – The Chief Commissioner himself has never looked on these places with fervor. He has had personal experience of their gross abuse. As a magistrate and criminal judge, he has often known them to be the resort of thieves , robbers and murders. The whole class of fakirs he believes to be bane to the country.

“8th- The Chief Commissioner, moreover does not understand how a takiya of the character of that in Chamyari could afford to feed travelers; eight rupees per annum would not go far in this way. He believes that the hospitably of the occupant fakir is almost always lives that the hospitably of the occupant fakir is almost always limited to the feeding of his own class and that he does not do more for other travelers than give them a little water or perhaps in special cases a few whiffs of his hukah. Such being the Chief Commissioner’s deliberate opining he cannot advocate the release of the land in Chamyari nor agree to reconsider similar cases of the kind in the Jalandhar Doab.”

94. The Jagir Enquiry. The enquiry regarding all service grants all Jagirs consisting of one or more estates was carried out by a special officer Captain Becher. The final order in these cases were passed by the Governor General. This which politically speaking was the important part of the in concerning the smaller grants should be conducted by District and Settle meant Officers and the work was mainly done by the latter . It proved a lengthy business but was nearly complete except as regards the frontier districts in 1860.

95. Mafis in Jagir estates. It was found that in jagir estates there were plots of land for which revenue was paid neither to the jagirdar not to Government. The

Chief Commissioner ruled in 1854 that all such tenures should be investigated and orders passed for release or resumption. When any such grant lapses the benefit accrues to the jagirdar and not to Government. There are some exceptions to this rule, which will be noticed later.

96. Classification of Sikh grants. In the first Punjab Administration Report which was issued in August 1852 the revenue free assignments and cash pensions which had been enjoyed under the Sikh Government were classified as follows:-

Section 1- Service grants

1. Military
2. Civil
3. Feudal
4. Household

Section II – Personal grants

5. State pensioners
6. Royal Ladies.
7. Family Provision
8. Allowance to influential landholders

Do III – Religious grants

9. Endowments
10. Charitable
11. “Holy men.”

97. Treatment of different classes of grants. The board described the manner in which they had dealt with the different classes of cases.

“For those grants which in cash or in land are allowed in consideration of long service the following rules have been adopted :-

From twenty –five to thirty years service. Entitles the party to one fourth of his

emolument: thirty to thirty-five years, to one-third :thirty five years to forty and upwards, to one-half: but the first named period, viz. Twenty –five to thirty years, has generally been diminished to fifteen years. In favour of jagirdars

“In the classified schedule of grants, with regard to classes 1 and 2 namely , grant for military and civil service, it will be remembered that previous to annexation these grants were chiefly in lieu of salaries: when the late Darbar tropes were disbanded by the British Government some few of the recipients were taken into British employ and the remainder were pensioned off on one-fourth, one third or one half the grant as the case might be. If the grant was found to be superannuating allowance it was maintained in full. The same principle obtained with the household grants held by the attendants of the sovereign. The feudal grants (class No. 3), were held by the great barons and the dignitaries of the State. These grants are partly feudal and partly personal. That portion of the grant which was conditional on the furnishing of a contingent would be resumed and the horsemen would be generally discharged and pensioned under the rule already given. But a portion of the grant was generally on allowance personal to the feudal chief and this portion would be maintained to him for life and a portion to his legitimate male issue in perpetuity either in virtue of prescriptive possession or of the grantor’s authority or on special considerations of family influence and antiquity or of individual character and services. With regard to State pensions (Class 5). The grants were maintained for life of incumbents subject to diminution after death. In case of royal ladies, mostly windows of Maharajas Ranjit Singh Kharak Singh and Sher Singh, the landed grants were not maintained , but a money commutation for their lives was effected . The family (class No. 7) are allowances to the heirs or relatives of deceased chiefs. Soldiers or servants of the State granted by our predecessors and confirmed by

ourselves. They are subject to resumption or reduction after demise of recipients. Among the grants which come under the general denomination of personal may be noticed "the inams" (class No. 8) . This term was under the Sikh rule applied to certain deductions made from the revenue of an estate in favour of some village chief called a chaudhri who by local knowledge aided the revenue officers in ascertaining the resources of the village and in collecting the taxes and also in the preservation of order and harmony. The agency thus secured and the influence thus enlisted on the side of the local authorities were important. The grants have been generally maintained during the life-time of the grantee upon the condition of general service. In the conducting of the new system of settlement which chiefly works through popular agency the chaudhris have made themselves most useful and their services may for the future be turned to good account in the detection and prevention of crime in the management of disorganized estates in the arrangements for the public convenience such as the furnishing of supplies and carriage repair of roads and the construction of useful works.

"The endowments mentioned in class No. 9 are both secular and religious for the support of temples mosques places of pilgrimage and devotion schools village inns for the reception of travelers paupers and strangers generally of a monastic character. These institutions are ornaments to the villages: they have some architectural pretension and being embossed in trees are often the only shady spots in the neighborhood. They add much to the comfort of rustic life and keep alive a spirit of hospitality and piety among the agricultural people. The endowments though occasionally reduced in amount have on the whole been regarded with liberality and in confirming them the officers have mainly regarded the utility and efficiency of the institution. Such grants when insignificant in amount have been maintained even though

the original grantor might have been the headman of the village.

The grants to objects of charity or to persons of sanctity have frequently been paid in cash and in such cases have been brought under the denomination of pension. In regard to the charitable grants indeed with regard to all grants the tenor of paragraph 56 of the Government letter has been observed and the rigours of the rules has been relaxed in favour of parties who from indigence informally age or sex might be fitting objects of special indulgence.

98. Social effects of policy adopted. It is interesting to observe the view taken by Sir John Lawrence a year and a half of the social effects of the policy described above.

“The settlement of the country is by the present date assuming its solid and permanent proportions; the transition is well high complete and the country is becoming the Punjab of the British power. The feudal nobility of Ranjit Singh the pillars of his State are tending towards inevitable decay. Their gaudy retinues have disappeared their city residences are less gay with equipages and visitors: their country seats and villas are comparatively neglected. But the British Government has done all its consistently could to mitigate their reverses and render their decadence gradual . They receive handsome pensions or they retain for their lives a moiety of their landed grants when any of them have been judged to possess hereditary claims a fair share of their landed fields has been guaranteed to them and their posterity in perpetuity. They are treated with considerate respect by the servants of the Government; they swell public processions and attend at ceremonial darbars . The sons of this nobility and of the gentry are seeking Government employe

and acquiring a liberal education. Their retainers similarly enjoy the bounty of the Government. The numerous dependents of the late regime are also provided for. Not only are the royal widows and their attendants being cared for but also office-bearers of the Court the chamberlains the mace bearers, the soothsayers the physicians, the servants, the musiciens, the men-in-waiting are all borne on the pension rolls of the British State. All these classes naturally sink into obscurity and though everything's like splendour has vanished yet it has not been succeeded by poverty; and the multitude which surrounded and supported the throne of Ranjit Singh and his successors exists in substantial comfort.

“The priestly classes have also every reason to bless their new masters. The Sikh holy places have been rested. The shrines Dera Nanak Amritsar, Tarn Taran, Anadpur, retain a large portion of the endowments which a Sikh Government had lavished on them. Liberality has indeed been extended to all religious characters even to mendicant friars and village ascetics. The thousands have allowed these people to retain their petty landed grants on a life tenure. There is hardly a village mosque or a rustic temple or a shaded tomb of which the service is not supported by a few fields of rent free cultivation. These classes, though they will not become extinct will yet greatly fall below their present numbers when the existing generation shall have passed away. In the meantime they are kept contented and their indirect influence on the mass of the population is enlisted on the side of the Government.

“Among the agriculturists the influence of the chaudhris is on the decline. They are a species of local chiefs or principal resident gentry who under the Sikh regime aided in collecting the revenue and enjoyed many privileges and immunities. Many of their privileges are maintained to them but as their

services are no longer required their power is on the wane. The undue power of the headmen also over the village communities has been curtailed but their legitimate position as representatives of the brotherhood has been strengthened and defined.

99. Grants in perpetuity provided for continuance to “male heirs”. In 1852 the Governor –General ruled that when a grant was assigned in perpetuity it lapsed to Government on the failure of legitimate male issue in the line of the original grantee that is of the person to whom the British Government had confirmed the grant . Unfortunately the original orders releasing these jagirs provided for their continuance in favor of “male issue” or male heirs” or “lineal heirs”. The fact the this might involve the frittering away among numerous shareholders of a revenue which undivided might have sufficed to uphold the dignity of the head of great family was either unnoticed or disregarded. The efforts which were subsequently made to correct this mistake concern all large jagirs thought the province and before referring to them it will be convenient to describe the origin and peculiar features of the jargirs of the Cis-Sutlej and Delhi Territories.

Assignments in Cis-Sutlej States.

100. History of Jagir of Cis-Sutlej peculiar. The Jagirs tenures of the districts formerly known as the Cis-Sutlej States have a history of their own. No. better account of their origin can be found than that given by Mr. Kensigton in the “Ambala Gazetteer” , which is reproduced in the following paragraphs:-

The Sikh Conquest - The storm burst at Las in 1763 . The Sikhs of the Manjha Country * * * * * combined their forces at Sirhind routed and

killed the Afghan Governor Zain Khan and * * * * * occupied the whole country to the Jamna without further opposition. ‘Tradition still describes how the Sikhs dispersed as soon as battle was won and how riding day and night each horseman would throw his belt and scabbard his articles of dress and accouterment until he was almost naked into successive villages to mark them as his. The chiefs hastily divided up among themselves and their followers the whole country to the Jamna and asserted themselves as rulers of the people. In a very few cases such as those of the Saiyyid Mir of Kotaha and the Raipur and Ramgarh Rajput sardars of Naraingarh and the Baidwan Jat sardars of Kharar the indigenous leaders of the country were strong enough to hold their own after a fashion and to assimilate their position to that of their conquerors. Elsewhere the Sikh rule was supreme and the experience undergone by the people of the district at the hands of these merciless invaders has left its mark on the country to the present day.

State of country before the Chiefs were taken under British protection. “The history of the next forty years is made up of the endless petty warfare of these independent Sikh Chiefs among themselves except when a common danger banded them to resist the encroachments of the more powerful States of Patiala and Manimajra on the north and Ladwa, Kaithal and Thanesar on the south. Each separate family and each group of feudatories strong enough to stand out family and each group of feudatories strong enough to stand alone built itself a strong fort as a center from which it could harry the whole neighborhood. Many of these are still in existence and a marked feature of the district recalling the extraordinary lawlessness of period when literally every man’s hand was turned against his brother. No attention was paid to the country by the British Government, which had fixed the Jamna as the furthest limit for political enterprise and it is believed that profoundest

ignorance prevailed both as to the constitution. The rights and the political strength of the supposed rulers.

“From 1806 to 1808 the position rapidly changed . On the one had the Cis-Sutlej chiefs themselves were panic struck at the sudden danger threatened to them by the rise of Ranjit Singh’s Power from beyond the Sutlej . In the three successive years 1806 to 1808 raids were made by Ranjit Singh in person to Ludhiana to Naraingarh and to Ambala. It was openly announced by him that he intended swallowing up the whole country of Jamna and it was released that one power and one only could prevent his immediate success. On the other hand the British Government feared a new danger from the north by a combined invasion of the French, the turks and the Persians and it was hastily decided to give up the Jamna as the boundary and to trust to the new principle of alliance with a strong buffer State at Lahroe at the same time it was recognized that Ranjit Singh was himself a source of danger not to be despised and with the Government in this mood in 1808 an impulse was easily given to the policy of active interference by the arrival at Delhi of deputation represented by Jind, Patiala and Kaithal to invoke assistance for the Cis0Sutlej States. * * * * *It was apparently assumed that the whole territory to the Sutlej was parceled out among a few leading States of the same character through whom the country could be strongly governed and the efforts of the authorities were aimed at the two fold object of on the one had securing an effective alliance with Ranjit Singh and on the other extending British protection to these lesser States ranging from the Jamna to the Sutlej. The overtures were eventually successful and a definite treaty was made with Ranjit Singh on the 25th April 1809 by which he surrendered his new acquisitions south of the Sutlej and bound himself to abstain from further encroachments on the left bank of that river. The strain from further

encroachments on the left bank of that river. The treaty was followed up in May 1809 by the celebrated proclamation of Colonel Ochteriny on behalf of the British Government to the Cis-Sutlej Chiefs. The proclamation beginning with the quaint wording that it was clearer than the sun and better proved than the existence of yesterday that the British action was prompted by the chiefs themselves is given in full * * * at page 122 of the Punjab rajas. It includes seven short articles only of which No's 1 to 5 are important Nos. 1 to 3 limited Ranjit Singh's power and declared the Cis-Sutlej Chiefs sole owners of their possessions free of money tribute to the British ; while Nos. 4 and 5 required them in return on their side to furnish supplies for the army and to assist the British by arms against enemies from any quarter as occasion might hereafter arise.

“ It is impossible to read the history of these transactions without seeing that the Government were really taking a most important step almost in the dark . Instead of finding the Ambala territory under the control of a few central States they soon realized that they had given it over forever to hordes of adventures with no powers of cohesion who aimed only at mutual aggression and whose sole idea of government was to grind down the people of the country to the utmost limit of oppression. The first point was easily settled by a sharp reminder given in a supplementary proclamation of 1811 that every man would have to be content with what he held in 1809 and that the British Government would tolerate no fighting among themselves . It was however found that as a fact the so-called Cis-Sutlej Sovereign States were represented as far as Ambala was concerned by some thirty petty rulers with estates ranging from 20 to over 100 villages and by a host of small fraternities comprising many hundreds of the rank and the file among the followers of the original conquerors who had been quartered over the country

with separate villages for their maintenance and who were all alike now vested with authority as independent rulers by the vague terms of the proclamation of 1809 . Published works have nowhere every clearly recognized how sorely the Government repented of its mistake but there seems no doubt as to the facts and it is not be wondered at that Sir David Ochterlony should have privately admitted to the Governor General in 1818 that the proclamation of 1809 had been based on an erroneous idea. From 1809 to 1847 persistent efforts were made to enforce good Government through the Political Agency at Ambala Among the endless semi-independent State. The records of the time bear witness to the hopeless nature of the undertaking . They teem with references to the difficult enquiries necessitated by the frequent disputes among the principalities by their preposterous attempts to evade control and by acts of extortion and violent crime in their dealings with villages. Year by year Government was driven in self-defense to tighten the reins and every opportunity was taken to strengthen its hold on the country by enforcing its claims to lapse by escheat on the death without lineal heirs of the possessors of 1809 or their descendants . It was thus that the British district of Ambala gradually grew up each successive lapse being made the occasion for regular settlements of the village revenues and the introduction of direct British rule. At the same time Government scrupulously observed the engagements of 1809 and with the exception of the prohibition of internal war by the proclamation of 1811 . the powers and privileges of the Chiefs remained untouched. Each Chief great and small alike had within his own territory absolute civil criminal and fiscal jurisdiction subject only to the general authority of the Agent to the Governor General. No tribute was taken from them and though they were required in the case of war to aid the Government. Yet no special contingent

was fixed. The right of escheats was the sole return for its protection which the Government demanded . Throughout a long period of peace during which while north of the Sutlej every vestige of independence vanished before the encroachments of Ranjit Singh the cis-Sutlej Chiefs enjoyed a complete immunity from invasion and retained undiminished rights of sovereignty . After thirty six years with the exception of few States which had lapsed from failure of heirs each chief still found himself the ruler of the territory which he or his fathers had held at the time when they passed under British protection.

“ In 1846-47 a fresh step had to be taken owing to passive obstruction for open hostility on the part of the chiefs when called on to assist the Government with supplies and men during its campaign against the Trans-Sutlej Sikhs in 1845. No occasion had occurred for testing their gratitude for the benefits secured to them until the declaration of the first Sikh war and the Sutlej campaign of 1845. But When tested it miserably failed throughout the war few of the Chiefs displayed their loyalty more conspicuously than by abstaining from open rebellion. Their previous conduct had not been such as to encourage the British Government in its policy towards them. Almost without exception they had abused its indulgence and made the security of its protection a means of extortion and excess of every kind . There was nothing whatever to admire in the internal management or administration of their estates as was amply testified by the universal satisfaction with which the peasants of those estates, which from time to time had lapsed came under direct British management. It has been well said that independence for these Sikh Chiefs had no nobler significance than the right to do evil without restraint and to oppress the people who were so unfortunate as to be their subjects.

“Having thus already lost the confidence of the Government, the Sikh Chiefs in the Sutlej campaign forfeited all claim to consideration . It was seen that the time had arrived for the introduction of sweeping measures of reform and the Government unhesitatingly resolved upon a reduction of their privileges . Several important measures were at once adopted . The Police jurisdiction of most unfavorable to the detection and punishment of crime. All transit and customs duties were also abolished ; and thirdly a commutation was accepted for the personal service of the Chief and his contingent. The dispatch of the Governor General , embodying this resolution was dated November 17th 1846. The only States exempted were Patiala, Jind, Nabha, Faridkot, Maler Kotla, Chhachhrauli (Kalsia), Raikot Buria, and Mamdot, With these exceptions the Police Jurisdiction was made over European Officers . The Political Agency of Ambala was transformed into a Commissioner ship under an officer styled the Commissioner of the Cis-Sutlej States. At the same time the more serious offenders in the campaign of 1845 were visited with signal punishment . Their possessions were confiscated to Government . As regards minor Chiefs similar severe measures were considered unnecessary though the majority had not shown their loyalty in 1845 in any more conspicuous way than in not joining the enemy and for a short time an attempt was made to leave them the unrestricted right of collecting the revenue of their villages in kind as hitherto. It soon however, became apparent that the Chiefs deprived of their police jurisdiction were unable to collect their revenue. A proposal was therefore , made for a regular settlement of the land revenue . But before final orders had been passes upon this point the second Sikh War commenced. It ended in the annexation of the Punjab and in the removal of the political reasons which had hitherto complicated the question of the amount of power to be left to the Cis-Sutlej

Chiefs . In June, 1849, it was accordingly declared that with the exception of the States already mentioned all the chiefs should cease to hold sovereign powers should lose all criminal civil and fiscal jurisdiction and should be considered as no more than ordinary subjects of the British Government in the possession of certain exceptional privileges. The revenue were still to be theirs but were to be assessed by British officers and under British rules. The final step necessitated by the march of events was taken in 1852, when the revenue settlement begun for British villages in 1847 was extended to the villages of the Chiefs.

Thereafter the chiefs have ceased to retain any refits of their former powers. They have sunk to the position of jagirdars but as such retain a right to the revenue assigned to them in perpetuity”.

Commentary

The Cis-Sutlej Jagir is not abolished by land revenue payable on small holdings . The State Government is liable to pay compensation to Jagirdars.

101. Commutation for military service. The Commutation for military service required by the 5th clause of the proclamation of 3rd May , 1809 was fixed at Rs. 16 per mensem for every horseman and Rs. 6 mensem for every footman. This however was changed in 1852 into a drawback of 2 annas per rupee of revenue in jagir estates. This is the general rate but in some cases 4 annas and 8 annas are taken and in a few jagirs the commutation was reduced to one anna on account of service rendered in the Mutiny.

102. Peculiar status of Cis-Sutlej Jagirdars. The jagirs in the Cis –Sutlej States are not the gift of the British Government as are those in the part of Punjab which was annexed after the second Sikh War. Nor do they stand on the same

footing as the conquest jagirs in the tract between the Beas and the Sutlej, the holders of which are descendants of men who whether originally independent or not were subjects of the Rajas of Lahore before they came under British rule. But the Sikhs in the Cis-Sutlej States whom we transformed into jagirdars in 1847, however petty their individual holding might be were in theory and to a large extent in practice independent rulers whose ancestors had come under our protection in 1809 with a guarantee that they would remain in the exercise of the same rights and authority which they had hitherto enjoyed. It was indeed proposed in 1846 after the first Sikh war to declare all the estates forfeit on account of the lachers of their holders and to regnant them under sanads from the British Government, But Lord Hardinge deemed it impolite to proclaim to all India the misconduct of the Cis-Sutlej Jagridars great and small are mediated rulers and little though they have as a body deserved at our hands, this fact should not be lost sight of in our dealings with them.

103. Classification of Cis-Sutlej Jagirs - Their Jagirs are of three classes :-

- (a) Large estates
- (b) Pattidari Jagirs
- (c) Zaildari Jagirs

There is no difficulty as to the general meaning of these terms though questions have arisen as to whether a particular Jagir should be put in the second or third class an no authoritative list of large estates has ever been drawn up.

104. Meaning of large estates pattidari jagir and zaildari jagirs. Large estates are Jagirs possessed by individual Sardars of their descendants and include a large or smaller number of villages. The pattidari and Zaildari Jagirs are held by fraternities consisting of the descendants of bodies of horsemen who overran the

country when it was first conquered or who were called in later to help of original conquerors to hold it. These fraternities divided amongst themselves the villages which they seized in horseman's shares.

Where they maintained or acquired a position independent of the great Sardars their tenures are known as pattidari jagirs. Where their holdings were subordinate to those of the Sardars who claimed the right to lapses of heiress shares they were called zaildari jagris.

105. Customary law emulating the succession to tenures of Cis-Sutlej Chiefs before 1851. The best source of information as to the rules governing the succession to the estates acquired by the Sikh conquerors of the Cis-Setlej territory before we reduced them to the status of jagirdars is sir lepel Griffin's Law of Inheritance of Chief ships as observed by the Sikhs previous to annexation of the Punjab" Published in 1869. IN the stormy years before 1809 individual ambitions sometimes made short work of hereditary titles. But the conclusion to be drawn from the facts which sir Lepel Griffin recorded is that the real rule of succession was identical with that prescribed by the customary law regulating the descent of landed property in the Punjab . It was but natural that peasants who suddenly found themselves princes should apply to their conquests the only law of inheritance with which they were familiar . It is note worthy how often between the date of conquest and 1847 the title of a sonless widow to succeed to the enjoyment of wide possessions and authority was admitted when the right was overridden this was frequently managed in a perfectly legal way still customary throughout large parts of the Punjab by means of a karewa marriage between the widow and her deceased husband's brother. Information regarding customary law was much more meager when Sir Lepel Griffin wrote than it is now. Had it been otherwise he would probably have modified many of the expressions and some of

the conclusions in his book and distinguished more clearly between successions which took place before the date of protection and those afterwards enforced by the conflicting decisions of our political Officers. Definite rules have been made to regulate the succession to pattidari and zaidari jagirs but “The Law of Inheritance to Chiefships can still be profitably referred to when question arise as to the descent of large estates.

106. Pattidari Jagir rules to be first described. The pattidari rules will first be explained and the matters in which the tenures of zaidars and of the holders of “large estates differ from that of pattidars will then be noticed.

107. Succession to pattidari Jagirs. In 1851 the Government of India laid down the three following rules to regulate successions to horsemen’s shares in pattidari jagirs :-

- (1) That no widow shall succeed.
- (2) That no descendants in the female line shall inherit
- (3) That on failure of direct male heir a collateral male heir may succeed if the common ancestor of the decease’s and the collateral claimant was In possession of the share at or since the period 1808-09 when our connection with the Cis-Sutlej territory first commenced.

Lord Dalhousie added “Though the rule now laid down may be at variance with the course which has been actually taken in many cases , The Governor General would by no means disturb the decisions which have been given. All parties who have received possessions from a British Officer should retain it for their lives, except females who should receive pensions instead.” This referred to a proposal by the Board that widows and daughters should be given money pensions not exceeding half their husbands’ or father’s share in 1853. The government of India decided that a title in per petty could not be acquired through females . but that

males who had interrupted through females would be left in possession of their shares for life.

108. Rules not applicable to part of Cis-Sutlej Territory. The rules do not apply to the conquests on the right bank of the Sutlej made by Maharaja Ranjit Singh or his dependent Fattah Singh Ahluwalia of Kapurthala before March 1808 which they retain after the first Sikh War and presumably the rules referred to in paragraph 87 apply to them as well as to conquest jagirs in the tract between the Beas and the Sutlej which was ceded by the Lahore Darbar at the same time.

109. Remarks on the rules. The first of the rules of 1851 was seemingly not in accordance with custom which would have given a sonless widow a life interest in her husband's share. But if any injustice was done, it was redressed by the Board of Directors who in 1854 ordered that widows who had been dispossessed should have their pensions raised so as to equal in value the jagirs which they had lost, and that widows still in possession should not be disturbed unless they agreed to take pensions in lieu of their jagirs. The second rule is quite consonant with customary law. It appears that political officers had in some cases contrary to that law recognized the succession of daughters and daughters sons. The third rule was that proposed by two of the three members of the board Sir John Lawrence and Mr. Mansel. The President, Sir Henry Lawrence preferred the principle which had been followed in deciding the succession to the large estates of Jind and Kaithal namely that without any reference to the state of possession in 1808-09 a male descendant of the first conqueror or occupant should inherit all that had been acquired by the head of the family before the collateral branch split off from the main stock and became master of a separate estate.

110. Family custom upheld when not inconsistent with the rules. Family custom is unhealed as regards succession when it does not conflict with these rules . The custom regulating division between sons by different mothers known as chundavand will for example, be followed where it is shown to prevail in the particular family concerned.

111. Subsidiary rule sanctioned in 1852. As the enquiry proceeded it Became evident that the three rules sanctioned in 1851 did not completely cover the ground and eight subsidiary rules proposed by Mr. Edmonton the Commissioner of the Cis-sutlej States were sanctioned by the Board in 1852. These are reproduced in Appendix III to Barkley's Directions for Settlements Officers. It is only necessary to quote four of them here:-

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

(b) That the official and recorded declaration of the Political Agent as to the person in possession 1808-09 shall be accepted without questions and succession continued accordingly.

(c) That allegations by a Jagirdar or pattidar of portions of his holding whether to his relations or strangers shall neither be officially recognized nor officially recorded.

(d) That one or more sons of a common ancestor in 1808-09 being entitled to the whole share possessed by such common ancestor shall be held and be declared responsible for the maintenance of widows left by deceased brothers who had they lived would have shared with such son or sons.

112. Investigation of pattidari jagirs at 1st regular settlement of Cis-Sutlej

States. To ensure the carrying out of the third of Lord Dalhousie's rules the settlement officer of the Cis-Sutlej States was ordered to investigate the state of possession in 1808-09 and to draw up a genealogical tree of every family in occupation of a share of a pattidari Jagir tracing the descent of existing holders from the persons in possession at that period "Family" when used in connection with a Cis-Sutlej Jagir means a group consisting of the male descendants of the holder of the Jagir in 1808-09

113. Revision of Jagir registers of Ambala and Karnal at revised settlements. At the revised settlements of Ambala and tahsils . Thanesar and Kalthal and pargana indri of Karnal made by Mr. Kensington and Mr. Duie the jagir register of these two districts were scrutinized and new registers in a more compact and convenient form were drawn up . These include all the three classes of Cis-Sutlej Jagirs the conditions of each jagir with a reference to the order determining them and the rate of the commutation paid to Government were noted. A genealogical tree of each family showing all existing descendants of the person in possession in 1808-09 or other date which determines the right of succession and a list giving the name of each of the shareholders of 1888 with the fraction representing his share and the value of that fraction in money are included in the registers and a simple method of regarding successions and lapses has been provided . The rule of succession followed where there are sons by two or more wives will be found recorded in the registers.

114. Rules regarding Zaildari jagirs - As already indicated the only real difference between a pattidari and a zaildari jagir is that lapses in the former benefit Government, while lapses in the latter accrue to the holder of a "large estate". It was ruled in 1852 at Mr. Edmonstone's suggestion:-

(a) That the inquiry then being made into pattidars jagir tenures should not extend to the possessions of the zaildars or dependants of an individual Sardar during the lifetime of such Sardar.

(b) That on the estate of that Sardar lapsing the possession of his zaildars should be enquired into ascertained and recorded and that from and after the date of the lapse of the Sardar's estate lapses of the zaildars shares and successions to the same should follow the first and second of the rules prescribed by the orders of Government No. 461, dated 12th February 1851.

115. Meaning of second-rule. The wording of the second of these rules is not very explicit but it seems clear that Mr. Edmonstone's meaning was that in the case of zaildari jagirs dependent on a large estate" the enquiry should only go back to possession as it stood at the time when the large estate lapsed and extend to successions which had taken place since. This was the course actually adopted in the case of the zaildars of the Dialgarh State which lapsed about the time when Mr. Edmonstone made his proposals they were given the status of 1852. The intention of the rule was either overlooked or misunderstood for at the first regular settlements of Ambala and Thanesar the zaildars of several lapsed estates were given the status of 1808-09 and it has been decided that the orders then passed shall not be distributed.

116. Status of 1847 given to zaildars of large estates in existence in 1854. In 1854, the Chief Commissioner at the suggestion of Mr. Edmonstone who had become Financial Commissioner modified the two rules relating to zaildari tenures quoted above and decided that 1847, the year in which the Sardars were deprived of their sovereign powers should be assumed as the basis of adjudication in all disputes between Jagirdars and zaildars as to the shares of the latter. It is clear from the correspondence which took place at the time that the reason for taking the date 1847 instead of 1809 was to protect the zaildars from harsh claims

on the part of the Sardars. It was felt that endless disputes and claims would arise if the status of 1808-09 were taken as defining the tenure of the former. It was soon seen that the new rule cut both ways and would in the further be prejudicial to the zaildars and in 1856 the Commissioner of the Cis-Sutlej States tried to have the rule modified but without success. All zaildars of “large estates” still in existence in 1854 have therefore the status of 1847.

117. Peculiar rules regulating succession in case of Jagirs of Maharaja in Ferozepur. The numerous peasant jagirdars of Maharaj and Bhucho in Ferozepore who claim kinship with the great Phulkian houses own the jagir holdings and have peculiar rules of their own Government has given up its right to lapses in consideration of a petty increase in the rate of commutation payable and succession follows the law of inheritance applicable to the landed estate. Hence widows enjoy their husband’s shares so long as they refrain from a second marriage.

118. No absolute rule prescribed to regulate succession in large estates. In the orders passed in 1851 Lord Dalhousie stated that he did “not see any necessity for establishing an absolute rule in the case of large estates. Each case may without any difficulty and with great advantage be determined upon its own merits as it arises. His Lordship would however remark genially that consideration of the custom of families should have a preponderating influence in the decision of such cases. Such estates were therefore excluded from the enquiry which the Settlement Officer was directed to make regarding pattidari jagirs and the Board ordered that each demise should be reported with a statement of the custom of the family.

119. Meaning of Large estate Some difficulty was felt in determining what was and what was not a large estate. Mr. Emonstone wrote to the Board:-

“Presume that the term large estate was meant to comprehend such estates as Buria, Shahzadpur, Manimajra, Sialba, and others which are held not by fraternities of pattidars as the pattidars of Bilaspur, Sadhara, Thirwa, Ambala and Boh, for instance in fractional horsemen’s shares but by an individual Sardar, as the sardar of Buria or by the descendants of one or more Sardars as the Singhs purias. I find it difficult to propose any definition of the term large estate and am compelled therefore to exemplify my meaning. If the Board concur with me in thinking that the term is not exclusively applicable to the nine sovereign states, it might be sufficient to declare generally that the orders communicated with your letter above referred to are applicable only to estates which are held by fraternities of pattidars and in which the distribution of the holding according to horsemen’s shares is recognized leaving any cases which may admit of doubt after the declaration of this principle to be specially reported. Under this rule the estates of Buria and Raipur in regard to both of which I have received separate references from Mr. Wynyard would be considered large estates and exempt from enquiry into the status of 1808-09.

The Board accepted as correct Mr. Edmonstone’s view.

120. Status of 1808-09 how far applicable in case of large estates. It is stated in Mr. Barkley’s Directions to Settlement Officers:-

“In practice the status of 1808-09 though not absolutely prescribed for guidance by Government, has almost invariably been referred to as governing claims of collateral’s to succeed to large estates the custom of the family being referred to only to determine whether the estate should descend

integrally or be divided among the nearest heirs. Either unequal or unequal shares, what provisions should be made for windows and other points of the like nature.”

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121. Fe precedents available. As early as 1859, we find the commissioner of the Cis-Sutlej states in a letter dealing specially with large estates writing that we have taken the status of 1809 A.D. and have declared all jagirs separately held at that date as separate fields inheritable only in a direct male line. But it seems doubtful if the question whether the status of 1808-09. Does or does not govern succession to large estates has often been discussed. Very few “large estates have lapsed in default to direct heirs” though it is notorious that in some cases the present jagirdars are unrelated either to the original conqueror or to the sardar in possession in 1808-09. No shame has been felt in foisting on Government suppositious heirs when the succession to a jagir was endangered by want of issue.

122. Date to be adopted in deciding question who was in possession in 1808-09. No question is likely to arise in the case of pattidari Jagirs as to the exact date referred to in the phrase-“ the status of 1808-09” . The record of the persons in possession in `1808-09 made at the first regular settlement would be treated as finally deciding from whom a claimant must trace descent in order to inherit a share . But large estates were exempted from enquiry in 1851 and if the status of 1808-09 is taken as determining the succession to a large estate it may be necessary to decide who was in possession at a particular date in the period loosely described as 1808-09. In such a case the best date to adopt is March 1808 that being the month in which some of the principal Cis-Sutlej Chiefs formally applied for the protection of the British Government.

123. Family custom governs succession in case of large estates. In dealing with the succession to a large estate. Lord Dalhousie directed that special attention should be given to family custom. Primogeniture will be followed where it is the established custom as it is in the case of the Pathan Nawabs of Kunjpura and in

the Rajput jargirdar family of Raipur. IT is probable that among Jat or Khatri Sikh Jagirdars no family will be found in which primogeniture is really customary. But in some families it is undoubtedly the rule to give a particular son a share larger than that allotted to his brethren under the name of Sardari to mark the fact that he is the head of the family. Where any such custom is shown to prevail, it should be enforced.

The issue of a ayah or sacramental marriage with a virgin and of a karewa or informal marriage by chadar-andazi with a widow are equally legitimate and when the rule of division between sons prevails stand on the same footing. It was ruled in the case of Kheri Jagir in Ludhiana that legitimate sons would always exclude illegitimate in the succession to "large estates".

Whether illegitimacy as we understand the term is a bar to succession when there is no legitimate offspring is a question to be decided if possible by the custom of the family concerned . The sons of handmaids (khwās) have succeeded to independent Rajput Chiefships in the absence of children by wedded wives, and if a similar custom is pleaded in connection with any Cis-Sutlej jagir, the claim can not be set aside at once as preposterous for the customs of Jats of the Punjab as regards marriage and legitimacy resemble those of a primitive Eastern Society as depicted in the books of Genesis and Ruth rather than the law of European countries in the case of the Sohana Jagir which belongs to a Jat Sikh family indigenous to the Ambala district, it was lately held that the Sardar's son by a Jat widow of good family living in his house and whom he could have espoused, but with whom no ceremony of chadarandazi had been performed, is entitled to inherit . The reason given was that a similar case had occurred in the family years before. The issue of an adulterous connection with a married woman would of the course be excluded.

124. Maintenance to widows and others. The amount of the maintenance to be given to widows of deceased holders should be decided mainly with reference to past practice and this also applies to the allowances to male members of a family in which primogeniture has been established by custom or agreement.

125. Jagirs shared by Jat Sikhs from the Manjha and influential local chiefs or families. When the Sikhs overran the country between the Sutlej and the Jumna, They found some chiefs and families who were too strong to be disposed. Hence we find among the Cis-Sutlej jagirs some large estates held by Rajputs like the Raos of Raipur or Pathans like the Nawab of Kunjpura. Some influential families were conciliated by being allowed to retain a share of the revenues of conquered villages. A case of the kind is that of the chaudhris of Kharar who have a seventh share of the revenue of 42 estates. They were put on the same footing as regards lapses and commutation as other Cis-Sutlej Jagirdars except that the succession was limited to heirs male of the person in possession in 1853, when the above orders were passed. In the same way in the Jagadhri tehsil of Ambala a Rajput Family has a share in the Leda Jagir and the Afghans of Khizrabad divide the revenues of eleven British and some kalsia villages with Jat Sikhs and have always been treated as ordinary Jagirdars.

126. Chaharami tenures in tahsil Thanesar of the Karnal district. There is a strong analogy between these mixed jagirs and the chaharmi tenures in the Thanesar tahsil of Karnal described in the 96th paragraph of the Karnal –Ambala Settlement Report. But they have not been treated in quite the same way. The chaharami tenants are for the most part full owners or have superior proprietary rights in the lands of which they enjoy a share usually half but sometimes one-fourth or one fifth of the land revenue. The shares are often extremely small

and lands subject to the chaharami right have not infrequently been sold or mortgaged the chaharami passing with the land to the transferee. No final decision as to these tenures was arrived at the first regular settlement and the conditions on which these peculiar assignments are held were only finally settled in 1889. There was it was allowed no real analogy between chaharamis and zaidari jagirs but Sir James Lyall considered that it had been the intention of the Settlement Officer at the first regular settlement to treat them as on the same footing. He accordingly gave the following ruling.

“According to this view the chaharami holding in each village will be treated as zaidari holding created by the original sikh Jagirdar conquerors of the village and so long as in each village a part of the Sikh Jagir remains un resumed so long these holdings will not be resumed . Whenever in any village the whole of the Sikh Jagir has lapsed The whole of the Chaharami grants will be resumed at once. Till then in accordance with the analogy of Rule 12(V) of the supplementary rule for jagirdars alienations will not be treated as a good ground for resuming part of a chaharami grant.

The contingency of the whole of the shares held by Sikh Jagirdars in the chaharami estates lapsing is probably a very remote one but it may be pointed out that it is not a feature of the zaidari tenure that the shares of zaidars should lapse to Government when the major jagir escheats of which they are dependents.

127. Mafis Cis-Sutlej khalsa estates. Ordinary mafis in khalsa estates in the cis-sutlej territory are governed by the same rules as those in the Punjab proper. The case of mafis in jagir and shared estates will be noticed later.

Assignments in Delhi territory

128. Mr. Barkley’s remarks on assignments in the Delhi territory. It is

stated in Mr. Barkley;s Directions for Settlement Officers published in 1875 that “Investigations in the portions of the (province) which were formerly under the Government of the North Western Provinces made prior to their annexation to the Punjab took place under the Regulations XXXI and XXXVI of 1803 and tenures released in perpetuity under these regulations descend by the ordinary law of inheritance and are transferable. Where any limitation was imposed by the terms of the grant either upon the succession or upon the right to transfer the tenure this of course does not apply and the Punjab rules are applicable to the fullest extent to grants made after 1857.” This statement of the case requires some amplification and correction.

129. Regulations XXXI and CCCVI of 1803. Regulation XXXI of 1803 declared what grants other than “royal” or “badshahi” grants should be considered valid in the “ceded provinces and provided for their registration and for adjudication upon them in the courts of law. Regulation XXXVI of 1803 enacted similar provisions for “royal grants” i.e, all grants made by the supreme power for the time being . The full definition of royal grants includes assignments made by several authorities who were only nominally subject to the Delhi Emperor, but probably all royal grants in the Delhi territory emanated direct from the Emperor or from Daulat Rao Sindhia or one of his predecessors in authority as Mayor of the palace.

130. Assignments confirmed under the regulations regarded as private property and therefore transferable. The theory of the nature of a land revenue assignment embodied in these two regulations is wholly opposed to that has always been held regarding such grants in the Punjab. They were looked upon as private property which could be transferred from hand to hand. Revenue free

tenures were classed as “hereditary” i, e. perpetuity grants and “life” grants. “Hereditary” grants were transferable by gift , sale or otherwise, but in the case of life grants the only alienation permitted was a mortgage of the revenue for the life of the grantee. It is needless to describe what under these regulations were declared to be sufficient grounds for accepting a claim to hold land revenue free. It is enough to note that assignments of land not exceeding then bighas. In extent and bona fide appropriated as an endowment for temples or for other religious of charitable purposes were put on a specially favourable footing in this respect . Certain unfamiliar terms which are met with in discussions regarding assignments in the Delhi territory, altamgha , aima, madad m’ash, taiul are explained in the glossary.

131. The regulation law not strictly applicable to the Delhi territory - The Delhi territory formed no part of the “ceded province” which came under British rule in 1801 and to which the above regulations alone applied. It was part of the conquered provinces annexed after the battle of Laswari in 1803. Regulation VII of 1805 which extended these and other regulations to the “conquered provinces” excepted the Delhi territory from their operation . But regulation V of 1832 which abolished the office of resident at Delhi and annexed the Delhi territory to the jurisdiction of the sadder Board and courts of Justice at Allahabad enjoined the Commissioner of Delhi and all officers under his control ordinarily to conform to the principles and spirit of the regulations. In their civil , criminal and revenue administration . In 1838 and 1841 the sadr Board issued orders regarding the investigation of revenue free tenures which were not in exact accordance with the regulation law.

132. Orders passed in 1880. The question of the conditions on which as

signments in the Delhi territory made before its annexation to the Punjab was carefully gone into in connection with the revenue free tenures of tahsil Panipat and Pargana Karnal of the Karnal district, a report on which was furnished by Mr. Ibbetson in 1880. It was then held.

- (a) that the regulations were never actually in force in the Delhi territory . while therefore any orders which the revenue authorities of the day passed in accordance with the regulation law should be upheld Government was also free to maintain orders, if any, passed by them in special cases which were not in accordance with that laws ;
- (b) that “hereditary” grants were alienable as similar grants under the regulation law were, but that they lapsed to Government on entire failure of heirs of the original grantee notwithstanding any intermediate alienation;
- (c) that the condition “continued until further orders” found to be attached to some of the assignments was analogous to he condition during the pleasure of Government “ common in the case of grants in the Punjab , It was not equivalent to a grant in perpetuity though the contingency of the grant being really a perpetual one was not definitely excluded in the case of an order sanctioning an assignment during the pleasure of Government which implies an absolute decision that a perpetuity title has not been made out;
- (d) that it was the intention that orders passed by a Settlement Officer confirming assignments of less than ten bighas as an endowment for temples or other religious or charitable purposes should be final and that the assignments should be released in perpetuity;
- (e) that the Board of Revenue of the North –Western Provinces had no power to sanction release in perpetuity. Where an order of the Board is the only sanction for such a release, the confirmation of the Punjab Government is required . Final sanction not having been given in the case of such assignments before 1858, they are not transferable.

133. Succession to perpetuity grants. Being regarded as private property assignments made before 1858 in the Delhi territory descend by the rule of inheritance applicable to landed estates to which the grantee's family is subject. Any express condition of grant, however which conflicted with this rule would prevail.

134. Istamrar grants- The revenues free tenure known as istamrar is not wholly confined to the Delhi territory. (The Khattak Nawab of Teri holds a large tract in the Kohat district in istamrar.) But as the large Mandal grant in connection with which the incidents of this tenure have been chiefly discussed is situated in the Karnal district, it will be well to explain the term here. An istamrar is simply an assignment for life or perpetuity of the right to receive the revenue of a tract of land, subject to the obligation to pay to Government a lump sum of money year by year. This sum is sometimes loosely described as a quit rent. It is really a nazrana of fixed amount. The istamrardar may also be sole proprietor or may have the right of a superior owner of talukdar in the assigned tract. But, whatever may have been the real origin of any such rights which he may possess, they are under our revenue system viewed as something entirely apart from the istamrar. Except as regards cesses imposed in addition to the land revenue, Government neither gains nor loses by the reassessment of estates held on an istamrar tenure and any losses due to remissions fall on the istamrardar.

135. Sukhlambari grants in Hissar. The sukhlambari grants in the Hissar district are grants of land revenue free for three generations made to troopers and officers of regiments of irregular cavalry disbanded after the conclusion of the pindari campaign in 1818 or 1819. As revenue free assignments they are now

nearly extinct and are only interesting as an early experiment in the colonization of waste lands.(For details see paragraphs 259-61 of Mr. Willsons Sirsa Settlement Report and Hissar Gazetteer, Pages 160-161.

136. Inams of Biloch Tumandars 136 . The history of the jagirs or inams of the Biloch tumandars of the Dera Ghazi Khan district present some peculiar features and is also deserving of notice on account of the emphatic way in which the principle that jagris involve an obligations of service has been asserted and enforced. An excellent account of it is given in the 98th paragraph of Mr. Diack's Settlement Report, from which the following extracts are taken :-

“ The greater part of the assigned land revenue is enjoyed by the chiefs of Biloch tribes and is well repaid by the important administrative and magisterial functions which they discharge. It was not until the last settlement that any considerable amount of revenue was assigned to them. From annexation up till then they occupied the position of mustajirs that is to say, they collected in kind from their tribes the share of the produce varying from one-seventh to one-third which was under native rule taken by Government and they paid into the treasury the cash land revenue assessed upon the villages of their tribe. At the regular settlement of the district it was decided that assignments of land revenue should take the place of the profits which, owing to mild cash assessment increase of cultivation and rise of prices, they derived from this arrangement. The cash value of the assignment to each Chief was fixed with reference to his previous income from this source to his expectations and to his responsibilities. But although the value of the assignment was calculated in cash the power of collecting in kind was not withdrawn but was merely limited to selected villages whose cash assessment made up the sanctioned amount of the chiefs inam. The power of collecting assigned revenue in kind was legalized by

Frontier Regulations No. VII of 1874, the custom of collecting in kind had fallen into abeyance in two tribes. Those of Kasranis and the Khosas and was not revived in the former tribe but was in the latter to the extent of one-fourth of the revenue . The share of the produce to be taken by the Chief was to be fixed so as not to exceed that portion of the produce which might be deemed fairly to represent the Government demand.

All the grants were conditional upon good and loyal service to be rendered by the tumandars on occasions of importance whenever called upon by the district officer and in connection with this condition it was stipulated that sowars should be supplied by each Chief to a certain value , the sowar's pay being fixed at 4 annas a day any sowars required in addition to the number making up the fixed value to be paid by Government. The assignments were made for term of settlement and subject to reconsideration on its expiration The grants have had an excellent effect in improving the condition of the Chiefs and through them of their tribes which are generally in excellent control, and there was no question at this settlement of discontinuing the allowances to the Chiefs. The working of the system by which they are allowed power to collect in kind was however considered very carefully with reference to the provisions which had been made at the regular settlement that the power would be enjoyed only during the pleasure of Government and would be liable to be withdrawn should such as course be deemed to be expedient. The conclusion arrived at was that the system should be continued except in the Khosa tribe.(Punjab Government letter No. 40, dated March 1897.)

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The decision to continue the privilege in the case of the other Chiefs who had hitherto enjoyed it necessitated a reconsideration of the cash value in the inams

for in villages which have improved during the period of the late settlement the share of the produce taken by the tumandar is the equivalent of the cash assessment as now enhanced and while the amount received by the tumandars is the same as in recent years his inam expressed in terms of the Government cash revenue is greater than it was.”

In sanctioning the inams for the term of the new settlement the supreme Government remarked (Government of India , Foreign Department No. 2847-F dated 31st October 1899) :-

The Government of India cordially endorse the views of the lieutenant Governor as to the importance of maintaining the position and influence of these Chiefs. * * * * * The inams are subject to the same conditions of loyalty and service as heretofore * * * * * The Government of India entirely concur in the decision. * * * * * to permit collections in kind to continue in all cases (except that of the Khosa inam) in which they had hitherto been authorized . It is very important in the interests of good administration on this part of the border to prevent as far as possible any weakening of the tie between the tumandar and his tribesmen.”

136 –A . Abolition of batia jagir system in Dera Ghazi Khan district -The revision of settlement in the Dera Ghazi Khan district was begun in 1916 and was concluded in 1920. Fresh sanction then became necessary to the continuance of these inams which had been sanctioned for the term of settlement.

There was during the course of settlement operations a vigorous agitation against the continuance of the batal jagir system and it lost none of its force after the conclusion of the settlement. After full consideration of the advantages and disadvantages of the system. Government gave an undertaking in the Legislative Council in 1925 to abolish it within the next five years. In fulfillment of that

undertaking Government reported early in 1928 (Punjab Government letter No. 527-R dated 8th January 1928.) to the Government of India its proposals for the substitution of cash inams to the turmandars in place of the old batal inams. The latter Government gave their general assent (Government of India letter No. 117-F-28 dated 10th September, 1928 .) to the proposal but declined to contribute anything towards the extra expenditure involved by conversion.

The system was consequently abolished (Punjab Government letter No. 5844-R dated 4th December, 1928.)with effect from kharif The old batal inams were translated into cash inams for the term of settlement.

Strictly according to terms of 1899, there was no obligation devolving on Government to supplement the old batal inams on their translation into cash. Nevertheless, the outstanding liberality with which the tumandars had been treated in the past made it undesirable that the abolition of collections in kind should bring about any substantial loss in their emoluments . The Governor in Council accordingly decided as an act of grace to award supplementary cash inams to the tumandars in addition to the cash value of their batal inams for the term of settlement or for life whichever period may be shorter.

Both the converted and supplementary inams are grants for services rendered and to be rendered both in the plains and in the tuman areas within the hills and are conditional on loyalty and active assistance to Government as well as on the maintenance of the traditional hospitality expected from the Chiefs . Government retains the right of reducing or confiscating the inams at any time . if it is of opinion that the conditions are not being satisfactorily fulfilled.

137. Kasuras in Dera Ghazi Khan. The “Kasur” Assignments of the Dera Ghazi Khan district are identical in origin with the “chahanams” referred to in paragraph 82. The principal “kasurs” are in the territory held by the Mazari tribe

about half the revenue of which is released in this form

They are held by the family of the Chief of the Mazari tribe of Blotches and by the other leading families of the Balachani section of the tribe to which section the Chief belongs. Those Balachants hold among them assignments of land revenue in all the villages of the most Mazari Country though they are not landowners in all of them. Most of the assignments are of half the Government share of the produce though some are of a smaller fraction and it is from their being of a fractional nature that they have derived the name kasur (the Arabic plural of kasur) by which they are locally known. They appear to have been granted from time to time by the rulers who established their authority in this neighborhood. The Nahrs of Sitpur the Makhdums who succeeded them and the Amirs of Sindh and were a proof of the strength and turbulence of the tribes and the weakness of the rulers control. (Punjab Government No. 62 dated 7th August 1900.)

Consequent on the abolition of the batoi jagir system the question of kasurs which were bound up with collections in kind was reconsidered. It was decided (Punjab Government letter No. 3018-R dated 11th November 1930.) that the 'A' class kasurs (i.e. remission of half land revenue) of the Mazri, Karmani, Mistakeni and Gulsherani families should be continued on their ancestral proprietary lands, subject as before to the condition of loyalty and good service. The kasurs are inalienable and liable to resumption under orders of Government. The other kasurs in the Mazari tuman were converted into forty-three cash inams of Rs. 40 each per annum to be paid out of the treasury. The grantee is to be selected by the Deputy Commissioner in consultation with the tumandar and the tenure of the inam is ordinarily to be five years.

138. Military rewards grants. A very common way of rewarding Indian

officers for distinguished war services has been to give them grants of Government waste land revenue –free for a certain number of years, with a promise of ownership when the lands had been brought under cultivation. Many such grants were made in the Punjab. Owing to the diminution in the area available it was decided in 1888 that they should be limited to a fixed number yearly (Government of India, Military Department, resolution No. 2525-B dated 1st December 1888). The above conditions are not necessarily applicable in all cases. It is left to the local Government to arrange the grant as it chooses, provided its capitalized value is equal to 25 times the annual value specified in the order making it (Government of India, Military Department No. 1271 (B. dated 12th April 1901.) and at the same time the terms on which they should be held were laid down as follows:-

(Government of India resolution No. 867-B dated 17th February, 1893)

- (a) The land to be held subject to payment of revenue assessed upon it or (if it is not assessed to the payment of revenue subject to the payment of revenue at the rates at which land in the immediate vicinity is assessed provided that if the land is waste land requiring clearance the grantee will be allowed the ordinary concession which would be allowed to vendees at public auctions of Government land of two harvests free of land revenue.
- (b) Canal rates and cesses to be paid in full by the grantee from the beginning of the lease. He shall also pay malikana at the rate in force in the tract concerned provided that no malikana will be charged in the case of grant which does not exceed one square or rectangle.
- (c) The grant to be leasehold for the first ten years and proprietary rights to be given after the end of that term if the land has been properly brought under cultivation and the grantee has made good use of his grant.
- (d) All grants are subject to the loyalty and good behaviour of the grantee.
- (e) When a grant of irrigable land is under contemplation reference must be made to Irrigation Department before any promises of irrigation are given to the grantee. If the Irrigation Department decide that irrigation is

not possible the grantee should be informed and an acknowledgement obtained from him that he agrees to take the land on the understanding that irrigation cannot be extended to it.

139. Jagirs may be substituted for grants of waste land. The matter was reconsidered in 1893, and it was settled that where it was inconvenient to make grants of waste land the reward might take the form of a jagir . At the same time the maximum value of a grant of land was fixed at Rs. 400 per annum clear of all deductions.

“When the Local Government is prepared to provide a grant of land and the grantee accepts this form of reward it will be open to the Local Government to arrange for the bestowal of the privileges connected with the grant in such a way that the difference between the value of the grant on the terms given and the market value may amount approximately to 25 times the annual value specified in the orders of the Government of India on each case, such value being limited to the maximum of Rs. 400 as noted above. Should the Local Government not be prepared to give land or the grantee be unwilling to accept his reward in this form, the grantee will be given an assignment of revenue from any village or estate that may be selected . If an assignment of revenue be given such assignments will be for three lives only , the maximum amount of revenue assigned to the original grantee being Rs. 600 to the first heir Rs. 300 and to the next heir in succession Rs. 150. The method in which the assigned revenues are to be paid i.e, whether from the state treasury or by the land owners direct will be left to Local Governments to decide but the amount should be flexed in cash and not in terms of the land revenue. When the grantee is a landholder the assignment may take the form of remission of a specified amount of the revenue due from himself.

(Government of India, Military Department, resolution No. 867-B, dated 27th

February 1893. Also see paragraph 58(6) and (7) of Financial Commissioner's Standing Order No.7.

The financial Commissioner at the time pointed out the objections which existed to the creation of new jagirs except: -

- (a) When the jagridar is owner of the land of which the revenue is as signed:
 - (b) When he stands in the tribal relation to the revenue payers and the recognition of his status is in accordance with their ideas:
 - (c) In the absence of the above conditions , when he has nothing to do with the collection of the revenue , which is paid to him through the tahsil.
- (Financial Commissioner's No. 11-C, dated 25th May 1893.

The Local Government acquiesced in these views.(Punjab Government Nos. 343-S., dated 1st July 1893, and 758, dated 24th August, 1902.) In practice no difficulty has arisen for in all jagirs of this class hitherto created in the Punjab the assignee receives the revenue through the tahsil.

The rule of descent in the case of these military jagirs is as follows :-

On the death of the original holder one-half of the grant should descend integrally to a single heir. The heir will be selected by the district officer , but will ordinarily be the eldest male heir in the eldest branch of the deceased's descendants. On the death of the selected heir one quarter of the original grant will descend integrally to one of his heirs similarly chosen by the district officer. The selection made by the Commissioner of the division".(Government of India, Military Department , No 3293-B, dated 24th October , 1893.

Note :- The rule that grant should descend integrally to a single heir may be relaxed at the discretion of the local Government and the reduced grant i.,e

the grant after the death of the original grantee may be distributed among several heirs in such proportional as may seem most suitable, provided that the proper proportion of the original grant is not exceeded. (Dispatch from His Majesty's Secretary of State for India , No. 50-Fin., dated 20th December , 1918.”)

139. A Substitution of cash payment in place of jagir or special pension.

Towards the close of 1930, the Government of India. Army Department, decided (Army instruction (India)No.102, dated 16th September, 1930.) that with effect from 1st January 1931, cash payments amounting to Rs. 600 per year should be granted in place of jagirs in the form of assignments of remissions of land revenue and of the special pensions granted to Indian Officers resident in Indian States . The cash payments which will like Jagirs, be for three lives reducible by half on each succession will be known as “Jagir allowances” and will be paid by the military authorities themselves without any reference to the civil authorities this change in no way affects the form of , or the status and dignity attached to jagirs granted before the passing of these orders.

139-B. Scheme for giving retired Indian Officers the option of taking an assignment of land revenue in lieu of pension - A scheme

approved(Government of India Army Department letter No. 17869-1 (A.G. 10)dated 9th February 1914. and introduced by the Local Government in 1914, whereby retired Indian Officers of the Indian Army when they belong to the agricultural classes have the option of taking an assignment of land revenue in lieu of pension , is also in operation. 139 –C Special Jagirs . In 1917 a scheme for the creation of new jagirs was sanctioned (Government of India, Department of Revenue and Agriculture letter No. 887-205-2 dated 30th October, 1916.) by the Secretary of state in accordance with which jagirs are granted by the Punjab

Government for the life of the original holder, half of the sum assigned being continued for the next generation. Only a single descendant in the mainline of descent of the original jagirdar living at the time of his death can be selected as his successor and the orders of the Governor in Council are required in each case. Attached to all such grants is a definite condition of “Continued good conduct and steadfast loyalty to His Majesty the King Emperor and active good service to the public or to the Government established by law in British Indian rendered to the best of the Jagirdar’s ability and power.”

140. Jagirs granted after 25th November, 1859 heritable by a single heir -
 As already stated a marked change of feeling is observable after the mutiny as to the value to the State of a class of men holding a privileged position and fitted thereby to act as leaders of the people. In 1859 the Lieutenant –Governor, Sir Robert Montgomery proposed that as a rule the heirs of jagirs enjoyed by families of importance should be declared subject to selection by Government.”(Punjab Government No. 678 dated 4th Oct. 1859) Lord Canning replied that he did not see how such a declaration could be made in regard to existing jagirs . He added , however :-

“With regard to jagirs which may hereafter be granted His Excellency has no objection to impose the general condition that the estate shall be inherited integrally. * * * As to the one single heir His Excellency is disposed to think that it will be quite enough for the Government to require that his inheritance shall need confirmation or recognition by Government before it is considered complete and to make it known that this recognition may if cause should arise be withheld.”

The letter containing this order was dated 25th November , 1859 and all jagirs subsequently granted are unless the contrary is clearly expressed in the grant ,

heritable by a single heir whose succession required to be confirmed by Government.” (Government of India No. 476, dated 25th November 1859

141. Proposal to introduce primogeniture in case of the principal jagirs -

Before these orders were issued the Lieutenant-Governor had proposed to consult the principal Sardars in the Cis-Sutlej and Trans-Sutlej divisions as to the propriety of abolishing chundavand where it existed and also marking primogeniture the rule of descent for their jagirs. In advocating primogeniture the Cis-Sutlej Commissioner , Mr. Barnes had written :-

“I should desire in all feasible cases to institute the law of primogeniture as was recently done in the case of ramgarh and thereby to secure a powerful and influential aristocracy who with such guarantees would doubtless be as loyal and as useful to Government as they proved to be during the recent rebellion.”

142. Proposal agreed to by Lord Canning. Chundavand and been denounced as immoral and as encouraging polygamy. Lord Canning wisely brushed that argument aside. But as regards primogeniture his reply was encouraging. The proposal to consult the leading Sardars regarding it was approved but anything like arbitrary legislation on the subject was deprecated and it was laid down that “no alternation in the rule of inheritance should be made in a family unless with the consent of its head and of the chief members interested.(Government of India. No. 1718 , dated May 1860. Paragraphs 2,4,5,6 of circular letter No. 246-252, dated 6th April 1861.)

143. His reasons - The reasons given by Lord Canning for his decision are worth quoting :-

“It is politically desirable that primogeniture should be encouraged. The governor-general believes that a more unfortunate prospect cannot be before a people, especially a people amongst whom society is of a feudal form, than that of the gradual dissolution of all their wealthy and influential families into numerous poor and proud descendants. His excellency also believes that the task of governing such a people in contentment becomes more and more difficult as this change progresses. “

144. Instructions issued in 1861. The enquiry which followed seemed to show that a number of the larger Jagirdars were ready to elect for primogeniture and in April 1861 the following instructions were given to Cis-Indus Commissioners:-

“Those jagirdars holding in perpetuity whose revenue exceeds Rs. 250 per annum and who wish the succession of their jagirs to be regulated in future by the rule of primogeniture must execute a deed to that effect. You will explain to them that this deed when confirmed by Government will hereafter be binding on their successors in the jagirs for all generations. Where such a deed has already been taken it need only be reviewed with reference to the instructions now conveyed.

“4. The deed will regulate the succession only to jagir lands not to malguzari lands or other real and personal property.

“5. The jagirdar executing the deed should be invited to record separately the nature and amount of the maintenance which he would propose to assign to the younger branches of his family. The custom regulating such maintenance in the case of the younger brothers of chiefs in whose families the rule of primogeniture has been long established will serve as a guide for other jagirdars.

“6. It should be explained that the rights of collateral's are in no respect

affected by the introduction of the rule of primogeniture.”

Informing the Government of India of the action that had been taken the Lieutenant- Governor remark :-

“One important point only remains to be adverted to namely the force of the deed executed by the jagirdars declaring that primogeniture shall be the rule of succession to their jagirs.

This point however will be discussed at length when the reports of the several Commissioners and the deeds themselves shall have been transmitted to this office.”

145. Negotiations prove abortive - The number of deeds executed was forty seven. Many of these declared that primogeniture should thereafter be the rule of succession and fixed a rate of maintenance for younger sons. Others provided for division among sons, but allotted a larger share to the eldest of fittest son. By some mischance these deeds were never confirmed by Government but several have since been accepted and where the circumstances of each case were consistent with the provisions of sections 7(1)(b) of the Punjab Jagirs Act, V of 1941 mentioned in paragraph 157 a rule of primogeniture has been notified.

146. Reasons why evil results have no been worse - The failure to carry the negotiations with the leading jagirdars to a successful conclusion is much to e regretted. The matter was not dealt with again comprehensively for whole generation during which sub-division went on unchecked . The resultant evils would be even more apparent than they are but for the fact that many of the large jagirdars at least in the Cis – Sutlej territory have found it difficult to perpetuate their families at all and have considered themselves fortunate when they have had

a single son to inherit their family honors. As regards the important political jagirs in the tarns- Indus districts little difficulty has arisen for most of them were granted or confirmed after 1859 and in the case of some jagirs of earlier date the succession of a single heir is either provided for by the original order of release or has been established by subsequent decision or family agreement.

147. Remedy applied in case of Hazara Jagirs. In Hazara the jagirs granted at annexation were made subject to certain limitations of the successions proposed by Major James Abbott. Further jagirs were granted for service in 1857 without any similar reservation. Among the Hazara settlement rules to which legal force was given by Regulation XIII of 1872 were two dealing with assignments of land revenue.

“18. The settlement Officer shall ascertain for each class of revenue assignments granted for more than one life or for the period of settlement or for each of such cases where necessary what rule is best calculated to secure to Government the attainment of the object for which the grant was given. The result of his enquires shall be submitted for the sanction of Government.

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

Under the first of these rules the Lieutenant- Governor passed the following general order :-

“All jagirs and political pensions released for more than one life or for term of settlement shall devolve integrally ordinarily to the eldest son.

“the succession shall not necessarily be maintained in the direct course should the immediate heir be devoid of merit or deficient in the necessary qualifications of character, Influence control over his tribe and family or good disposition towards the British Government. (Punjab Government No. 1706, dated 22nd December 1873.

In the case of certain jagirs Government reserved the option of dealing with the succession in the above manner, or dividing the jagirs among the male issue of a deceased grantee(For list of these see page 282 of Captain Wace’s Settlement Report of Hazara. . In Hazara, therefore , the matter of succession to jagirs has been put on a thoroughly satisfactory footing.

148. Section 8 of Punjab Laws Act, IV of 1872. It was provided by section 8 of the Punjab Laws Act IV of 1872 , that :

“In all cases in which Government has declared any rule of descent to prevail in any family or families of assignees of land revenue such rule of descent shall be held to prevail and to have prevailed amongst them from the time when the declaration was made”.

In 1890 the Government of India refused to make use of this section in connection with a proposal to declare the rule of succession in the Raipur Jagir family in the Ambala District to be primogeniture on the ground that it had no retrospective effect. (Government of India. No. 4156 dated 8th December 1890. The local Government nevertheless ordered that the rule of primogeniture should be applied on the ground apparently that it had been actually adopted in several successions and it was also probable that such a rule would exist in the case of an ancient Rajput family. Moreover in 1861 the jagirdar in possession had executed an agreement providing that the eldest son should inherit the jagir.)

149. Attitude of Government of India on question of right to regulate successions. The Government of India have never asserted a right to regulate successions after the conditions of a grant have been laid down in the order of release. But on a few occasions they have decided that the rule of succession in a particular jagir restricts descent to a single heir.

150. Primogeniture introduced in case of Ramgarh jagir. In a letter No. 1490, dated 1st April 1859, Lord Canning sanctioned primogeniture as regulating in future the succession of the jagir enjoyed by one branch of the Ramgarh family in Ambala “as this proposal has emanated from the younger sons themselves.” The family is a Rajput one connected with the Raja of Bliaspur.

151. Case of the Chachi Jagir. In 1862 the Government of India declined to sanction a deed respecting the devolution of his jagir executed by Sir Nihal Singh, Chachi on the ground that as the Sardar has more than one son Government has no power to fetter or unfetter the Dardar as to his old estates , his power over which must be decided should any dispute arise by the ordinary law applicable to such estates in the Punjab.”

In 1874, however Sir Henry Davies then Lieutenant –Governor of the Punjab declared that as Sir Nihal Singh who had died in 1873, had never revoked the wish expressed in 1862, the law of primogeniture was applicable to the whole jagir which therefore descended to his eldest son. Amrik Singh . These orders were plainly inconsistent with the view taken by the Government of India in 1862. But in 1902 in passing orders upon the succession which had again opened out on the death of Amrik Singh leaving no children the Government of India took the view that “section 8 of the Punjab Descent of Jagirs Act. 1900 relates to declarations in fact issued,

irrespective of their authority and that the deliberate employment of the term Government “ which includes a “Local Government has placed the two letters (i.e. Government of India letter No. 1156 dated 11th December 1862. and Punjab Government letter No. 250 dated 29th January 1874)” for the purposes of that particular enactment on the same footing . Having therefore two separate but inconsistent

152. Succession of a single heir in case of (a) jagir of Shahzada Jamhur -

The jagir of Shahzada Jamhur, Saddozai, in the Kohat district was originally released in favour of the grantee and his male issue in perpetuity.” In 1877, the Government of India agreed to a modification of the terms providing for its devolution on “the heir, being a descendant of the original grantee, whom Government might select.” (Government of India No. 383-F, dated 27th July 1877.)

153. (b) The Makhad Jagir - In the case of Makhad jagir in Rawalpindi where the grant provided for descent to “legitimate male issue, “but the Financial Commissioner held that a quasi- custom of primogeniture had been proved to exist , the Government of India in 1881 sanctioned the succession of the eldest of four sons subject to the condition of fitness. This ruling also applied to the Shakardarra jagir in Kohat held by the same family.

154. (c) Jagir of Raja Sir Sahib Dial - In 1882 the Government of India allowed one of Raja Sir Sahibdial’s Jagirs released in 1854 in favour of himself and “his legitimate male issue for two generations” to descend to his grandson, his sons being passed over for reasons stated in the correspondence. (Government of India No. 256, dated 22nd November 1882.

155. Proposal of Punjab Government to introduce primogeniture

authoritatively - In 1898 the Punjab Government urged on the Government of India the necessity of taking measures to put a stop to the sub-division of jagirs, and the gradual deterioration in consequence of may of the leading families in the province.(Punjab Government No. 261-S dated 16th June 1898.) The history of the question in the Punjab was reviewed and the various orders of the Government of India referred to in the preceding paragraphs were cited. The conclusion drawn was that in the Punjab assignments of land revenue had always been regarded from a standpoint different from that adopted in some other parts of India, and that the principle had been asserted that assignees have ,in virtue of the grant of a share of the revenue of the State, public duties as well as private rights . it was a natural deduction from this that Government had an inherent right to regulate the course of secessions from time to tome as occasion requires and so to maintain the capacity of the Jagridar to do public service . Sir Mackworth Young quoted with approval a dictum of the officiating Financial Commissioner ., Mr. Ogilvie that all assignment are from the essential nature of their tenure held subject to the pleasure of Government unless the contrary be distinctly stated in the deed of grant . It is a great mistake to regard and treat these deeds of grant like the title deeds of an estate the general provision that the grant shall descend to direct heirs male does not debar Government from the exercise of its inherent right to regulate the succession between recognized heirs.” The lieutenant governor therefore proposed to introduce authoritatively by executive order the rule of descent to a single heir in the case of all jagirs of a yearly value of Rs. 250and upwards.

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151. Case of the Chachi Jagir. In 1862 the Government of India declined to sanction a deed respecting the devolution of his jagir executed by Sir Nihal Singh, Chachi on the ground that as the Sardar has more than one son Government has no power to fetter or unfetter the Dardar as to his old estates , his power over which must be decided should any dispute arise by the ordinary law applicable to such estates in the Punjab.”

In 1874, however Sir Henry Davies then Lieutenant –Governor of the Punjab declared that as Sir Nihal Singh who had died in 1873, had never revoked the wish expressed in 1862, the law of primogeniture was applicable to the whole jagir which therefore descended to his eldest son. Amrik Singh . These orders were plainly inconsistent with the view taken by the Government of India in 1862. But in 1902 in passing orders upon the succession which had again opened out on the death of Amrik Singh leaving no children the Government of India took the view that “section 8 of the Punjab Descent of Jagirs Act. 1900 relates to declarations in fact issued, irrespective of their authority and that the deliberate employment of the term Government “ which includes a “Local Government has placed the two letters (i.e. Government of India letter No. 1156 dated 11th December 1862. and Punjab Government letter No. 250 dated 29th January 1874)” for the purposes of that particular enactment on the same footing . Having therefore two separate but inconsistent

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155. Proposal of Punjab Government to introduce primogeniture authoritatively - In 1898 the Punjab Government urged on the Government of India the necessity of taking measures to put a stop to the sub-division of jagirs, and the gradual deterioration in consequence of may of the leading families in the province.(Punjab Government No. 261-S dated 16th June 1898.) The history of the question in the Punjab was reviewed and the various orders of the Government of India referred to in the preceding paragraphs were cited. The conclusion drawn was that in the Punjab assignments of land revenue had always been regarded from a standpoint different from that adopted in some other parts of India, and that the principle had been asserted that assignees have ,in virtue of the grant of a share of the revenue of the State, public duties as well as private

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156. Proposal modified by Government of India. This proposal was rejected by the Government of India which held that the end in view could only be reached by legislation and that the consent of the jagirdars in possession was essential to the introduction of primogeniture. In the letter conveying this decision it was remarked that :-

The Governor- General in Council is in entire accord with His Honour the Lieutenant Governor as to the political expediency of preventing the larger jagirs from being parceled our though a recurring process of sub –division . But having given the most careful attention to the subject he is satisfied that the decision come to in 1860 by lord canning that though jagridars might very properly be consent of the head to any family in which it has not hitherto prevailed is correct and should be substantially maintained . That the Government when granting or confirming an assignment of land

revenue possess an absolute power of regulating the succession at the time of such grant or confirmation is undoubted. But when once the conditions of a grant have been prescribed and the grant has actually been made this absolute power is lost . This is the well –recognized rule of English law governing grants from the Crown and is founded on principles of equity and common justice. There no doubt exists a distinction in kind between an estate in land an assignment of land revenue. But taking an assignment of land revenue as analogous to a pension. The State by the principles of English law has no inherent right to regulate or vary at its pleasure, after the assignment or the pension has been granted the order of succession in either the one case or the other . Nor is the Governor- General in Council satisfied that if such powers were assumed they would meet with the hearty approval of the jagridars.

“ An examination of the various orders passed between 1850 and 1860 by the governor –General shows that great care was taken to protect decision already given. Thus, in 1851 when a certain rule as to collateral descent was laid down decisions already given in particular cases to a contrary effect were allowed to stand . Again at a later date in the case of the Ramgarh jagir, substitution of succession according to primogeniture for division among the heirs was only sanctioned because the younger sons of the jagirdar themselves applied for it.

“ In paragraph 13 of your letter other instances are cited in which the Government of India have interfered, since Lord Canning’s declarations of policy in 1860, to regulate successions. Examination of these cases shows that there was no real deviation from the policy of 1860. In the first case cited the terms of the grant were revised on the occasion of the amount of the grant being increased and apparently with the assent of the grantee. In

the second case the custom of primogeniture was proved to exist in the jagirdar's family. In the third case the terms of the grant were modified with the consent of the original grantee.”

157. Punjab Jagris Act V of 1941. In accordance with the decision of the Punjab Government an Act No. V of 1941 repealing section 8 of the Punjab Lawa Acts , IV of 1872, was passed by the provincial Legislature and received the assent of the Governor of the Punjab. The main provision of the Act is as follows :-

“(7(1) Where Government has heretofore declared or at any time hereafter declares that any rule of descent in respect of succession to any jagir shall prevail in the family of jagirdars, such rule of descent shall be deemed to prevail in the family of jagirdars, such rule of descent shall be deemed to prevail , and to have prevailed from the time when the declaration was made anything in any law or contract to the contrary notwithstanding:

Providing that no such declaration shall here after be made unless and until-

(a) Government is satisfied that the rule of descent to be so declared actually prevails in the family and has been continuously and without breach , or observed in all succession (if any) to the jagir since it was made ; or

(b) The jagirdar or his successor in interest for time being has by written instrument duly executed by him either before or after the passing of this Act, signified on behalf of himself and his family acceptance of the rule of descent to be so declared and either no succession has taken place since such acceptance the jagir has in fact not devolved otherwise than it would have devolved had the said rule of descent been in force.

(2) Any declaration made under sub-section(1) may be amended, varied or

rescinded by Government , but always subject to the proviso thereto”.

Where the rule of descent declared to prevail involves the devolution of the assignment of land revenue to a single person as impartible property, it cannot be attached by order of Court (section 11). In declaring the rule of decent

Government may attach to it the following conditions:-

- (a) that each successor to the jagir shall be approved and accepted as such by government , and
- (b) that he shall ,if required by Government , make such provision as Government deem suitable for the maintenance of the widows and other members of the family of the last or any previous holders of the jagir [section 8(a) and (b)].

The Government is bound approving of a successor to accept the nearest their according to the declared rule who is not unfit (proviso to section 8).”

157-A. Principles to be observed in fixing maintenance allowances out of the assignment - The main object of the Punjab Descent of Jagirs Act is to maintain the importance of the family through the principles of primogeniture and impartiality. Grant of allowances should therefore, be permitted to defeat this object. The following principles should be borne in mind when making recommendations:-

- (1) Section 8-A (b) of Act IV of 1872 gives to Government the power of enforcing on a succession to a jagir which comes within the scope of the provision , suitable maintenance for the widow or windows (if any) and other members of the family of any previous holder of the assignment . The direct descendant of any previous holder is included in the term ‘member of the family.’
- (2) At the same, Government have full discretion in the matter, and exercise of its powers must depend on the circumstances of each which include inter

alia the allowances already in existence. As a general rule, and subject to principle No. (5) below, no allowance should be made to a member of the family who is not in need of it, having due regard to the standard of living which he may be expected to maintain.

(3) No hard and fast rule can be laid down in regard to adults , in particular where previous practice is in their favour.

(4) As a general rule, subject , of course, to exceptions , there should be good reasons for stopping or reducing , on a new succession , allowances already in existence . A ground for reduction, which would however, require careful consideration , might be the fact that a new succession involved additional allowances constituting serious encroachment on the total value of the jagir, if existing ones were maintained at their full amount.

(5) Government would be reluctant to intervene where family arrangements are proposed and are not clearly unsuitable.

158. Interpretation of successions to heirs male - An important ruling is contained in Punjab Government letter No. 108, dated 13 December, 1893, determining the interpretation of the conventional expression “Succession to heirs male” when used in the original order conveying sanction to grant. Sir Dennis Fitzpatrick held that “the rule applicable to grant of this sort in the Punjab is that it descends to a single heir, unless a different rule of succession is specially prescribed.”

Several subsequent decisions have been based on this view and the grants notified under section 7(a) of the Punjab Jagirs Act, No. V of 1941” accordingly.

For the purpose of this ruling the term “male issue” may be taken to be the equivalent of “heirs males”.

This ruling applies only to cases which under the general orders of 1859 (see

paragraph 140) are inheritable by a single heir.

159. Succession of single heirs prescribed in case of small grants for service to be performed - To prevent the splitting up of small grants made in consideration of service to be rendered to village communities, it was ruled in 1865 that small grants given in lieu of service to be performed or responsibilities to be fulfilled should be held from generation to generation by one individual only . * * * * Ordinarily this individual should be the eldest heir of the deceased incumbent, but where special reasons exist for superseding him, it will be within the discretion of the local authorities so to arrange, provided this be in accordance with the wishes of those interest in the service to be rendered.”(Punjab Government No. 414 dated 30th May 1868.)

The occupation of existing holders was not be disturbed but advantage was to be taken of future successions to get rid of the joint enjoyment. (Financial Commissioner Book Circular No. 13 of 1865.)

160. Grant of right of adoption to ruling chiefs - In some parts of the Punjab great families are perhaps in more danger of extinction by entire failure of heirs than of degradation by partition of their estates among a numerous progeny. When the current of opinion changed after the mutiny the privilege of adopting an heir in the event of their having no sons was conferred on may ruling Chiefs in the Punjab and elsewhere. In the case of Sikh Chiefs it is hardly possible to represent this as the restoration of a right which ought never to have been denied. Sir Henry Lawrence (Paragraphs 345 and 45 of postscript to Major H. Lawrence’s Report on this summary Settlement of kaithal)and Sir Lapel Griffin(Rajas of the Punjab Pages 225 and 226.) both stated quest of the Phulkain Rajas to be permitted to adopt ion the ground that the concession would be an

innovation on the custom which had always prevailed among the Chiefs of the Cis-Sutlej territory.” Rajas of the Punjab Pae 228.)

161. Grants of adoption sanads to selected jagirdars - In 1862 adoption Sanads were conferred on two important jagirdars , Raja Tej Singh and Sardar Shamsheer Singh, Sindhawalia who before the annexation of the Punjab had been members of the Lahore Council of Regency. No other Jagirdar enjoyed the right down to the year 1888, when it was given to Sardar Lal Singh , Kailainwala. In connection with Lal Singh’s case Sir Charles Aitchison proposed to the Government of Indian that the right of adoption should be bestowed from time to time on carefully selected jagirdar families. He remarked :-“it would be necessary to make a very careful selection of the jagirdars deemed worthy of the right of adoption . Each case would be weighted on its own merits, and the concession would be allowed as an honour and a reward . In the work of selection regard would be had to the influence, position , history, and services of the family ; to its loyalty and activity in the cause of good government in times of peace; and the reputation of the jagirdars for kindness towards dependents and to the landholders and other living on the jagir. In this way , the Government would always have in its hands a powerful incentive to good and loyal services; and those not granted the concession in the first instance might hope in time to win it by proved deserts . it might further be provided that the privilege should be liable to forfeiture for disloyalty or other misconduct which might be defined.

“It may be asked what would be the advantages of the concession to the public and private but of such a nature that the Government , acting in the public interests, could fairly take them into view? It is well known that the grant of adoption sanads to Chiefs has not operated to increase the number of adoptions, but to allay disquietude of mind. Many cases that have come before the Lieutenant- Governor have convinced him that the practice of

declining to consider grants till the death of grantees gives the grantees much unnecessary anxiety in their decline in years. It is natural and laudable on the part of heads of families to desire before they die to know that heir houses will survive them and their relations will be provided for. The lieutenant – Governor knows that much anxiety prevails in this matter which it is within our power to remove and one measure which would tend to set these painful uncertainties at rest would be the grant of adoption sanads to selected jagirdars holding in perpetuity.

“ It may be admitted, however that the purely public advances would be much more important . The measure in contemplation would give great political strength to the Government. In the Punjab in particular the boon would be a proper recognition of the loyal and faithful services , in peace and war of the most prominent men in the British territories of this part of India – Services rendered in most cases with unswerving zeal and praiseworthy alacrity for more than a generation. The men who have thus served us are the men who stood by us in the storm of the Mutiny; and we know by the heartfelt offers made during the Afghan War and later at the time of the Panjdeh incident, that the spirit which animated them and their fathers thirty years ago still lives. We desire its perpetuation; we desire that the families who have aided us in the difficult task of continuous administration and have proved themselves our friends in time of need shall not die out of the land. We need leaders of the people and times may come again in which the diminution of that class would be felt as a serious public calamity. The measure proposed would tend directly to the attainment of these objects and would invigorate and cheer the performance of those duties of which it was there ward and or the continued performance of which it would be a security” (Punjab Government No. 224 , ½ dated 3rd March

1887).

The Government of India accepted the views put forward by the Lieutenant-Governor, but considered that the objects aimed at would “be best attained by selecting from time to time in individual cases the jagridars to whom it is proposed to give the privilege of adoption.”

162. Grants of adoption sanads - This opinion, however has since been reconsidered . it was represented that the grant of merely personal sanads of adoption went but a little way towards furthering the policy of the Punjab Government in regard to the maintenance of their jagirdars as source of real political strength . It was urged that the need for men of good family who have influence in the country and are ready to use it on our side certainly had not diminished in the yards which and elapsed since Sir Charles Aitchison put forward his views in the official pronouncement quoted above : that on this ground alone it was to our interest to preserve the old families whose influence was naturally greater than that of new grantees could be ; and that, this being admitted, it was on the assumption that suitable adoptions could be made a matter of no consequence to us whether the successor was an adopted son or a son of the body.

“We have in fact an aristocracy of high traditions, and sentiment apart, we ought to uphold it in our own interests..... We wish to preserve the families of our great jagirdars in order that they may be useful to us : that they may help us in ordinary times in the suppression of crime and support us with their own strength in the country in times of trouble..... What they want and may well have, if I rightly apprehend the policy is an assurance that Government does not desire the lapse of their Jagirs. The present

concession rather suggests that Government is not prepared to forego the fiscal gain of occasional lapses.

”(Extract from a note by Hon’ble Mr. C.L. Tupper, C.S.I. Financial Commissioner dated 9th December 1900, forwarded to the Government of India with Punjab Government letter No. 17, dated 26th February 1901. These arguments were supported by the Government of India and accepted by His Majesty’s Secretary of State, the rules (Financial Commissioner’s circular No . 4951, dated 22nd September 1902.

- (1) The privilege contained in the grant of an adoption sanad shall be an heritable one.
- (2) Such a Sanad shall only be granted to jagirdars who are found specially worthy of the honour, and they shall be selected with reference to their possession of the qualifications already laid down as necessary by Sir Charles Aitchison in the passage already quoted in paragraph 160 above.
- (3) Its grant shall be subject to the following conditions: (a) The acceptance by the jagirdar of the maintenance conditions specified in section 88 of the Punjab Jagirs Act, No V of 1941 and (b) the sanctions of the Government of India.
- (4) An improper or unsuitable adoption may be vetoed by the Local Government.
- (5) The succession shall be regulated by a rule of integral descent to a single heir usually the rule of primogeniture.

163. Use of adoption sanad in connection with Descent of Jagirs Act.- It will thus be seen that the grant of an adoption sanad while conferring a valuable privilege upon the grantee is also useful as furthering the policy enunciated in the Punjab Jairs Act, No. V of 1941 limiting succession to a single heir and of preventing the minute sub-division of jagirs with its consequent loss of prestige and influence to the Jagirdar.

164. Perpetual Jagris declared inalienable - Unless assignments of land revenue are incapable of transfer by the grantees and of attachment by order of Court their public uses may easily be destroyed . In 1852 the Government of India ordered the insertion in sanads relating to perpetual grants of a clause prohibiting alienation. (Government of India No. 2990, dated 27th August 1852. The letter refers to jagirs in the Punjab north and west of the Sutlej.) It will be remembered that one of the subsidiary succession rules sanctioned 1853 in the case of the Cis- Sutlej jagirs declared that (past alienation's whether to relations or strangers should not be officially recognized or recorded.(See paragraph III) In 1857 Lord Canning sanctioned a proposal that each successor to a Cis-Sutlej perpetual jagir should receive it unencumbered by any liability for the debts of his predecessor if he refrained from appropriating any of his real and personal estate apart from the Jagir. (Government of India No. 109 , dated 9th January 1857. The additional rule which allowed the heir, while repudiating the debts to redeem the family mansion and the jagir land held in proprietary right (Financial Commissioner's circular No. 65 of 1857) Could not now be legally enforced.)This order was declared applicable to all perpetual jagir in the Punjab by Financial Commissioner's circular No.8, dated 3rd February 1857. The court of Directions to whom the order was communicated expressed surprise that it should have been thought necessary to issue it, and remarked—

“We should have supposed that there could be no necessity for notifying this as a rule since it follows from the very nature of a jagir, which cannot be alienated and can only be attached for the life of the holder”. (Dispatch, Political Department No,51 dated 30th August 1858, quoted in Financial Commissioner's Book Circular No. XXXVII of 1858.)

165. Mr. Cust's Revenue Manual declares all jagirs and mafis to be inalienable- Probably the Directions only referred to grants for more than one life. But in his consolidated circular on "Jagirdars and M'afidars" issued in 1860 and again in his revenue Manual published in 1866, the Financial Commissioner, Mr. Cust wrote –

It is scarcely necessary to remark that the jagirdar or m'afidar has no power of sale mortgage , gift or sub-lease of his revenue assignment , except under special circumstances which must be proved. Contracts of this kind will not be recognized by the revenue Courts, and the parties in possession on those pleas will be considered only the private agents of the holders with no legal rights.”(Cust's Revenue Manual , Page 15)

166. Assignment may be treated as inalienable except in Delhi territory - It is to be regretted that no distinct legal provision exists declaring assignments even for a term inalienable . Section 12 Act XXIII of 1871 (an Act to consolidate and amend the law relating to pensions and grants by Government of money or land revenue) refers only to pensions , and in the preamble to the act a distinction is drawn between pensions, and grants of land revenue. There are , however, judicial decisions to the effect that a pensions may take from of a land revenue assignment. Be that as it may it is clear that under sections 4 to 6 of the Act no. Civil Court can take cognizance of any claim to a grant of land revenue based on an alleged transfer unless the collector gives a certificate permitting it to do so. In deciding whether to issue such a certificate and in his action generally with respect to assignments a revenue officer is as a rule fully justified in treating private transfers of the right to receive a share of the revenue due to the State as a breach of the conditions of the grant. In the case of m'afis for the support of

institutions it is obvious that if the manager mortgages the income on account of his private debts, the conditions are broken. Unless arrangements can be made for the speedy removal of the encumbrance the remedy lies in resumption or in suspension of payment till the persons interested in the institution can arrange for the appointment of a new manager, who would feel himself under no obligation to continue the diversion of the endowment from its proper uses. Probably this would hold good as regards grants for the maintenance of institutions even in the Delhi territory, though assignments in that part of the praline are ordinarily transferable(paragraph 130).

167. Early authorities declare assignments to be capable of attachment.

The law regarding the attachment of assignments by decree of court is in a somewhat doubtful state. In the dispatch quoted in paragraph 164 the Court of Directions wrote that Jagirs can only be attached for the life of the holder “ Mr. Cust remarked: -

Jagir and m’afi holding are liable to attachment under decree of the civil and Revenue Courts . The revenue will be collected by the tahsildar and paid to the parties holding the decrees . With the death of the life holder all claim of the creditor expires. Grants to institutions are not liable for the personal debts of the manager. (Cust’s Revenue Manual , Page 15)

This practically assumes that assignments are private property in which the existing holders have life interests. It ignores the view that the possession of them involves public duties.

168. Doubtful state of the law. Section 11 of Act XXIII of 1871 provides that “no pension granted or continued by Government on political considerations, or on account of past services, or as a compassionate allowance shall be liable to

.....attachment..... in satisfaction of a decree or order of any.... Court. Political pensions are exempted from attachment by section 266(g) of the Civil Procedure Code. In one case (C.R. 137 P.R.,1890) the Chief Court of the Punjab held that, though a grant of land revenue may be and no doubt often is a distinct thing from a pension, there is no reason why a pension should not take as the mode of payment , the form of an assignment of land revenue. In a latter case (C.R. No. 47 P.R.:of 1893) the former Punjab rulings on the subject were considered and the law summed up as follows:-

“These cases are sufficient to show that while some jagir income may be liable to attachment, other jagir income may not.”

169. Duties of Collector in connection with attachment of assignments.

Assigned revenue is an “interest in land” and an order or its attachment made by any Civil or Criminal Court must be addressed to the Collector.(Section 141, Act XVII of 1887) and must direct the person by whom the revenue is payable to pay it to the Collector and the Collector to hold it subject to the further orders of the Court.””(Section 142 Act XVII of 1887) IN execution proceedings the Collectors is the agent of the Court and must obey its order without demur. But after the attachment has been made , he would be justified in pointing out to the Court any reasons why in his opinion it should be withdrawn . It is for the Court to decide whether the reasons are valid. If the matter were properly represented, it seems probable that a Civil Court would hold that revenue granted for the support of an institution should not be attached in execution of a decree on account . of the private debts of the manager.

170. Provisions of section 8(3) of Punjab Act, IV of 1900. In 1898 the Punjab Government proposed the amendment of section 11 of Act XXIII of 1871 so as to

protect all assignments of land revenue from attachment. (Punjab Government No. 86, dated 24th August 1989.) The government of India held that it would be enough to exempt those jagirs only in respect of which primogeniture has been, or shall be, declared to be the rule of descent. (Government of India No. 341-A 277.2, dated 9th February 1899.

171. Questions regarding successions. Questions of succession do not as a rule cause much trouble . The terms of truant usually indicate clearly who the successor or successors must be.

172. Registration of heirs to jagirs. Every shareholder in a Cis-Sutlej Jagir is required to report the birth of a sons within a week of its occurrence in order that the necessary entry may be made in the genealogical tree. No Investigation , public or private, should be instituted into the truth of the relationship of the child to his reputed father, when there are kinsmen in the line of succession to the jagir unless they have moved in the matter in their own interest . If there are no such kinsmen it may become necessary to make some private enquiry , but only if rumours of fraud have reached the ears of the collector. If private enquiry seems needful, the Collector must obtain the sanction of the Commissioner before making it, and report the result for orders. Alleged posthumous births will usually require verification , especially if the Collector has received no notice that the widow declares herself to be pregnant. Such declarations are often not to be trusted and enquiry to be effectual must be made before the birth takes place or is , according to the widow's statement, due . In such access it may be advisable with the Commissioner's sanction to arrangement due. In such cases it may be advisable with the Commissioner's sanction to arrange if possible , for the service of a competent lady doctor for the personal examination of the widow.

173. Succession to small grants for service. The rule limiting the succession to a single heir in the case of small grants for service to be performed has already been noticed (paragraph 159).

174. Succession to small grants assigned to several persons for their lives- When the revenue of a plot has been assigned to two or more individual's collectively without specifying that the share of each shall lapse on his death of the last of them the whole will lapse. This rule only refers to petty grants. (Punjab Government notification No. 1386 dated 27th October 1873.)

175. Successions to grants for religious institutions. The cases of succession which cause most difficulty are those relating to endowments for the support of religious institutions . Unfortunately the death of the head of a monastery or of the guardian of a tomb or shrine is often followed by a dispute among his disciples as to who shall occupy the vacant seat. It is no part of Collector's duty to settle such matters. It is the policy of Government , as laid down in Act XX of 1863, to abstain from interference in the management of religious institutions and five years before that Act was passed the same principle was clearly stated in Chief Commissioner's Circular No. 23 dated 25th August , 1858. If the succession is contested the Collector should either pay the revenue to the claimant who is actually in possession , or suspend payment altogether till the dispute is settled. He should adopt the latter course when litigation is protracted and it is clear that funds intended for religious or charitable purpose are being diverted into the pockets of lawyers.

176. Resumption for breach of conditions. An assignment may be resumed when the conditions attached to it are broken. These conditions may be either

expressed or implied.

177. Breach in case of assignments for support of religious institutions.

Fishing inquiries as to the disposal of the income of grants made for the support of religious or charitable institutions are unwise. But if the building is falling into ruins or has been deserted, or if the endowment is clearly being misapplied, interference is necessary. It is equally so if the guardian notoriously a man of bad character, and complaints reach the Collector's ears that a house of prayer has become a den of thieves or gamblers, or that respectable women can no longer visit it for purposes of worship. A time can set within which the persons interest in the institution must arrange for the repair of the building or the remedy of the abuses, which have infected its management failing which resumption will be proposed.

178. The condition of loyalty and good conduct - Many grants are by their terms expressly conditional on loyalty and good conduct. The form of a sanad sanctioned for perpetual assignments in 1870 declares that the grant is held on the above conditions during the pleasure of Government. This as an expression of the policy of Government announced to the grantees when they received their sanads is important. But in deciding what the terms of old grants are it is necessary to look to the original order of release rather than to the wording of a general form of sand prescribed many years later.

179. Every assignment really liable to forfeiture for flagrant misconduct -

But whether the original grant stipulates for good conduct on the part of the grantee or not, Government is justified in holding that there is a point in the case of every assignment at which the misbehavior of the assignee will justify an order

of forfeiture. What that point is must depend largely on the history of the grant . Considering the origin , for example of many of the jagirs in the Cis-Sutlej and Delhi territories it would be wrong to mete out the same measure to them as to assignments which have sprung simply from the bounty of the British Government.

180. Assignment forfeited if grantee is guilty of treason's or of a capital offence. The title of any person to hold or to inherit a jagir or a share in a jagir is forfeited when he is convicted of a crime involving a death sentence. If he is in possession , the jagir will lapse entirely . If his interest in the jagir is contingent, it will cease as regards himself, but survive as regards his children or other heirs. The Government of India ruled in 1856 that the share which the criminal would in ordinary course have inherited should be confiscated entirely when the jagirdar whose heir he was died.(Government of India No. 4170, dated 8th August 1856) but the court of Directions refused to accept a ruling which involved the doctrine of corruption of blood”

They remarked: -

“Forfeiture of the whole property of a convicted felon is one of the punishment prescribed by law, and for this there may be sufficient reasons, notwithstanding the hardship which results to his innocent offspring. But in the present case you have pronounced a prospective confiscation of landed rights which have never vested in the offenders, but which would have legally descended to them on the death of their father who still survives, thus adopting the principle of corruption of blood, own to the ancient law of this country, but long stigmatized by the best authorities and condemned by the opinion of the present age. We cannot sanction this principle and we direct that the children of Nihal succeed to their father's share on the death

of their grandfather in the same manner as if their father had died in the course of nature.”

(Dispatch No. 44m dated 18th August 1858.)

A grant is also forfeited by the commissioner of any act of treason or disloyalty. (Financial Commissioner’s Book Circular No, L III of 1860.)

181. Ruling of Punjab Government in 1883. In 1883 the cases of two shares in trans-Sutlej conquest jagirs, who had been convicted respectively of attempted burglary and of receiving stolen property were brought to the notice of Government. It was then ruled that “When the deed of grant contains nothing which reserves to government the power that “When the deed of grant contains nothing which reserves to Government the power of resumption (perpetual) grantscan only become liable to forfeiture for treason or when the holder commits an offence for which under the ordinary law the court could pass a sentence of forfeiture of all the property of the offender.” (Punjab Government No.194, dated 23rd April 1883.)

182. Later attitude of Punjab Government - It is very doubtful whether this doctrine which treats a right to a share of revenue due to the State as standing on the same footing as private property, would now be accepted . It is inconsistent with the view of the nature of assignments in the Punjab which was put before the government of India in 1898. (See paragraph 155.)In a recent case belonging to he Peshawar district a perpetuity jagir was, on the death of he holder converted with the sanction of the Government of India into the perpetual cash pension of much smaller amount because of the failure of the deceased jagirdar to show active loyalty or to treat the local representatives of government with proper

respect. In recommending this action Sir Mack worth young remarked that he supported it” not so much because the grant was originally one of Rs. 1000 and was increased subject to government service as well as good conduct, though this might perhaps be argued, but on the broad ground that every assignment of land revenue is held on the understanding that the assignee maintains a loyal attitude towards the government and failing this is liable to have his grant confiscated.” (Punjab Government No. 506 dated 30th July 1901)” A few years ago a jagirdar belonging to one of the leading families in the Punjab was warned that “Jagirs are granted for public objects and that with respect to the condition attached to his grant circumstances might arise in which Government might be compelled reluctantly to resume it.” (Punjab Government No. 949-S, dated 25th August 1898.) In that case the sanad stated that the grant was conditional on good conduct and loyal service.

183. Lapses in favour of Jagridars - In some cases the benefit of a lapse accrues to a jagirdar and not to Government. The circumstances under which this takes place are described in paragraph 23-25 of financial commissioner’s Standing Order No. 7.

184. Settlement made in some cases with ex-mafidars or their heirs. When an assignment lapses the person entered in there cord of rights as landowner usually becomes responsible for the payment of the land revenue to Government. In technical phrase “ the settlement is made with him” But it may be found that the connection of the late mafidar with the land really amounted to a proprietary or sub-proprietary or sub-proprietary tenure and in that case he or his heirs is entitled to claim the settlement. This subject, which in practice is somewhat difficult one, is dealt with a paragraphs 182-185 of the Settlement Manual.

185. Treatment of assignments at settlement - When a general re-assessment of district takes place it is the business of the Settlement Officer to examine and attest all existing assignments of land revenue. Some remarks on the subject will be found in paragraphs 568-575 of the Settlement Manual.

186. Duties of Collector in connection with assignments. The main duties of the collector of a district in connection with revenue-free grants are: -

- (1) as regards term –expired grants to see that laps are enforced without delay or a recommendation made for a reconsideration of the original order should resumption appear undesirable;
- (2) as regards other assignments-
 - (a) on the death of the existing holder to pass order promptly about the succession
 - (b) to satisfy himself that the conditions of the substantially fulfilled by the assignee.

The discretion of the Collector to resume of his own authority assignments of which the term has expired is not unfettered. In a few cases he has been forbidden to do so and as regards other lines of policy have been laid down to which the must conform. These duties are discharged by the Collector even when the district is under settlement ; but all cases should be reported to him for orders by the settlement Officer, to whom also the orders should be communicated in order that proper effect may be given to them in the records, and that Settlement Officer may be able to carry out the duty imposed on him by paragraphs 568 et seq. Of the Settlement Manual.

187. Grants for service in 1843 and during the Mutiny. Grants on account

of services rendered in 1848 or during the mutiny originally made for a term may not be resumed without reference to the Financial Commissioner.(Punjab Government Nos. 104 dated 30th August 1889 and 141 dated 6th December 1889) there are strong reasons for showing liberality in such cases , which are well explained in the following remarks by Sir James Lyall”(Punjab Government No. 192-S dated 6th July 1889)

“4. In certain cases which came before him as Financial Commissioner Sir James Lyall recorded an opinion that it was good policy to maintain in perpetuity grants for services rendered at the mutiny on the ground that such grants remain as evidence of the result of loyalty and have a considerable political effect. To these views Sir James Lyall still adhere and is strongly of opinion that in the case of the small jagir or m’afi grants , which were made to the best of the Sikh and Punjabi Muhammadan native Officers in 1859 and 1860 in recognition of their having obeyed our call and joined our standard at a critical time and distinguished themselves as soldiers, it would generally be good policy and well worth the money to continued to show itself loyal and well disposed and ready to do service. The money value of these grants is small , but the value put on them is great as in this country of peasant proprietors they give the family which holds them a high social status in the eyes of the rural population ,and mark it out for recognition by the Officers of Government.

It is these land holding families better off though they be than the mass of peasantry, but still only what may be termed yeomen proprietors, which furnish the men who are the flower of the present cavalry and infantry of the Indian Army and who make the best Native Officers, They have some ancestral military traditions and feelings of gentility and also a certain small

amount of capital. They serve more for the love of the thing than for profit and eventually retire and live on their lands. It is in Sir James Lyall's opinion a great object to keep alive the spirit which induces men of this class to serve in our Army, and which might die out any day. The continuance of small grants in their villages to the heirs of the men who joined our standard in 1857 and then much distinguished themselves will be one way of keeping alive this spirit and of encouraging future generations to follow the example if similar critical times ever occur again.”

188. Bedi and sodhi grants - One of the rules prescribed by Lord Hardinge and Lord Dalhousie provided for the re-consideration on the death of the holders of assignments conferred for service of any kind to be rendered to Sikh rulers, including grants of Bedis and Sodhis which were originally confirmed only for the service of any kind to be rendered to Sikh rulers, including grants to Bedis and Sodhi's, which were originally confirmed only for the lives of the incumbents. This instruction was reproduced in the rules under the first Punjab Land Revenue Act, XXXIII of 1871. Definite directions have since been given for heresumption of Bedi and Sodhi revenue – free grants on the deaths of existing holders and grant of cash pensions to their male descendants, windows and daughters. These directions make the following rules, which were originally drawn up for the case of deceased Bedi and Sodhi pensioners. Applicable also to the cases of deceased holders of revenue free grants who are members of those two clans. In applying the rules in the first instance on the decease of such free grant holders the words “pensioner” and “pension” are to be treated , where necessary as including the deceased holder or a revenue –free grant and the amount of that grant, respectively . Except as so applied to such deceased or to his grant, the words must be interpreted in their strictly literal sense . Thus the

heirs of a deceased revenue – free grant holder are pensioners in the strict sense of the word and their heirs after them. The pensions go on diminishing generation by generation till they lapse by commutation or by death or by marriage.

The directions also lay down that Collectors can dispose of these cases in accordance with the rules without reference to higher authorities. (Punjab Government Nos. 197 dated 5th December 1884 and 87 dated 4th July, 1889 and Punjab Government letter No. 5 (revenue) dated 8th January 1914.)

“(1) On the death of any male pensioner one –half of his pension will be continued to his direct male heirs, and divided among them according to the ordinary custom of inheritance; provided that all pensions of not more than Rs. 50 per annum claimable under this rule shall be compulsorily commuted at the ordinary rates.

“(2) On the death of any male pensioner, one half of his pension will be continued to his widow (if any) or (if there are several widows) divided among his widows in equal shares ; provided that , if the deceased pensioner leaves motherless and unmarried daughter or daughters, the share of his pension to be allotted to his widows or widow shall be calculated as if the mother or mother’s of such daughters or daughters were alive.

“(3) On the death of any male pensioner, other than the head of the house for the time being , leaving motherless and unmarried daughters , the said daughters of each mother shall receive in equal shares one-half of the pension to which their mother would have been entitled under rule-2, in case she had survived her husband.

“(4) On the death of any widow in receipt of a pension under rule 2, one-half of such pension shall be continued to her unmarried daughters (if any) upon equal shares.

“(5) Pensions to widows under rule 2 are life pensions . Pensions of

daughters under rule 3 and 4 cease upon death or marriage of the pensioners; but when they cease for the latter reason the pensioners are eligible for dowries under the ordinary rules.

(“6) All pensions are held during the pleasure of Government and subject to the usual conditions of good behavior, loyalty and service. The local Government may refuse to grant any pension claimable under these rules, if the claimant appears to be an unfit recipient of Government bounty.”

189. Pensions of Anadpur Sodhis. These rules are applicable to the pensions of the well-known Sodhi family of Anadpur, in Hoshiarpur, for which indeed they were originally framed. (Government of India, Foreign Department No. 1992-G dated 16th October 1884.) But the head of that family for the time being is in each generation entitled to receive a cash pension of Rs. 2400 a year. Hence in applying the rules to the Anadpur Sodhis they must be read with certain additions, “other” being inserted before “male pensioners” in rule I and “other than the head of the house for the time being” after “male pensioner” in rule 2.

190. Powers of collections with reference to Bedi and Sodhi grants.

Collections will accordingly be able to dispose on their own authority of all cases of lapsing Bedi and Sodhi pensions and jagirs and mafis, only reporting for order of higher authority cases in which they consider that pensions should be refused or that more liberal pensions should be allowed, or in which for special reasons they think that a lapsing grant in the form of a jagir or mafi should be continued in that form. Cases in which more liberal pensions than the rules allow can properly be recommended will be extremely rare. But it is probable that some cases will occur in which it may be advisable to propose continuance, in its original form of a lapsing life tenure Sodhi or Bedi jagir or mafi grant. Such a

proposal should not however be made unless the release of the grant can be recommended for some term other than life, such as during the pleasure of Government, in the case of a very ancient grant held by a family of some distinction, or during maintenance of a religious or charitable building or institution, or a roadside garden where such building or garden is found to exist in connection with the grant and to be worthy of support. (For further instructions see paragraph 8 of Financial Commissioner's Standing order No. 7).

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191. Policy of Government with reference to grants in favour of religious and charitable institutions. It has always been the policy of Government to be especially liberal in maintaining the grants made by native rulers for the support of religious and charitable institutions. The orders of Lord Hardinge and Lord Dalhousie on the subject are given in paragraph 86 and 93, and the rule in force in the Delhi territory is noted in paragraph 132(d). Orders issued in 1860 required district officers to refrain from resuming life grants in favour of a mosque or temple, if the institution was valued by the people and resumption was likely to prove distasteful to them. Such cases were to be reported for orders. The same course was to be followed as regards life grants for the support of dharamsalas, takiyas or khankahs, if resumption would cause “serious dissatisfaction”.

These injunction were repeated in more general form in the rules under the Land Revenue Act, XXXIII of 1871, and in 1881 Settlement Officers were told that grants to religious institutions released originally for the term of the first regular settlement should be continued for that the revised settlement, if there were no new or special reasons to the contrary. (Punjab Government No. 447 dated 13 April 1881, and Financial Commissioner’s circular No. 251 of 1st August 1881. The same policy is embodied in the more detail in the more detailed instructions drawn up by Mr. Lyall as Financial commissioner in 1883 quoted below. These related in the first instance to the treatment of land- revenue assignments in the Una tahsil of Hoshiarpur which was under settlement, but they were reproduced in a circular of the Settlement Commissioner.

192. Instructions issued by Mr. Lyall in 1883. The principles laid down by

Mr. Lyall were as follows:-

- (i) Where the grant is attached to a dharmsala or takiya which still exists, and is served in the same fashion as at least settlement, the grant should be maintained subjected to revision by Deputy Commissioner on the death of present holders, notwithstanding that the building may be only kacha, and that the grant in value or area may be very petty and may have originally been granted by the villagers only.
- (ii) Where the grant is attached to a thakurdwara, shiwala or khankah consisting of a mosque or tomb containing a chapel for prayers it should be maintained for another term of settlement, if the building be a real religious edifice still kept up as place of worship, whether in the same village or district or not.
- (iii) If the thakurdwara to which the grant is attached is merely the residence of a Brahmin with a Thakur in some room of it, it should generally be resumed if the grantee of last settlement is dead and the present holder is not a fit object of charity.
- (iv) Where the grant is not supposed to be attached to any building which worshipers can enter, but to small erections of the nature of Muhammadan graves, Hindu cenotaphs, Sarwar Sultan makans, platforms of pirs or devis, & c., the grant should generally be resumed.
- (v) Where the grant was given by the villagers to Brahmins for service as pandit, pandha, parohit, or acharaj, or to artisans and amins for village service it should be resumed or at most be only continued for life to old men or women out of charity.
- (vi) If such a grant as that last described was made by a Raja or ruler to a respectable family of Brahmin parohits as a subsistence grant, it may be maintained for another term of settlement, if the family is still respected and engaged in religious offices.
- (vii) If the grant was made either by a ruler or by the villagers to men for keeping a school or for supplying water on a public road to travelers, it should be treated as a grant for public rather than for village service, and should be maintained, unless it appears that the original purpose is not fulfilled.”

Where grants were resumed the villagers were to be given an opportunity of excluding the land from assessment in distributing the revenue of the estate over holding.

193. Proposal to adopt a less liberal policy as regards petty village mafis.

In 1886 the Financial Commissioner represented that these instructions were too liberal as regards “petty village muafis”. They wished to draw a broad distinction between institutions, which benefited only the village in which they were situated and those, which were places of general resort. They proposed to resume assignments in favour of the former so far as Government was concerned, leaving it to the landowners to continue them, if they pleased, as grants from themselves in the way described above. They therefore, drafted a circular on “petty village muafis, of which the second paragraph may be quoted:-

“In general such grants when made for the term of settlement or for some period not precisely defined (but not for a life or lives) should be resumed from the date of the introduction of a new assessment except in cases in which some distinctly public convenience is secured by their existence. Thus grants to the more important takiyas and dharamsalas which are situated on roads frequently used by travelers would in most cases be maintained. The same remarks apply to all schools which are fairly well managed, even though their pupils may be drawn from single villages. But grants attached to Muhammadan graves, Hindu cenotaphs, makans of Sarwar sultan, platforms of pirs and devis and other similar objects are useless so far as the public good is concerned and should as a general rule be withdrawn. Similarly grants made to village priests or religious teachers, or to village menials and artisans

should not be continued, nor should grants to mosques and temples, which are not places of general resort. In fine, the principle to be borne in mind is the grants in connections with purposes of general public utility, whether material social or moral should be maintained but grants in connection with purposes which are either useless or benefit individual villages only should be resumed the former recipients being left to the beneficence of those interest in the performance of their functions.

194.Rejection of proposal by Mr. Lyall. 195. Mr. Lyall who was now Lieutenant Governor objected strongly to the change of policy suggested and refused to sanction the draft circular in which it was explained. He remarked(Punjab Government No. 70, dated 20th July 1887)

“His Honor sees no reason for any change of policy and considers a change in the direction of less liberality very inexpedient. Any change now-a-days should be in the opposite direction, as the work reducing the inordinate amount of revenue assignments in the province has been accomplished and the amount left is not very great. Mr. Lyall thinks that Settlement Officers and Deputy Commissioners are apt to be influenced somewhat unduly towards the resumption of petty grants because they give trouble and because they are, so to speak, anomalies and awkward exceptions from general revenue rules. But we ought not be led to adopt a severe and unpopular line of policy by such considerations. It is well known that m’afis are valued much beyond their worth by the people , and sympathy with this feeling should be shown when the money value involved is not serious.

“The general principle stated in paragraph 2 of the draft circular that petty village m’afis should as a rule be resumed from the date of introduction of new assessment, except in case in which some distinct public convenience is

secured by their existence, appears to His honour to be wrong in itself, a departure from past practice, and politically very in expedient; and Mr. Lyall thinks that the proposal to extend this principle to grants made to village priests and religious teachers, or to village menials and artisans, and to mosques and temples which are not places of general resort, is far too sweeping. The rule given in paragraph 34 of appendix III to Barkley's Directions to Settlement Officers, page 38 is still substantially in force as indicating the right policy that is to say it is expedient that all endowments bona fide made for the maintenance of religious establishments or buildings are kept up, provided that when such grants are of great value they should be restricted to such smaller amounts as it may be thought politically expedient to grant. Where the terms of the original orders were release during maintenance or during the pleasure of Government "The settlement Officer or Deputy Commissioner can only propose an alteration if he finds the establishments or buildings not kept up for their original purposes. When however, the original order was for release for the term of settlement, the case is different. Such cases are provided for by paragraph 2 of this office letter No. 447, dated 13th April 1881, published with Financial Commissioner's circular No. S.IX/25-S of 1st August, 1881.

"in the case of all grants for life or lives, except Bedi and Sodhi grants, the Deputy Commissioner or Settlement Officer can resume in the ordinary course in accordance with the original terms of release. But the case of grants for the term of settlement is peculiar as the meaning of these orders was not that the grants should be resumed at the end of the term of settlement, but merely that they might be reconsidered at the end of that term, and the intention was no doubt that expressed in paragraph 2 of the letter of the Punjab Government above referred to viz, that in default of special reasons or

new orders such grants would ordinarily be continued if no material change in character had occurred.

“As regards resumption of life m’afis on lapse, no new orders are necessary in the case of purely personal grants, which do not purport to benefit other persons than the holders; but it is advisable that the Settlement Officer should take the opportunity of the settlement to review the case of all life m’afis which appear to have been granted in return for service of any kind to the public or to the people of the village, or to be connected with any institution such as a school, temple, mosque dharamsala, or takiya. The original orders sanctioning for life only were very hurriedly made, and in many cases were treated differently in different districts; in some the release was ordinarily allowed for life of the holder; in others for the term of settlement. Hence it has been the practice to permit and encourage reconsideration’s in such cases on lapse. But this is very troublesome and inconvenient and tends to very unequal treatment. Hence it is advisable that the Settlement Officer should generally review such cases, whether lapse had occurred or not and if he thinks the grant should be continued for a longer term than the life of the incumbent, he should enter the case in a register for report, and should generally propose to release for the term of settlement as that is safest and allows reconsideration’s.

“In respect to purely village service or village institution m’afis, of which the sanctioned term is for the period of settlement or for life, the Settlement Officer should be empowered in the case of petty grants of not more than 3 acres in extent to practically resume at settlement, so far as Government is concerned (without, however, actually imposing any assessment or bringing the land into calculation in fixing the jama of the village) by recording orders in the m’afimisli and the fard lakhiraj that the grant shall be struck off the fard

lakhiraj and the registers, and the land be included at the bachh in the maiguizari area, with permission, however, to the azmindars if the majority so wish to exclude the land from the bachh during their pleasure. In such cases, if the zamindars decide to exclude the fact will be noted in the bachh rubkar and the land will be held revenue free from the azmindars only but as far as Government is concerned, will be considered as khalsa. The adoption of this procedure will place a number of these petty grants in their proper position of grants held from the zamindars. They were originally allowed by the Government at the request of the zamindars but by granting them independently of the zamindars wishes and authority we have altered their character in an undesirable way, the exclusions of the grants from there gestures will save much trouble at a very slight loss to Government, which loss will only be for the term of the settlement. But this procedure should not be followed where there are clearly no grounds for continued. In life tenure m'afis of this kind, where the term has not yet lapsed, the case cannot, of course be so treated, but the order may be passed that at the death of the holder the m'afi will be assessed and the revenue will go to the village malba."

195.Special treatment of village grants of an annual value not exceeding Rs. 20. The special treatment sanctioned for village m'afis of not more than three acres really met the wishes of the Financial Commissioners to a large extent, for many of the grants with which their circular dealt were very petty, the limit has since been raised from "three acres" to "an annual value of Rs. 20 must be extremely small.

196.Existing orders as to small village grants. the orders of Sir James Lyall quoted in paragraph 194 had later been interpreted by Government as

involving a distinction between (a) m'afis for the maintenance of "religious establishments or buildings for public accommodation" and (b) m'afis of the annual value of Rs. 20 or less for the maintenance or other institutions or for village services, and the collector's power to enforce the lapse of term-expired grants of the former class had been withdrawn. A decision whether an establishment is really religious or not will often be facilitated by application of the principles contained in sections (ii), (iii) and iv of paragraph All grants of class (a) should on expiry of the term of release be reported for the orders of the Financial Commissioner. If the establishment or building concerned is properly maintained, the m'afi should usually be recommended for continuation for another term of settlement under paragraph 51 of standing Order No. 7. If it is proposed to enforce the lapse of the assignment the grounds for resuming e.g., failure to maintain the establishment or building should be reported and the orders of the Financial Commissioner obtained. In case of grants of class (b) the existing order are :-

"The Settlement Officer is empowered to adopt either of three courses ;-

- (1) In the case of unexpired life m'afis he may either record that on expiry they should be resumed and assessed in the ordinary way or he may report them to Financial Commissioner for sanction to maintain them for the term of the new settlement, should that be longer than the life term already sanctioned;
- (2) In the case of m'afis for term of settlement only, he may either resume and assess in the ordinary way; or
- (3) He may resume as a grant from government but leave the land assessed for one period of settlement in order to see whether the zamindars will agree to continue the m'afis as a grant from themselves by

kharij parta arrangement.

In the letter case orders will be recored in the m'afi misl and the fard lakhiraj that the grant shall be struck off the fard lakhiraj and there glisters and the land be included at the bachh in the maiguzari area, with permission, however , to the zamindars, if the majority so wish to exclude the land from the batch during their pleasure. The object of these instructions is to put these small m'afis on their original footing of lands released by the zamindars. In order to effect this change more smoothly and with as few resumption's as possible on the part of the villagers , the Government agrees to give up for one settlement the revenue which might have been assessed on these resumed m'afis. By this procedure it costs the villagers nothing to continue the grant as one from themselves and they are therefore more likely to adopt this course. At the same time if they do elect to assess these plots it becomes clear that the assessment is their work and not ours.

“

It is of course open to the Collector of a district to propose that a life m'afi for village service or in favour of a village institution the term of which has expired by the death of the holder should be continued for the period of the current settlement of the district.

197. Assessment of lands of which the revenue is assigned. The law and practice as regards the assessment of lands of which the revenue is assigned are explained in paragraphs 180-81 of the Settlement Manual . It is rarely necessary for the Collector to make a new assessment when a grant is resumed. The following orders which were previously Land Revenue rules 214 and 215 and issued under section 59 of the Land Revenue Act provide that :-

(a) When in any district or tahsil an assignment of land revenue's is resumed, if that land revenue was assessed in the same form and by the same method as that in and by which land revenue paid to government on the same estate or on adjacent estates was assessed at the last general assessment, no new assessment of the resumed assignment shall be made until a general re-assessment of the district or tahsil is undertaken.

(b) If the land revenue enjoyed by the assignee was not so assessed, or if where the assignee was himself the landowner no assessment of his land has hitherto been made the Collector shall assess land revenue on the land of which the revenue has been resumed in conformity with the principles and Instructions on which the current assessment of the tahsil or district was made.”

“Care should however, be taken that the land revenue imposed on such land does not raise the total assessment of the circle in which it is situated to more than one fourth of the net assets of the circle. If the land forms parts of an estate and is not excluded from the provisions of section 51(3) by section 51(4) of the Punjab Land Revenue Act, 1887, this object can in most cases be secured for all practical purposes by providing that the average rate of incidence on such land does not exceed the average rate of the estate in which it is included. Any case in which this is not suitable, as for example of specially valuable land should be referred for orders. If however, the land consists of a fresh estate, the rate of incidence of the assessment imposed thereon should not be such as to raise the existing average rate of incidence of the assessment circle beyond the limit prescribed in section 51(3).

198. Revisions of assessment and suspensions and remission. The owners of land of which the revenue is assigned are entitled to exactly the same treatment

as regards revision of assessment and suspensions and remissions on account of calamities of season , as the proprietors khalsa lands. (Financial Commissioner's Book circular No. LIII of 1860. Special vigilance is required in enforcing this principle where a jagridar is still allowed to collect the revenue direct from the landowners.

199. Jurisdiction of civil courts as regards assignments barred between annexation and 1867. Lord Dalhousie's declaration that "by our occupation of the country , after the whole Sikh nation had been in arms against us we have acquired the absolute right of conquest and would be justified in declaring every acre of land liable to Government assessment" has already been quoted (paragraph 89) Commenting on this in the case of sardar Bhagwan Singh versus . The Secretary of State (Punjab Record, 1875, No. 1), the Judicial Committee of the Privy Council observed –

It appears to their Lordships that by these directions to the Board it was contemplated by the Governor –General to make what may be called a tabula Rasa of tenures of this kind and to re-grant them on terms entirely at the discretion of the British government the Government no doubt intending to act with all fairness and consideration, especially to those who appear to have been not unfaithful to them , but at the same time in a manner which appeared right and just to themselves and which they did not intend to be inquired into or questioned by any Municipal Courts."

The Board of Administration ruled in 1853 that the civil courts should not take cognizance of claims of relatives to participation under the general laws of inheritance in rent free holdings which have been conferred on particular individual by orders of government .(Board circular No 5 of 1853.) . And by

sections 1 –10 of first part of the Punjab Civil Code, punished in 1854 , the jurisdiction of these courts was barred as regards “any matter relating to jagir rent-free tenures , or tenures of other grants made by Government * * * * * or to the succession thereto , or to the shares , rights and interest therein * * * * *but, if the jagirdars or m’afidars shall have farmed those rents or revenues to a third party , possessing no proprietary rights in the estate, then suits between the jagirdar or m’afidar and such third party may be entertained by the courts “

The first Code of Civil Procedure was extended to the Punjab from 1st October , 1866 and between 1867 and 1871, when the Pensions Act was passed, the Chief Court claimed and in a few instances exercised , jurisdiction in jagir cases.

200. Provisions of the pensions Act, XXIII of 1871. The matter has been finally settled by sections 4 to 6 Act XXIII of 1871 which provide that :-

“4. Except as hereinafter provided , no civil court shall entertain any suit relating to any pensions or grant of money or land revenue conferred or made by the British or any former Government , whatever may have been consideration for any such pension or grants and whatever may have the nature of the payment , claim or right , for which such pension or grant may have been substituted.

“5. Any person having a claim relating to any such pension or grant may prefer such claim to the Collector of the district *** or other officer authorized in this behalf by the Local Government and such Collector * * * * *or other officer shall dispose of such claim in accordance with such rules as the Chief Revenue Authority may subject to the general control of the Local government from time to time prescribed in this behalf.

“6. A civil court, otherwise competent to try the same shall take cognizance

of any such claim upon receiving a certificate from such Collector * * * or other officer authorized in that behalf that the case may be so tried, but shall not make any order or decree in any suit whatever by which the liability or Government to pay any such pension or grants as aforesaid is affected directly or indirectly.”

201. **Cases in which a certificate may be granted. Rules 8 and 9 issued under section 14 of Act XXIII of 1871** (Financial Commissioners notification No. 22 dated 3rd February , 1910 , and Punjab Land) provide that :-

8. When a claim relating to a hereditary pension or grant of money or land revenue is preferred to a Deputy Commissioner under section 5 of the Act, and the inheritance of any other property or of a share in the property of a Hindu joint family is in dispute between the parties, the Deputy Commissioner may with the sanction of the Financial Commissioner certify that such may be tried by a civil court . Such certificate shall be forward by a civil court having jurisdiction in regard to the other property in dispute.

“9. When a claim relating to a hereditary pension or grant of money or land revenue which is according to law or by the terms of the grant , transferable, is preferred to a Deputy Commissioner under section 5 of the Act. The Deputy Commissioner may certify that such claim may be tried by a civil court.”

The second rule refers to assignments in the Delhi territory made before its annexation to the Punjab (paragraph 128-133)

202. **Recovery of cost of assessment from jagirdars.** The rules regarding the recovery from jagirdars of the cost of the assessment of 2nd of which the revenue

is assigned will be found in appendix XIX of the Settlement Manual.

BOOK II
ORGANIZATION FOR PURPOSES OF LAND ADMINISTRATION
CHAPTER IV
SCHEME OF REVENUE ADMINISTRATION

203. Revenue divisions, districts and tahsils. For the purposes of revenue management, the Punjab divided into 29 district, each in charge of a Deputy commissioner or Collector. These districts are grouped into five divisions, each under a commissioner. The commissioner exercises control over all the revenue officers and courts in his division and is himself subject to the general superintendence and control of the Financial Commissioner, who, under the Revenue Member of Government, is the head of the revenue administration. At the headquarters of a district there are in addition to a large ministerial staff, several officers appointed by the local Government who exercise executive and judicial functions under the orders of the Deputy Commissioner. They are known as assistant commissioners if they are members of the Indian Civil service, and as Extra Assistant Commissioners if they belong to the Punjab civil service. One of these assistant or Extra Assistant Commissioners , chosen for his special aptitude for revenue work, and called the Revenue Assistant, devotes almost the whole of his time to business connected with land administration. A district is divided into several tehsils, to each of which a tehsildar and naib-tehsildar are appointed. The Poisson of the naib-tahsilder with reference to the tahsilder are appointed. The Poisson of the naib-tahsildar with reference to the tahsildar is like that of an Assistant Commissioner with reference to the head of the distraict. Tahsildars and

naib-tahsildars exercise administrative and judicial functions within the limits of their own tahsils. In the few there are two naib-tahsildars. In such cases the one who possesses the larger experience sometimes has a definite part of the tahsil assigned to him as a sub-tahsil within the limits of which he resides. In the same way in some districts one or more thahsils are formed into an outpost or sub-division, and put in special charge of a resident Assistant or Extra Assistant Commissioner. Within his own sub-division such an officer performs all the duties usually entrusted to a Revenue Assistant.

204. Villages and zails - The unit of revenue administration in the Punjab is the estate or mahal. Which is usually is enticed with the village or mauza. Of these estates, large and small, a tahsil as a rule, contains from two to four hundred. Each of them is separately assessed to land revenue which it is the business of the duty commissioner to collect and has a separate record of rights and register of fiscal and agricultural statistics, which it is his duty to maintain. All its proprietors are by law jointly responsible for the payment of its land revenue, and in their dealings with Government they are represented by one or more headmen or lambardars. The bond which unites the proprietary body may be a strong and natural, or a weak and artificial, one. At the one end of the scale are the compact village communities of Rohtak and Karnal, whose landowners are held together by real or assumed ties of kinship; at the other. The estates of the south-western Punjab. Which are often mere collections of independent well holdings. While in the new colonies there is little bond beyond such similarities of tribe, religion and home of the original colonists as the colonization officer may have been able to secure. No deputy commissioner can rightly perform his duties without a full knowledge of the land tenures of his district. A careful perusal of the gazetteer, and the reports of past settlements, will supply the foundation, but the

superstructure must be built up by personal observation and enquiry and by the examination of village note books and records of rights. The village system of north western India, properly organized and wisely worked forms a powerful engine of administration. To make it still more effective clusters of villages which are quitted by the bond of tribal or historical association, or of common interests, are usually formed into circles or zails over each of which the appointed a zaildar chosen by the Deputy commissioner from among the leading village headmen. The jaidars receive their emoluments from Government by the deduction from the land revenue, the headmen are paid by the communities which they represent by the surcharge of five percent on the revenue. Together they form the valuable unofficial agency, through which the deputy commissioner and the tahsildar convey the wishes of the government to the people and secure the carrying out of their own orders.

205. patwaris' and kanungos' circles. But there is also an official chain connecting the village which the tehsil for the purpose of the maintains of revenue records and agricultural statistics, estates are grouped into small circles to each of which a patwari or village register is appointed. About twenty of these circles form the charge of a field kanungo, whose duty it is to supervise the work of the patwaris. Kanungos are servants of Government .

206 The director of land records. To aid deputy commissioners and commissioners in the maintenance of records of rights and revenue registers, and to advise the Financial commissioners and Government on these matters and on measures for the promotion of agricultural efficiency, an officer known as the director of land Records, is appointed. He has no administrative functions; his business is to inspect, advise, record or lesson the powers and responsibilities

belonging to Deputy commissioners and commissioners and to the financial commissioners in connection with every batch of revenue administration.

207. Duties of Director of land Records. Among the principle duties of the director of land Records are-

- (a) the supervision of the patwari and kanungo agency and the inspection of the records of rights and statistical records compiled through its means. The posting of settlement kanungos and maps. His duties with regard to settlements and defined in appendix vi-B of the Settlement Manual;
- (b) the control of the income and expenditure of mutation fees and of all expenditure on contingencies connected with the kanungo and patwari establishment and with the revenue records;
- (c) crop, price and weather reports, return of wages and of agricultural statistics, crop experiments by district officers and cattle census;
- (d) rain-gauges

The director of land records brings to the notice of the deputy commissioner or commissioner any failure to carry out properly the provisions regarding these matters contained on the land revenue Act and rules or in administrative instructions issued by the Financial commissioners. On points of detail his recommendations should usually be accepted as those of an expert charged with duties of a technical character. But all doubtful and important questions should be referred by the director for the orders of the Financial commissioner. when a districts under settlement., or when special measures adopting taken for the bringing of maps and records up to date as preliminary to re-assessment, the Director will make this reports to the Financial commissioner. He must not himself issue instructions to the officer on charge. Any orders which the Financial commissioner may issues will be sent through the commissioner. In other cases reports by the Director of Land Records on his inspections of the land records if any distract are submitted to the commissioner of the division. The Director of

Land Records is also inspector-General of Registration.

208. Duties of Director of agriculture. In order to promote the technical efficiency of Agriculture a separate department has been consisted under a director. The director of agriculture has charge of the following subjects.

- (a) agricultural education and research at the Punjab agriculture college and research institute, Lyallpur, and at the agricultural farms.
- (b) Experimental seed and demonstration farms.
- (c) Agricultural engineering, including well- boring lift irrigation, implements etc.
- (d) Measures for encouraging the adoption of improved seed, implements methods of cultivation, and for controlling plant diseased, insects pests etc.
- (e) Agricultural associations , competitions, exhibitions and produce shows.
- (f) Rural industries , silk, bees, lac and poultry.
- (g) Crop experiments when carried out by officers of the department.
- (h) The Lawrence gardens, Lahore.
- (i) Administration of the cotton ginning and pressing factories act of 1925.
- (j) Crop forecasts.

208-A. Development of agriculture Department. The need for more attention being paid to the application of science to agriculture was repeatedly brought to the notice of the Government of India , and in 1871 a department of revenue, agriculture and commerce was established. In the provinces the subject of agricultural improvement was similarly allotted to the revenue department, but little was done beyond the organization of a system of agricultural statistics and few attempts at the introduction of implements and seeds from abroad. The famine commission of 1880 made a through review of the whole agricultural situation and recommended, amongst other matters, the constitution of an agricultural department each province with a director at its head; this departments main

functions were to be agricultural enquiry and improvement and famine relief. The next ten years saw many conferences and the position in the provinces was carefully investments to the royal agricultural society , to advise as to the best methods of applying to Indian agriculture the teaching of agricultural chemistry and his recommendations were later embodied in his book “ the improvement of Indian agriculture .” shortly after the government of India began to recruit of its first experts, but little progress in this direction was made in the provinces until the famine commission of 1901 recommended the strengthening of the expert staff in the provinces; Lord Curzon’s government took speedy action on these recommendations, and the dispatch to the secretary of state of 1905 led to the inauguration of a separate department of agriculture in 1906. Previous to this, the only attempt at experiment on modern lines had been confined to the farm of 56 acres opened at Lyallpur . in 1901 which was staffed with agricultural assistants trained at Cawnpore. The first deputy director of agriculture was sanctioned in 1904, and about the same time the province shared an economic Botanist with the united provinces.

The dispatch to the secretary of state above mentioned(no. 16, dated 12th Jan. 1905)enunciated the following policy:-

“in a country s largely agricultural as India, a government which owns the largest landed estate in the world, should do far more than we are now doing for the improvements of local agriculture. The ultimate aim, which we set before ourselves, is the establishment of an experiments farm in each large tract of country , of which the agricultural college, teaching up to a three years course in each of the larger provinces, and the provision of and expert staff in connection with these colleges for purposes of research as well as of education These establishment of seed and demonstration farms will certainly form part of our

program.”

In the same year the government of India announced their policy of setting aside annually a sum of twenty lakhs of rupees, subsequently increased to Rs. 24 lakhs, for the development of agricultural research, experiment, demonstration and education in the provinces. The aim was to establish agricultural colleges, with expert staffs, for instruction and research under a whole time director and the experts were provided for by the constitution of an imperial agricultural service 1906. Progress along the lines prescribed in 1905 continued steadily, except for the interruption caused by the war, until the introduction of the reforms.

With the inauguration of the reforms scheme in 1921, agriculture became a transferred department under the charge of a minister. The functions of the department are divided into three main heads:-

- (1) education;
- (2) research and investigation;
- (3) demonstration and propaganda.

Education:- the Punjab agricultural college, Lyallpur, was opened in September, 1909. Its main object is to give such training in scientific agriculture as will enable the student to promote the progress of agriculture in the province on the most approved modern lines. In 1917 the institution was affiliated to the Punjab university , and since then it has had a four years degrees course. Combined with the college is a well equipped research institute which is the main center of agricultural research in the province.

The botanical section of the research institute works on improved types of wheat's, cotton, grams, barleys, millets oil seeds, fodder crops, etc. and also deals with fruit cultivation and mycological problems.

The chemical section undertakes analytic work on soils, manure's, fodders, etc. the determination of the nutritive value of crops and other animal foods work on

the reclamation of bara lands; bacteriological research, including seed inoculation, etc.

The entomological section conducts researches on insect and other animal pests, and studies means to combat them. It also deals with sericulture apiculture and lac-culture.

The engineering section so engaged on the preparation of schemes for lift irrigation, the augmentation of water from ordinary wells and the installation of tube wells. It also conducts research work on well boring machines strainers, agricultural implements etc.

Investigations conducted outside the Lyallpur institution –there are experimental farms at Gurdaspur, Hansi, Sirsa, Lyallpur, multan, montgomery, rawa;pindi and sargodha, in addition to various seed and demonstration farms. The experimental farms carry out experiment with different types of crops in order to ascertain their suitability to particular tracts, to show the effects of different methods of cultivation, irrigation and manuring, and to test the relative usefulness of different types of agricultural implements. They also afford demonstrations to the zamindars who visit them.

Demonstration and propaganda – this work is conducted by means of demonstration plots established on cultivators fields throughout the province, also by demonstrations of implements and exhibition of crop produce at fairs and other gatherings of farmers, sale of seed from department, district lectures, ploughing matches, campaigns for the eradication of crop pests, agriculture; association, department publications etc.

209. Duties of the director of veterinary services. In order to encourage all possible measures for the prevention of cattle disease, the cure of sick or injured animals and for the improvement of the breeds, a separate veterinary department

has been constituted under a director of veterinary services, the director, veterinary services has charge of the following subjects;-

- (a) veterinary education at the Punjab veterinary college Lahore.
- (b) Veterinary research.
- (c) Treatment of cattle disease throughout the province , and of equine disease in the “non selected” districts.
- (d) Cattle breeding throughout the province, and horse breeding in the “non selected districts.
- (e) Supervision of horse and cattle fairs and shows.
- (f) Control of the veterinary arrangements in Delhi and north –west frontier provinces.
- (g) General control of veterinary dispensaries and buildings.

209-A. General development of the civil veterinary department. Cattle –breeding farm at Hissar has an area of 42,000 acres, and is thus the largest of India: it was originally established in 1809 for camel- breeding, but work was the supply of artillery and ordnance bullocks. In 1899 the charge of the farm was transferred to the civil veterinary department of the government of India and on the abolition of the post of inspector general . it was transferred by the government of India to the Punjab government. Since then it has been the largest single source of pedigree bulls in the province, and has produced over 4,000 of these for service in villages. It is estimated that over 3,000 of there are still available and the number turned out at Hissar is sufficient to replace casualties and added to the total bull- power of the province. Most of the bulls are supplied to district boards at concessional rates. Liberal grants are given annually for the improvements of the Dhanni and Haryana breeds of cattle to the following district boards on suitable conditions:-

Attock, rawalpindi, jhelum, shahpur and mianwali district boards, for the improvements of the dhanni breed of cattle.

Hissar, rohtak and gurgaon district boards, for the improvements of

the Haryana breed.

In accordance with the policy of the department to concentrate attention on certain areas best suited for cattle- breeding, the above system of grants was introduced for the dhanni cattle tract in 1919-20 and for the haryana cattle tract in 1924-25.

Five cattle farms of a total area about 15,300 areas have been allotted to grantees in the lower Bari Doab Canel Colony. Out of these , 2 are intended for pure-breed Montgomery cattle and the remaining 3 for Hissar cattle. In addition, a grantee dairy farm comprising an area of 485 acres, has been started in the town of Montgomery. Besides, there are in the neighborhood of shergarh, district Montgomery, " shergarh small holders grants" comprising 218 ½ rectangles of land in 7 different chaks. The condition on which the grants are allotted is that the grantee must maintain two cows of the Montgomery breed approved by the veterinary department for each rectangle of 25 acres.

209-B. Erosion. Erosion is the collector's worst enemy. It occurs in both cultivated and in uncultivated land and an instance of the disastrous effects it can have. Will be seen in chapter vi (728 and following paragraphs)

(1) **Cultivated land-** When rain falls on sloping land, it will, unless checked. Flow away down hill carrying with it part of the top-soil and leaching out valuable chemicals from the rest of the top-soil. In addition so much water which might have soaked into the ground to reinforce the sub-soil moisture and so keep the field moist till the next shower, is utterly lost. The top-soil contains most of the fertility to the soil and as both manure and rain are all too limited in many parts of

the Punjab, they must be most carefully preserved noticed either by the cultivator or by the revenue staff.”

The next stage is “gully erosion” the surface of sloping cultivation is generally uneven and is characterized by longitudinal depressions which even if they are barely perceptible, draw off water from the land on the both sides of them. Water flow from the higher ground into these drainage lines increasing the volume and speed. The result is increased erosion along the depressions : the water cuts downwards and backwards into the fields, forming gullies which increase in size according to the steepness of the slope and area and promote desiccation by acceleration the drying out of the sub-soil moisture. This form of damage, called gully erosion, is fortunately obvious to everyone.

Practically all land in the Punjab lies on slope, almost imperceptible in irrigated fields, but generally noticeable in barani lands, irrigated land is usually protected by the banks called wats or dauls made for retaining the irrigation water.

Unirrigated lands require the same kind of protection and require also to be leveled so that rain water shall be evenly on them and not of top soil. Careful owners terrace and embank their fields, thus increasing the available moisture in the soil and conserving fertility by preventing the valuable top-soil from being eroded. but many landlords are careless and neglect this duties to the land. Both gully and sheet erosion occur in sloping fields and in fields which are not embanked or where the banks are neglected and allowed to break. Much land can be lost in a very short time and once gone can never be recovered. At the best, the top-soil, instead of being improved by farming, as it should be, steadily deteriorates through erosion. Where conditions of slope and soil however are favourable for such a thing to happen, heavy rainstorms may wash away the shoal of the top-soil ,leaving the farmer to start all over again, with only the criss-cross marks of the plough tip on top of the hard sub-soil to remind him of his precious

labours.

Land well terraced and embanked does not erode, and wherever the slope is appreciable fields must be labeled and embanked. The principle is that where rain falls there it must stay until it has either soaked in or the cultivator has done with it there is ordinarily no harm in bringing sloping ground under cultivation if this observed; but the indiscriminate breaking up of slopes means the rapid destruction of their value and must be resisted by all means possible.

The hard surface of follow land resist the absorption of rain water and contributes largely to the amount of run –off from a given area. Recently ploughed land will absorb rainfall and therefore the breaking up of stubble's by dry prouging if necessary, as soon s possible after harvest, should be given every encouragement. Unassored storm water standing for long in terraced fields with clay soils is, however, harmful to certain crops, and where conditions indicate the necessity for it the field system should be such as to ensure the draining await harmlessly of the surplus water.

Water gathering volume and force as to flows and soon becomes uncontrollable, making it offer impossible for the landowners lower down the slopes to protect their fields till the water has been brought under control higher up. This implies collective action on the part of the zamindars, and soil conservation, therefore, requires organization and is eminently suited to co-operative enterprise; but all cases the attention of the revenue staff will make it easier to accomplish and to maintain.

Consolidation of holdings can often be of great assistance giving each landholders control of as much as possible of the catchment area of his fields, sitting the boundaries of the holdings along the contours and enabling drains to be provided for surplus storm water.

Where holdings are large, the fields at a distance from the abode are often very much neglected, and being in the hands of temporary tenants with no interest in improving the soil, they suffer most from erosion.

(2) **Uncultivated land**:- it is unusual to terrace and embank uncultivated land and therefore it must be protected from sheet and gully erosion by adequate cover or mat of vegetation, either grass, bushes or trees or a mixture of all there. If left to itself, nature will maintain a balance and there will be no serious erosion, but if grazing, browsing, and the felling and lopping of trees are uncontrolled, both sheet and gully erosion will start causing all the harm described above. The technique of erosion is simple. The removal of vegetation exposes the soil, the feet of the animals break it up and the rain washes it away. The top soil goes, the good grasses die out, the trees are unable to reproduce themselves, the hillside becomes dry and unstable. Landslides start, and those who depend on the hillsides, both man and beast, find their livelihood reduced. Storm water, no longer impeded and restrained by vegetation, rushes down the slopes to the streams and fails to percolate into the soil, with the result that the sub-soil water level sinks both in the hills and in the plains below, the violence of the floods in the plains is increased fertile land is covered with sand, fields and villages are cut away, vast quantities of silt choke the canals and river beds, the hillsides and hill streams quickly dry up after the monsoon, and the run-off of the rivers during the dry seasons is seriously reduced.

There are several ways of dealing with uncultivated land. Where there is no valuable tree crop the shamilat may be partitioned with advantage, when every owner puts a dry stone wall or a thorn fence round his share and protects it from outside men and beasts. Panchayats of co-operative societies with expert supervision may organize the preservation and utilization of common grazing

grounds and forests or government may use the chos act of the forest act to exercise control through its own servants. A hillside yields most grass, timber and other produce when there is no gracing or browsing, when the grail is cut with a sickle the trees felled when mature and the fodder trees are lopped in rotation, and timber cut no faster than it can be replaced by fresh growth. The interest of both government and villager, therefore, are best served by strict preservation of the hillsides and the stall-feeding of cattle. In certain circumstances, however and under strict control, grassing and browsing are harmless but they can only be safely done under the guidance of experts and where the fertility of the locality is such that the rate of recovery of the grass and bushes equals or exceeds the rate of their consumption by animals.

Where erosion is serious, whether in cultivated or uncultivated land, the result is the formation of broad sandy nullahs, which are continually widening at the expense of the cultivated lands on both banks, and cause increasing devastation throughout their course. Although these torrents-such a torrent is called a chain the siwaliks and a has in the salt range-often take their rise in the hills, they usually get most of their water from cultivated lands. Once counter erosion measures have begun to take effect in the catchment area of a kas of cho, reclamation of the cho-bed itself can start and the co-operative method is particularly helpful in this work. The people themselves have a shrewd knowledge both of the evil and of its cure. Good cattle are never driven on to a hillside to graze. They are tied up and stall-fed. When shamlat land has been partitioned, many owners carefully protect their own share. In general however, the people are disorganized and what is every man's care is no one's. moreover, the people treatment of hillsides and grazing grounds involves a complete changing of the whole routine of work and life and in what country will villagers adopt new methods willingly? The menace, however is

insistent. The top-soil of an agricultural country is its principal capital asset and those who left it be washed away are not only losing their own livelihood but are robbing posterity and the nation. Nothing therefore must be left undone to enable the best use to be made of the rain to preserve the soil and to increase its fertility. The revenue staff is expected to do everything possible to ensure that methods of cultivation and pastoral habits and practices shall be such as to secure the stability of the soil both in fields and pastures. It is the duty of the collector to study the land for which he is responsible, to in list the goodwill and co-operation of the villagers, and with the assistance of the forest and other departments to apply whatever methods are best suited to the people and the locality for the checking of erosion and the conservation of the soil both in cultivated and in uncultivated land.”

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CHAPTER V

The Superior Revenue Officers of a district

210. Revenue officers under the land revenue and tenancy acts. The Deputy commissioner as the head of the revenue administration of his district is known as the collector, and his assistants, including tahsildars and nain-tehsildars as assistant collectors of the first of second grade. Under the land revenue and tenancy acts there are the same classes of revenue officers, and a revenue officer of any grade so deemed to be a revenue court of the same grade. The powers of the collector and assistant collectors as revenue officers are described in the next chapter, and their jurisdiction as revenue courts in chapter XXIII On first appointment, assistant commissioners and extra assistant commissioner, exercise ex-officio the powers of assistant collectors of the second grade. As soon as they have been invested with second class magisterial and civil powers, they become ipso facto assistant collectors of the first grade. Tehsildars and naib-tehsildars, as such are assistant collectors of the second grade but the former may be appointed assistant collector of the first grade. The deputy commissioner is a collector by virtue of his office, under the acts and so it is not necessary to gazette him such powers but the local government may confer all or any of the powers of a collector on any other revenue officer in the district. When a general reassessment is in progress, it is usual to give to the settlement officer all the powers of a collector under the land revenue act, except those which relate to the collection of revenue. Instruction as to the division of work between the deputy commissioner and the settlement officer will be found in appendix vi of the settlement manual.

211. Revenue officers also magistrates. The collectors and his assistant's are also magistrates. This concentration in a single hand of executive and judicial

functions has been a subject of controversy. The advantages resulting from it were thus set forth by Thomason-

“the influence and the opportunity of beneficial exertion which result from this are great . it is essential to the advancement of the public interests, entrusted the collector that complete security of life and property should exist throughout the district. It is essential to the development of industry that all lawless violence should be repressed, and so repressed as least to interfere with the comfort and welfare of the peaceful and well disposed. The strong establishments in the revenue department may be made the efficient agents for strengthening and regulating the police, and the magistrate, in the discharge of his duties as collector, will have opened out to him channels of information and sources of influence which when duly improved, cannot fail to exercise a most beneficial effect.”

212. Relations of deputy commissioner with officers of other departments.

Thomson’s remarks on the many-sided character of a deputy commissioner’s work are also worth quoting-

“nothing can pass the district of which it is not the duty of the collector to keep himself informed and to watch the operation. The vicissitudes of trade, the administration of civil justice, the progress of public works, must all affect materially the interests of the classes of whom he is the constituted guardian. Officers interference in matters beyond his immediate control must be avoided, but temperate and intelligent remonstrance against anything which he sees to be wrong so one of his most important duties.” !

if he shows tact and discretion, and cultivates personal relations with officers of

other departments employed in his district, he will usually find that they are ready to attend carefully to any representations which he finds it his duty to make to them. The administration of civil justice is no longer within his orbit, but even here it is his duty to report to his commissioner matters affecting the welfare and contentment of the people.

213. Cancelled.

214. Qualification required for successful district administration. To manage a district successfully require qualities rarely found united in a single person. No man can properly represent government to the people who is lacking in sympathy or in the power of conversing with them easily in their own tongue. But to these qualities must be added patience and promptitude, tact and firmness, accessibility without familiarity, a Sherwood appreciation of knowledge of the details of all branches of his duty and great capacity for personal exertion, with a willingness to hand over to trustworthy subordinates a large share of the work, while maintaining complete control over the machinery of administration. One great secret of success is the power of making full use of assistants in all grades. The collector who insists on doing everything himself is sure to leave many things undone and to fritter away on small details time that should be devoted to more important matters. At the same time ,he is responsible for and bound to control, all the doings of his subordinates ,and there is nothing they more readily believe then that this or that official, whose duties bring him much in contact with his master has an unique influence over him. The work should be carefully laid out the part of it which is entrusted to each officer and the limits within which he may act in his own authority being explained to him. No one can do this who has not himself a thorough acquaintance with every branch of district work and of the powers and

capacities of his establishment it may be said that much of the success of district administration depends on accuracy of judging of how much may suitably be left to others and how much must be done by the deputy commissioner himself.

215. Aids to rapid acquisition of knowledge of a district. Every deputy commissioner is bound, when making over charge, to hand to his successor a confidential memorandum calling his attention to the most important features of the district administration and supplying him with notes as to the chief matters which are pending and as to the character and capabilities of his principal subordinates. Much information regarding the district lies ready to hand in the gazetteer and on settlement and assessment reports. If these sources of information are supplemented by diligent personal enquiry and systematic touring, it is possible to obtain a real grasp of the work in a comparatively short space of time.

216 Cancelled

217. Extra assistant commissioners and tahsildars. The efficiency of a collector's administration depends greatly on the extent to which he can get good work out of his colleagues and subordinates and this in turn depends to large extent on his own conduct towards them. Under the peculiar social difficulties of the country, the accurate estimate of character obtainable from the confidences of private intercourse is difficult to secure, and it becomes all the more important to give free access to them in all official matters and to take every step to inspire them with confidence in his judgement, rectitude and impartiality. Unwarranted suspicion may be as fatal as unwarranted confidence. These officers are the expectants of the collector's orders, they must be in great measure, the exponents

of his will, and should be to some degree his confidential advisers in cases of difficulty. It will be found good policy to consult these who are best able to give advice, and to weight their expressed opinions impartially and dispassionately.

218. Clerks and readers. The sympathetic treatment of clerks and readers is usually well repaid by better quality of work; forcing upon them irregular hours, keeping them waiting at the officer's house, or insisting upon their standing for long stretches of time is apt to interfere with the rendering of full reduced.

219. Training of assistant commissioners. The responsibility of deputy commissioners towards assistant commissioners under them is of a very special character in view of the fact that they may themselves in a few years be placed in charge of districts.

It is of great importance that they should receive a thorough training in the different branches of district administration, and the following orders have recently been issued on the subject:-

During his first year the newly joined officer should-

- (a) pass the departmental examinations in all subjects, including urdu and Punjabi;
- (b) familiarize himself with the people of the Punjab, especially the villagers, so that he may be able to understand their dealings with each other and relations with Government;
- (c) do enough magisterial work to be able to take a fairly early date after passing his examinations to perform the duties of ill was magistrate, or even sub-divisional officer, with confidence;
- (d) acquire a working knowledge of elementary revenue work, both as a revenue officer and as a revenue court; and
- (e) undergo training in treasury, office work and general administration.

It is a mistake to give newly joined officer routine executive work during their first six months of service. The average assistant commissioner arrives without any experience of essentials. He hopes and expects to be given work at once, and is only too pleased to take over a “subject” such as passports of the licensing of motor vehicles. His request for work is sometimes difficult to resist, but if it is acceded to, he is almost certain to be deceived by his clerks and may learn habits of inaccuracy which he will later regret.

It should be recognized that newly joined officers are for at least six months merely pupils in executive matters and should have no independent responsibility.

2. The following considerations should be borne in mind with regard to the matters mentioned in the preceding paragraph:-

(a) Departmental Examinations- the learner must read booked in his own time. The main difficulty is with the languages. A pass in the examination does not always mean that a candidate is intelligible in the field. Assistant commissioners under training should speak nothing but Urdu to the tahsildars and revenue assistants with whom they tour, and these officers should have orders to correct their mistakes. Urdu and Punjabi are best learned from selected court readers, who are less prone to “talk down” to their pupils than the illqualified professional teacher usually available in small stations. Urdu should be passed in May and Punjab in October.

To fulfil the language test so far as that relates to judicial work, officers should make a practice of reading through an easy petition or other simple vernacular record every day from the time they commence to study the language with a munshi, and should seek to acquire as quickly as possible a knowledge of the translation of the translation of the commoner terms used in the principal acts which they have to take up, and in rules under them, particularly those under the land revenue and tenancy acts. Parts of these should be read with the court reader and a careful record should be made of the translation of all terms as they are met.

As soon as a knowledge of these has been acquired, officers should commence to practice themselves in re-writing translations of as judgements, etc, which they will translate from the vernacular as explained above.

Junior officers should take every opportunity of mixing and talking with all classes of Indians, and especially the agricultural classes. No one should ever be discouraged at slow progress in speaking the language. Even in the case of those who find special difficulty in picking up a language colloquially, experience shows that if only one struggles on persistently, fluency is bound to come in the long run. It is a good plan to note under various heads for ready reference all new words that one heads, and it is an excellent plan for acquiring the accent and run of the language to repeat over to oneself the words spoken by others as exactly as possible whether they intend to go in for language reward examinations or not, all junior officers should make a point of carefully reading through a certain number of good urdu books vocabulary. Those officers, who, while studying the language, will take the trouble to acquire some facility in oriental penmanship will find that they will never regret the spent on this accomplishment.

(b) **Contract with the people**—a knowledge of the people and their ways can be acquired only by systematic touring. Newly joined officers should be told to keep their eyes open on tour and to add questions about everything that they do not understand. Administration matters such as crime, medical relief, education, the co-operative movement, communications, agricultural improvement and public health should be borne in mind and studied.

(c) **Magisterial work**—as regards training in judicial work, the best plan at first is for a junior officer to sit some hours daily in the court of another magistrate or judge for a week or two, and with his codes in his hand learn for by observation something of the actual practice of procedure and get a flair for the method of reasoning which an intelligent magistrate employs in arriving at his decisions. In learning this he will probably also pick up a number of the terms of procedure. He should at the same time begin to work through evidence and the proceedings as he does so, and afterwards using these translations for re-

translation into the vernacular. After two weeks of such work an officer will probably have gained sufficient experience to enable him to try very simple cases which the district magistrate into ordinary matters. Every officers should continue for some methods to translate his English judgements into the vernacular so as to acquire increased facility in this respect.

(d) **Revenue work**—a properly arranged program should give the assistant commissioner a general outline of the routine revenue work of a district. Form his third month the learner will do 2nd grade revenue court work. From his seventh or eighth month he should be given the work of one or two kanungo's circles. He should propose the mode of partition in a few partition grade work in the circle selected including revenue court work.

(e) **Training in treasury, office work, and general administration**—treasury training is best done in the summer, whether in the plains of hills. The outlines of office organization should be taught early-say, in the second month; no independent office work should be given to a pupil until about the eighth month. The best" subject" to be entrusted to him then are local bodies and or exercise. Both these subjects involve the application of acts and rules; vernacular correspondence with subordinate authorities; and formal English correspondence with superiors. By "general administration" is meant those administrative matters which cannot be grouped under any one head, but which occupy much of a depute commissioner's time, e.g. crime, the activities of the beneficent departments, elections, political unrest and the like. The learner can best inform himself on these matters by discussions with his deputy commissioner. He should also spend some days in the office of the district board, which, when the deputy commissioner is chairman, is not under the officer-in-charge of local bodies. These several matter require attention on tour and the assistant commissioner should be instructed accordingly when orders for each tour are given to him.

220. Tahsil may be made over to assistant commissioner. After a time it is a good plan to put an assistant commissioner in charge of a particular tahsil, and to make him spend in it a large part of the cold weather. If this is done, he will take an interest in the welfare of his charge, and exert himself to become fully

acquainted with all that concerns it and to prevent the occurrence of anything that is wrong. He will have an opportunity of gaining a knowledge of every branch of his duty which will fit him to manage a sub-division or a district when entrusted to him. An assistant in charge of a tahsil has an excellent opportunity, while refraining from any undue interference with the tahsildar, of making himself familiar with the daily routine of the work of a tahsil office, which is sure to be of great use to him in the future.

221. Assistant commission not to assume authority. An assistant commissioner is subject to the control of the deputy commissioner in all his work and should not, without his permission, issue orders making important changes, lying down rules of practice or censuring or punishing officials but he may recommend such measures to the deputy commissioner. He should not correspond with the deputy commissioner by official letter or robber, as through his office were separate and distinct, but by demi-official letter and personal conference, or by sending up the vernacular file which leads to the reference, usually with an English memorandum prefixed.

222. Settlement training of assistant commissioner. A certain number of assistant commissioner are deputed, as opportunity offers, for a four months course of training in tracts in which a general reassessment of land revenue is in progress. Rightly employed, this period is long enough to give an intelligent man a competent knowledge of survey and record work, and also of the board features of assessment work. If a newly-joined assistant is sent for settlement training, it is usual to give him two months training in his first cold weather and two in a later year. The instructions as to the nature of the training to be given will be found in standing order no.8. as the opportunity for settlement training is now less

frequently available, officers are being sent to a revenue training class in the cold weather.

223. Appointment of extra assistant commissioners. Extra assistant commissioners are appointed partly by selection by selection of men who have done approved service in lower appointments, partly by competitive examination and partly by the direct appointment of young men of good family. The rules on the subject will be found in the Punjab government notification no.9490, dated 19th 1930. Candidates who obtain the post of extra assistant commissioner by competition or by direct appointment are on probation for two years. For the first nine months of this period they receive training in a district under settlement or they may be sent to the revenue training class.

224. Revenue assistant. An assistant or extra assistant commissioner is posted to every district, except Shimla, as revenue assistant. An officer in charge of an outpost is the revenue assistant for his own sub-division, and during a general reassessment the extra assistant settlement officer is generally considered to be the revenue assistant of the district.

225. Duties of revenue assistant. The revenue assistant disposes of whatever share of magisterial work the district magistrate thinks fit to allot to him. But the bulk of his time must be given to the revenue business of the district, that is to say speaking broadly to the classes of work subscribed in this book. He is not available for the duties of treasury officer or subordinate magistrate, and should never be given any share of civil judicial work.

CAUTION !**Read separate para for Punjab and Haryana**

226. Tours of deputy commissioners. Obviously a deputy commissioners cannot manage with success the great committed to his care without an intimate personal knowledge of every part of it. Much of the work, moreover, that is carried on can only be effective supervised by him on the spot. Above all it is impossible to keep in touch with the people unless he seeks frequent opportunities of that informal and frank intercourse with them which is only possible in camp. A deputy commissioner is therefore expected to pass a considerable part of each cold season on tour and to visit as far as possible, every part of his charge no. 67 nights. The work which must be performed at the headquarters of the district should be so arranged as to make this feasible.

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228. Tour of assistant and extra assistant commissioners. During each touring season every assistant commissioner should be sit into camp in turn ,and as far as possible, extra assistant commissioners should be given opportunities of going

into camp. The revenue assistant must spend the greater part of the cold weather in moving through the different tahsils, and it is essential that he should be on tour in the months during which the crop inspections of the spring and autumn harvests are in progress. Unless there are special reasons to the contrary, he should normally spent at least 120 days(including 90 nights) away from the headquarters during the year, of which 84 days should ordinary be between 1st October to 31st march and 36 days between 1st April to 30th September.

229. Tour of assistant and extra assistant commissioners. During each touring season every assistant commissioner should be sit into camp in turn ,and as far as possible, extra assistant commissioners should be given opportunities of going into camp. The revenue assistant must spend the greater part of the cold weather in moving through the different tahsils, and it is essential that he should be on tour in the months during which the crop inspections of the spring and autumn harvests are in progress. Unless there are special reasons to the contrary, he should normally spent at least 100 days(including 50 nights)away from the headquarters during the year, of which 63 days should ordinary be between 1st October and 31st march and 27 days between 1st April and 30th September.

230. Instructions to be given to assistant going on tour. It rests with the deputy commissioner to arrange what parts of the district an assistant or extra assistant commissioner should visit, and to indicate the subjects, to which he should specially direct his attention. Before he starts he should be given a good detailed map of the tact through which he is to pass with a skeleton map on which to mark the line of his route, and a written memorandum of instructions. The last may be very brief, except in the case of a newly-joined

assistant. It should contain among other things, a detail of the expenditure on public works and takavi had of wells, the assessment of which has been remitted under the rules given in paragraph 558 of this manual, during the past year in the tract to be visited so that the works which have been constructed, or repaired or fallen out of use may be inspected. The first tour of a young assistant commissioner is the best in the company of the deputy commissioner himself and later he should be sent on short tours with the revenue assistant and tahsildar and then alone.

231. Chief object of tour. The chief object be to kept in view by an officer when in camp s to become acquainted with the people himself, and to give them an opportunity of becoming acquainted with him. For this purposes it is necessary to see the people in their own villages, to encourage their visits and talk with them frankly so as to ascertain their thoughts ans. feelings, the matters in which they are chiefly interested and the manner in which they regard them.

232. Advantage of local enquiry in revenue cases. It is generally adjustable to decide many revenue cases on the spot. When these are mere matters of the routine, and present no difficulty, they are perhaps better settled in office then elsewhere. But there are many cases, for example contested partitions, which for their right decision nay depend almost entirely on local peculiarities, and these can obviously be investigated better on the spot then elsewhere. As regards disputes about land and rent, while it is difficult, owing to local feuds, to get at the truth anywhere there is most hope of doing so in the village than in the district court house.

233. Inspection of alluvian and dilution returns and of village records. The

inspection of alluvion and diluvion returns, and of the village records prepared by petwards and kanungos should be done locally. Attention should be directed to the questions whether the prescribed paper and registers have been prepared in accordance with the rules and circular orders on the subject, whether they are complete to the date and whether the entries correctly represent the facts to which they relate.

234. Enquiry into management of government forests. Where there are government forests, their condition should be ascertained, the methods of management should be enquired into and attention should be paid to the relations between the forests establishment and the people. Forest management is often regarded by the people as a grievance, and there are undoubtedly many points of detail in which local enquiries alone may bring proper understanding. But all matters of this kind require to be very carefully and discreetly handled and should not be taken on without sufficient reason. All roadside groves and avenues should receive attention.

235. Ascertainment of characters of Indian subordinates. It is a matter of great importance to learn what character is borne by the tahsildar and naib-tahsildar and by the subordinate Indian officials in the tahsil. As regards subordinate officials, there is usually no harm in making direct enquiries from respectable persons. But great care must be taken to preserve the dignity of an official of the rank of a tahsildar, and to question the people of his own tahsil as to his conduct would generally be indiscreet. But, if an officer is freely accessible to people of all classes, hints will be dropped and matters will be brought to his notice from which he can gradually form a very good idea of the estimation in which the tahsildar is held.

236. Enquiry into general state of tract visited. The general condition of the tract should come under review. The principal points for enquiry are the following:-

(a) **crop**-are those on the fraud and good condition? What has been the history of previous three or four harvests ?have any new varieties been introduced /

(b) **cultivation and irrigation**- are they contracting or expanding? Is takavi freely taken for the construction of wells?

(c) **People**- is the population increasing or falling off? What is its conditions as regards health ? are owners holding becoming unduly small by sub-division? is much land changing hands ? if so, what is the reason ? and who are the principal purchasers and mortgagees ?

(d) **Lives stock** – is it increasing or diminishing ? and what is its condition ? how are the well cattle proured ? and what do they usually cost if not home-bred ? is there any sale of surplus stock ?

(e) **Land revenue**-what proportion does the assessment bear to the value of the produce? is its distribution over estates and holdings equitable ? are collections easily made or are coercive processes necessary ? have there been any large remission and suspensions ? and, if so, why ? what is the prospect of recovering the land revenue under suspension ?

237. There are many other matters which an officer has to look into when on tour which do not fall within the scope of this manual, such for example as education, co-operation, sanitary measures, vaccination, the state of crime and the conduct of the people, the exercise arrangements and the extent to which smuggling and illicit distillation prevail. All than as, dispensaries and schools should be carefully inspected, and roads, rest-houses, sarais and encamping-grounds should be examined, and their condition noted. If there are co-operative societies their working should be enquired into.

CAUTION : Read separate para for Punjab and Haryana

238. Inspection of tahsil officers. When an officer halts at the headquarters of a tahsil, he should inspect the tahsildar's office. Every tahsil office should be thoroughly overhauled every six months. The deputy commissioner should himself inspect it at least once a year. If he cannot make the second inspection himself, he should direct the revenue assistant, or some other experienced assistant or extra assistant commissioners, to make it for him. The scrutiny should include all branches of work-judicial treasury, stamps, excise, takavi, land revenue and the kanungo's record. Special attention should be given to the examination of the records of rights and the agricultural registers and of the accounts relating to the deferent branches of revenue. As to the latter, the inspecting officer should ascertain whether they are regularly kept up and without any unnecessary resort to coercive processes. The causes of all outstanding balances should be traced. Particular attention should always be paid to the running register of miscellaneous revenue. A searching scrutiny of tehsil accounts on the spot is far more likely to detect irregularities and prevent their recurrence than fifty calls for written explanations from the district office. Even if an officer had no other duties to perform, it would be difficult for him to overhaul the work of a tehsil thoroughly in a single day. A perfunctory inspection is worse than useless and will merely encourage the establishment of continued irregularities and malpractice's which have escaped detection. A tour should therefore be so arranged as to allow of a halt of several days at the headquarters of a tehsil. If this is not possible, it is best to take up one or more branches of work and examine them thoroughly, and to leave the rest for a future occasion. Tehsil in section can sometimes be done most thoroughly in the hot season. Through ordinary camping is out of the question,

there is nothing to prevent an officer from spending some time at each tahsil headquarters.

239. Inspection of tehsil officers halts at the headquarters of a tahsil, he should inspect the Tehsildar's office. Every tahsil office should be thoroughly overhauled every six months. The sub divisional officer(civil)will conduct inspection of the tahsil office under his charge after close of Kharif harvest while that of the other tahsil of the same dialect after the close of Rabi harvest of the same year. The Deputy commissioner should himself inspect to at least once a year. If he cannot make the second inspection himself, he should direct the Revenue assistant, or some other experienced Assistant pr Extra Assistant Commissioner to make it for him. The scrotum should include all branches of work-judicial treasury, stamps, excise, takavi land revenue and the kanungo's record of rights and the agricultural registers and of the accounts relating to the different branches of revenue. As to the latter the inspecting officer should ascertain whether they are regularly kept up and whether the amounts due to Government are punctually realized, and without any unnecessary resort to coercive processes. The causes of all outstanding balances should be traced. Particular attention should always be paid to the running register of miscellaneous revenue. A searching scrutiny of tehsil accounts on the spot os far more likely to detect irregularities and prevent their recurrence then fifty calls for written explanations from the district office. Even of an officer had no other duties to perform ,it would no difficult for him to overhaul the work of a tahsil thoroughly in a single say. A perfunctory inspection is worse than useless and will merely encourage the establishment of continued irregularities and malpractice which have escaped detection. A tour should therefore be so arranged as to allow of halt of several day sat the headquarters of a tahsil. If this is not possible, it is

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240. Diaries of assistant and extra assistant commissioners. Assistant commissioners, European Extra assistants and Indian Extra Assistants under training who know English sufficiently well, while on tour, are required to keep a diary. It must be written up in the spot from day to day, or every short intervals during the tour, and must not take the shape of a report or narrative prepared at the end of the tour. The order will be chronological and not by Subject. The diary should be written on half-margin, and attention should be paid to the legibility of the writing. In order that it may be really useful, and that my practical suggestions contained in it may receive due attentions, it should be as concise as possible, and all unnecessary discussions on the theoretical subjects and remarks on the ordinary incidents of travelling should be avoided. Marginal references starting the subject matter of each paragraph should be inserted. The diary should be forwarded weekly to the collector of inspection and remarks. At the close of the tour the memorandum furnished by the collector should be attached to it, and a rough sketch map of the route taken should also be appended. The conclusions drawn from the materials collected should be embodied in a brief general note on the state of the tracts visited, which should be form an appendix to the diary. The papers, thus put together, and submitted to the commissioner, who forward, for the perusal of the financial commissioners, and diaries which he considered deserving of special notice, and the financial commissioners lay before government those which in their opinion are worthy of special commendation. The commissioner is empowered to exempt senior assistants, who have held

charge of a district, and assistant commissioner in charge of sub-divisions, from keeping up a diary while tour, but this exemption should rarely be made in the case of young officers as the necessity of writing a diary develops powers of observation. Indian extra assistant commissioner not under training should keep such notes of the work done while on tour as the deputy commissioner may prescribe.

241. Time-scale pay of tahsildars and naib-tahsildars. The time scale pay of tahsildars is RS. 200-10-270-10-350, with an efficiency bar at Rs. 270. There is also a selection grade of tour posts at Rs. 400 and of eight posts at Rs. 375 per mensem each. The time-scale pay of naib-tahsildars is rs.80-5-140—7 ½-185 with an efficiency bar at Rs. 140.

242. Appointment, etc., of tahsildars and naib-tahsildars. Tahsildars are appointed by the financial commissioner and naib-tahsildars by the commissioner of the division. Tahsildars may be dismissed by the Financial commissioner and naib-tahsildar by the commissioner. For full instructions as to the qualifications required, the examinations which candidates must pass, promotions, etc. the Financial commissioner standing order No.12 may be consulted. The local Government may direct to the financial commissioner to appoint a person not eligible under the rules to be either a tahsildar or naib-tahsildar, but it is a condition of such an appointment that the candidate shall, within two years, pass the prescribed examination.

243. Settlement training of naib-tahsildars and naib-tahsildar candidates. Any naib-tahsildar who has passed the tahsildar's examination may be sent by the commissioner of the division for a year's training in a district

under reassessment. The commissioner may also require any candidate for the post of naib-tahsildar to undergo the practical training in revenue work prescribed by paragraph 7 of financial commissioners standing order No 12 in a district under settlement.

244.Duties of tahsildar. The duties of the tahsildar within his tahsil are almost manifold as those of the Deputy commissioner within his district. He is not expected to hear any civil suits, but his magisterial work is important. In all matters of administration he must be, within his own charge, the Deputy commissioner's principal agent and his power for good or evil is very great. His revenue duties are so important that there has occasionally been a tendency to make them all in all. But it must be admitted that his efficiency, more than that of any other officer in the district, except the Revenue assistant, depends on capacity for revenue work. No degree of excellence in other respects can alone for failure properly to direct and control the patwari and kanungo agency, to collect the revenue punctually where the people are climate of season, which renders suspensions of remissions necessary, and to carry out, within his own sphere the other duties connected with land administration which are described in this book.

245.Division of tahsil for inspection work. For inspection work and the attestation of mutations in records, the estates of each tahsil are divided yearly between the tahsil dar and the naib-tahsildar. The portions of the tahsil allotted should be changed every year on October 1st so that the responsibility of the tahsildar for the whole of his charge may not be impaired. It is within the direction of the deputy commissioner to postpone redistribution for special reasons, such as the prompt disposal of pending revenue work.

246.Extra naib-tahsildars for mutation work. In the cold weather extra naib-tahsildars are sometimes posted to districts where mutation work is very heavy. These men should not be employed as general assistants to the tahsildar, but should be required to devote the whole of their time to the attestation of mutations. At the same time, the tahsildar and the naib-tahsildar should not be relieved of all their mutation work. The best plan is to transfer the whole mutation work of certain zails or kanugo's circles to the extra naib-tahsildar.

247.Tours of tahsildars and naib-tahsildars. Tahsildars and naib-tahsildars should spend alternate fort nights in camp during the seven months from the beginning of October to the end of April. During the rest of year systematic touring is impossible, but an active tahsildar will take opportunities management of his charge cannot be efficient unless he has a through knowledge of his village.

248.Plan of tours should be drawn up. A plan of cold –weather inspection work should be drawn up, though the duties of a tahsildar are so multifarious and he is liable to so many unexpected calls upon his time that it is impossible to adhere to it strictly. If the work is properly laid out beforehand, the tahsildar and the naib-tahsildar should be able in the seven months of camping to make between them a through security of every kanungo's and patwari's work and to visit most of the estates in the tahsil. Deputy commissioner should impress on their subordinates that perfunctory inspections are worse than useless, and that a man who has done his best will not be blamed because he has failed to see every village. A task which in

many cases, is impossible. The tahsildar or naib-tahsildar, when on tour, should always carry with him a small-scale sketch map of his charge, showing village boundaries and sites, main roads, and canals, and the limits of zails and of kanungos and patwaris circles. He should also have with him a list of all takavi loans grante in the tract to be visited.

249. Inspection of estate. On visiting on estate the tahsildar should attest the mutations. He should also inspect the village site and lands, if he is not already familiar with them, and should examine the village revenue registers and note points for enquiry. He should then discuss the condition and circumstances of the estate with the land owners, the village officers, the zaildar and the kangungo paying special attention special attention to the cause of any large amount of alienation and the reasons for any difficulty experienced in collecting the revenue. He should take the opportunity of seeing any works for which takavi has been given. The tahsildar's hairiest inspection work is referred to in chapter ix

250. Revenue work to be dealt with in village to which it legates. In order to avoid taking agriculturists away from their homes, all revenue work, especially disputed partition, lambardari and muafi cases should, as far as possible, be dealt with at the village to which they relate. By this means the attendance of all the parties will be secured, and the facts of each case will be easily ascertained. In the case of estates for which a detailed jamalndi is to be drawn up during the agricultural year mutation work must be disposed of in the village itself. In there cases, the naib-tahsildar or tahsildar, if he cannot conveniently visit the estate, may pass orders on its mutations at any other place within the patwari's circle.

“Revenue officers should attest mutations according to priority based on the date of try of report in the patwari’s diary. In cases where a mutation cannot be attested interim orders must in variably be recorded.”

CHAPTER VI

Powers of revenue officers

251.Powers of revenue officers. There are five classes of revenue officers: the financial commissioner, the commissioner, the collector, the assistant collector of the 1st grade, and the assistant collector of the 2nd grade. The deputy commissioner of a district is by virtue of his office its collector a revenue officer who is transferred from one district to another retains the powers with which he was invested in the former district.

252.Powers of financial commissioner. There are many matters on which the financial commissioner is empowered by the land revenue and tenancy acts to make rules, but these do not take effect till they have been sanctioned by the local government. There are also a number of executive proceedings regarding which his special orders required. For example he fixes the amounts and dates of the installments by which land revenue is paid, and if, to recover an error, the extreme step of annulling the assessment of an estate or holding, or of selling it outright has to be taken his sanction must first be obtained.

253.Power of commissioner. While the land revenue and tendency acts confer ample powers of general control on commissioners, there is practically no particular matter which they can legally deal with on their own initiative,

or for the very few exception is that sales of immovable property for the recovery of arrears are not complete will they have received their confirmation.

254.Powers of collector and assistant collection. The land revenue act declares that certain things must be done and certain orders must be passed by the collector and that other things may be done, and other orders may be passed, by “a revenue officer” there are but two cases in which any difference between the powers of the two grades of assistant collectors is mentioned in the act. Section 126 provides that proceedings relating to the partition of land must be taken an assistant collectors of the 2nd grade do not of compelling parties before them to submit certain matters to arbitration. But by section 10 the local government has power ,where the act does not expressly by what class of revenue officers any function to be discharged, to determine the matter by notification, and this was done soon after the enactment came into force. The class of revenue officer which can dispose of the enactment came into force. The class of revenue officer which can dispose of the various applications and proceedings which arise under the tenancy act is stated in its 76th section. It will be observed that in the distribution of business, there is given no distinction made between the powers of a collector and those if an assistant collector of the 1st grade. But the application of a landlord for leave to take an improvement on the holding of a tenant with a right of occupancy must be presented to the collector, and he alone can enhance the rent after the improvement has been made and reduce it again after it has ceased to exist.

255.Enquiries by subordinate officers. It would be absolutely impossible for superior revenue officers, and especially for the deputy commissioner, to

dispose of the numerous matters on which their orders are required, if the proceedings from first to last had to be held before themselves. Provision has therefore been made that “a revenue officer may refer any case which he is empowered to dispose ofto another revenue officer for investigation and report, and may decide the case upon the report” this useful power must be exercised with discretion. In matters of any importance the parties who will be directly affected by an order should be present when it is passed, and should be heard as far as is necessary. However unpalatable a decision may be to a man, it loses half its sting if he feels that his case has been fully understood and carefully considered.

256.Exclusion of jurisdiction of civil courts. Civil courts have no jurisdiction in respect of any matters of which revenue officers are empowered by the land revenue and tenancy acts to dispose of.

257.Execution by revenue officers of certain orders of civil courts. On the other hand, any order which a civil or criminal court issues for the attachment, sale, or delivery of land, must be executed through the collector or a revenue officer appointed by the collector for that purpose. The rules on the subject will be found in the financial commissioner’s standing order no. 64 and the rules and orders of the high court, volume 1, chapter xii-order xxi, civil procedure code. When the produce of land is attached no obstacle must be placed in the way of the person to whom it belongs reaping, gathering or storing it, and every care must be taken for its preservation. As executing of the orders of civil and criminal courts the function of a revenue officer is purely ministerial. He is not concerned with the priority of the order passed. But if it is on the face it illegal, if, for example, it directs the collector to sell

land belonging to a member of an agricultural tribe, he will be justified in pointing this out to the civil court and, if necessary, to the commissioner.

258. Functions of collector under section 72 of the civil procedure code.

Under the provisions of section 72 of the civil procedure code (act v of 1908) a court may authorize the collector to arrange for the satisfaction of a decree by the temporary alienation or management of land belonging to a judgement-debtor. The rules on the subject are quoted in the financial commissioner's standing order no. 64. Any alienation approved of would naturally take the form of one or other of the kinds of the mortgage allowed by act xiii of 1990. Where the judgement –debtor is deprived of cultivating occupancy of the transferred land enough should be excluded from the transfer to furnish at least a bare subsistence for himself and his family.

259. Procedure of revenue officers. The produce of revenue officers is mainly governed by sections 18-23, 127-135 and 152 of the land revenue act, and by a law rules issued under various sections of the land revenue and tenancy acts. Any number of tenants cultivating in the same estate may be made parties to proceedings under chapter iii of the tenancy act, but no order or decree must be made affecting any of them who has not had an opportunity of appearing being heard.

260. Arbitration. Sections 127-135 of the land revenue act relate to arbitration which may be employed with the consent of parties in any proceeding, and in a few proceeding without their consent. A revenue officer is not bound by the award, but may modify it or reject it altogether. Whatever his decision may be, it is open to appeal, just as if there had been no arbitration. There are no

provisions about arbitration in the tenancy act, but a rule under it has made the provisions on the subject in the land revenue act applicable to most of the proceedings under the tenancy act.

261. Legal practitioners. Legal practitioners may appear in proceedings before revenue officers, and law present applications on behalf of their clients. Through a person chooses to be represented by a pleader his own attendance may also be required, and no formal pleading will be heard except in lambardari, zaildari, mafi, mutation, and partition cases. A revenue agent cannot, without the permission of the presiding officer, take any part in the examination of witness, or address to him any argument on behalf of his client. The fees of a legal practitioner are not allowed as costs in any proceeding without an express order of the revenue officer passed for reasons which he is bound to record. Legal practitioners cannot appear in proceedings under the Punjab alienation of land Act. (xiii of 1990)

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241. Appointment, etc., of tahsilders and naib-tahsildes, Tahsilders are appointed by the financial commissioner and naib-tehsildars by the commissioner of the division. Tahsildars may be dismissed by the Financial commissioner and naib-tahsildar by the commissioner. For full instructions as to the qualifications required, the examinations which candidates must pass, promotions, etc. the Financial commissioner standing order No.12 may be consulted. The local Government may direct to the financial commissioner to appoint a person not eligible under the rules to be either a tahsildar or naib-tahsildar, but it is a condition of such an appointment that the holder shall, within two years, pass the prescribed examination.

242. Settlement training of naib-tahsildars and naib-tahsildar candidates.

Any naib-tahsildar who has passed the tahsildar's examination may be sent by the commissioner of the division for a year's training in a district under reassessment. The commissioner may also require any candidate for the post of naib-tahsildar to undergo the practical training in revenue work prescribed by paragraph 7 of financial commissioner's standing order No 12 in a district under settlement.

243. Duties of tahsildar. The duties of the tahsildar within his tahsil are almost manifold as those of the Deputy commissioner within his district. He is not expected to hear any civil suits, but his magisterial work is important. In all matters of administration he must be, within his own charge, the Deputy commissioner's principal agent and his power for good or evil is very great. His revenue duties are so important that there has occasionally been a tendency to make them all in all. But it must be admitted that his efficiency, more than that of any other officer in the district, except the Revenue assistant, depends on capacity

for revenue work. No degree of excellence in other respects can alone for failure properly to direct and control the patwari and kanungo agency, to collect the revenue punctually where the people are climate of season, which renders suspensions of remissions necessary, and to carry out, within his own sphere the other duties connected with land administration which are described in this book.

244.Division of tahsil for inspection work. For inspection work and the attestation of mutations in records, the estates of each tahsil are divided yearly between the tahsil date and the naib-tahsildar. The portions if the tahsil allotted should be changed every year on October 1st so that the responsibility of the tehsildar for the whole of his charge may not be impaired. It is within the direction of the deputy commissioner to postpone redistribution for special reasons, such as the prompt disposal of pending revenue work.

245.Extra naib-tahsildars for mutation work. In the cold weather extra niab-tahsildars are sometimes posted to districts where mutation work is very heavy. These men should not be employed as general assistants to the tahsildar, but should be required to devote the whole of their time to the attestation of mutations. At the same time, the tahsildar and the naib-tahsildar should not be relieved of all their mutation work. The best plan is to transfer the whole mutation work of certain zails or kanungo's circles to the extra naib-tahsildar.

246.Tours of tahsildars and naib-tahsildars. Tahsildars and naib-tahsildars should spend alternate fort nights in camp during the seven months from the beginning of October to the end of April. During the rest of year systematic touring is impossible, but an active tahsildar will take opportunities management of his charge cannot be efficient unless he has a through knowledge of his village.

247. Plan of tours should be drawn up. A plan of cold –weather inspection work should be drawn up, through the duties of a tahsildar are so multifarious and he is liable to so many unexpected calls upon his time that it is impossible to adhere to it strictly. If the work is properly laid out beforehand, the tahsildar and the naib-tahsildar should be able in the seven months of camping to make between them a thorough security of every kanungo's and patwari's work and to visit most of the estates in the tahsil. Deputy commissioner should impress on their subordinates that perfunctory inspections are worse than useless, and that a man who has done his best will not be blamed because he has failed to see every village. A task which in many cases, is impossible. The tahsildar or naib-tahsildar, when on tour, should always carry with him a small-scale sketch map of his charge, showing village boundaries and sites, main roads, and canals, and the limits of zails and of kanungos and patwaris circles. He should also have with him a list of all takavi loans grante in the tract to be visited.

248. Inspection of estate. On visiting on estate the tahsildar should attest the mutations. He should also inspect the village site and lands, if he is not already familiar with them, and should examine the village revenue registers and note points for enquiry. He should then discuss the condition and circumstances of the estate with the land owners, the village officers, the zaildar and the kangungo paying special attention special attention to the cause of any large amount of alienation and the reasons for any difficulty experienced in collecting the revenue. He should take the opportunity of seeing any works for which takavi has been given. The tahsildar's hairiest inspection work is referred to in chapter ix

249. Revenue work to be dealt with in village to which it legates. In order to

avoid taking agriculturists away from their homes, all revenue work, especially disputed partition, lambardari and muafi cases should, as far as possible, be dealt with at the village to which they relate. By this means the attendance of all the parties will be secured, and the facts of each case will be easily ascertained. In the case of estates for which a detailed jamalndi is to be drawn up during the agricultural year mutation work must be disposed of in the village itself. In these cases, the naib-tahsildar or tahsildar, if he cannot conveniently visit the estate, may pass orders on its mutations at any other place within the patwari's circle.

“Revenue officers should attest mutations according to priority based on the date of try of report in the patwari's diary. In cases where a mutation cannot be attested interim orders must in variably be recorded.”

CHAPTER VI

Powers of revenue officers

250. Powers of revenue officers. There are five classes of revenue officers: the financial commissioner, the commissioner, the collector, the assistant collector of the 1st grade, and the assistant collector of the 2nd grade. The deputy commissioner of a district is by virtue of his office its collector a revenue officer who is transferred from one district to another retains the powers with which he was invested in the former district.

251. Powers of financial commissioner. There are many matters on which the financial commissioner is empowered by the land revenue and tenancy acts to make rules, but these do not take effect till they have been sanctioned by the local government. There are also a number of executive proceedings regarding which

his special orders required. For example he fixes the amounts and dates of the installments by which land revenue is paid, and if, to recover an error, the extreme step of annulling the assessment of an estate or holding, or of selling it outright has to be taken his sanction must first be obtained.

252. Power of commissioner. While the land revenue and tendency acts confer ample powers of general control on commissioners, there is practically no particular matter which they can legally deal with on their own initiative, or for the very few exception is that sales of immovable property for the recovery of arrears are not complete will they have received their confirmation.

253. Powers of collector and assistant collection. The land revenue act declares that certain things must be done and certain orders must be passed by the collector and that other things may be done, and other orders may be passed, by “a revenue officer” there are but two cases in which any difference between the powers of the two grades of assistant collectors is mentioned in the act. Section 126 provides that proceedings relating to the partition of land must be taken an assistant collectors of the 2nd grade do not of compelling parties before them to submit certain matters to arbitration. But by section 10 the local government has power ,where the act does not expressly by what class of revenue officers any function to be discharged, to determine the matter by notification, and this was done soon after the enactment came into force. The class of revenue officer which can dispose of the enactment came into force. The class of revenue officer which can dispose of the various applications and proceedings which arise under the tenancy act is stated in its 76th section. It will be observed that in the distribution of business, there is given no distinction made between the powers of a collector and those if an assistant collector of the 1st grade. But the application of a

landlord for leave to take an improvement on the holding of a tenant with a right of occupancy must be presented to the collector, and he alone can enhance the rent after the improvement has been made and reduce it again after it has ceased to exist.

254. Enquiries by subordinate officers. It would be absolutely impossible for superior revenue officers, and especially for the deputy commissioner, to dispose of the numerous matters on which their orders are required, if the proceedings from first to last had to be held before themselves. Provision has therefore been made that “a revenue officer may refer any case which he is empowered to dispose ofto another revenue officer for investigation and report, and may decide the case upon the report” this useful power must be exercised with discretion. In matters of any importance the parties who will be directly affected by an order should be present when it is passed, and should be heard as far as is necessary. However unpalatable a decision may be to a man, it loses half its sting if he feels that his case has been fully understood and carefully considered.

255. Exclusion of jurisdiction of civil courts. Civil courts have no jurisdiction in respect of any matters of which revenue officers are empowered by the land revenue and tenancy acts to dispose of.

256. Execution by revenue officers of certain orders of civil courts. On the other hand, any order which a civil or criminal court issues for the attachment, sale, or delivery of land, must be executed through the collector or a revenue officer appointed by the collector for that purpose. The rules on the subject will be found in the financial commissioner’s standing order no. 64 and the rules and orders of the high court, volume 1, chapter xii-order xxi, civil procedure code.

When the produce of land is attached no obstacle must be placed in the way of the person to whom it belongs reaping, gathering or storing it, and every care must be taken for its preservation. As executing of the orders of civil and criminal courts the function of a revenue officer is purely ministerial. He is not concerned with the priority of the order passed. But if it is on the face it illegal, if, for example, it directs the collector to sell land belonging to a member of an agricultural tribe, he will be justified in pointing this out to the civil court and, if necessary, to the commissioner.

257. Functions of collector under section 72 of the civil procedure code. Under the provisions of section 72 of the civil procedure code (act v of 1908) a court may authorize the collector to arrange for the satisfaction of a decree by the temporary alienation or management of land belonging to a judgement-debtor. The rules on the subject are quoted in the financial commissioner's standing order no. 64. Any alienation approved of would naturally take the form of one or other of the kinds of the mortgage allowed by act xiii of 1990. Where the judgement-debtor is deprived of cultivating occupancy of the transferred land enough should be excluded from the transfer to furnish at least a bare subsistence for himself and his family.

258. Procedure of revenue officers. The produce of revenue officers is mainly governed by sections 18-23, 127-135 and 152 of the land revenue act, and by a law rules issued under various sections of the land revenue and tenancy acts. Any number of tenants cultivating in the same estate may be made parties to proceedings under chapter iii of the tenancy act, but no order or decree must be made affecting any of them who has not had an opportunity of appearing being heard.

259.Arbitration. Sections 127-135 of the land revenue act relate to arbitration which may be employed with the consent of parties in any proceeding, and in a few proceeding without their consent. A revenue officer is not bound by the award, but may modify it or reject it altogether. Whatever his decision may be, it is open to appeal, just as if there had been no arbitration. There are no provisions about arbitration in the tenancy act, but a rule under it has made the provisions on the subject in the land revenue act applicable to most of the proceedings under the tenancy act.

260.Legal practitioners. Legal practitioners may appear in proceedings before revenue officers, and law present applications on behalf of their clients. Through a person chooses to be represented by a pleader his own attendance may also be required, and no formal pleading will be heard except in lambardari, zaildari, mafi, mutation, and partition cases. A revenue agent cannot, without the permission of the presiding officer, take any part in the examination of witness, or address to him any argument on behalf of his client. The fees of a legal practitioner are not allowed as costs in any proceeding without an express order of the revenue officer passed for reasons which he is bound to record. Legal practitioners cannot appear in proceedings under the Punjab alienation of land Act. (xiii of 1990)

261.Administrative control. Administrative control is exercised over all the revenue officers in a district by the collector, in a division by its commissioner, and in the whole province by the financial commissioner. If any of the powers of a collector under the land revenue act are conferred on an assistant collector, he exercise them subject to the control of the deputy commissioner, unless government otherwise directs. Every controlling officer has authority to withdraw

a case from any of his subordinates, and either hear it himself or refer it for disposal; to some other officer under his control.

262.Review of orders. Revenue officers of all grades large powers of reviewing their own orders and those of their predecessors, provided no appeal against them has been lodged. In the case of assistant collectors, however, the exercise of this power is in every case subject to the previous sanction of the collector. If the latter wishes to review any order lower class, who has left no successor in office, he must obtain the commissioner's permission. The commissioner may, like the collector, review his own order, but without the leave of the financial commissioner he cannot reconsider an order, passed by a former commissioner. The power is not subject to any such restriction. Applications for review can only be entertained when they are presented within ninety days of the date of the order to which exemption is taken, but apparently there is no legal limitation of the time within which a revenue officer may review an order of his own motion. Of course, persons who will be affected by the modification or reversal of an order must be given an opportunity of being heard in its support. There is no appeal from an order refusing to review, or confirming on review, a previous order.

263.Revision. The only officer who can revise an order not passed by himself, or by one of his predecessors in office is the financial commissioner. But any controlling officer may call for the file of a case pending before, or disposed of by, any of his subordinates in order to satisfy himself of the correctness of any final or intermediate order which has been passed, if the commissioner or the collector thinks such an order ought to be altered, he can submit the file to the financial commissioner with a statement of his opinion. No proceeding or order should be modified or reversed in such a way as to affect any question of right

between private persons without giving them an opportunity of being heard.

264.Appeals. The law of appeal is very simple, original orders passed by assistant collectors are applicable to the collector, and original orders of the collector to the commissioners. An order confirmed on first appeal is final, and under no circumstances, can there be more than second appeal. The only cases which can come before the financial commissioner on appeal are those in which commissioners have modified or reversed original orders passed by collectors.

265.Limitation in appeals. The period of limitation is thirty days, when the appeal lies to the collector, sixty when it lies to the commissioner, and ninety when it lies to the financial commissioner.

CHAPTER VII

Patwaris and Kanungos

266.Patwaris and Kanungo staff before 1885. The term village officer, as used in the land revenue act means a headman, a chief headman, and a patwari. In this chapter we are only concerned with the patwari or village register and accountant, and with his immediate superior, the kanungo. No efficient revenue administration of a district is possible unless the patwari stases strong, properly trained, and strictly supervised by the kanungos, tahsildars, revenue assistant, and deputy commissioner.

267.Object of reforms initiated in 1885. In the course of years effective measures have been taken to secure the proper performance by the patwari of his three chief duties:

- (1) the maintenance of a record of the crops grown at every harvest:
- (2) the keeping of the record of rights upto date by punctual record of mutations; and
- (3) the accurate preparation of statistical returns embodying the information derived from the harvest inspections, register of multatins, and record of rights.

These duties will be described in the 9th, 10th , and 11th chapters of this book.

268.Principles of revenue policy sound, but machinery for carrying them out wanting. The revenue policy of the Punjab from the beginning was founded on the principles laid down in the Thomson’s valuable treatise, the “Directions for settlement officer” and the “Directions for collections.” But the official machinery was too weak to secure effective compliance.

269.Canceled.

270.Canceled

271.Canceled.

272.Canceled.

273.(1) Indian famine commission 1880 proposed-foundation of agricultural department in each province. In spite of efforts to secure improvement the revenue statistics of the province remained incomplete and unreliable until late into last century. But the lessons learned in the famine of 1877-78 made it impossible to leave things where they were. In the report of the Indian famine commission, which was laid on the necessity of creating in each province a special agricultural department. The concerned remarked:-

“such an office in each province would have charge of all the records of past famines, and take note of all that is being usefully done or learnt in neighboring provinces, so that the gathered results of past experience might be collected and made accessible, which has hitherto been hardly possible. Through this office should be brought together the more comprehensive and exact record of the agricultural, vital, and economic condition of the people to the urgent necessity of which we have already drawn attention. Especially, when a famine is thought of to be impending would such an office become important, as it would supply the government with all statistics bearing on this subject, and would be responsible for working out from them the conclusions on which the decision as to future action would mainly rest. When a famine is in progress, all the information relating to relief measures, that extant, their results, would be collected in it and presented in a uniform and intelligible manner, and through it all orders of the local government relating to famine administration would be issued.”

274 (2) Reform of patwari and kanungo agency. “ the efficiency of such a special department, as we have proposed will depend mainly on the completeness and accuracy with which the agricultural vital, and economic statistics with which it has to deal are collected in each village and compiled in each sub division and district throughout the country” * * * * “ the revenue system in the greater part of British India is such as to present unrivalled means of ascertaining, in the fullest manner, all necessary facts relating to agriculture, and to the different incidents of landed tenures in every village; but those means have nowhere been completely utilized and made as efficient as they might be. We recommend that the body of village accountants should everywhere be put on a sound and satisfactory footing as responsible public officers, with a clearly defined set duties, but with their own

villages.” “* * * *” over the villages accountants there should be a staff of active sub-officers employed in keeping them to their duty, inspecting their work, visiting each village in turn, and checking the accuracy of all the items recorded concerning it.”

274 (3) appointment of revenue assistant in each district. “ above these there should be special officer in every district who would be, as a rule, of the rank of deputy collector, and whose main or only duty should be to take charge of all matters connected with the economic condition and well-being of the people. He would test and compile the agricultural returns and examine the market prices and ascertain from these and other data the relative value of each year’s crop, according as it is below or above the average. From such a continuous record of the harvests he would obtain data for judging whether the landed classes were in the depressed or a prosperous condition, and how far they were prepared to meet a climatic season. It would be this object to obtain similar information as to all sections of the population, and to learn what are the causes of depression, and what classes would be the first to succumb under the pressure of decline and high prices. The accurate regulation of vital statistics, and the investigation of the causes of any abnormal mortality, would lie within his province and he would be the gainer of the health officer of the district for the purpose of scrutinizing the record of births and deaths. The extent of the good stocks, the ebb and flow of local trade, the current rate of interest charged on loans to different classes, the deficient or superabundant supply of any kinds of labour and the customary wages paid to each kind, these and other kinds of labour and the customary wages paid to each kind, these and other kindred topics on which information is at present far from precise, would fall within the scope of his enquiries. These officer, while generally subordinate to the collector, would be specially under the

orders of the agricultural Department in respect of the system on which their returns are to be prepared and checked.

274. (4) Appointment of Director of Agriculture in each province. ”A Director of agriculture should be appointed in each province as executive head of this Department, chosen for his knowledge of the condition of the people and particularly of the agricultural classes. He would directly control the special statistical officers, and would be the adviser of the local government on all matters relating to agriculture and statistics. In ordinary times he would discharge these duties and superintend all measures designed to improve the agriculture of the country : and in times of famine he would be the officer responsible for warning the government as to the agricultural outlook and for preparing such a forecast as should guide it in issuing instructions and setting on foot measures of relief.”

274. Introduction of reforms in Punjab. The measures proposed by the commission therefore embraced

- (a) the reform of the patwari staff;
- (b) the provision of a sufficient staff of supervisor or kanungos;
- (c) the appointment of a revenue assistant in each district;
- (d) the appointment of a director of agriculture in each province.

It fell to colonel wace, first as settlement commissioner and later as financial commissioner ,to carry out these reforms a task which he welcomed with enthusiasm . to enable him to deal with the matter effectively he was appointed in 1882 director of agriculture while retaining the post of settlement commissioner . in 1883 a revenue assistant was appointed in each district except simla. In the same year colonel wace prepared a scheme for the reorganization of

the kanungo staff. Which was sanctioned with some modifications next year, and carried out in 1885. Hitherto, the establishment in each district had consisted of a sadar kanungo at headquarters on Rs 60 per mensem, and a kanungo on Rs. 25 with an assistant of rs. 15 of each tahsil. the staff was now doubled. The kanungo at the tahsil head quarters became the office kanungo and a staff of field kanungos was provided to supervise the patwaris work in their villages. The pay and prospects of kanungos were much improved. A director of land records was appointed in 1885.

276. Object of reforms in land record agency and procedure. These changes and the procedures connected with the reformed of record embodied in a new code of patwari and kanungo rules, the object of which was explained to be the securing of –

- (a) real efficiency among the patwaris and kangos;
- (b) improved field-to- field inspection, and record of the results of each harvest;
- (c) the continuous record in convenient tanks of the total results of each harvest and each years husbandry, these tables being kept first by villages, secondly by assessment circles, and thirdly by tahsils
- (d) the punctual record in attentions of all mutations of rights and there prompt incorporation in the jamabandy.
- (e) The cessation of the practice, under which in numerous cases mutation orders where passed in the absence of the parties, or after calling them away from there village to the tahsil office;
- (f) The release of tahsildars and naib-tahsildars from a large amount of revenue case work. witch under the procedure hitherto prescribed for such work. Tied them to their tahsil offices and overboard. Ended their

small office establishment with clerical duties; and

(g) As a consequence, the systematic visiting of each village, either by the tahsildar or naib tasildar.

277. Effects of reforms. The new system was embodied in the Punjab Land Revenue act of 1887 and the rules issued under it. Since it was introduced it has been modified in some of its details. But no change affecting its main features has been made, and the soundness of the scheme has been proved by a steady improvement in the work of the patwaris and in the revenue administration of the districts.

278. organization of patwaris and kanungo staff reconsidered at set. Telnet. The organization of the patwari and kanungo staff is carefully reconsidered when a district is being assessed, and it rarely necessary to make many changes in the interval between two settlements. The limits of patwaris' circles are matters for the commissioner to decide. The number, grading and pay of patwaris also the revision of the limits of field kanungos' circles, require the sanction of the financial commissioner.

279. Points for consideration in forming patwaris' circles. In fixing the limits of a circle, the chief points to consider are the number of fields to be worked over at the harvest inspections, and the number of owners' holdings and cultivation's' holdings for which entries have to be made in the record of rights. The number given to each field in the village map is known as the khasra number, that assigned to each owner's holding in the record of rights a called the jamabandi number, and that allotted to each cultivator's holding the khatauni number. A patwari should usually be able to keep up the record of a circle

contacting from 4,000 to 5,000 khasra and 1,200 to 1,600 khautani numbers, but regard must be paid to the distances the patwari will have to travel, the nature of the country, the simplicity or complexity of the land tenures, and the inclusion in the circle of estates subject to river action or under fluctuating assessment, and the degree of fragmentation or consolidation of holdings. A circle generally consists of several adjoining estates, but some large estates require the whole services of a patwari and few have more than one.

280. Grading patwari. Before 1885 there was a separate patwari cess, and each patwari received the amount levied in the village of his circle. A man with a small circle of rich highly cultivated estates drew much more pay than his fellow incharge of a much larger and more difficult circle containing village where the precariousness of the crops had enforced a light assessment. Now the patwaris of a district are distributed into grades with varying rates of pay. Patwari are graded as under:-

1st grade, on Rs. 26 per mensem..... 20 per cent

2nd grade on Rs. 23 per mensum.....40”

3rd grade, on Rs. 20 per mensum...40”

281. Village officers cess . Section 29 of the Punjab land revenue Act. XVII of 1887, provided for the levy of a cess at a rate not exceeding 12 ½ per cent on the land revenue and canal owner's rate for the remuneration of village officers, that is to say, headmen, chief headmen, and patwaris. The balance used to be available for the remuneration of the patwari staff, but in 1906, the liability of the landowners for the pay of the patwari staff was abolished. The change made was incorporated in the land Revenue Act by the Repealing and Amending (Rates and cesses) Act, 1907, which limited the cess to a maximum rate of 6 ¼ per cent on

the land revenue and cana; owner's rate, restricted the expenditure to purposes directly connected with the maintenance of the agency of headmen and chief headmen. The headmen retains a surcharge of 5 per cent on the land revenue and owner's rate which he collects, and 1 per cent is payable to the chief headman, if there is one.

282. Assistant patwaris. It is usual to have a few assistant patwaris receiving Rs. 15 monthly. Assistants should be used to help patwaris whose work is very heavy or to fill temporary leave vacancies. Except on the latter case, they should not ordinarily be independent charge.

283. Payment of patwaris. Salaries are drawn monthly and care should be taken be that they are punctually disbursed. Besides their pay patwaris receive a two-fifth's share of the fees levied for the entry of mutations in the record of rights, and allowed and giving certified extracts. It is a rule to which no exceptions are allowed that pay and all the fees must be given to the person who actually performs the duties of patwari.

284. Appointment, punishment, and dismissal of patwaris. No revenue officer below the grade of collector can appoint, punish, or dismiss a patwari. With this exception that the Revenue Assistant may impose on a patwari a fine not exceeding Rs.2 and a Tahsildar a fine not exceeding Rs.1 on any one occasion. But the deputy commissioner should keep the power to sanction appointments and dismissals in his own hands. Recommendations should be received from the Revenue Assistant, and where he is an impartial and sensible man, they should usually be accepted. Upon him mainly depends the efficiency of the patwari and kanungo staff. He cannot have the proper amount of authority over it or be

expected to work with zeal if his subordinates are given any reason to suspect that he has not the support and confidence of his chief.

285. Patwari candidates. A register of patwari candidates is kept up for each tahsil. In most districts it is now possible to exclude men who have not passed the Middle school examination. Neat and clear handwriting in the Urdu character and the power to work out simple sums in arithmetic quickly and correctly are essential, and no candidate, however well qualified otherwise should be accepted who has not good physique and health and good eyesight, candidates must be between the age of 15 and 25 years, it is undesirable that a large proportion of the candidates should belong to the money lending or trading classes, and the sons of agriculturists should be encouraged to come forward as candidates. A clever and well educated lad who enters government services as a patwari has a very fair chance of promotion to higher posts. The appointments of tahsil revenue accountant (wasilbaki navies) and siyaha navis are, whenever possible, reserved for them, and two thirds of the kanungo must be promoted patwari. Once he becomes a field kanungo a patwari may hope to climb still higher on the official ladder. Patwaris are also eligible for the post of tahsil judicial muharrir.

286. Patwari school. Every candidate must attend the patwari school and appear at the patwari examination. His name should ordinarily be struck off the register if he fails to pass within three years. The patwari school in each district should be opened on the 15th of April and closed at the end of August. Before joining the school the candidate should be required to attend for instruction at the sravi girdawari. The principal subjects taught with the aid of books are arithmetic and mensuration, on which special manuals have been written for the use of patwaris, and the directions contained in the financial commissioners' standing

orders nos. 15,16,22,23,24 and appendices vii. Viii. Ix. And xxi of the Punjab settlement manual. But the teaching should be of a thoroughly practical character and a great deal of it should be given in the field. In survey work a pound of practice is worth a ton of instructions. A candidates who passes the examination held at end of the school term, attends the kharif gridawari for further practical instructions, and unless he does so, he is not entitled to a pass certificate.

287. Filling up of vacancies. The most “suitable” candidate must be selected, and relationship to the former patwari confers no claim. But the deputy commissioner is bound to consider any representation made by the land owners of the vacant circle, and, if it is evident that they really wish for the appointment of a relation of the late incumbent, who is fit of the post some regard should be had to this in weighting claims. The fact that the candidate is already resident of the circle and has the confidence of the properties, has a strong bearing on his “suitability.” However well qualified he seems to be a candidate should not be chosen if any of his near relation land money in the circle.

288. Residence of patwari in his circle. Every patwari is bound to reside in his circle and must not leave it without permission. Where a suitable patwarkhana exists, the patwari must keep his records in it live in it with his family, and repair it when necessary. Landowners must not be asked to spend any part of common village fund (malva) in building or maintaining patwarkhanas, and only in special circumstances will be expenditure on these subjects be met by governments. Where no patwarkhana exists the patwari must make his own arrangements, but reasonable help in enabling him to do this will be given to him by the revenue authorities.

It is the intention of government to provide additional patwarkhanas

steadily year by year.

289.Disabilities of patwaris. A patwari is forbidden to engage in trade, or to have any interest whatever in the landing of money to agriculture and he must be not tout for any legal practitioner or borrow from any agriculturists in his circle. He cannot acquire in his circles, except by inheritance, and if he possessed any interest in land anywhere he must report the fact to the tahsildar, nor can he purchase, or bid for either agricultural land or land for building sites in colonies without the sanction of the local government previously obtained. A patwari sometimes tries to evade these rules by buying or taking mortgage in the name of one of his sons, but transparent subterfuges of this sort are easily brushed aside. He is not permitted to write, attest, or witness deeds or private individuals. He may be dismissed if he is deeply in debt, as well as for misconduct, neglect of duty or incompetence. As soon as he becomes unfit through age or chronic ill health to do this work properly he must be relieved of his office. Small rewards are payable on retirement to well-conducted patwari who have served for a long time.

290.Employment of patwari on other, but his proper duties forbidden. Care must be taken that no patwari is employed on any duties except those laid down in the financial commissioner's standing order NO. 15, which are amply sufficient to occupy his whole time. The chief branches of his work, the registration of the crops, the maintenance of the record of rights, and the writing up of the statistical register of each estate, will be described in latter chapters. But the other duties which he has to discharge may be briefly noticed here.

291.Miscellaneous duties of patwari. It is his business to report at once all

serious calamities affecting the land or the crops, and all severe outbreaks of disease among man and beast. He must bring to the notice of inspecting officers encroachments of government lands, the deaths of pensioners and assignees, the emigration or immigration of cultivators, and the unauthorized cultivation of groves held revenue free on condition of the preservation of the trees. He must allow any one interested to inspect his records, and, if required, give certified extracts from them.

292. Patwaris' diary. He keeps up a diary and a work-book. The first part of the diary, which is renewed annually, should contain a record of all facts of importance regarding the cultivation of the land, the state of the crops, the condition and relations of landowners and tenants, and the interests of government. The entries should be made on the day on which the events come to the notice of the patwari. At the end of each sambat month of careful general note on the crops and the cattle of the circle should be added. Orders received by the patwari from kanungo or from any revenue officer should also be entered in part 1 of the diary. Where, however an order consists of directors of a general nature it should be entered in part ii which is not renewed every year. The diary, like all other revenue record, is kept by the agricultural year beginning on 16th bhadon, corresponding to the 1st September.

293. Kanungo staff. The Kanungo establishment consists of field Kanungos, office Kanungos, and a district Kanungo. Its strength in each district can only be altered with the sanction of the local government. Ordinarily there is one field Kanungo for twenty patwaris, an office Kanungo at each tahsil, and a district Kanungo with at least one assistant at headquarters.

294. Duties of field Kanungo. The Kanungo should be constantly moving about his circle supervising the work of the patwari on the spot, except in the month of September, when he stays at the tahsil to check the jamabandis received from the patwari.

295. Duties of office Kanungo. The office Kanungo is the tahsildar's revenue clerk, his chief work, the maintenance of the statistical revenue records, will be described in a later chapter. He has also charge of the forms and stationary required by patwari, keep the account of mutation fees, records in rainfall, and maintains the register of assignees of land revenue and other miscellaneous revenue registers. He is custodian of all the records received from patwari, and a well- ordered Kanungo's office is an important factor in the revenue management of a tahsil.

296. Duties of district Kanungo - The district Kanungo is responsible for the efficiency of the both the office and the field Kanungos and should be in camp inspecting their work for at least fifteen days in each month from 1st October to 30th April. He is the keeper of all records received from Kanungos and patwari, maintains with the help of his assistant copies of the prescribed statistical registers for each assessment circle, tahsil and the whole district. It is necessary, as already noted to give him one or more assistants for office work. The pay of a sadder Kanungo is Rs. 75-5/2-100 per mensum, and his assistant received Rs. 60 per mensum, except in simla where he receives Rs. 50-5-75 per mensum, while special Kanungo entertained in connection with the scheme for making the contents of revenue records more ready accessible to litigants in civil and revenue courts are paid at Rs. 65 per mensum.

297. Kanungo to be employed only on their proper work. All Kanungos must be strictly confined to their own allotted work. It would be example, the improper to allow the district kanungo to be used by the revenue assistant as a reader. Nor should a tahsil office kanungo be used for case work.

298. Grades and pay of Kanungo. Field and office kanungos are graded on a single list, office kanungo being chosen from among the older field kanungos. On first appointment a field kanungo receives Rs. 40 per mensum. His appointment is on probation pending the obtaining of a certificate of efficiency from the director of land records. No kanungo is confirmed unless and until he has obtained this certificate, and if he does not obtain it within 2 years of his first appointment, his name is struck off the list of kanungos and he received to his original post, if any. No longer remaining a kanungo candidate. Field kanungo in the highest grade, or one month of the whole number draw Rs. 50 monthly. All field kanungos receive Rs. 20 per mensum as horse allowance. Settlement kanungo are paid at the same rates as field kanungos on the district staff' field kanungo not employed in settlement work get a stationary allowance of Rs. 1 per mensum. Tahsil office kanungos receive rs. 60 per mensum.

Note-: for the purpose of this paragraph is the whole number be one less than a multiple of 4/e.g. 19,23 etc.) it should be considered to be a full multiple. This where there are 19 field kanungo 5 would be entitled to draw pay of rs. 50 per mensum. Punjab govt. letter no. 8 rev. dated Jan., 1914

299. Kanungo candidate. A register of accepted candidates for the post of Kanungo is maintained. Patwari on the district establishment and settlement

patwari drawing Rs. 53 or more per mensem are eligible for this register, provided they have passed the middle school examination, but a lower educational qualification may be accepted in special cases, with the sanction of the financial commission obtained through the director of land records. Most of the candidates should be drawn from this class, as two third of the vacancies of the among kanungo must be given to patwaris. A few men below the age of twenty five who have passed the matriculation examination of the Punjab university may be accepted. But such candidate must not be given appointment till they have served two years as patwaris or as apprentices learning patwari work. No one should be accepted as a candidate who is not of active habits and able to ride. There is no such thing as a hereditary claim to a kanungos post, and the caution given as to the case of patwaris applies equally to that of kanungo. candidate must appear at the local examination held by the director of land records. On passing it and giving evidence that they have received a proper practical training they are entitled to certificates of efficiency.

300. Claims of kanungos to higher posts. Great care should be taken in choosing kanungo candidate, and there is not much difficulty in getting suitable men. The post itself is a respectable one as regards pay and position, and it carries the appointment of district revenue accountant or a naib-tahsildar. Any kanungo who have served govt. of five years including at least two years approved service as field kanungo may be selected as a naib tahsildar candidate. The commissioner's register should always contain some names drawn from the kanungo's list. It is true that few promoted kanungo's are likely to rise above the rank of naib-tahsildar by becoming tahsildar. They are usually, at least when they have started as patwaris, made naib-tahsildar too late in life to do so. But their previous training fits them to do very good work as naib-tahsildar, and the post of 1st grade

naib-tahsildar is sufficiently honourable and well paid to satisfy the ambitions of most men of the class from which the kanungo staff is mainly drawn. A permanent or officiating district kanungo is entitled to appear at the naib-tahsildar examination, and, if he passes, his name is put on the register of candidate. A district kanungo of not less than two years standing may be selected by the financial commissioner as a candidate for the post of tahsildar.

301. Kanungo in districts under settlement. When a district is being reassessed, the kanungo work under the orders of the settlement officer who finds it necessary to employ in addition a number of extra or settlement kanungos. He also becomes responsible for the training of candidates. At the end of the settlement he ought to leave in the district a thoroughly efficient kanungo staff with a number of qualified candidates.

302. Training of kanungo candidates in settlement work. Where possible the director of land records arranges to give kanungo candidates from districts not under settlement a practical training in settlement work.

303. Filling up post of district kanungo. A vacancy in the office of district kanungo must be filled by the promotion of an office or field kanungo. The post is one which can only properly be filled by a well educated man of active habits, of good natural ability and sufficient acquired experience. A fair knowledge of english is an indispensable qualification for appointment. No particular examination test has been prescribed but ability to read and write english reports interlligibly and fairly quickly is demanded.

The deputy commissioner should consult the director of land records

demi-officially when a vacancy in the post for six months or more is to be filled. If they do not agree as to the person to be appointed, each should state his case for the consideration of the commissioner of the division, who will make the final selection. An appeal from his decision will lie to the financial commissioner.

304. Disabilities of Kanungos. The rule regarding residence is the same mutatis mutandis for field kanungo as for patwar , and kanungos are under the same regulations as patwari as regards trading, borrowing and lending, holding land, writing and attesting documents.

CHAPTER VIII

VILLAGE HEADMEN, INAMDARS AND ZAILDARS

305. Value of unofficial agency. In the last two chapters the strong body of government servants, of which the deputy commissioner is the head, has been described. It is a powerful piece of administrative machinery, but, as links between the higher officers and the communities for whose welfare they are responsible, its inferior members have the defects which belong to purely official agency. They have therefore been supplemented by representatives of the landowners in the shape of village headmen inamdars and zaildars.

Commentary

Where lambardar fails to perform his duties, the recovery can be effected from his or his estate.

306. Convenience of dealing with village communities. It is obviously convenient for the state to deal with bodies like village communities through headmen. The internal affairs of such communities used to be and in some places still in a measure are, managed by informal councils or panchyats. But these have fallen into decay, and in any case their constitution was too loose for them to serve as intermediates between the rules and the land owners. The sikh govt. like own, found it useful to have such intermediaries. The chaudhris and mukaddims through whom it dealt with the people corresponded roughly with our zaildars and lambardars.

307. Duties of headmen. The headmen of a village act on behalf of the landowners, tenants and other residents in their relations with the state. They are bound to attend when summoned by officers of govt., and to aid them in the execution of their public duties. Their important functions as regards the prevention and detection and detection of crime do not fall within the scope of this work. Their chief duties are set forth in some detail in a vernacular memorandum which is given to each headmen on his appointment. Those connected with land administration may be summarized as follows:-

A duties government-

1. to collect and pay into the treasury the land revenue and all sums recoverable as land revenue.
2. To report to the tahsildar-
 - (a) the deaths of assignees and pensioners ,and their absence for over a year
 - (b) encroachments on, or injury to, government property.
3. to aid-
 - (a) in carrying out harvest inspections, surveys, the record of mutations and other revenue business;
 - (b) in providing, on payment, supplies or means of transport for

troops and officers of government.

4. to render all possible assistance to the village postman, while passing the night in the village, in safeguarding the cash and other valuables that he carries.

B. Duties to landowners and tenants of estate-

1. to acknowledge every payment received from them in their parcha books.
2. To collect and manage the common village fund, and account to the shareholders for all receipts and expenditure

The duties of headmen as regards the collections of revenue (a 1 and b 1 on page 128 and above) are dealt with in chapter xv. Those which fall under heads a 2(a) and (b) and A 3(a) call no remark. The financial commissioner's standing order no. 58 deals with transport and supplies for troops. As regards the village malba (B), the 93rd and 94th paragraph of the settlement manual may be consulted.

Commentary

Lambardar under rule 20 of the Punjab land revenue is duty bound to recover land revenue and other sums which are due to the state, if money due to paid to the lambardar the liability of the person concerned stands discharged. On failure of the lambardar to deposit the amount or account for it, the lambardar is the person liable to the state and not the person for whom it was originally due. Government if recovers money from person originally liable to pay despite having his paid the amount to the lambardar, such person is entitled to decree against lambardar as

also the state.

308. Remuneration of headmen. The manner in which headmen are remunerated for their service has already been noticed. The pachotra or surcharge of 5 percent on the land revenue to which they are entitled is calculated not on the demand, but on the amount collected. A suspension or remission of the land revenue therefore involves the suspension or remission pachotra, it may be doubted whether this rule is always carried out, but in case of dispute, it must be enforced. Headmen usually receive an allowance of 3 percent on account of collections of canal occupier's rate.

309. Appointment and dismissal in districts under settlement. When a district is under settlement, headmen are appointed by the settlement officer. When the question of dismissing a headman arises, the settlement officer deals with the matter if the malfeasance was connected with work under his control, otherwise the deputy commissioner is the final authority. The officer with whom the actual decision rests should consult his colleague before passing orders.

310. Headman must be landowner of village. The headman or headmen must be chosen from among the landowners of the village. In the case of govt. estates, or estates in which govt. owns considerable share, he may be one of the govt. tenants.

311. Too many headmen often appointed at 1st regular settlement. The existing lambardar arrangements in most villages were made when they were first brought under a regular settlement. It was often found that a considerable number of the owners had in fact received a share of the pachotra, and that there were

many claimants for the office of headman. The original arrangements can be recast and the number of headmen reduced with the sanction of the financial commissioner. When a readjustment of the pachotra is advisable for any reason, the collector can take action under land revenue rule 21(iv)

312. Matters to be considered in making new appointment. In making new appointments, as distinguished from the filling up a vacancies in existing posts, the chief matters to consider are---

- (a) the constitution of the community to be represented.
- (b) The family claims of the candidates.
- (c) The extent of their landed property and their freedom from debt.'
- (d) Their character ability and personal influence.
- (e) Any services render to the state by themselves or the families to which they belong

The first point is important in deciding how many headmen are required. The number should be as small as possible, having regard to the claim of each principal branch of the community to have its own representative.

313. New appointment of headmen. New appointment are now a days exceptional, save in the case of estates carved out of the govt. waste. Where such an estate is leased to a single lessee, he become ipso facto headman for the period of his lease. In the village which have recently been planted in hundred on state lands brought under cultivation by means of the upper and lower chenab, the upper and lower jhelum, the lower Bari Doab and the sutluj valley chanals, the lambardari arrangements are governed by the constitution of the groups of

colonies who have occupied the new settlements. In an ordinary district new appointment are only necessary when the family, in which the post is hereditary, becomes extinct; when after the resignation or dismissal of a headman the collector finds that he must be pass over all the heirs under the vrious provisions of sub-rule(ii) of land revenue rule 17; or in the rare cases in which an increase in the number of headmen is sanctioned by the commissioner. The importance and implications of the doctrine of primogeniture are elaborated in the Lahore Law times xviii, page 43.

314. Ordinarily headman must perform duties himself. A headman once appointed holds officer for life unless the Deputy commissioner dismisses him or accepts his resignation. No man should ordinarily be retained in office who either does not, or cannot, carry out the duties efficiently. But in some cases whether inability to do so is of a temporary nature, and in others where it aprings from unavoidable circumstances, the lambardar is allowed to retain the title and even in some cases a share of the emoluments, while a substitute is appointed to do the work.

315. Appointment of substitutes in certain cases. The commonest instance of a temporary inability is that of a headman being too young to act. In that case, the appointment of a substitute is imperative. Another instance is absence from the village with the Deputy commissioner's consent for a period not exceeding one year. Old age or physical infirmity is a disability which it might savoir of harshness to treat as a ground of dismissal. A wide dissection is left to the deputy commissioner for he can allow a substitute or sarbarah not only in the circumstances maintained above, but in any case in which " good cause" can be shown fir the lambardar's unfitness to do the work himself. (land revenue rule 27)

an absentee landlord owing a whole estate may nominate for the approval of the deputy commissioner any of the residents to be his substitute. As a rule, he will have an again on the spot whom he will naturally put forward. Should he fail to nominate to a fit person the deputy commissioner chooses one of the resident tenants. (land revenue rule 26(1)) where in an estate owned by more than one person an absent headmen the responsible either individually or as a representative of other absence for more than half of the land revenue the deputy commissioner may appoint any resident owner or tenant to be dabbled. In this, and indeed in all cases in which substitutes are appointed for a lambardar whips is not a minor, the wishes of the substantive hold of the office should be put on record and fully considered, other things being equal, the best plan, when the headman has become unfit to do his work, is to choose as his substitute the man who would naturally succeed him in the office in the event of his death. If this is his son, he will usually not be a "landowne" but this is no obstacle, for "egad shall be had to the property which of the candidate will inherit from the person he is intended to represent in like manner as if he has already inherited it." (land revenue rule 29 iii) in the case of minor lambaradare, their mothers often he is ineligible because he owns no land in the village, and in any case it is generally much more in the accordance with local sentiment to select a near relative of the boy's father.

315-A. appointment in canal colonies. In the colonies it has been the practice from the foundation of each estate to restrict the number of lambadars to one or two. Where service conditions exist, as, for instance, in the horse-breeding chaks of the lower jhelum canal colony it is usually considered preferable to have only one lambardar. These posts are so much converted that the ordinary objection against having too few lambadars does not hold good. Hereditary claims need not be regarded since the landholdes suitable landholder. In the news colonies, where service conditions do not exist, two lambadars are ordinarily appointed.

In making such appointment care should be taken to ensure that the lambardar appointed resides, or will reside personally in the chak. It must be remembered that the post of lambardar has been created in order to ensure the performance of services necessary for the efficiency of the administration of the province and the district. These posts are not treated to add to the prestige and influence of influential and wealthy landowners, who have no intention of fulfilling the obligations of the post. An additional objection that to the appointment of such person as lambardar, to all intents and purposes, would be performed by a servant and that landholders of considerable social standing, such as retired commissioned military officers, would occupy a position of subordination to the sarbarah lambardar a state of affairs to which they naturally have a strong objection. The land revenue rules with regard to the appointment of substitutes should therefore be most carefully observed. The only concession which can properly be made to influential and wealthy non resident landholders is that they should be appointed lambardar's of the land which they hold themselves. In such cases they should not be permitted to have any hand in the management of the land allotted to the menials of the village.

316.Division of pachotra - It is permissible to divide the pachotra between the headman and his substitute. If it is intended to do so the arrangement must be noted in the order of appointment, otherwise the substitute will receive the whole on the principal that the man who does the work should get the pay. In any case the substitute's share must not be fixed at less than oneself (land revenue rule 30)

317.Removal of substitute - The deputy commissioner may remove a substitute for any reason which would justify the removal of the headman himself or for any other sufficient reason. (land revenue rule 29 iv)

318. Resignation of headman - When a headman resigns, he generally ask for the appointment of his son to succeed him and in other to give him the land owners qualifications, officers to transfer a share of his holding to him by gift.

Arrangements of this sort being apt to lead to quarrel's over the division of the family holding after the father's death should be discouraged. Where the lambardar has done nothing to merit dismissal, it is better to retain him as nominal headman and to appoint his son to be his substitute.

319. Dismissal of headman - The chief grounds on which a headman may properly be dismissed are four-

- (a) loss of the states of landowner in the estate,
- (b) poverty
- (c) persistent neglect of duty,
- (d) crime (land revenue rule 16)

the first calls for no remarks. Dismissal in such a case is imperative.

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288. Poverty as ground of dismissal. As regards the sequin, the collection of the dues of the State cannot safely be entrusted to a man who is himself insolvent. If a headman has mortgaged his own holding, and has ceased to be the person from whom its revenue is due to govt. he ought to be dismissed unless he can make arrangement to pay off with a short time the whole mortgage debt or so much it as will suffice to release so much of the holding as will be sufficient security of the govt. revenue which passes through his hands. In such a case the headman may be allowed a reasonable period within which to recover himself if meanwhile he can furnish security of the payment of the revenue and the discharge of his other duties. But make shift arrangements of this kind should not be continued for any length of time. A headman, who is defaulter in respect of his own holding, ought not to be kept in office. The mere fact, however, that one or other of the minor processes referred to in paragraphs 520 and 521 of this manual has been employed against him need not necessarily in tail dismissal. If the estate or sub division of the estate which the headman represents has had to be attached on account of areas, the deputy commissioner may dismiss the lambardar and the same course may be followed if the attachment is made by an order of any court of law proof that a headman is heavily in debt or that the amount of unencumbered land remaining in his possession is very small at once raised the question of his fitness to retained office. In these cases much depends on the cause of the mans difficulties and the likely hood of his being able to surmount them. If the revenue is paid in punctually, no readiness should be shown to harass a headman and gratify his rivals by fishing enquiries into his private affairs. The practice which have prevailed in some places of encouraging patwari's to report cases of indebtedness is very objectionable.

No tahsildar who exercises proper control over the land revenue collection, and who moves freely among the people, has any need of such written reports, and the acceptance of them puts the patwari in a position with reference to headmen which he has no right to occupy.

289. Punishment for neglect of duty. Neglect of the duty which is either gross or persistent, should be followed removal from office, minor breaches or rules or acts of negligence may be punished-

- (a) by the forfeiture of the whole or part of the pachotra; or
- (b) by suspension from office for a term not exceeding a year.

Orders attaching the pachotra usually only relate to that due at the next harvests, and in no case should the Pachotra of more than two harvests be declared forfeit. A substitute may be appointed to do the work of a headman under suspension.

290. Commission of criminal offences as ground of dismissal - Considering that one of the chief if a headman is to aid in the prevention and detection of crime, he ought to be removed from office if convicted of any serious offence. If he is sent to jail for a year or more, the deputy commissioner has no choice but must dismiss him; otherwise he has a discretion. Every petty breach of the criminal law need not be magnified into a ground for dismissal. The conditions of life in a Punjab village are such that a man is very liable to be hauled before a magistrate for acts, or alleged acts, which are offences under the Indian penal code, but which it is an abuse of language to qualify as crimes. The only rule that can be laid down is that, if the facts proved against a headman indicate that he is unfit to be entrusted with the duties of his

post, he should cease to hold it. If he is shown to be dishonest, or to consort with bad characters, obviously he should be dismissed. A conviction of theft or cheating proves him unfit to face charge of public money; and order to give security to be of good behavior or trustworthy evidence of confidence with relied on for help in suppressing crime or in enforcing the excise laws.

291. Filling up of vacant posts - Where the office of headman become vacant. It is the duty of the tahsildar to report without delay regarding the appointment of a successor. It is convenient to use a tabular form for such reports as information on certain points is required in every case, and any special features of a particular case can be noted in the brief remarks explaining the recommendation of the tahsildar.

323-A. Appointment to vacant posts should not be delayed - In view of the importance of the duties performed by village headman, it is imperative that when a post falls vacant, it should be filled as quickly as possible. In cases where the deceased's is to be succeeded by his heir, under land revenue rule 17(ii), and no other candidate is forthcoming, no reference need be made to the collector as the appointment is sanctioned by the assistant collector, 1st grade. It is advisable, however, that the sanad of appointment should be signed by the collector himself as this emphasizes the importance of the post and enhances the value of the sanad.

In cases of disputed succession, the appointment is made by the collector and subordinate officials have no direct responsibility with regard to the appointment other than the provision of such accurate information as will enable are chiefly or wholly owned by government and hereditary claims carry but little weight, the emoluments of lambardar are very considerable because of the large sums of land

revenue and water-rates to be collected. The value of these posts is still further enhanced in peasant chakd by the allotment of a lambardari square or half-square, it is therefore all the more desirable that such cases should not be delayed than of two months be permitted to occur between the occurrence of the vacancy and the placing of all the papers before the collector for his decision. The practice of subordinate officials sending repeatedly for all candidates, to examine them with regard to their claims and qualification, opens the door to opportunities of patwari to the tahsildar. An early date should then be fixed by the tahsildar or naib-tahsildar which he will consider and investigate all the applications for the vacant post. He should, if possible, arrange to hold the investigation in or near the estate concerned. The claimants should be given an opportunity to be heard. A report should be called for from the local police station as in no circumstances should the candidates be called upon to attend the police station for the investigation for other claims or other objections to other claimants, the papers should record his opinion in the file from his own personal knowledge and from the material already collected. He should not delay the case by sending for the claimants. The papers should be then be laid before the collector should fix a date for the decision of the case, notify all the claimants and have the date proclaimed in the estate concerned. Meanwhile, he should forward the papers to the superintendent of police for an expression of that officer's opinion. That opinion should be given by the superintendent of police from the material already collected on the file, and from his personal knowledge of the claimants.

In the case of succession to lambardari in an estate or sub-division of an estate owned chiefly or altogether by government to which land revenue rules 17(1) as amended by correction slip no. 44 dated 4th December, 1937 applies, a period of 3 months should be allowed within which papers should be placed before the collector for his decision.

292. Hereditary claims. Expert in estates chiefly or wholly owned by government, much weight is attached to hereditary claims. The eldest fit son of the late labmardar should ordinarily be appointed, and, when there is no son, the nearest collateral relation, according to the rule of primogeniture. Where there are no near collates, the necessity of regarding hereditary claims disappears. (land revenue rule 17 ii a). the nearest heir may of course be set aside for any reason which would justify his removal from office if he were a headman (land revenue rule 17 ii c) whether the claims of sons should be considered where a headman had been dismissed depends on circumstances. If the ground of dismissal has been insolvency, the son will be subject to the same disqualification; if he is innocent of any share in his father's misdeeds, he will generally be under his influence. If the other reasons for excluding him seem insufficient, the mere fact that he owns no land during his father's lifetime does not bar his appointment. The property which he will inherit on his father's death may be taken into account as if it was already his own (land revenue rule 17 ii b)

293. Votes must not be taken. Even where hereditary claims have to be set aside, the votes of the landowners must not be taken as a means of deciding between rival candidates. (land revenue rule 17 iv)

294. Appointment of females. Females are ordinarily ineligible. But a woman who is sole owner of an estate may be appointed and special reasons may occasionally exist in other cases for departing from the general rule. (land revenue rule 17 ii d)

295. Appointment when hereditary claims are set aside. Where hereditary

claims do not exist, or have to be set aside, the considerations governing appointments are those mentioned in paragraph 312 (land revenue rule 17 iii)

296. Claims of transferees. Where a headman is removed because his own holding of the whole estate or sub-division of the estate for whose revenue he is responsible has no account of arrears been transferred to a solvent co-sharer, put under direct management, or leased that a farmer, the transferee, manager or farmer may, if the deputy commissioner thinks fit be appointed lambardar (land revenue rule 19 1) where a headman loses office because he has mortgaged his holding, the mortgagee has usually no claim whatever to succeed him. But he may at the deputy commissioner's discretion, be allowed to do so where the revenue of the transferred holding so more than half of the whole revenue for the payment of which the late headman was, as such, responsible (land revenue rule 19 ii) the appointment referred to in this paragraph are not in their nature permanent. When the temporary alienation's from which they spring come to an end, the transferee, manager, farmer or mortgagee must lay down his office. A fresh selection is then made by the deputy commissioner, having regard to the regards stated in paragraph 312.

297. Reduction in headmen when number is excessive difficult. Reference has already been made to the inconvenience by the needless multiplication of headmen's posts at the first regular settlements. Substantial men as heads of villages are among the most necessary instructions of a vigorous revenue and criminal administration. The framing of a general scheme of reduction requires a large amount of local knowledge, and a patient enquiry into the history of past appointments in every estate affected. The files relating to the arrangements made at the first regular settlement and those dealing with

subsequent appointment must be scrutinized, and the enquirer must obtain a clear idea of the constitution of each estate and must trace the origin of its subdivision by examining the village administration paper(wajib-ul-arz)(see paragraph 295-96 of the settlement manual) and genealogical tree (shajra-nasab)(see appendix viii to the settlement manual). The time for making such an enquiry is hard to find in the throng or daily duties which he requires can be collected and put into shape for him by his officers, but, even so, the task is a heavy one.

298. General schemes of reduction -(1) when a district is brought under re-settlement and the settlement officer finds that a reduction in the existing number of headman is required in the interests of good administration in a considerable number of village throughout the district or in any particular tahsils, he should in consultation with the deputy commissioner; prepare a scheme for effecting the necessary reductions gradually as vacancies occur.

(1) the main positive ground for reduction of a lambardari in an estate is that the existing number of lamberdar is excessive for the purposes of administrative efficiency, while the existence and degree of this excess will generally appear from the fact that the panchora of the post which it is proposed to reduce is insignificant as a remuneration for the duties to be discharged. It is difficult to lay down a standard figure for the whole province as much must depend on local conditions, but any individual pachotra less than Rs. 20 per annum may as a rule, and in the absence of special circumstances, such as the insignificant. The commissioner should prescribe a suitable general standard for each district in his division and in some cases it may be advisable to fix such standards for particular tahsils. It is not, however, by any means intended that every lambardari of which the pachotra is below the prescribed amount should necessarily be proposed

for reduction apart from the other modifying considerations, of which some are noticed below .on the other hand, where the pachotra the amount received in respect of canal occupier's rates(paragraph 308) should be neglected.

(2) In determining what appointment should be retained and what abolished special attention should be paid to the composition of the village proprietary body, to the circumstances under which existing appointment became vested in certain families and to the present position and influence of these families. No proposal for reduction can be fully satisfactory unless it takes sufficient account of the origin and history of the lambardari which is proposed for reduction. For instance, it is generally desirable to reduce the lambardari held by the junior branch of a family, rather than that held by the senior, and, in order that secure this, it may be advisable to forego an otherwise suitable occasion for reduction and defer the latter step until the occurrence of a more appropriate vacancy.

(3) In estates homogeneous as regards casts and tribes, reductions may properly be made more freely than in those where there is considerable diversity in these respects.

(4) Reduction is not generally advisable where its effect will be to place any considerable number of proprietors of one religion, tribe or caste under a lambardar of another patti or sub-division of a different religion etc.

(5) As a rule, it is better if the conditions permit to reduce the post of second lambardar of one tariff, patti, or other sub-division of an estate, rather than that of the sole lambardar of another taraf, etc.

(6) The proposals of the settlement officer and the deputy

commissioner should be embodied in a register in the form prescribed in paragraph 5 of standing order no. 20 village headmen. They should not be announced to the villages, nor will they be submitted to higher authority for sanction. But, if there is any difference of opinion between the settlement officer and the deputy commissioner, the register, together with any connected papers relating to any lambardari about which there is such disagreement shall be forwarded to the commissioner, who will decide whether such lambardari shall or shall not be retained in the register. The register will then be made over to the deputy commissioner, with whom it will remain.

(7) Whenever a vacancy occurs in a lambardari which has been recommended for reduction in the register prepared at settlement, the deputy commissioner will, subject to what is said in the next sentence, send up the case to the commissioner, with an extract from the register and other papers required by standing order no. 20 in the case of causal proposals, whether he agrees with the recommendation made in the register or not, but he should not, save in very exceptional cases, send up cases in which the settlement officer's proposal would result in either the total number of lambardars in the village being reduced to one or in the passing over of an heir in the direct line, especially a minor. In the above contingencies the financial commissioner will not generally sanction a reduction. In other cases if the deputy commissioner thinks that effect should not be given to a reduction proposal in the scheme, in the special circumstances of the vacancy which considers that the occasion is not appropriate for reduction, the case may be disposed of by his order, but in the cases in which he considers that reduction should be made a reference should be made to the financial commissioner and the procedure prescribed in paragraph 332(3),(4) and (6) below will be applicable to them.

(8) A similar scheme may, at any time, for sufficient reason, be prepared by the deputy commissioner of a district not under settlement with the financial commissioner's previous approval.

(9) To ensure that the recommendations made in a scheme prepared by a settlement officer or deputy commissioner are not over-looked, deputy commissioners of districts in which a register has been prepared should require amlad in charge of lambardari cases to note on all files of appointment to a vacant lambardari whether the vacant post has been recommended for reduction or not.

299. Canalled.

300. Causal proposal for reduction.

(1) Causal proposals for the reduction in the number of headman in an estate should be made by transmission of the files in original through the vernacular office, together with an English abstract in the tabular form given in paragraph 6 of financial commissioner's standing order no.20 and a skeleton abstract of the shajra-nasib, showing the origin of each of the pattis or tarafs of the village, the revenue paid and the number of revenue payers in each, and the relationship of the sun division of the village, the lambardaro of which it is proposed to reduce, to the sub-division in which it is proposed to be absorbed as regards lambardari arrangements.

(2) the mere absence of a properly qualified hereditary successor to a vacant lambardari, through it may help to render the vacancy a suitable occasion for a reduction desirable on other grounds, is not alone and of itself an adequate ground

for reduction. Much should reduction be proposed solely as a penalty for delinquencies measures are available. The principles laid down in paragraph 330 should also be followed in making causal proposals for reduction.

(3) when a collector decides to propose a causal reduction, he shall intimate that fact to all the parties interested, viz; these whose names are entered in columns 5 and 6 of the form, and shall give them sufficient opportunity to bring to his notice any objection of them may think fit to urge against the proposed reduction. He shall cause his proceedings in this connection to be recorded in the vernacular files in detail, and shall also cause a detailed record to be made of such objections as are made to him. Where the collector is not himself the deputy commissioner of the district, he shall forward the file to the deputy commissioner, who shall return it with his opinion.

(1) The collector, after completing his proceedings, shall, in a case of which he considers reduction desirable, forward the papers prescribed above to the commissioners for orders.

(2) If the commissioner is of opinion that a reduction is not appropriate, he shall record his order on the papers and return them to the collector.

(3) In other cases the commissioner shall ordinarily retain the papers on his file till the expiry of two months from the date of the collector's proposals; and, if any person has objected to the proposals, he shall give the objector or objectors an opportunity of being heard, and shall record the objections urged by them. He shall then complete the papers by recording an opinion in which he shall deal with the objections made to the proposal, and shall forward the papers to the financial commissioner for orders.

301. Chief headmen. A device which was formerly adopted in order to lessen the inconvenience caused by the excessive number of lambardars appointed at the first regular settlement was the institution of the office of chief

headmen(ala lambardar) in estates with several headmen. It is generally admitted that the office of chief headmen has served no useful end, and, later a large number of ala lamberdari posts were reduced. In 1909 the gradual abolition of the ala lambardari system in the districts in which it still obtains was ordered. In future, vacancies will not be filled, and the ala lambardari of any man who is dismissed or is granted a zaildari or other inam will be resumed. All existing ala lambardari will enjoy their present emoluments for life unless they become resembles as above. In addition to this ordinary pachotra on the revenue of the sub-division which he represents as headmen. The ala lambardar receives one percent, on the revenue of the whole estate (land revenue rule 24) orders to be carried out by a headmen may, if thought desirable, be addressed to the chief headman, and the latter is responsible that any orders issued are properly executed, and should carry them out himself if the headman responsible fails to do so.

302.Zaildars. As already remarked. Zaildars represent the chaudhris of former times. The existence and value of chaudhris was recognized at the time of the annexation of the Punjab. But the measures taken to maintain the influence of men of this class were not sufficiently definite and practical, and the position of chaudhri fell into decay. The credit of revising it and of belongs mainly to Mr. Prinsep. Almost everywhere in the Punjab, and even shoulders above the ordinary headmen, and whose influence extends not to one, but to a number of villages. If the proper men are found, and the higher officials of the district know them well and use them wisely, the work of administration is greatly assisted. In his zaildars the deputy commissioner has a ready means of getting into touch with his people, of understanding revenue and administrative work in which he can utilize the services of the zaildars, and, above all, he has in them a powerful engine for the prevention and

detection of crime.

303. Formation of Zails. In the closing paragraphs of the settlement manual the measures connected with the first introduction of the zaildari agency into a district and the principles to be followed in grouping estates into zails are described.

304. Duties of zaildars. The duties of zaildars are set forth under seven heads on the sanads (see financial commissioner's standing order no. 21, paragraph 15, and land revenue rule 9) which they receive on appointment. Their functions with regard to crime are within their larger spheres similar to those of headmen within their villages. They are of very great importance, but this is not the place to describe them. Like lambardars, they are bound to aid in all sorts of revenue work, and to report when government buildings, roads or boundary marks are out of repair. When called to do so they notify throughout their zails all govt. orders, and use their personal influence to secure prompt compliance with them. While abstaining from personal interference with the work of lambardars and patwaris, it is their duty to see that they perform it properly, and to inform the authorities of any failure to do so. Forbidden to intermeddle of their own motion with cases pending in the law courts, they can sometimes be employed with advantage as conciliators, or in making preliminary enquiries into criminal complaints, which appeared to be probably the exaggerated reflections of petty village or family quarrels. It is incumbent on zaildars "to see that the headmen of the zail perform their duties properly (see land revenue rule 9 ii) including of course the duty of paying in land revenue promptly. But a discreet use should be made of the rule, and zaildars ought not to be employed as if they were peons. More

especially they should neither be ordered themselves to collect any sums due to govt. nor permitted to take land revenue collected by lambardars to the tahsil.

305. Duty of attendance on officers visiting their zails. They must attend on govt. officers who pass through their zails, this is a duty which is usually cheerfully performed, and which should always be enforced. A deputy commissioner 's should try to see all his zaildars at least once a year in or near their zails, and should encourage them to visit him from time to time at headquarters. If they find that the district officer talks freely to them on matters of local interest, and encourages a frank expression of their views, they are sure to value these opportunities of meeting him.

306. Percentage of land revenue allotted for remuneration of zaildars and inamdars. For the remuneration of zaildars a sum is set aside out of the land revenue amounting usually to 1 per cent. If inamdars, as well as zaildars, are appointed an additional $\frac{1}{4}$ per cent is allowed. This deduction is made from assigned, as well as from khalsa, revenue. In the case of assigned revenue, the higher contribution that can legally be taken is $1\frac{1}{2}$ per cent. But the usual rate is $1\frac{1}{4}$ per cent as noted above, and more than $\frac{1}{4}$ per cent should not be devoted to the remuneration of inamdars. (section 28 (2) of act xvii of 1887. Land revenue rules 3 and 11 financial commissioner's standing order no. 21)

307. Methods of remuneration. There are two ways of treating the sum devoted to the payment of zaildars. Each zaildars may receive 1 per cent of the land revenue of his own circle in the form of an inam paid out of the jama of some particular estate, generally that in which he himself is headman. Thus, if

the zaildar is assessed at Rs. 24900 the inam will be Rs. 249, and the zaildar will keep back that sum when the revenue of his village is paid to govt. a better plan is to have inams arranged in different grades, the total being equal to 1 per cent, of the land revenue of the tahsil or district. (land revenue rule 12)

308. Advantages of grade system. The grade system gives the officer who fixes the limits of zails a much free hand. It secures a fairer distribution when zaildars are first appointed for it by no means follows that the zails which yields the biggest revenue is either the largest in area or the most troublesome to manage. Above all it enables the deputy commissioner to recognize good work by promoting deserving men on the occurrence of vacancies and now and then to punish slackness by reducing a zaildar appointed to fill a vacancy should always be put in the lowest grade. Even where the plan of graded inams is in force, the zaildar gets his pay in the shape of an inam out of the revenue of some village. The reason is that to indian minds this seems a more honorable form of payment than the receipt of money from the tahsil treasury.

309. Inam first charge on revenue of village from which payable. The zaildar's inam is a first charge in the revenue of the estate from which it is paid. Partial sustentions or remissions therefore do not affect the zaildar so long as the balance is large enough to cover his inam. If it is not, the deficiency should be made up to the zaildar from the revenue of some other village. (Punjab govt. no. 222 dated 11th November 1903-revenue proceeding no. 6 of November 1903)

310. Zaildar must as a rule be headman. In choosing a zaildar, the field of

selection is usually confined to the headmen. Occasionally, the most able and influential man in a zail may be a landowner or government tenant, perhaps a jagirdar or pensioned Indian officer, who is not lambardar. On a vacancy occurring, such a man may be appointed if the commissioner of the division has previously accepted him as a suitable candidate (land revenue rule 4) care must be taken in putting forward names that a pushing newcomer is not taken at his own valuation, and allowed to thrust aside deserving men of the old chaudhri class.

311. Qualification of candidates. It is true that it is a settled rule that “ in the appointment of zaildar regard shall not be had to any alleged hereditary claim” but, as two of the chief matters to be considered are “ the candidate’s personal influence and the degree in which he is by race or otherwise fitted to represent the majority of the agriculturists who reside in the zail” and the “ services rendered to the state by himself or by his family,” it is obvious that questions of descent cannot be wholly excluded, influence is very commonly hereditary in certain families, and a man who has done nothing to forfeit the respect in which his ancestors have been held in the countryside may assuredly be allowed to urge in his own behalf the services they have rendered in the past as chaudhris and zaildars. The other points for consideration are-

- (a) personal character and ability.
- (b) Extent of property in the zail, and freedom from debt. (land revenue rule 5)

312. Appointment of minor. It sometimes happens that the only suitable candidate is a minor. It may be found, especially in the hills, that to take the zaildar from any family but one involves a breaking up of old ties and a

weakening of the means government has of influencing the people. In such a case, if the representative of the family is a minor, one of two course may be followed. The minor may be made zaildar, and a substitute may be appointed to discharge during his nonage the duties of the office, or, if it is through expedient, the post may be left unfilled for a time.(land revenue rule 7)

313.Votes of headmen may be taken. To assist him in deciding between rival candidates, the deputy commissioner may, if he thinks fit, have the votes of the headmen taken in his own presence at some place within the zail (financial commissioner's standing order no. 21,paragraph 3.) this course, though not suited for general application, may be usually and appropriately adopted where there are two or more candidates of nearly equal merit. It may also be followed in other cases of a special nature the circumstances of which appear to demand it. Such cases will probably increase in number with the lapse of time. Care, however should be taken that the special procedure for taking votes is not so used as to encourage the idea that the post of zaildar is one dependent merely on popular fervor, and did not rather a distinction received from the representative of government, and in this connection it should be noted that the deputy commissioner is not bound to appoint the candidate who secures most votes.

314.Inamadars. In many districts it has been thought expedient to supplement the zaildari agency by setting up a class of inamdars or safedposhes. The services required of an inamdar are within his own sphere of the same type as those rendered by a zaildar, but he receives a much smaller inam. And has no defined group of estates put under his charge. He should clearly understand that he is bound to assist in every possible way the

zaildar in whose zail he resides. Occasionally services of a special kind are required by the condition on which the inam was originally granted. the orders regarding appointment loss of office and succession are the same for inamdars and zaildars subject in the case of the former to any special conditions imposed by government when the inam was first granted. in jhelum district and in the talagang tahsil of attack district which tahsil was formerly a part of old jhelum district, special rules exist which will be found in the land revenue rules. Some of the inams are of a semi-hereditary nature. Such inamdars, who sometimes are called ilaqadars or halkdars perform all the duties of zaildars”.

315. Punishment and dismissal of zaildars and inamdars and appointment of substitutes. The order regulating the punishment and dismissal of zaildars and inamdars, and the appointment of substitutes to perform their duties, are practically identical with the corresponding orders in the case of headmen. A zaildar must be deprived of office when-

- (a) he ceases to be a landowner in the zail, or has mortgaged his holding and deliver possession to the mortgagee;
- (b) His holding has been transferred, or its assessment annulled, on account of failure to pay land revenue;
- (c) He is sentenced to imprisonment for one year or upwards.³

316. Zail books. Wherever the zaildari agency exists, zail books `wherever the zaildari agency exists, zail books should be maintained. One volume should ordinarily be kept for each tahsil, and should contain in a pocket a map of the tahsil showing the zails concerned. The book should be of

foolscap size, and a map of each zail should be bound into the object in the proper place, together with statistical tables showing the information prescribed in the Financial Commissioner's Standing Order No. 21.

Whenever a new zaildar is appointed, an abstract of the order passed by the candidates, and the reasons why the collector has selected or reelected them.

The results of appeals should similarly be shown.

Zail books should be treated as strictly confidential and kept in the personal custody of the collector. Copies of entries in the book should on account be given only to the persons concerned or to anyone else. It will thus be possible for the collector to record remarks in these books, expressing frankly his own opinion about the zaildar and various matters connected with the zail. These remarks will be of the greatest use to his successors. Ordinarily, the collector should arrange to record a note once a year about each zaildar and inamdar so that the record may be kept up to date.

Are confidential official records although they are allowed to remain in the custody of zaildars in order that all authorized officers may be able to record notes in them. They are the property of the persons to whom they are given, and should be surrendered when those persons cease to hold the appointment for which the books have been granted to them. The book should contain a map of the zail and the statistical information required by financial commissioner's Standing Order No. 21. Where an inamdar has been made specially responsible for a portion of the zail, this should be noted in his book. An abstract of the order of appointment of the zaildar or inamdar should be copied in to the book. The collector should insist on seeing all such books at least once a year, and should make a point of recording an entry at least once a year in each book and should make a point of recording an entry at least once a year in each book and of

seeing that the Superintendent of police has had a similar opportunity of recording his remarks. No entry should be made in the book by an officer below the rank of an Excise officers, Deputy superintendents of police, assistant registrars of Co-operative societies and Deputy Directors of Agriculture, and, in horse-breeding circles, district remount officers should be encouraged to make entries in these books. Divisional and District inspectors of schools may also write their remarks when a zaildar presents his book for the purpose. They are not, however, empowered to call for these books or to insist on the attendance of zaildars. A zaildar should do all that he can to co-operate with Educational inspectors in the development of schools. Divisional inspectors of panchayata may also record remarks in these books'.

Since the book is not the property of the zaildar or inamdar it should be clearly explained to him that he should not paste into it any sanads or certificates. He should be warned not to have copies made of remarks recorded in the book without the express permission of the Deputy Commissioner. He should also be strictly forbidden from showing the book to any person other than an officer authorized to record his opinion in it.

BOOK III

Agricultural statistics and record of rights in land\

CHAPTER IX

HARVEST INSPECTIONS

317. Harvest inspections. It is one of the chief duties of a patwari to inspect the crops of each harvest field by field before they are cut. This inspection is known as the girdawari. It usually begins on 1st October for the kharif, and on 1st March, for the rabi, harvest, but the commissioner of the division can change these dates after consulting with the director of land records when the special circumstances of any district make others more suitable. When for any reason the ripening of the crop is later than usual the deputy commissioner may postpone the inspection for a period not exceeding fifteen days. A few crops, chiefly melons and tobacco, are sown very late in the rabi season and are gathered some time.

After the other crops of that harvest are got in, in villages where these extra Rabi crops are grown a separate inspection of them is made about the middle of April. In some districts a crop inspection intermediate between the kharif and the Arabi Girdawati has been found necessary.

318. Object of harvest inspections - The object of harvest inspections is to collect accurate information regarding-

- (a) crops,
- (b) changes in rights, rents and possession of land,
- (c) amendments required in the village map.

The first is indispensable for the assessment and collection of land revenue in a province where half the land is cultivated by the owners and the greater part of the remaining half by tenants paying rent kind; the second and third are aids to the maintenance of a true record of rights in the soil. Only such changes need be noted in the harvest inspection register as must under the rules be embodied in the record of rights. Others should be entered in the patwari's diary.

319. Cancelled

320. Record of ailed crops essential. It is essential to distinguish between crops which ripen and those which fail. The latter are classed as “kharaba” the instruction regarding which as follows:-

“when crop is sown and dries up, or is destroyed by calamity, it should be returned as kharaba. Very careful attention must be given to partially failed crops, that is, crops in which the yield appears to be much below average. When the actual yield as a whole of the crop grown in one khasra number no. is estimated by careful inspection to be not more than 75 percent of the usual or average yield, then a deduction from the whole area of the crop should be made ; for example, an inferior field of wheat, area 4 kanals, may be returned as, but this should only be done when the actual yield of the whole crop is estimated to be not more than 75 per cent of the average, and the kharaba allowed should be only as much as is necessary to raise the whole crop of the area returned as under crop to the average of an ordinary harvest. The average yield is that adopted by the settlement officer at the previous settlement for the assessment circle in which the village is included, unless some other yield has been specially prescribed in the dastur-ul-amal or elsewhere. The crops for which average yields are not fixed at settlement are generally unimportant. The revenue officials concerned should judge for themselves what yield should be regarded as separately in different portions of one khasra number the above procedure should be applied separately to each of such distinct crops. Deduction for kharaba made under this instruction should, unless some other special local scale has been prescribed by proper authority, be entered as far as is reasonable practicable in accordance with the following scale taking 16 annas as the average yield of a

crop:-

yield more than 12 annas	no deduction
yield more than 8 annas but not more than 12 annas.	deduct $\frac{1}{4}$ of the sown area.
Yield more than 4 annas but Not more than 8 annas	deduct $\frac{1}{2}$ of the sown area.
Yield not more than 4 annas	deduct whole sown area.

Jowar which fails in the year should be entered not as “jowar kharaba” but as ‘chari pukhata’ the same details should be given for failed crops as for matured crops.

321.Khababa in canal colonies. In the lands irrigated by the upper and lower chenab. Upper and lower jhelum and lower bari doab canals, and in lands under fluctuating assessment in some tracts which have recently been resetted, new rule for the record of kharaba have been introduced. Tables showing the “standard” yield of the crops are prepared. A crop which reaches that standard is called a sixteen-anna crop. Whether the standard is to represent an “average” crop or a “good” crop can hardly be said to have been yet decided. When seed fails altogether to germinate or the crop is worse than a four-anna one, the whole area is returned as kharaba. When it is equal to, or better than a four-anna, but worse than an eight-anna crop half is entered as kharaba; no education is allowed when it is equal to or better than, an eight anna crop.

322. Checking of kharaba. The entry of kharaba is a matter which requires both honesty and sound judgment on the part of the recorder, and this branch of the patwari's work should be carefully tested by all supervising officers. But where the record has been made with care and is generally sound, it is well to refrain from making petty alternations here and there which affect but slightly the main result. More than ordinary care is of course required in tracts under fluctuating assessment, where the amount of the demand at each harvest depends directly on the area of matured crop. There are special rules as to the check to be exercised over the record of kharaba in such cases.

323. The khasra-girdawari. Entries respecting uncultivated soils. The harvest inspection book is known as the khasra girdawari; in this register and in the record of rights uncultivated land is classified as banjar jadid banjar kadim and ghair-mumkin. The exact meaning of each of these terms is explained in the 267th paragraph of the settlement manual. Land which is not under crop. But which has not lain fallow long enough (e.g. for four harvests) to be described as banjar jadid, is called khali (empty)

324. Taradaddi. By a refinement, which serves no very useful purposes, another class is recognised under the name of taradaddi, i.e. under tillage. This term is applied to a field which bears no crop ceonging to be harvest under inspection, but "has been ploughed for the next harvest, or is occupied by trees or plains, which will fruit in the coming harvest." Examples are fields of cotton or cane in the rabi. Cane which is planted about march, and occupies the ground for ten or eleven months, is treated for statistical purposes as a kharif crop. Land is ploughed for cotton, another kharif staple, in the cold weather, and, where irrigation is available, the sowings also often

take place before the rabi crops are cut. Orchards which fruit in spring are shown as taradaddi on the kharif.

325. Classification of crops and cultivated soils. The terms barani, sailab, abi, chani, nahro, by which cultivated fields, and the crops grown on them are distinguished are explained in the 259th paragraph of the settlement manual. Where the moisture on which the crop depends is derived from a double source, two of these terms may have to be combined, e.g. chani-nahro, chahi-sailab. (see paragraph 442 and 451 of the settlement manual.) fields are classified according to their permanent characters and crops according to the actual facts of their cultivation in the harvest under inspection. For example, chahi fields are often put under barani crops, and the converse sometimes happens (see paragraph 260 of the settlement manual)

326. Entries relating of wells. As it is important to have a record of wells at work and out of use a remark showing how the matter stands is entered against each field in which a well is suited. When a new well has been sunk the fact is noted.

327. Entries of owners and tenants. There are columns in the harvest inspection register in which to show the ownership and cultivating occupancy of every field. Changes should be noted with care. It is only through the khasra girdwari that alterations in tenancies-at-well find their way into the record of rights.

359(a). The patwari should intimate to the gram panchayat concerned, within 15 days of finishing the girdawari, the following changes of cultivating tenancy made

by him in khasra girdawari so that the latter should inform the persons concerned about these changes :-

- (1) when there is a change in cultivation from a tenant that the landlord;
- (2) when there is an addition of a tenant to the existing tenant;
- (3) where there are two or more than two tenants and the name of one or more tenants is removed from entry in the khasra gidwari.”

328.Changes In Fields. Where one filed has been divided into two, or the boundry of a field has from any cause undergone change, the patwari should make a rough measurement sufficient for the crop entries, and put a red cross opposite the filed number in the remarks column to remind him that a correction of the village map is required.

329.The crop abstract. When all the entries for a village finished. The toals for each frop must be made out and entered in the crop abstract of the estate before work is started in another village. The uses of this very important statement will be descived in a later chapter(see chapter xvi of this manual paragraph 307 of the settlement manual and paragraph 7 of the financial commissioner’s standing order no. 22) a statement in the same form os the chief of the sateistical returns included in the village revenue register or note-book. As soon as the crop abstract has been checked and signed by the filed kanungo, the patwari copies the entries into the corresponding form in this reglister, and sends the original to the tahsil. Promotitude in filling these returns is a matter of prime necessity, if any question regarding the suspension of any part of the land revenue demand is likely to arise. The kharif statements should, if possible, all reach the tahsil by the 1st november, the rabi statements by the 1st of april, and the extra rabi stements by the 1st of june.

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288. Duty of kanungos as regards crop inspections. Revenue officials of all grades should be made to understand the importance of harvest inspections in land administration. While the dirdwari is going on field kanungos of course spend the whole of their time in checking it. In the girdwari months the tours made by the district kanungo should be devoted to the same work. In ordinary inspections the field kanungo accompanies the district kanungo, but during the girdwari the former has to accomplish so much in a short period that the latter is forbidden to call for his attendance. (see paragraph 60 of financial commissions' standing order no. 19)

289. Duty of tahsildar and naib-tahsildars. The responsibility of tahsildars and naib-tahsildars should be steadily enforced. The standard aim at is the inspection of every estate by one or other of these officers at each harvest before the crops are cut. But at present this is a counsel of perfection. Both officers cannot be in camp at once, and the harvests last for too short a time to admit of the results being observed and the records of them checked in every village. It is far better that the girdwari in one or two estates in each circle should be thoroughly checked than that a nominal inspection of it should be made in every village. The tahsildar and his deputy should so lay out their work that no part of their respective charges remains unvisited. They should have a clear idea of the state of the crops in every assessment circle and in all important villages, and special attention should be given to estates in which suspension of the demand is likely to be required. In bad seasons other work must give way to a thorough examination of the results of each harvest while it is still standing on the ground.

290. Duty of superior revenue officials. The revenue assistant must be on tour

throughout the girdwari months, and must then given most of his time to the checking of harvest inspection work. The deputy commissioner should, if possible, help him by sending at the same time into camp some other member or members of the headquarters staff. In times of drought especially, care must be taken to utilize assistant and extra assistant commissioners to the fullest extent compatible with the carrying out of such judicial and executive work as must be done at headquarters.

291. Duty of deputy commissioner. The deputy commissioner's own part does not consist so much in checking a few entries in harvest inspection registers in the field, which is all he could possibly accomplish, as in laying out the work of his subordinates, and obtaining a good general idea of the results of the harvest in the different parts of his charge by viewing the standing crops and examining the crop returns of the villages.

CHAPTER X

THE RECORD OF RIGHTS

366 CANCELLED.

367 **Nature and contents of record of described in settlement manual.**

It is needless to describe here the nature and contents of a standing record of rights, which is usually drawn up at settlement, and of the subsequent revised editions of it, whose legal description is "annual records" though in the great majority of estates they are prepared only at intervals of four years. The reader is supposed to be familiar with the fourteen chapters of the settlement manual, where these matters are fully discussed.

Commentary

Mutation registers are records the title (49 plr 274: air 1947 lahore 147 : ilr 1947 Lahore 747)

368 **Duty of deputy commissioner to keep record of rights upto date.**

The settlement officer hands over to the deputy commissioner a record of rights for each estate, the chief documents included in which are the village map or shajara kashtwar and the jamabandi, that is to say, a list of owners and tenants holdings, with a detail of the fields contain in each of the rent paid by each tenant and of the trevenue due from owner. It is the business of the deputy commissioner to keep both of these upto date. The provision contained is saction 44 of the revenue act (xvii of 1887) attaching an equal presumption of truth to entries is standing record of rights and in annual records can only be justify by the great care taken in preparing them. The instructions regarding the keeping of the village map up to date in the interval between two settlement will be found in part f of financial commissioner's standing order no. 16.

Commentary

Revenue papers are merely ment for fiscial purposes (1970 PLJ 198: 1970 RLR 589: 1970 cu 341)

369. **Law as to change of entries in record of rights explained in settlement manual** - The law as to the circumstances under which the alteration of an existing standing record of rights or annual record is permissible is discussed in paragraphs 279-282 of the settlement manual, which should be read as part of this chapter.

Commentary

Entries in revenue records show changed sequence twice in long spell of about 92 years (1979 PLJ 102)

370. Revision of record when complete re-measurement is ordered. We are not here concerned with the elaborate procedure for the revision of the jamabandi, which is carried out when a complete re-measurement of an estate is ordered, for such remeasurement, as a rule, only takes place in connection with a general re-assessment of the land revenue. Should, however, the remeasurement of an estate become necessary at another time, the procedure will be that laid down in the seventh appendix to the settlement manual.

371. Forms of jamabandi and of list of revenue assignments. The forms of jamabandi and of the list of revenue assignments and pensions, which is included in the annual record, with instructions for their preparation, will be found in financial commissioner's standing order no. 23

372. Classification of rights to be recorded. The rights of which the acquisition or loss gives rise to an alteration in the record of rights, may be classified as follows:-

A. Rights of persons responsible to government for land revenue. possession

B. rights of persons responsible to land owners for rent.

1. landowners
2. Mortgage with
3. Occupancy tenants.
4. Leaseholders.
5. tenants-at-will.

“leaseholders” in this connection means persons holding land as tenants for periods exceeding one year on written or oral leases.

373. **Reports of acquisition of rights to patwari’s.** the first three classes are legally bound to report to the patwari the right which they have acquired. If they fail to do so within three months from the date of acquisition they render themselves liable to a small fine. (section 39) assignees of land revenue and mortgagees without possession are also bound to report, but their rights are not of a kind in which must be recorded in the body of the jamabandi, through certain notes regarding them are made in the “remarks column” of that document (for the procedure as regards revenue assignments see paragraph 41 of financial commissioner’s standing order no. 23 and the instructions append thereto. For that relating to collateral mortgages, in which the landowner remains responsible for the payment of the land revenue, see paragraph 17 of that standing order) redemptions of mortgage must be reported by the landowners whose lands have been redeemed. For his knowledge of acquisition of title by leaseholders and tenants-at-will the patwari must rely mainly on his own observations and on the result of inquiries as to the cultivating occupancy of land made at the harvest inspections (see paragraph 359 of this manual) among the things which he has to enter in his diary are the deaths of tenants, owner, village officers, pensioners, and revenue assignees, the ejectment, absconding, or setting of cultivators and rightholders, the relinquishment, change, or renewal of any tenure and the execution of any lease or agreement for cultivation. Leaseholders and tenants-at-will are under no obligation to report to the patwari, but like all other persons whose rights are recorded in the jamabandi they are bound on demand to furnish him and any revenue officer engaged in revising it with accurate information (

section 40) to aid in recording mutations is one of the duties set forth in the memorandum given to village headmen on appointment, and the lambardar of the patti in which a mutation takes place is expected to attest by his seal or signature the report made on it by the patwari for the orders of the revenue officer.

CAUTION

Read separate para for Punjab and Haryana

374. **Reports of registered deeds.** Registers and sub-registers send monthly to tahsildars particulars of all registered deeds which purport to transfer agricultural land. The entries relating to each deed are made on a separate slip. The office kanungo forwards these slips to the field kanungo of the circle, who distributes them to the patwaris concerned (see paragraph 6 of financial commissioners standing order no. 23)

374. **Reports of registered deeds.** Registers and sub-registers send on the 15th and last date of each month (substituted by financial commissioner Punjab correction slip no. 1(1982) dated 24.12.1981) to tahsildars particulars of all registered deeds which purport to transfer agricultural land. The entries relating to each deed are made in a separate slip. The office kanungo forwards these slips to the field kanungo of the circle, who distributes them to the patwari concerned (see paragraph 6 of financial commissioners standing order no. 23)

375. **Register of mutations.** The patwari keeps up a register of mutation in which he records all acquisitions of rights of the kinds described in the preceding paragraph, reported to him or which he "has reason to believe to have been taken place" except those relating to land revenue assignments and undisputed mutations of tenants-at-will," as soon as they are acted on" the last words do not occur in the act, but in a rule framed under it (see act xvii of 1887, section 34(3), and financial

commissioner's standing orders no. 23 paragraph 2-13 of this manual). They were seemingly introduced to carry out the principle that the revenue officer who is revising a record of rights is concerned only with rights actually enjoyed by the persons claiming them. (see paragraph 369 of this manual) but a mere entry in the register cannot cause any alteration in the jamabandi without an order by a revenue officer, and for the sake of convenience the patwari entries are transferred by registered deed, of which he has received intimation under the procedure described in the last paragraph. It is the duty of the revenue officer to refuse to sanction the mutation in such a case unless he is satisfied that the transfer has actually been completed (see also paragraph 7 of financial commissioner's standing order no. 23)

376. Copy of mutation register filed with jamabandi. The forms of the mutation register with instructions regarding the making of entries in it will be found in financial commissioner's standing order no. 23, paragraph i. It is kept up in duplicate, one copy being retained by the patwari and the other sent to the tahsil to be attached to the jamabandi as an authority for the new entries with it contains. The patwari's report, the attestation of it by the field kanungo and the order of the revenue officer are written only in the copy of the register to be filed with the jamabandi. It is enough in the patwari's copy to show how the case was disposed of by entering the briefest possible abstract of the order and this abstract should be written by the revenue officer with his own hand.

377. cancelled.

378. Undisputed entries relating to tenants-at-will. Most of the alterations in the jamabandi which are the patwari can make of his own authority are

undisputed mutations of tenants-at-will. These are not entered at all in the register. When the new jamabandi is being compiled they are taken straight from the khasra girdawari. (see paragraph 359 of this manual) disputed changes of tenants-at-will are treated exactly like other mutations.

379. Orders in mutation cases - Orders in mutation cases can be passed by an assistant collector of either grade. In practice nearly the whole of the work is disposed of by tahsildar and naib-tahsildar. In the country of small peasant proprietors the number of mutations be attested annually is very large, and it is found necessary every year to appoint in some districts one or more extra naib-tahsildar selected from the lists of excepted candidates and to invest them with the powers required for the disposal of business under chapter iv of the land revenue act. An appeal of course lies to the collector against order sanctioning or refusing mutation of names, and the minute proportion with the number of such appeals bears to the number of mutations decided is evidence of the general satisfaction with the procedure.

380. Mutation work largely done by officer of no grade standing of experience. It is clear from what has been just said that much of the mutation work is done by officers of small standing and little practical experience. It is also true that the work has often to be carried out very rapidly, if the important object of keeping the jamabandi upto date is to be attained. These are matters for reflection considering that each jamabandi now possesses the same authority as the record of rights drawn up at settlement(see paragraph 368) fortunately the bulk of the work is exceedingly simple; there is no dispute as to facts, and no opening for doubt as to the order that should be passed. But this is by no means true univercally, and cases find their way into the mutation register which require both

care knowledge to decide correctly.

381. Supervision of work by deputy commissioner and revenue assistant -

When a deputy commissioner or a revenue assistant is inspecting a tahsil, the mutation work of the tahsildar, naib-tahsildar, and extra naib-tahsildar, who may have been employed, should all be brought under review. With the jamabandi of an estate lying open before him it is perfectly easy to pick out all the holdinds in which changes have been made, for in sport of them refrence to the mutation regilster are always given. If the inspecting officer looks up each case in the regilster, he can soon satify himself as to the quality of the work of the reporting patwari and of the assistant collector. Having done so, he can turn back to the jamabandi, and see weahter the changes ordered have been corrcctly made. If this process is repeated for several estates in the circles of the tahsildar and naib-tahsildar respectively the deputy commissioner cannot fail to gain a considerable insight into the value of work done by both these officers, and by some of the patwari's and kanungos under their control. In examining mutation seats special attention should be paid to orders passed in the absence of any of the patwari's. no other should be passed effecting the share of any right-holder who has not had an oppourtunty of appearing.

382. Mutation to be attested on the spot. Tahsildar and naib-tahsildars are accepted to deal with revenue work, and especially with cases relating to lambardars, land revenue assignments, partitions, and mutations with in the estate in which the cases have arisen. The extent to which this obligation may be relaxed with the expressed permission of the deputy commissioner has been noted in paragraph 247.

383. **Contents of mutation orders.** Every mutation order should show on the face of it the place where and the date on which it was passed, and that all the parties interested were present or, if any one was absent, the way in which his evidence was obtained, or, if it was not obtained, but opportunity was given to him to be present. No detailed record of the statements of parties and witnesses is required, but the order should note briefly the persons examined and the facts to which they deposed. (land revenue rules 39, 40 and 44ii and tenancy rules 7 and 12 ii)

except in the case of khalabandi mutations (paragraph 15 of appendix xiv of settlement manual) no patwari or kanungo or revenue officer should take the signatures or thumb-marks of parties or witnesses on mutation proceedings.

The facts on which the order is based should be stated succinctly but clearly, and the order must show without any possibility of doubt whether the revenue officer accepts the new entry proposed by the patwari as it stands, or, if it requires amendment, exactly what the entry is which is to be made in the khalabandi. The order must always show whether a share of the village shamilat has been included in the transfer.

Commentary

Interested parties have to be given opportunity of being present and. The mutation should be attested on the spot by tahsildar. Where neither notice given nor party present before order in mutation was passed. The mutation order set aside (*Mili Saint David v. Dulo* 1986 PLJ 53) plea that the mutation was sanctioned

in the presence of general public is not adequate to fix the present of the parties. (Sudama Ram v. Ram Dahn 1992 1 RRR 461).

384. **Attendance of parties.** A person who, after receipt of notice by summons or proclamation to appear before a revenue officer at some place within the estate in which he ordinarily resides of qualities land, fails to present himself becomes liable to a fine not exceeding Rs. 50 (Section 149) this provision can suitably be put in force when the default is wilful and contumacious. But, where a man's attendance would involve an amount of inconvenience which under all the circumstances could reasonably be regarded as excessive, the proper plan is to take his evidence by commission.

Commentary

At the time of attestation of mutation the party was not present nor recorded in the order the presumption is that the party has no knowledge. (Sudaman Ram v. Ram Dham 1992 1 RRR 461)

385. **Arbitration.** Disputed cases may be referred to arbitration without the consent of the parties. But little use is made of this provision of the act. Where it is resorted to care must be taken to make the arbitrators understand that they must give a clear opinion as to the question whether the right claimed is actually enjoyed. If the revenue officer cannot satisfy himself as regards the fact of possession and thinks it inexpedient to refer the point to arbitration, he is required to make a summary inquiry as to title and to direct that the person who appears to have the best right to the property shall be put in possession of it, and that his name shall be entered in the jamabandi. The disappointed claimant must be referred to

the civil courts for the establishment of any right he conceiv himself to have.

386. Importance of prompt disposal of mutation work. Mutation which have not been attested before the end of the agricultural year (15th June), or the date approved by the director of land records are not incorporated in the jamabandi them under preparation. This in most cases means that they will not be brought to record till more than four years after they have taken place. This untoward result can easily be avoided if tahsildars and naib-tahsildars lay out their work properly, and pay special attention to the estate for which jamabandis are about to be drawn up.

386-A. A mutation pending over two years. Provision has been made in paragraph 7.4 of the Punjab Land Records Manual to ensure that special precautions will be taken by tahsildars and naib-tahsildars to decide mutations as soon as possible after the period of two years has elapsed unless mutations are duly attested within a reasonable time, litigation is held up and the cultivators do not settle down with clear minds with the cultivation of their lands. Collections, and if necessary, Commissioner, should bear in mind any remissness on the part of subordinate revenue officers in his direction when reporting on the these officers. Assistant collectors of the 1st grade, in forwarding reports to the collector should bear in mind their own responsibility for the proper supervision of mutation work.

387. Jamabandi. The chief work of the patwari between the completion of the rabi girdwari and the beginning of the kharif harvest inspection is the compiling of the jamabandi. It is drawn up in duplicate and ought to show to whom the land is held as owner or mortgagee at the end of the agricultural year. All payment of rent

and revenue made up to the 15th of bhado, which corresponds roughly to the end of august, should be embodied in it. The copy should be filed in the tahsil by the 7th september or any subsequent date approved by the director of land records due to special circumstances, provide such date does not exceed 6 months from 7th september; the other being retained by the patwari.

388 Jamabandi of most estates prepared quadrennally. The act contemplated the drawing of an annual record of rights for each estate, but at the time it allows the financial commissioner to direct its preparation at or the shorter intervals. For many years after the act was passed an attrition being curtailed to some extent for three consecutive years and given full length in the fourth. This plan of having abbreviated and detailed jamabandis caused useless trouble, and the present rule is to draw up a complete jamabandi for each estate or part of an estate once in four years. It is made showing what record work the patwari's are to do in each year. A patwari has four or more small villages in his circle, it is easy to distribute work over the different years. If the estates are fewer in number, one or more of them may have to be split up into two or more parts for this purpose. Each part should far as possible, consist of one or more complete sub-division (parties or tarafs). In referring to the latest jamabandi of any particular village, the year to which the entries relate must be noted. If this is not the last agricultural year, any changes which have occurred since the jamabandi was completed can be ascertained by turning to the mutation register.

389. Jamabandis to be completed by patwari in his own circle. Patwari must not be collected at the tahsil or anywhere else to write up jamabandis every man must do the work in his circle. If it is not finished in time, and the only way to get it done is to have the patwari under constant observation, he can be brought

into the tahsil for a short time in the month of september. On patwaris coming to the tahsil to file their jamabnadis the office kanungo should detain them there for as short a period as possible. Girowin work. Except invery special circumstances, no patwari sholu be detained at the tahsil for more than eight days.

390. **Attestaion of jamabandio field kanungo in village.** The field kanungos check of the jamabandis while they are under preparation should be constant and systematic. He is responsible that all the mutation orviously, are correctly in corporated. He must attest all the entries holding by holding in the presence of the zamindars concerned. This work can be carried of pari passu with the progress of the patwaris work. At each of his visits the kanungo can collect the landowners and tenants whose holdings have been attested since his last visit and read out the entries in their hearing.

391. **Check at tahsil by field kanungo.** In addition to the attention work carried out in the villages, field kanungos spend september at headquartes of the tahsil and revote their attention during that time to the checking of the jamabadis filed by the patwaris. The check carried out the tahsil is chiefly directed to seeing that mutation have been properly incorpated, and that the statisticl statements filed with the jamabandi or correct.

392. **Check by the tahsildar and naib-tahsildar.** The tahsildar or naib tahsildar incharge of the circle in which the village lies small make his final attention in the sport and shall observe the follwing in insrtruction :-

(1) at least 25 per cent of the khatauni holdings should be read out on the spot and in the presence of the assembled rilght –holders.

- (2) At least 25 per cent of the mutation attached to the jamabandis should be compared with the khewats concerned.
- (3) At least 25 per cent of the khewat holding should be compared with the old jamabandis.
- (4) At least 25 per cent of khewat entries in the original copy should be compared with the corresponding entries in the patwaris of the jamabandi.

The number of the fields, the tatima shajaras of which have been attested, must be specified as also that of the unattested mutations entered before the 16th June or the date approved by the Director of Land Records; of these there should be as few as possible.

393. **Notes at end of jamabandi should show amount of check exercised.** In the notes which they record at the end of the jamabandi the kanungo and the revenue officer must state exactly what they have done in the way of scrutiny and check and they should each include in their note a list of any amendments which they have made. The revenue officer must include in his prescribed final attestation slip and attach one to each of two copies of the jamabandi. The degree in which the jamabandis last prepared are really up to the date is matter to be tested at tehsil inspections.

394. **Statistical returns based on jamabandi.** The statistical returns which are based on the mutations register and jamabandi, and which form appendices to the latter document, will be dealt with in the next chapter.

CHAPTER XI

AGRICULTURAL STATISTICS

395. Cancelled.

396. Cancelled.

397. Cancelled.

398. **Village notebook.** For each of the estates in his circle the patwari keepw up a vernacular register or note-book which conrains the following ten table:-

- 1) area stasement of milan rakba.
- 2) Kharif crop statement or hinxwer.
- 3) Rabi crop statement or hinswar.
- 4) Revenue account or hama wasil baki.
- 5) Statement of transfers of rights kof owners and occupancy tenants 5-A) statement of sales and murtgages of ownership by classes lkof land.
- 6) Ststatement of ownership, mortgages and revenue assignments.
- 7) Statement of clurivating occupancy.
- 8) Statement of rent paid by tenants-at-will.
- 9) Statement of agricultural stoch.

The forms of these statement with detailed instructions for their perparation will lkbe found in Financial commissiioner,s Standing order No. 24.

399. **Remarks in registers.** In the first six entries are made hear by year in the next three every foufrth year when a new jamabandi fothe estate is drawn up. The return of agricultural stock is perpared quinqrennially, and embodies the result of special enumeration made by the patwari in all the villages in his circle every fifth year in the month of February. The originals of all these statements are sent to the tahsil as soon as the figures have been copied by the patwari in the corresponding

forms in his village note-book. The field kanungo is bound to help the patwari in compiling them, and is held personally responsible for their accuracy.

400. **Office kanungis' copy of village notebook.** The tahsil office kanungo keeps up a note-book for each village containing the ten registers mentioned above and an eleventh relating to the assessment of the estate, the figures in which are compiled in case for all at settlement. The other returns only differ from those in the patwari's village note-book in so far as the heading of the registers are printed both in English and in vernacular and the entries are made in English figures. In the 11th of assessment officer, or of both on the estate are recorded, and it is the duty of the tahsildar to supplement these by brief notes in the subsequent history of the village in each year in which its jamabandi is drawn up. And at other times, whenever any event occurs which seriously affects the well-being of the estate. Such a note should always be made when it becomes necessary to suspend the recovery of any part of the land revenue demand, and subsequent recoveries or remissions and the reasons justifying them should also be recorded.

401. **Assessment circle and tahsil notebooks.** The office kanungo also keeps up note-book for each assessment circle and for the whole tahsil containing these ten registers. There are blank pages at the end for entry by the tahsildar and Revenue Assistant of general remarks applicable to the assessment circle note-book. The centers and the dates of report have been separately determined for each district. If any changes in these centres are subsequently found necessary for any cause, reports suggesting alterations will be submitted through the Director of Land Records to the commissioner of the division by the collector. In the case of districts under settlement the Settlement officer will similarly send proposals for changes through the commissioner to the Financial commissioner.

The financial commissioner in districts under settlement and the commissioner in districts not under settlement, will decide whether the changes proposed are necessary.

The prices should be those at which the produce of each harvest was actually disposed of. The field kanungos should fix the rates after careful enquiry from zaminders, sahuks, etc., and his entries should be carefully checked by the tahsildar and Revenue Assistant and approved by the collector. The rates given by the field kanungos for each circle should be compared with each other and large discrepancies enquired into. In the case of rice and cotton the price of "unhusked rice" "and" unginced cotton" Desi and American," separately should be quoted.

402. Importance of regular record of notes on villages by tahsildars.

Tahsildars should be encouraged to record such remarks regularly. The deputy commissioner and commissioner should discuss with him the contents of such notice at their tahsil inspections. This is very practical way of testing his knowledge of his tahsil and, provided the notes are good ones, of adding to ones own.

403. Assessment circle, tahsil and district note books kept up by district kanungo. The district kanungo keeps up for each assessment circle and tahsil, and for the district as a whole registers in the same form as those maintained by office kanungo at tahsils.

404. English village notebooks drawn up at settlement. A copy of the english village note book as drawn up at the last settlement containing the

remarks of the settlement officer on the estate and its assessment is kept at headquarters. It is unnecessary to maintain the registers in this copy upto date. When he wishes to study the agricultural statistics of the estate for the year during which the current settlement has been in force, the deputy commissioner can always send for the tahsil copy of the village tahsil notebook. The original idea was that the deputy commissioner should record his own remarks from time to time in the English notebook kept at headquarters. But a more convenient place for recording them is the abstract village note book introduced in 1896, and it is now the rule for settlement officers also to enter their remarks in the abstract and not in the detailed note book.

405. **Abstract village note book.** The abstract village note-books contain for each estate the village inspection notes recorded by the settlement officer his assessment statements and its small scale map, and also a short statement in which the chief agricultural statistics are annually posted with quinquennial averages. Spare leaves for the entry of remarks are appended to each sheet. The abstract for all the estates of a fairly large assessment circle can be brought together in volume of moderate size. All the figures on the abstract are taken straight from one or other of the first seven registers in the vernacular village note-book. It is an excellent plan to enter on a separate sheet at the district office in the office of the district kanungo, and it is the business of the district kanungo to make the necessary ordinary form to suit local conditions as each district comes settlement.

406. **Use of abstract village notebook.** When the deputy commissioner or any trained assistant commissioner goes on tour he should take with him the volumes

of abstract village note-books belonging to the tract to be visited, and should consultancy refer to them. But it must not be supposed that these abstracts superede the detailed village note-book. When any close inquiry into the circumstances of an estate is required, the officer who makes it should have both the abstract and the note-book before him. If he is in camp he can easily consult the patwari's copy of the latter, and, if he wishes to see the assessment statistics embodied in statement ii, and the remarks of the tahsildar and the revenue assistant, he can call for the office kanungo's copy.

407. **Entry of remarks by deputy commissioner.** It is the duty of the deputy commissioner to enter remarks about any village in which circumstances arise that are wort recording (the twenty-fifth chapter of the settlement manual may usefully be referred to in this connection) the ideal to the aim at is the maintenance if a continuous revenue history of each estate to which the deputy commissioner of the day and the settlement officer of the future can refer with confidence. Clear and concise contemprrary notice by an experienced revenue officer who has inspected an estate and enquired into its circumstances either as part of the ordinary routine of a tour or for any special reason, can not file to be valuable. Such notice may be written by the district officer himself, or by the revenue assistant , if he knows english, or by any assistant whom the deputy commissioner consider to possess sufficient experience.

408. **Duties of commissioner with reference to agricultural statistics.** Revenue administration , as already remarked, depends very largely on the success with which the records to which this chapter relates are kept up and made use of , and there is no subject ot which commissioners out to give more attention during there inspection tours.

CHAPTER XII

RIVERAIN LAW AND REASSESSMENT OF LANDS AFFECTED BY RIVER ACTION.

409. **Meaning of riverain law.** Riverain law is concerned with the effect on rights in land of river action. Which is usually qualified according to its nature by the terms erosion, accretion and avulsion.

Commentry

The definition of riverain action given in the land administration manual is applicable only in the villages subject to diluvion and alluvion.

410. **Diluvion and alluvion.** The two former are applied to the process by which land is sucked into the channel by the inset of a river at one place and fresh land exposed at another by its retirement. The loss and gain thereby caused are respectively as diluvion and alluvion.

411. **Avulsion.** The word avulsion is an unhappy one to describe what takes place in the Punjab when part of an estate is transferred in a recognizable condition from the right to the left bank of the main channel of a river or vice versa. There a large river, after it has penetrated some way from the extreme limits of the wanderings of the stream. The valley is seamed with channels, some how dry all the year round, except in heavy floods, some dry in the cold weather and running in the hot, and some in the case of the largest rivers, containing water throughout the year. the main channel (dhar kalan in the vernacular of revenue officials) gradually gets silted up, and the force of the stream is diverted

in to some other bed, which in its turn become the principal one. This shifting of the stream from one bed to another may leave much of the land between them unaffected. Avulsion means not the movement of land, but that of water.

412. **Regulation XI of 1825.** These various kinds of river action are all provided for in Regulation XI of 1825, which was the law on the subject with which the first administrators of the Punjab had been familiar in the Bengal Regulations, but twenty three years after annexation regulation XI of 1825 was expressly extended to it by the third section of the Punjab Law Act, IV of 1872, and it is still in force. (as amended by section 4 of Punjab Act I of 1899, see paragraph 426.)

413. **Custom primary rule of decision.** The regulation makes custom the rule of decision in all "dispute relative to alluvial land" between private owners, "whenever any clear and definite usage..... May have been immorally established." (section 2 of regulation XI of 1825) as an example of such a usage it cites the deepstream to be for the time being forms the boundary between the estates on opposite banks of a river, and property in land changes with every alternation in its course.

414. **Rules of decision in absence of custom.** In the absence of well-established local usages to rules of decision are laid down.

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(1) land added gradually owing to the recess of a river is to be considered an

increment of the property of the person to whose holding or estate in has become annexed

- (2) when a river
- (a) by a sudden change in its course breaks through or intersects an estate, or
 - (b) by the violence of stream separates a considerable piece of land from one estate and joins it to another, "without destroying the identity and preventing the recognition of the land so removed," the land is to remain the property of the original owner.

This may be called the deep-stream rule modified to meet the case of avulsion.

415. **Islands.** Islands thrown up in large and navigable rivers, the beds of which do not belong to private owners, are to be at the disposal of govt. if the channel between the island and the river bank is unfordable throughout the year. If the channel is fordable, the island is to become an accession to the estate on the nearer of the two banks. In the case of small rivers, the property in whose beds and the right of fishery have been recognized as belonging to the private owners, the island is also to belong to him.

416. **Cases not governed by rules.** In other cases not governed by the rules the courts are to be guided by the best evidence obtainable as to local custom. Or, in default of such evidence by general principle of equity and justice.

417. Probable absence of definite custom in Punjab, the extent to which "clear and definite" and "immemorially established" local usages as to the effect of river action on property in land existed in the Punjab at the time of annexation seems open to doubt in some cases the usage recorded in the first settlements may have had a traditional basis: in others they no doubt represented what the headmen, assisted by the officials considered ought to be enforced for the future.

418. **Deep strem rule pure and simple.** The deep strem rule is expressed by various vernacular terms, has sikandari.kach mach, daryabanna , kishti banna, machhi-sim. It probably existed in its most rigid form in some parts of the province before 1845. Even where no such usage was of great antiquity it would naturally spring up whenever the opposite banks of a river came to be held kby river chiefs each eager to support the claims of his own subjects. It was recirded as the prevailing custom, on the Beas where it forms the dividing line between the Gurdaspur and hoshiarpur districts.

419. **Deep-stream rule modified to meet case of avulsion.** As a rule regulating the ownership of land , it is so harsh in its working that it was universally condemned by british officers. It may be partly on this accoun that in the vast majotrity of a estate else where in the punjab which are recorded as following the deep-stream rule, it is declared ot be subject to the qualification that transfer of land in an identifiable state by avulsion from one bank of a river that another involves no change of ownership.

420. **Rule of fixed boundaries.** In some cases, for example, on the upper Ravi in the gurdaspur and Lahore diltricts and on part of the Jhelum district, the rule of filxed boundaries, known as warper, percails(see pages 1235, 1236,1240 and 1241 of selections from the records of the financial commissioner, new series, no. 15 (LXIX). This volume contains much information on riverain law in the punajb) it is the only ruleworthy of civilized administration, but for its successful working it is necessary that the channel should have been mapped, and that the patwari should be sufficilently skillful ready to relay boundaries to obliuterated by rilver action. In most of the older settlements of dilstricsts separated

by large streams surveys were not carried across their beds, and it is only in recent years that a really competent staff of patwaris has been formed.

421. **Punjab riverain boundaries act, I of 1899.** As long ago as 1867 sir James Lyall proposed the adoption of fixed boundaries everywhere (selections from the records of the financial commissioner, new series no. 15 (LXIX), page 1203.) but the financial commissioner of the day regarded the proposal as impracticable because of the lack of skill in survey work among the subordinate revenue staff (selection from the records of the financial commissioner, new series No. 15 paragraph 16 of memorandum by Sir Robert Egerton on page 1227.) this objection has been ceased to be valid, and the first act passed by the Punjab legislative council (Punjab act I of 1899) was one enabling government. To order the substitution of fixed for various boundaries in estate subject to river section. It added six sections. 101-a to 101-f, to the Punjab Land revenue act, XVII of 1887, and made additions to section 158 of the same act, and to the second and third sections of regulation XI of 1825.

422. **Boundaries how fixed.** The act requires that the "boundaries shall be fixed with due regard to the history of the estate and the interest of the persons respectively owing them or possessing rights therein such manner as may be just and equitable in the circumstances of each case (Punjab government revenue proceedings-general-no.29 of January, 1900.) the instructions issued by the financial commissioner regarding the carrying out of this provision of the act provide (Punjab govt. revenue proceedings-general-no. 29 of January, 1900) that "the collector should in the first place try to get the villages concerned to come to an amenable agreement." Failing that, he "must himself fix a line..... and, in doing so, should have been, taking a long series of years together, if matters had

been allowed to continue under the existing law or custom. Among other things he would have to bear in mind that a bird in the hand is worth two in the bush. If, for example, the river were making a dead set upon its right bank, which it was in a high degree likely would continue for some years, some allowance would have to be made for the fact that the riparian owners on the left bank would, by our taking action under the act, be deprived of land which would be pretty certain to have accrued to them for some years if we had left matters alone. On the other hand, it should be born in mind that in all probability after some years the river would begin to work back again, and whatever was reasonable should be allowed per contra on this account in fixing the line. The object should be to draw the line as far as possible so that neither party should feel that the other had obtained a very clear advantage by our intervention.

423. **Effect of relaying of boundry on private property.** If the line adopted transfer land from one estate to another, the proprietary rights in the land are also transferred. But in the case of land which is ‘ under cultivation, or reasonably fit for the cultivation, or (which) yield any produce of substantial value, “it is the duty of the collector to pass an order suspending the transfer of private rights “unless and until the land..... cease to be reasonably fit for cultivation or to yield any produce of substantial value;” when any part of the land answers the latter description, the transfer be, comes complete.(section 101-b(1) of the Punjab land revenue act, 1887). The effect of action taken under the act is to create a fixed boundry which will at once define the limits of estates and ultimately in the majority of cases those private also.

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416. Immediate transfer of ownership on payment of compensation. The landowner or any of the landowners of an estate in which has been included land whose transfer qua proprietary right has been suspended by order of the collector, may apply to him cancel his order and award compensation for the loss of their rights to the existing landowners it is within the collector's discretion to accept or reject such an application.(section 101-c of the punjab land revenue act, 1887)

417. Exclusion of jurisdiction of civil courts. By an addition to section 158 of the land revenue act questions connected with proceedings for the determination of boundaries under punjab act 1 of 1899 are excluded from the jurisdiction of civil courts(section 158(xviii)(a) of the punjab land revenue act, 1887)

418. Procedure. The boundry in each case is laid down by the collector. in practice, the work has been done by settlement officers or special officers invested with the powers of a collector and working under the orders of the financial commissioner. No boundry line is deemed to have been permantly fixed till it has been approved by the financial commissioner.

419. Amendment of regulation XI of 1825. Additions made to sections 2 and 3 of regulation xi of 1825 make thaat enactment of no effevt afrer a fixed boundary has been laid down.

420. Cancelled.

421. **Jursidiction boundaries.** In theory, there is no necessary connection between the boundaries of private property and those of jurisdiction. In the case of the latter, three kinds of riverain boundaries may be distinguished-

- (a) between districts in the same administration.
- (b) between two administrations.
- (c) between British administrations and Indian States.

422. **Official opinion formerly favoured deep-stream rule pure and simple.** The recognition of the iniquity of the deep stream rule pure and simple as applied to the ownership of land was quite compatible with the emphatic assertion that it ought to be enforced as between district and district, and between the Punjab and Indian States. The reason urged was that the boundary of jurisdiction must be one that could be quickly determined and easily recognized, conditions that were only satisfied by adopting as the line of demarcation the main channel for the time being.

423. **Deep-stream declared to be the jurisdiction boundary along Sutlej in 1869.** A notification published in 1869 declared the deep-stream of the Sutlej to be the boundary between adjoining districts along its whole course. No similar notification has been issued as regards any of the other rivers in the Punjab. The tendency in most places probably was to apply the same rule to the determination of ownership and jurisdiction.

424. **Assimilation of boundaries of ownership and jurisdiction-** The

view that the deep-stream rule pure and simple was the only suitable one for the determination of district boundaries gained force from the difficulties and delays besetting the decision of boundaries disputes between the landowners of riverain estates situated in the different districts. But it overlooked the inconvenience landowners were bound to suffer from having to pay part of their revenue in one district and part in another, and from being at the beck and the call of two sets of judicial, revenue and police officials. The Punjab government, therefore in 1889 accepted a proposal made by Colonel Wace to declare by notification that the boundaries of districts separated by rivers followed the boundaries of ownership in the boundary villages the deepstream being adopted where that was the practice followed for regulating proprietary rights, and the rule of fixed boundaries being observed where the estates on opposite banks defined their rights of ownership thereby. To the notification relating to the different rivers, schedules were annexed giving the names of the boundary estates on their right and left banks. When such a notification has been published, action taken under Punjab Act 1 of 1899 to lay down fixed boundaries for riverain estates also establishes permanent boundaries between the districts in which they are situated.

425. Boundary between Punjab and united provinces. The boundary along the course of the Jumna between the Punjab and the United Provinces is regulated by the deep-stream rule pure and simple in the Panipat and Karnal tahsils of the Karnal district. But the boundary of the Jhansi thamesar tahsil of Karnal, the Jagadhri tahsil of Ambala and the Gurgaon district are fixed.

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426. **Boundary of Punjab and Kashmir.** The boundary on the rivers Ravi and Jhalum between the Punjab and the Kashmir State is a fixed one.

427. **Advantages and defects of deep-stream rule pure and simple.** But elsewhere the reasons which were held to require the adoption of the deep-stream rule pure and simple for the demarcation of district boundaries applied with double force to the boundaries of the province and Indian States. Assuming that the plan of fixed boundaries was impracticable, it was the only rule which made it possible to settle the boundaries in which Indian States are concerned without endless trouble and interminable delays. But, on the other hand, the hardships to which landowners were subjected by a divergence between the rules governing the limits of jurisdiction and private ownership were much increased when the land was transferred, not from one British district to another, but from the Punjab to an Indian State.

428. **Deep-stream rule in extreme form given up.** At first the deep-stream rule in its extreme form prevailed. In accordance with it, eight states were transferred in 1857 from the Ferozepore district to the Kapurthala State. But Lord Canning refused to accept Sir John Lawrence's suggestion that the rule adopted in that particular case should be accepted as a general one. In 1860 the Governor-General in Council, in dealing with a case which concerned Bahawalpur, rejected a proposal to apply the deep-stream rule pure and simple, and declared that "it was incorrect to assume that as between Sovereigns the only safe rule

of practice is that the main river should be the boundary, irrespective of all other considerations. The rule is such only in cases of alluvion and not in those of avulsion..... When a boundary river suddenly quits its bed and cuts for itself a new channel, it is the territory cut off by the change in the river continues to rule it.” This decision was approved by Her Majesty’s Secretary of State, and was declared to govern all cases which had occurred after the date, August 1860, at which it was given.

429. Fixed boundaries adopted in cases of Kapurthala and

Bahawalpur. The boundaries of Indian States cannot be legally affected by Punjab Act 1 of 1899. But since it was passed, a fixed boundary has been laid down by content between British territory and Kapurthala along the course of the Beas and the

Sutlej and a similar line has been demarcated between the Punjab and Bahawalpur along the Sutlej and the Indus. Thus a content source of trouble has been removed.

430. Special revision of assessment in riverain villages. The action of the seven great rivers of the Punjab and of the numerous torrents which issue from the hills renders the assets of the estates on their banks very unstable. It is therefore imperative that some means should exist by which the land revenue demand of such villages can be revised from time to time. It was ultimately found that in some large tracts the changes caused by the rivers were so frequent and so extreme that nothing would serve but the abandonment of a fixed assessment altogether in favour of a fluctuating one which involved the reassessment of the whole demand harvest by harvest. But elsewhere it

has been possible to retain the fixed demand providing for its annual revision as regards those parts only of villages which have been lost system prevailed throughout the province for many years after annexation, and it is still in force in a large part of it.

431. Cancelled.

432. Cancelled.

433. Cancelled.

434. **Existing order.** The following orders have been issued for general guidance in conformity with section 59 of the land revenue act:-

“(1) where land of an estate paying land revenue is injured or improved by the action of water or sand, the land revenue due on the estate under the current assessment shall be reduced or increased in conformity with the instructions issued from time to time in this behalf by the Financial commissioner, and in every such case the distribution of the land revenue over the holding over the holding of the estate shall be revised so as to similarly reduce or increase the sum payable in respect of the holding in which the land that has been injured or improved is situated.

435. **Supersession of general by special local rules.** The defects in the old assessment rules are pointed out in the 455th paragraph of the settlement Manual. These defects have led to their supersession in many districts by special rules drawn up by settlement officers to suit the circumstances of each locality. The main features of these new rules are described in the paragraph of the settlement Manual cited above. In the 26th of the standing orders issued in 1910, general rules under section

59(c) of act xvii of 1887 have been issued as instructions if the financial commissioner to be followed where no special rules have been sanctioned.

436. **Close supervision of alluvial assessments required.** The special local rules not only prescribe rates of assessment, but also explain the procedure to be followed in bringing to record the loss and gain due to river action. But, however perfect the system on paper, its working in practice must always remain a delicate matter, in which the work of the tahsildar and his subordinates must be closely supervised by the superior revenue staff of the district.

437. **General instructions.** The measurements in which these yearly revision of assessment must be based occupy a good deal of time, and must be started in rivetain circles as soon as the patwari has finished the kharif crop inspection, written up the mutations which have come to light in the course of it and prepared the annual bachh papers. Every village in which any change of assessment is required must be inspected by the Deputy commissioner or by one of his assistant or Extra assistant commissioners. Of course the bulk of this work falls to the revenue assistant, but, where it is heavy, part of it should be made over to some other member of the crop inspection, written up the mutations which have come to light in the course of it and prepared the annual bachh papers. Every village in which any change of assessment is required must be inspected by the deputy commissioners or by one of his assistant or Extra assistant commissioners. Of course the bulk of this work falls to the revenue assistant, but where it is heavy part of it should be made

over to some other member of the headquarters staff the final order as to each astate must be passed by an assistant collector of the 1st grede and officers of higher class.

438. **Annual returns.** An abstract statement of the changes due to alluvion and diluvion is sent to the commissioner in the middle of April. A divisional abstract compiled from these district returns is submitted to the financial commissioner. The orders passed on it are the authority for making the necessary changes in the land-revenue roll.

CHAPTER XIII **PARTITIONS**

439. **Cmmon land of village communities.** It is an essential frature of the village community, at leasr in its original form, that the proprietary body should possess part of their loands in common. The village sites, the grazing lands over which the cattle wamdered and sometimes the wells from which the people drew their drinking water were held in joint ownership. Often each sub-division (taraf, patti, or paa) of the astate had also its own common land in addition to its share in the common land or shamilat of the whole community. This veature of communal village proprety was reproduced by our revenue offivers in those parts of the province in which the village system was forcibly engrafted on a tenure of a very different chacter.

440. **Other joint holdings.** But, besides the large joint holdings in which all the landowners in an estate or a sub-division of an estate have

an interest. It constantly happens that many of the other holdings are jointly owned by several shareholders. According to Indian ideas, land in north-western India, at least wherever real village communities exist, belongs rather to the family than to the individual. What may be called family holding were very common when our first records of rights were framed, the tendency of our legal and revenue system has been to substitute individual for communal holding. But holdings of the latter type are still numerous. And holdings owned by individuals are constantly reverting to the condition of joint holdings under the law of inheritance, which gives to each son, or, failing sons, to each male collateral in the same degree of relationship, an equal share in the land of a deceased proprietor. A joint holding is also created whenever a landowner sells or mortgages with possession a share of his holding, instead of particular fields included in it.

441. **Tendency to divide joint holdings.** The increase of population and of the profits derived from agriculture leads in time to large portions of the common waste of the village of patti being broken up by individual shareholders, with the result that in the end a demand arises for its partition. Family quarrels and the restraints and inconveniences which spring from common ownership constantly make those who are interested in other joint holding anxious to divide the land.

442. **Vesh.** The custom of vesh, or the periodical redistribution of village or tribal lands, which is an interesting feature of primitive land owning systems both in the East and West, is now nearly extinct in the Punjab. But the Land Revenue Act provides for its enforcement where the custom

still prevails.

443. **Private partitions.** Private partitions are frequently made, but there is always a risk that some shareholders will become dissatisfied and allege that the division was only one for convenience of cultivation, and was not intended to be of a permanent character. Landowners therefore, especially when the area held in common is large and the shareholders numerous, usually apply to the revenue authorities to make the partition for them. A private partition may also be affirmed after due enquiry by an Assistant Collector of the 1st grade on the application of any of the persons interested in it. Although no formal application has been lodged, the patwari is bound to record voluntary partitions for orders in the mutation register as soon as they have been acted on. In passing orders on such cases, care must be taken not to treat as partitions of proprietary right arrangements which the parties did not intend to be permanent. Shareholders may be content for years to have in their cultivating possession less than their full share of a common holding without intending to give up any part of their right of ownership. If any of them objects to the record of the alleged partition and the attesting officer considers the objection valid, he should refuse mutation of names and refer the party seeking it to proceedings under section 123 of the Land Revenue Act. But if he finds that the objection is vexatious or frivolous, and that a fair private partition has actually been carried out he should record the objection and his proposed order disallowing it, and other Assistant Collector of the 1st grade authorized by the Deputy Commissioner to deal with these cases.

Commentry

No report made to patwari and no proceedings taken under the act for finalisatio of partirtion cannot be recognised.

444. **Complete and incomplete partitions.** Partirions are of two kinds:complete and incomplete. Where a complete partition is made, there is a total severance if rights liabilities. They have always been looked on with much disfavour in the punjab, where they cannot be carriled out without the express consent of the financial commissioner(section 110(1)-cf. Paragraph 1 of finan cial commissioner's book circular no xlviiv ov 1860 and paragraphs 1 and 2 of chapter xiii of rules under act xxxiii of 1871). In complete partitionas do not affect the foint liability of the shareholders for the revenue of the divided holdings and still less do they operate to create new estates. The former fact is not of much practical importance. The officer who makes the partitions is requied to distribute the revenue of the divided land over the new holding which have been created. If in the case of a complete partition a fraudulent or erroneour distrinution takes place, the local Government may, at any time within twelve years after the discovery of the mistake,order a fresh distribution. For this purpose the best estimate passible must be made of the assets of each astate at the time of its formation.

445. **Property which must, and property which may be excluded from partition.** The village site unless in the very rate case of its being assessed to land revenue cannot be partitioned by proceedings under the land revenue act. Even if it is assessed the assistant collector may

refuse partition and this discretionary power may properly be held to extend to the uncultivated land round a village which is used as standing ground for cattle or occupied by enclosures for fodder and manure. Place of worship and burial ground cannot be partitioned unless the parties record and file an agreement assenting to their division. Any embankment water-course, well or tank and the land by the drainage of which a tank is filled and any grazing land may be excluded from partition. In arid tracts where the people depend on tanks for their own drinking water and for the watering of their cattle it may be a matter of importance to keep the waste area which feeds a tank free from cultivation though the land hunger is now so great that many of the owners may clamour to have it divided. If any of the joint owners afterwards encroaches on the reserved land he may be ejected from it on the application of any other co-shares. In deciding whether to use the discretion given by section 112 (2) of the act, one must think not only of the wishes and interests of the land owners, but also of the likelihood of the partition causing inconvenience to other residents of the village, as of example, the menials who have been accustomed to use the common property. When any of it is excluded from partition, the assistant collector may determine the extent and manner to and in which the co-shares and other persons interested therein may make use thereof, and the proportion in which expenditure incurred thereon, and profits derived therefrom, respectively, are to be borne by, and divided among those or any of them. (section 119)

446. Holdings of occupancy tenants. A discretion is also left to revenue officers as regards holdings of occupancy tenants. If tenants who

have a joint right of occupancy in a holding wish to partition, if any objection that the landlord may urge must be carefully considered, and, if it is a reasonable one, partition may be absolutely disallowed (section 112(4)) even when such a tenancy is divided, the former co-shares do not except with the express consent of the landlord, cease to be jointly liable for the rent of the original holding (section 110(2)) again an occupancy tenant may well be unwilling to see his holding split up among three or four landlords, to each of whom he must pay a separate rent. The law therefore provides that such a severance of tenancy may be sufficient reason for disallowing a claim on the part of landowners for partition, so far as it would affect the holding of the tenant, unless the latter gives his assent to the proposal.

447. Who may apply for partition - Any joint owner and any joint tenant who has a right of occupancy in his holding may apply for partition if-

- (a) his share entered in the last jamabandi, or
- (b) his right to a share has been established by decree or court, or
- (c) his title has been admitted in writing by all persons interested in the admission or denial thereof. (section iii see also financial commissioner's standing order no. 27)

the mere fact that a man is a landowner as defined in section 3(2) of the land revenue act does not entitle him to apply unless he fulfills one or other of the above three conditions (the circumstances under which a mortgagee in possession can claim partition of a joint holding are discussed in revenue judgement no. 4 of 1903.)

the mere fact that a man is a landowner as defined in section 3(2) of the land revenue act does not entitle him to apply unless he fulfills one or other of the

above three conditions.

448. Conduct of perrtition cases. Pertition casers are decided by revenue officers of a class not below that of assistant collector of the Ist grade and usually by the Revenue Assistant. No officer who is not homswlf empowered to settle the case should receive an application for partition. A qualified officer to whom an application has been presented can either cinduct the whole enquiry himself, or refer it for report to as Assistant Collector of the 2nd grade that ia as a rule to a tahsildar or naib-tahsidar. The latter course os generally the best to follos. But the officer before whom the case has been instituted isw responsibkle for itsd proper conduct throughout, and should exercise close supervision over the proceedings of the official to whom je jhas referred it for onvestigation. An assistant collector, who in a disputed pertition case is content to pass prders on reports received from the tahsildar wothout ever having the parties before himself, and without, if need be inspecting the land to be divided, certainly fails in his duty

449. Common defects in partition cases. No branch of revenue work used in former days to be worsen dine than pertition cases. Scandalous delays were allowed to occur. No proper care was taken to lay down clearly the mode of partiton or to define accurately the limits of the land assigned to each share holder, or to point these out on the spot to the parties interested. Years after an elabolrate partition has been made on paper it was notin frequently found that the existing facts of possession in no way agreed with the allotmendts shown in the file. Matters have improved of late years but much watch fulness on the part of assistant

and the deputy commissioner is required to prevent undue delays, and to secure that partitions are fairly carried out and given effect to fully and promptly. The points on which it is most essential to insist are that the cases are dealt with by the investigation officer as far as possible in or near the village where the land is situated, (see paragraph 247 of this manual) that the proposed mode of partition is clearly explained by him and that the orders passed by the revenue assistant at district and entered into sufficient detail to enable the actual division to be carried out without any opportunity arising for further dispute. In cases in which many shareholders are concerned, the first hearing should invariably be in or near the village where the land is situated. A visit to the village is equally necessary after the partition papers have been prepared and objections to the partition are to be heard. All the shares in the common land of a large village cannot be expected to attend at the tahsil on the same day, nor can objections against the partition be decided without seeing the plots allotted to each shareholder.

450. How delay may be prevented. The failure to ascertain from the first what is the actual contention of those who oppose the partition is a fruitful cause of delays and wrong decisions. An officer who begins by carefully examining the parties on the spot is not likely to fall into this mistake. That complicated cases should remain pending for a considerable time is of course inevitable. The best way to check any tendency to procrastination is for the deputy commissioner, from time to time, to examine a few of the pending files in each tahsil.

451. Care required to make equitable division. Officers are too ready

to pass orders of a general character, for example, “that division shall be made having regard to the character of the land” if land described by the same name in the jamabandi really differs much in value, a further classification is a necessary preliminary to a first division, and it should be made before the mode of partition is determined. On the other hand, it is not always equitable to give each man his exact share of each brought part of it under irrigation by sinking a well or digging an irrigation channel, or may have raised its value by embanking it. He ought, as far as possible, to be allowed to retain the land, whose present value is due to his enterprise. A suitable arrangement often is to allot to him the land he has improved giving to his co-shares a larger area of unimproved land. In this connection efforts should be made to persuade co-shares to abstain from insisting on an exact application of the rule of equal proportions where this would result in the formation of an excessive number of small scattered plots or fields. It should be pointed out that such a division of a holding has many disadvantages from the point of view of agricultural efficiency. It entails waste of the cultivator’s time and labour and adds to the work of his bullocks by multiplying journeys to and from his land. It causes waste of water, and even waterlogging, by involving the use of unnecessarily long, tortuous or wells, drainage, leveling and other agricultural improvements more difficult, while small fields may often be an obstacle to the employment of improved agricultural implements and machinery. Should the parties nevertheless desire the application of the rule of equal proportions of each class of land, the revenue officer has discretion, under section 118 of the land revenue act, to refuse compliance if he thinks that the circumstances of the case render that rule inappropriate and he may instead authorize duly

specified deviations from it.

452. General discretion to refuse partition. Certain special cases in which a revenue officer has a discretionary power to refuse partition have been referred to above. But, in addition, a general discretion to reject applications is given by section 115 of the act, which provides that “after examining such of the co-shares and other persons as may be present..... the revenue officer may, if he is of opinion that there is good and sufficient cause why partition should be absolutely disallowed, refuse the application recording the grounds of his refusal.” This discretion should not be exercised in an arbitrary way. Ordinarily the ground for refusal should be one of those already mentioned in the 453rd and 454th paragraphs. But the assistant collector is not debarred from rejecting an application on other grounds if a sufficient case is made out by the opponents of partition. If, for example, he finds that many of the new holdings which would be created by the partition of the common land of a village would be so minute as to be useless to the right-holders to whom they would be allotted, he may reasonably refuse to sanction a holding by holding partition, and either reject the application entirely or order a pattiwar partition, each patti being given separate possession of its share in the common land of the estate.

453. Claims by widows. The claims of widows for partition are often strongly opposed by the other co-shares. Among agricultural tribes in the Punjab a widow who has no son inherits, as a rule, a life interest in her deceased husband's land. Her right is indisputable, but it is one that is viewed with great jealousy by ultimate heirs. Where her property consists of a share in a joint holding, they are very loath to allow her

separate possession from a fear, often well founded, that she will manage it badly, and probably in the end attenuate it. at the same time, so long as the holding is undivided, the widow often finds it difficult to obtain her fair share of the produce. If the records of tribal custom prepared at settlement are examined, it will generally, though not invariably, be found that the widow's right to claim partition is admitted, and it is clear that under the provision of the land revenue act she is entitled to apply for it. But, if satisfactory arrangements can be made to secure for her, due enjoyment of her life interest without partition, it should be disallowed.

454. Questions of title. The officer to whom an application has been sent for report sometimes finds himself confronted at the outset by an objection which disputes the title of the applicant to ask for partition. For example, the respondent may deny the correctness of the report of rights, or he may admit its correctness, but assert that the applicant is not in possession of his share, and is therefore not entitled to claim partition at all, or is not entitled to do so till he has had a settlement of account with the respondent. In such cases all that the tahsildar can do is to record clearly what the points in issue are, and return the case to the officer who is empowered to dispose of it. After hearing the parties, has asked for partition proceeding will give him an advantage over the opposite party, has asked for partition in order to evade direct resort to the civil court regarding a question of title which he knows to be disputed. In that case he should file the proceedings, with leave to either party to apply to have them reopened on showing that the point at issue has been decided by a competent civil court. But if it appears that the applicant is acting in a straight-forward manner, the revenue officer should invariably, unless

there is some special reassom to the contrary, deal with the dispute himself. Generally speaking where landowners are concerred, be question at issue will be one over which a civil court jurisdiction. If it is so the procedure of the revenue officer must exactly folow that applicable to the trail of an origianl suit in a civil court, and the decree will for proposes of appeal, be treasted as if it had passed by the subordiante judge if however, the questions is one over which revenue court has jurdisction, the revenue offiver must proceed as a revenue court. The neglect of this provision by revenue officer often causes much trouble.

455. **Appeals.** The law regarding appeal in partition cases is a little complicatede, an dforms a partial exception to the general rule that appeal from an assistant collector of any grade lie to the collector, an order under section 115 of the land revenue act absolutly disallowing a partition is appeable to the collector. but if he does not reject the application abinitilo the assistant collector must proceed ascertain the questions in dispute distinguishing between

- (a) question as to title in the property and
- (b) question as to the property to be divided or the mode of the making the partition.

The procedure in cases in which a question of a title has to bne settle has been explained in the proceeding paragraph. If the assistant collector has acted as a civil court, and appeal will lie to the district judge,if as a revenue court to be collector. but appeal from any order he may pass “as the proprty to be divided or mode of a making a partition” are heard by the collector.

CHAPTER XIV

ACQUISITION OF LAND FOR PUBLIC PURPOSES

456. **Advantages and disadvantages of acquisition by the private agreement** - Land which is required for the public purposes must be taken up through the collector if the provision for compulsory acquisition contained in the act I 1894 are put in force. But engineers or the other officers of government who have obtained permission from the head of their own department, can endeavour to arrange for the purchase of land private agreement, and in such cases deputy commissioner's out to supply them with preliminary estimates of value just as they would do in case in which it was proposed to make use as of the act. But they must not carry on private negotiations for any other department unless of the department acquiring the land has itself failed to acquire land by such negotiations. The advantage of the voluntary agreement is that the addition of fifteen per cent to the market price, which the act allows as a solatium for the compulsory nature of the transaction, is saved. On the other hand under the statutory procedure there is perhaps less risk of an extravagant valuation and compliance with the necessary formalities ensure the vesting of the land "absolutely in the government free of all encumbrance." Where there is a faintest doubt regarding the title of the person in person in possession, or where there is any reason of the fear that the land may be encumbered to an unknown extent, private negotiation is out of the question there is often no danger, at least in localities where the land tenure is of latent defects of title. Where this is the case it may be had to purchase by private agreement if it is likely to result in any appreciable saving to time or money.

457. Plan and preliminary estimate of cost. Whatever be the procedure proposed, the first step to be taken is the preparation of a proper plan of the land by an officer of the department which wishes to acquire it. Ordinarily the landowners will raise an objection to this entering on their land and doing whatever is necessary for that purpose. The act however, did not allow for an opportunity to be given to a person whose land was to be acquired to protest that the purpose for which acquisition was being ordered was not a public purpose. To provide for this an amending act no. XXXVIII of 1928, was passed. The effect of this act is that a preliminary notification under section 4 is now essential in every case and provision for the lodging of objections against any proposed acquisition within a period of thirty days. But if they do a notification stating that the land is likely to be required for public purposes must be issued in the gazette. When this has appeared, and the deputy commissioner has publicised it locally, any officer authorised by government may enter on the land to survey it. If any damage is done to the land or the crops in the process, he must offer compensation to the landowners. If it is not accepted he must refer them to the deputy commissioner, whose decision is final. Having made his plan, he must obtain from the deputy commissioner data for a preliminary estimate of the cost of acquiring the land. All that the district officer expected to give at this stage is the ordinary rate per acre which land of the description fetches in the neighbourhood and a rough valuation of the trees building extra.

458. Procedure in cases of purchase by private agreement - The procedure to be followed after the preliminary estimate has been

sanctioned by competent authority in cases in which purchase by private agreement is preferred to compulsory acquisition is laid down in paragraph 21-27 of financial commissioner standing order no. 28.

459. Preliminary action in case of compulsory acquisition - If the better course appears to be to proceed under the act, a notification is published in the gazette stating that the land is required for a public purpose and directing the deputy commissioner to take order for its acquisition. If the area is very large, a special officer is usually invested with the necessary powers and employed instead of the deputy commissioner.

460. Nature of enquiry made by collector - The enquiry which the collector has to make in these cases relates to three points, each of which must be dealt with in his award. He must determine-

- (a) the true area of the land of each class,
- (b) the amount of compensation due, and
- (c) the appointment of the compensation among the persons interested.

461. Demarcation of land. The first step is to have the land marked out and measured through the tahsildar. The existence of small discrepancies between the areas and the descriptions of land as found by the tahsildar and as stated in the notification is no reason for staying proceedings.

462. Notice to parties interested. A general notice is next given to all persons interested in the land to appear before the collector on a certain

date and to state the nature of their respective interests and the amount of compensation which they claim.

463. **Tahsildar's report.** Before the time fixed for the hearing, the collocror should receive from the tahsildar a khasra or filed register and a statement of holdings. In these statement particulars are given as to the areas, the rent, and the revenue of the land, and the trees, crops, wells, and buildings on it, and the estimated value of the last four items. The tahsildar also furnishes a report giving the chief date from which the market value of the land can be deduced, and his own opinion as to its proper price. The data of course include figures relating to any recent purchases of land by government course include figures relating to any recent purchases of land government or private persons on the same village or neighbourhood. Information regarding the latter can be obtained from the mutation registers and from the books in the office of the sub-register, who is usually either the tahsildar himself ir a non-official working at the headquartes of the tahsil. In using the prices stated in deeds of sale it must not call for reports from patwaris or kanungos as to the value of the land. In forming his own opinion he must take into account the matters which the act required the collector to consider in fixing amount of compensation, and must disregard those which it directs the collector to disregard.

464. **Reperesntation by departmental officer.** It is important that the local officer who represents the department for which the land is being acquired should have ample opportunity to make any represented he thinks fit as to its market value.the instructions in paragraphs 38-39 of

financial commissioner standing order no. 28 provide for this. Any representation he may make personally or by agent or in writing should receive careful consideration. But the collector must avoid all correspondence with him on the subject of the award, he must not inform him of the compensation he proposes to assess until the award has been pronounced.

465. Examinatin of parties. A little trouble taken before the right holders before him will put the collector in a position to deal promptly with their objections, and by questioning them to clear up any points. Which the tahsildar's report has left in doubt. A brief enquiry regarding any claims for compensation which they present will usually be enough to show in what respects if any his own perliminary estaimate of compensation requires to be modified.

466. Preparation for hearing of case. Before the hearing of the case the collector ought to have studied the tahsildar's report and to have estimated the compensation which appears to be suitable. The tahsildar's data as to the prices paid for other land required by government can be checked by referring to th register of lands taken up for public purposes maintained in every district office. If the last settlement of the distirct is at all recent , valuable information as to the market value of land of different kinds is sure to be found in the tahsil assessment report.

467. Award. The next step is to record and announce the award. All posible care must be taken in framiing it,for, as far as government is concerned, it cannot be questioned. The record will as a rule enable the collector to determine at once the first matter for decesion, namely, the

true area of the land of each class to be acquired.

468. **Market value of land.** In deciding the next point, the amount of compensation due, he has in the first place to settle what the market value of the land is and to add to it 15 percent on account of compulsory acquisition. If he finds the amount to be much in excess of the preliminary estimate referred to in paragraph 465, he should refrain from making an award and ask for further instruction.

469. **Consequential damages.** He must consider the persons interested in the land to be taken up have any claim for consequential

- (a) loss of standing crops or trees (section 23(1), second sub-head)
- (b) damage to other land of the right holder by the taking up of the land required (section 23(1), third and fourth sub-heads)

as the owner will be relieved of the obligation to pay land revenue and cesses, the demand of the harvest under these heads should be deducted from any compensation awarded for crops.

470. **Damage to other land of right-holder.** Under the second head difficult questions arise. If, for example, a canal is carried through the heart of a village, the fields on one side or the other are cut off from the homestead. To reach land which in a direct line is only distant a few hundred yards may involve the taking of ploughs and cattle three or four miles around. It is not always feasible to build a second adadi across the canal. The land may all be cultivated, or none of it may be common property. Again, if an embanked road or a canal distributary is carried through the fields attached to a well, and the area which it can command is thereby diminished, the capital sunk in its construction may cease to

yield any return to the landowner. It is difficult for the people who suffer to believe that a slight deviation from a straight line, which would have saved themselves much trouble, could not have been made. No wise man will do anything to foster the idea that the administration works with the unsympathetic rigour of a piece of machinery, for this reason, and to avoid the expenses of consequential damages, government has made consulting engineers and the local revenue officers responsible that in acquiring land for railways the fullest consideration is given to the convenience of the landowners, and has ordered slight alteration in the alignment to be made, where this is feasible, if annoyance to the people can be thereby obviated (govt. of india circular no. iv-railway, dated 4th september, 1897) strict orders exist on the irrigation department forbidding the excavation of canal water course through land belonging to a well "until suitable pipe, culvert, or siphon is completed and the cultivation of the alignment, which would be convenient to the properties, would diminish the usefulness or seriously increase the cost of the work. It is the more desirable to avoid claims for consequential damages where possible because it is a matter of great difficulty to calculate the compensation which is fairly due. (if reasonable claims are made under the head of severance, government may direct the collector to acquire the whole of the objector's land 49(2))

471. Matters to be excluded from consideration in estimating market value. In estimating market value, the condition of the land as it was at the time the notification was issued declaring it to be required for a public purpose must alone be taken into account. The urgency of the need government nothing to do with the question (section 24, first and

second heads) the latter, whether it is great or small must be taken as paid for by the grant of fifteen percent over and above the market value. The fact that the use to which the land is to be put will increase the value of other land belonging to the right-holder is quite immaterial(section 24, sixth head) and so is any damage he may sustain which, if caused by a private person, would not be a ground for a civil action(section 24, third head)

472. Cancelled.

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416. Compensation other than in money. Persons who are being deprived of their land for public purpose would often prefer to take other and in exchange rather than money compensation. The act allows an arrangement of the sort to be made with the sanction of the local govt. but, in the first instance, the compensation must be assessed by the collector in money, and no one can be compelled to take land instead of cash. Another form in which compensation may be given with the approval of the local government is the reduction or remission of the land revenue payable on the remainder of the right-holder's land. An objection to this plan is that it introduces some complications into the revenue accounts and it is not desirable that it should be largely adopted.

417. Appointment of compensation. If the right-holders agree among themselves as to the division of the compensation their agreement must be accepted and embodied in the award (section 29) where the right-holders are of different classes e.g. superior owners, inferior owners, or occupance tenants, the collector will usually have to apportion it himself. To do so is not always easy. The share of an occupance tenant would properly be measured by the proportion between the price at which he sell his tenant right and that at which the landowner could sell the land, if unencumbered by any subordinate title. another way of approaching the question is to try to find out how the profits derived from the land are divided. The land revenue is supposed to be equal to half the rent paid by an ordinary tenant-at-will, but as a matter of fact, it is usually much less. In considering cash rents paid by between them

and their landlords, the most favourable assumptions to adopt, as far as the latter are concerned, are that the assessment is up to the theoretical standard, and that the rents are the highest allowed by law for tenants should receive seven-eighths of the compensation. But, if he belongs to class which may be required to pay a malikana equal to three-fourths of the land revenue, his share of the compensation, as measured by the rent he pays, would be one-fourth. It will probably be found that calculations based on the rent paid by occupancy tenants, at least in cases where the malikana is low, would give the landlord less than village opinion generally would hold to be his due, entries as to the division of compensation between land owners and occupancy tenants are sometimes to be found in village administration papers. Where the allotment there stated is not palpably unjust, it is well to adopt it without further question. But it is clear that, where all the administration papers of the district contain an identical entry without any discrimination between different classes of occupancy tenants it cannot be accepted without further enquiry.

418. References to civil court. Right-holders who object to the award of the collector as regards any of the matters which it determines may require him to refer their objections for decision to the district judge (section 3(d) and Punjab government notification no. 1791, dated 26th February 1883, section 18.) as soon as the award is announced, the collector should proceed to pay the compensation to all who are prepared to accept it, either willingly or under protest (section 31(1)). A right-holder who receives the money without protest cannot afterwards demand a reference to the civil court (section 31(2)) a list must, therefore,

be made of those who refuse to accept it or accept it under protest, immediate notice of the award must also be given to all the right-holders who have not appeared before the collector, so that no delay may occur in making any references to the civil court which their objections may render necessary (section 12(2)). For the period which applications for a reference to the court must be lodged, see provision to section 18(2)).

419. Taking of possession. As soon as the award has been made, the collector should ordinarily take possession of the land, “which shall thereupon vest absolutely in the government free from all encumbrances (section 16) he need his award. But, if the amount of the claims to compensation put in much exceed the sum awarded, possession should not be taken without first referring to the authority sanctioning the work until the period within which application for a reference to the court has elapsed without any application being lodged (government of india letter no. 503-c, w.b. dated 19th september 1898) once possession has been taken, government is bound to complete the acquisition of the land, whatever it may cost to do so. The fact that compensation has been paid does not entitle the department officer to enter upon the land he must receive possession of it from the collector.

420. Immediate possession in urgent cases. The 17th section of the act makes it lawful for the collector in cases of urgency to take over land without the assent of the owners and without waiting for the completion of the legal formalities. But, before doing so, he must tender to the right-holders compensation for standing crops and trees and for any damage suffered by them on account of sudden dispossession. Legal requirement

may also of course be waived by agreement or really a voluntary one, and that the getting of immediate possession is a matter of great importance (detailed instructions on this subject will be found in paragraph 65-7- of financial commissioner's standing order no. 28) for when land is taken up in this way, it is difficult afterwards to assess compensation for standing crops and trees, and it is hardly possible to refuse to complete the acquisition, even though it becomes evident that government runs a risk of having to pay an extravagant sum as compensation.

421. Representation of government before civil court. When he makes a reference to the district judge, the collector must inform the department officer that he has done so, and must supply him with a copy of the right-holder's application stating the grounds of his objection to the award. The proceeding before the civil court are of a judicial character (section 53). Facts must be proved in a legal manner, and all evidence, whether oral or documents in which the award is based, must be produced. Unless the objection merely relates to the appointment of the compensation, its amount not being in dispute, the district judge gives the collector notice of the date of hearing, and the collector must arrange for government being properly represented in court by the government pleader (see in this connection the instruction in the Punjab law department manual). The latter must in any case receive a copy of the notice served on the collector so that he may have an opportunity of being present at the hearing of the case.

422. Appeal. An appeal lies to the high court from decisions in land acquisitions cases passed by a district judge.

423. Reduction of revenue. The reduction of the land revenue assessment consequent on the taking up of land has effect from the harvest succeeding the last one in which the owners have been able to garner their crops.

424. Compensation to assignees. If the revenue is assigned, the capitalized value of the demand may be paid to the jagirdar or mafidar. But the loss of the position of assignee, or even the diminution of the income derived from an assignment, is so unpalatable that, where possible, the necessary range for this being done where only part of the revenue. It is usually feasible to assign, in other cases, where the loss of revenue is very small, the jagirdar or mafidar must be content to accept to one-fifth of the total land revenue enjoyed by the assignee, the deputy commissioner may make a proposal for the grant of a pension or of a new assignment. Such a proposal should not be made as a matter of course, but only in favour of a deserving assignee who feels keenly the loss of his jagir income (punjab government no. 549, dated 4th september, 1890. For the scale of compensation in case of jagir revenue, see paragraph 53 of financial commissioner's standing order no. 28.)

425. Temporary occupation of land. The local government may direct the collector to take up land for any period not exceeding three years. In cases of temporary occupation of this kind, no notification is published in the gazette. The collector calls the right-holder together and endeavours to come to an agreement with them as to rent to be paid. In fixing the amount, it must be remembered that the landowners will remain liable for the land revenue. If the collector cannot come to an

agreement with the right-holders, he must refer the matter in dispute for the decision of the district judge.(section 35)

426. Compensation for damage done during occupation. At the expiry if the term of occupation the collector must offer compensation for any damage done to the land not provided for by the agreement, and the right-holder may require government to buy it out right if it has become permanatly unfit for the purpose for which it was use immediately before it ceased to be in their possession. Any dispute as to the condition of the land must be referred to the district judge.

427. Taking up of land for companies. What has been said above about the acquisition land for the state applies equally to the taking up of land for a company under the provisions of part VII of the act.

428. Disposal of land no longer required. Where land in the permanent occupation of any departments of the punjab government is no longer required, it should be handed over to the deputy commissioner of the district, who becomes responsible for the disposal of it under the orders of the commissioner. “it may not however, be permanently alienated without the previous sanction of government” there is no legal bar to its being put up to auction. But as the matter of grace, government is usually willing to restore agricultural and pastoral land to the persons from whom it acquired it or to their heirs in their refunding the amount paid as compensation less the 15 percent granted for compulsory acquisition. The price may be lowered, if necessary, on account of deterioration, or enhanced in the rare case of land having been improved

by the use to which government has put it. The improvement must be must be one one affecting the quality of the land. The fact that land which was unirrigated at the time of acquisition can, when relinquished, be watered by a canal si not an improvement of this sort. Considering how great the rise in the market value of land has been, the terms stated above are very liberal. It is not necessary to adopt them in their entitrey where the persons concerned are remote descendants or relations of the original holders. And where the circumstances of the case are at all out if the common, when for example, no price, or when the rise on the value of land on the neighbourhood has been exceptionally hlarge, these facts should be pointed out when referring such cases for orders so that government may have suffcient material before it to decide whether to offer any specail terms to the heirs of the persons from whom that land was qcquired.

In the case of rendition of land under kassies and abandoned water channels such as those in multan and shujabad canel divisions which came under the possession of the irrigation department free of cost, the land should be restored to the original owners or their heirs free of charge.

COMMENTRY.

Land acquired project completed. The land no more required, hence ordered to be auctioned but more came forward. The land leased for a long term by the officers and leasee reclaimed it. In the meantime govt. decided to surrender to land to its original owner, held the state is not bound by the decision of its officers to lease and the govt. may recover amount paid as compensation to

original owners from plaintiff.(sadhu singh v. state of punjab 1992(2) RRR 464.

429. Case in which preference should be given to owners of adjoining fields. In the case of plots which from their size or shape are practically of no value to any one but the owners of the adjoining fields, government will be prepared to consider proposals for giving these owners the option of purchasing at the market value. The mere fact that an outsider is prepared to outbid them should not deter the deputy commissioner from recommending to government the acceptance of any fair offer which they may make.

430. Action when the heirs and neighbourhood proprietors do not wish to purchase. If the heirs of the original owners cannot be traced, or if they or the proprietors of adjoining land decline to accept the terms approved by government, a further reference to government will be necessary if it is proposed to alienate the land permanently in some other way.

495-A. Department concerned to be consulted before land is actually sold. The department by which the land is surrendered should be given an opportunity of criticizing the rendition price to be demanded and of commenting upon any bid or tender before it is accepted.

431. Report to commissioner. In negotiations for the disposal of land no longer required, the deputy commissioner, must make it plain that any terms he proposes are only tentative and need the sanction of government. Cases should, of course, be submitted through the

commissioner and each reference should be a detailed one.

496-A. Transfer of land between government departments. For the procedure to be followed in cases of transfer of state lands and building from the central government to a local government of lands in the possession of one department to another, and of lands owned by municipalities, reference should be made to part A of the financial commissioner's standing order No. 28

It will be noticed that in these cases of acquisition the provisions of act I of 1894 are not applicable.

BOOK IV

COLLECTION OF LAND REVENUE AND LOCAL RATE.

CHAPTER XV

COLLECTION OF LAND REVENUE.

432. Taxation the touchstone of good or bad administration. There is nothing on which the happiness of subjects and the stability of government more depends than the way in which revenue is assessed and collected. The old monarchy in France, which at one time had conferred great practical benefits in that country, was gradually undermined by its failure to limit the amount of its taxation, to distribute it fairly over the different classes of the community and to collect it without oppression, and at last fell with a crash which shook the whole of Europe. The measures adopted by the British government in India to secure an equitable assessment of the land revenue have been described

elsewhere. We are here only concerned with the regulations for its collection, a matter of equal importance, and sometimes of even greater difficulty.

433. Deputy commissioner responsible for collection of land revenue and local rate. The income of indian government, whether native or foreign, has always been mainly derived from the share of the produce of the soil which the state claims as its own (see chapter I of the settlement manual) it is one of the chief duties of the head of a district to collect the land revenue and local rate. The second charge is levied as a percentage on the land revenue and for practical purposes, is hardly distinguishable from it. The deputy commissioner is also the collector of the various taxes imposed by the government, but with these this handbook is not concerned. It will be necessary, however, to notice briefly his duties in connection with the realization the rates levied in many districts for the use of canal water.

434. And 500 cancelled.

501. Revenue a first charge on produce of land. The land revenue of holding, or of an estate, being a cash commutation of the right of government to a share of the crops grown upon it, is properly declared to be “ the first charge upon the rents, profits and produce thereof (act XVII of 1887 section 62(1). The section quoted in this chapter are sections of act XVII of 1887)” it is the deputy commissioner’s business to safe guard this right. Withoput his consent no court can attach the “rants, profits or produce” untill the current land revenue and any arrears that may be due have been paid (section 62(2)) orders issued by civil and

excluded by the revenue department. (section 141)

502. **Instalments.** It seemed at one time natural enforce the government line on the produce by making the instalment of land revenue fall due before the crops, from which they were to be liquidated, were cut. This plan in practice led to great abuses. Instalments are now arranged so as to become payable shortly after the garnering of the crops. The number, dates and amount of the instalments are fixed at settlement with the approval of the financial commissioner and are often identical for all the estates in a tahsil. If experience shows clearly that the agreements originally made are unsuitable for any estate or group of estates, the deputy commissioner should not hesitate to ask to have them changed.

503. **Land owners jointly and severally responsible.** The joint and several responsibility of all the land owners in an estate for the payment of the whole land revenue assessed upon it is emphatically asserted in the 61st section of the land revenue act. Each shareholder is there liable not only for the demand due on his own holding, but also for any arrears that may arise on respect of another holding. If he happened to be only solvent land holder in the estate, he could raise on legal objection to an order that he should himself pay the whole balance. In such a case the holdings of the defaulters would of course be transferred to him for a term. When an estate consists of two or more recognised sub-divisions (pattis or tarafs) the joint and several responsibility for an arrear arising in any particular sub-division should in the first instance, be enforced against the shareholders in the sub-division and not against the whole community.

504. **Extent to which joint responsibility should be enforced.** The communal

bond never in fact existed in some parts of the Punjab. Where it is a mere fiction of our revenue system, and estate are only artificial groups of independent holdings the enforcement of common responsibility, through legal would not be just. Everywhere the tendency of our rule has been to promote individualism and the intrusion of strangers into village communities has in many places weakened the feeling of corporate life and duties. A revenue officer in his dealings with estates should do what he can to check this process of disintegration. As far as possible village communities should be left to themselves. As Thomason remarked:-

“So long as the Government revenue is punctually paid it is not important that the collector as a fiscal officer should abstain from all interference..... the great desire and object of the Government is to teach the people self-governmentthey should be instructed and encouraged thus to conduct their affairs and by punctual payment of the government demand to bar all direct interference on the part of the fiscal officers of the Government. Where default occurs prompt action is of course required. If the arrears cannot be recovered from the defaulter themselves the measures adopted for their realization should be so framed as to assert the principle of common responsibility.

505. Headman not to be made scapegoat of community. It is the duty of the village headman to collect the revenue from the landowners and pay it into the taluk treasury. But if he can show that he has done his best and failed his responsibility for an arrear is no greater than that of the members of the brotherhood and he should not be made the scapegoat.

506. **Sharesolders must not be allowed to pay direct.** A shareholder who is on bad terms with his headman sometimes tries to pay in revenue direct either in cash or by money order. Such payments should invariably be refused. The grant of revenue money orders to anyone but a lambardar is against the rules of the postal department.

507. **Village khatauti's.** To aid the tahsildar in keeping an eye on the collections for each estate a separate village account of demand and receipts known as the khatauni is kept up by the tahsil revenue accountant or swail baki navis. One large sheet is allotted to each village, and these sheets are bound together in one or more volumes. At the top a statement of the demand arranged under various heads is entered. As it is important that the tahsildar should be able to see at a glance the whole of what he has to realize from each estate. The demand is shown not only on account of land revenue, fixed and fluctuating but also on account of different items of miscellaneous land revenue such as tiri and talabana, local rates, canal water rates, and so on. In fact everything should be set out down which the estate pays into the tehsil treasure through its headmen. The rest of the sheet is occupied by the collection statement. Under each item of demand is shown each receipt under that head, with the date of payment. At the end of the year each column should be totalled and any unpaid balance should be noted. Such balances should be carefully shown under the proper heads in the khataunis of the succeeding year.

508. **Duties of patwari in connection with land revenue collection.** It is the duty of the patwari after the kharif harvest inspection in order to give the headman a list known as the fard dhal bachh, showing the demand due under different heads (land revenue local rate etc.) from the owner of each holding. This list is

brought up to date and corrected if necessary after the rabi firdawari. A fresh list will always be required when the instalments for the two harvests are not equal of where the demand is a fluctuation one assessed by the application of acreage rates to the harvested area. The patwaris bound to help the headmen by explaining the accounts. And by writing, if required the receipts to be given to the shareholders. But he is forbidden to have anything to do with the actual collection or handling of the money. He should give each headman, for presentation at the fahsil a memorandum (arz irsal) showing under the proper heads the amounts to be paid in.

509. Payment at outlying tehsils - Arrived at the tahsil the headman shows the arz irsal to the revenue accountant (wasil baki navis). Having ascertained by reference to the village khatauni, if necessary the proper distribution of the amount tendered, the revenue accountant enters it under the proper heads in the foil and counterfoil of the receipt register (dakhilabahi). The corrections of any made by the revenue accountant in the arz irsal should be attested by the tahsildar or naib-tahsildar. On receiving the money the tahsildar or tahsil treasurer signs both copies of the dakhil with a note of any deduction for short weight of fa, se coin that may be required. The signature of the tahsildar or naib-tahsildar must next be obtained on the foil and counterfoil. The dakhila is then handed to the diyaha navis, whose business it is to write up the daily cash account (siyaha) of the tahsil. The payments made should be entered under their proper heads by the siyaha navis in the case account of diyaha and by the wasil baki navis in the khatauni. The tahsildar's signature on the salhila is the authority for the entries in the siyaha and they must not be made till it has been obtained. The siyaha navis should sign both the foil and counterfoil of the dakhila after which the counterfoil should be removed from the register and given to the headman.

510. Payment at headquarter's tahsils. The tahsils at headquartes have no seprate treasuries, and therefore no tahsildar and siyaha navis headman bringing money to such a tahsil presents his arz irsal to the wasil baki navis, who prepares receipts in triplicate, singing them himself and obtaining the signature of the tahsildar or naib-tahsildar. The headman is sent to the district office treasury with the money and the three copies of the receipt. The presents them in the first instance to the treasury the three copies. They are next presented by the headman to the district treasurse, who receives the money enters the amount in his cash book and signs in full the three copiesof the dakila after entering in each any deduction for short weight or bad coin which may be necessary. The three copies are then brought back to the treasury accountant, who enters the amount in his cash-book and complets his signature on the three copies. One copy he returns as, receipt to the headman, first obtaining in the case of sums of Rs. 500 and upwards, the signature of the treaury officer, the second he forwards to the tahsildar when the accounts of the day are closed, the third he keeps for record in the treasury. The first, third and last columns of the dakila register should be made about any dakhila not returned by the treasury on the same or the following day. Where the govt. treasury is managed by the imperial bank of india, a similar course is followed, the triplicate dakhila being presentes with the money at the bank, instead at of the district treasury. No daily cash account or siyaha is sent in by headquarters tahsils, but a sent to the district treasury, where it should be carefully examined to see that all items have been duly credited in the treasury accounts. No copy of the goshwara is kept at the tahsil.

511. Payment at revenue by money orders, currency notes and cheques. The headman, when they bring in the revenue, are often expected or compelled to

give small douceurs to members of the tahsil establishment, especially to the revenue accountant. Tahsildar should be made to understand that their own credit is involved in stopping this practice. Deputy commissioner who wish to do so are allowed the option of introduction the system of payment of land revenue into the treasury without pre-audit by the wasil baki navis. According to this system, it is essential in the first place that a correct kistbandi should be supplied to every patwari for each of his villages. With the assistance of the kistbandi the patwari may be expected to give correct arz irsal to each headman paying in an instalment of land revenue. The persons tendering payment will then take the arz irsal with money to be paid direct to the treasurer who will at once receive the money and sign a receipt on the back of the arz irsal. This will then be taken by the headman or person paying the money to thesiyaha vavis and wasilbaki vavis, by whom dakhilas will be prepared in the usual way. The headmen can also protect themselves by sending the money to be remitted through the post or at places where treasury the tahsil by revenue money order or by currency notes business is conducted by the imperial bank of india, by cheque in a local bank but in some cases they are probably afraid to offend the tahsil staff by adopting these expedients. It is best to leave them to choose whichever mode of payment they prefer. It is a pity to discourage them from coming personally to the tahsil. There are some advantages in their doing so and no hardship is involved if they are not subject to needless delays of illegal exactions.

512. Payments to be credited to demand of harvest, not in liquidation of arrears. After the land revenue of any harvest has become due all payments must be credited against the demand on account of that harvest. It is only after that has been fully satisfied that money received can be employed for the reduction of balances outstanding from previous harvests.

513. Direct payment to assignees. It was formerly the rule to allow large assignees of land revenue to take it direct from the headman. This privilege was often abused, and has been withdrawn in many cases. It can only be continued if the arrangements for receiving the money are satisfactory to the deputy commissioner. It should cease where the jagirdar makes it an instrument for illegal exactions or for putting pressure on landowners to transfer their land to himself. But where he acts fairly and the landowners have no valid ground of complaint, it is harsh to deprive the assignee of a privilege which he greatly values. The collection must be made from the headmen, and not direct from the land owners. A jagirdar cannot of course employ any of the coercive processes to be presently described. If the revenue is not paid to him or with the assent of the deputy commissioner he can sue the defaulter in revenue court. Where the revenue is realized by the deputy commissioner for the jagirdar a charge of 2 percent known as haqul tahsil is made to cover the cost of collection. (land revenue rule 57(ii))

514. Failure to pay either justifiable or unjustifiable, action appropriate to each case. Failure to pay the land revenue by due date may be either justifiable or unjustifiable. Where it is justifiable the demand should be either suspended or remitted. The circumstances under which relief should be given in one or other of these ways are described in the next chapter. The rest of the present chapter deals with the action to be taken by the deputy commissioner to recover arrears which have not been, and, in his opinion, ought not to be, suspended or remitted.

515. Delay in enforcing payment harmful to landowners. It should be an invariable rule either to collect the demand punctually or to suspend it regularly. If each instalment is not taken when it falls due, the provision of the

law which makes the land revenue a first charge on the produce of the harvest becomes a dead letter. The money-lender takes from his debtors the grain which should have been sold to pay the state its share, and the landowners in the end have to contract fresh debts when they are at last pressed for payment. Every tahsildar must understand this, but many of them act as if mere delay in enforcing a claim which must ultimately be met were a boon to the defaulter. The means which the deputy commissioner possesses of detecting unpunctuality are described in XVIIIth chapter.

Meaning of defaulter. “defaulter” is defined in the land revenue act (section 3(8)) as meaning “ a person liable for an arrear of land revenue”, and as including “ a person who is responsible as surety for the payment of the arrear”, the definition has a wider scope than might at first sight appear. Reading it with section 61 of the act, it is clear that all the landowners in an estate are defaulters if an arrear accrues in respect of any particular holding. In practice, the milder coercive processes, which are all that are usually needed are directed either against the owner of the holding in respect of which the default arises or against his headman.

516-A. As soon as the collection for a harvest is over, a complete and up-to-date list of arrears of land revenue and other allied dues outstanding against each defaulter shall be supplied by the headman to the sarpanch of the village panchayat. The village panchayat, in turn, shall take suitable action to impress upon the defaulters the necessity of clearing off the arrears.

517. **Application of headman for process against defaulter.** A headman who has shown proper diligence can obviate the risk of proceedings being taken

against himself by applying to the tahsildar or deputy commissioner for assistance. Application will not be entertained if the arrear has been outstanding for over six months unless the lambardar satisfies the revenue officer that the delay in realization has not been due to his own neglect. If the application is entertained, a date is fixed, a writ of demand is served on the defaulter and he is summoned to appear. (land revenue rule 65) . if the existence of the arrear is proved an order is recorded stating the amount the person from whom it is due, and the duty of recovery is transferred from the headman to the tahsildar.

518. **Personal action by tahsildar.** Such is the prescribed procedure but, when it is clear that headman without any apparent reason finds difficulty in including his co-shares to pay their quota, it is a good plan for the tahsildar or his naib to go to the village and find out what the real cause is. If he sees that the refusal is due to private enmity or jealousy, he should uphold the lambardar's authority by convincing the defaulters that they themselves are the person who will suffer by delay. If they assert that they suspect the headman of misappropriating the money he collects, and are afraid to entrust him with it, he should realize the revenue at once through the lambardar and tell him to take it to the tahsil.

519. **Misappropriation by headman.** Misappropriation by a needy headman is unfortunately no rare occurrence. Having money in his hands, he finds it convenient to pacify his private creditors at the cost of plunging deeper into debt a month or two later when the tahsildar insists on payment of the government demand. Whenever misappropriation is proved, the headman should be dismissed, and the deputy commissioner should consider whether it is expedient also to prosecute him criminally.

520. Legal processes for recovery of arrears. The legal for the recovery of arrears are-

- (a) by service of a writ of demand on the defaulter [section 67(a), 68 and land revenue rule 63 and paragraphs,3,4 and 9 of financial commissioner's standing order no. 29];
- (b) by arrest and detention of the defaluter[section 67(b) and 69 and land revenue rules 67-69]
- (c) by distress and sale of his movable property and uncut or ungathered crops [sections 67(c) and 70];
- (d) by transfer of the holding in respect of which the arrear is due [section 67(d) and 71];
- (e) by attachment of the estate or holding in respect of which th earrear is due [section 67(e) and 72 and paragraph 21 of financial commissioner's standing order no. 29];
- (f) by annulment of the assessment of that estate or holding [sections 67(f) and 73-74 and paragraph 25-29 of financial commissioner's standing order no. 29];
- (g) by sale of that estate or holding[section 67(g), 75-76 and 79-96 and land revenue rule 70];
- (h) by proceeding against other immovableproperty of the defaulter [section 67(h) and 77],

for details of the procedure to be followed in connection with each of these coercive process, reference must be made to the sections of the land revenue act and the rules and orders abive noted.a person against whom proceedings are taken for the recovery of an arrear may, if he denies his liability and pays under a written protest, sue in a civil court for a refund. (section 78)

521. Writ of demand. A writ of demand is known as “dastak” it is little more than a reminder. It shows the amount of the arrear, and requires the person

addressed, to pay it, together with a service fee (talabana) of one rupee where the revenue involved is more than rs. 5 and of twelve annas where the revenue involved is rs. 5 or less, into the tahsil by a certain date, writs are served by a special staff temporarily engaged for the purpose, and the issue of many dastaks may mean more to a village than an addition of talabana to the land revenue demand. A writ may be addressed to the actual defaulter, but it is usually directed to his headman unless the latter had made an application under section 97 of the land revenue act (see paragraph 517 supra). It can be issued on any date of the instment, but it is proper to allow a few day's grace, and this may reasonably be extended to a fortnight where, there are two instalments, it is the custom of the estate to pay the whole demand at one time. There is no legal objection to the sending out of repeated dastaks, but only a week tahsildar would think of doing so. A tahsildar can issue writs of his own authority. If he has his tahsil well in hand, he ought not to find many necessary. Any tendency to do only two which a tahsildar can put in force himself can easily be checked by the collector as the tahsildar sends in monthly statements of writs warrants issued.

522. Detection of defaulter. The actual defaulter or headman who represents him may be arrested and detained at the tahsil or district office for ten days. He may be released on bail being given that he will not absent himself for certain hours daily during that period. If the arrears is not paid by the end of the term, the deputy commissioner may order his further detention for a month in the civil jail. If the tahsildar finds it necessary to detain the defaulter for more than twenty four hours, he must report his action to the deputy commissioner. The order land owners in the estate are not liable to this form of coercion because of their joint responsibility for arrears. Nor can it be used in the case of females, lunatics, lunatics or idiots. The peon who executes the warrant must not receive the money if the defaulter produces it, but must instruct the latter to take it or send it to

the tahsil of this from of coercion thomason remarked. "it is only in peculiar cases that process of imprisonment is likely to be effected. When the defaulter is living in circumstance which make him fear imprisonment, and when he has resources which enable hem at once to pay the demand, there may be on more efficient process. But on the poor or the embarrassed it is not likely to have any effect, whilst to the unfortunate, but honest and industrious, man it is a cruel hardship. It used to be a very common practice to impression defaulters as the first step towards the realization of the demand, but the harshness and impolicy of this have been long admitted.

Commentry

Views expressed by Dousie, to be treated with great respect, however, can not take place of provisions of the act. The views in contravention with provisions of the act should be ignored. (Sardara singh v. sardara singh, 1976 PLJ 199 : 1976 RLR 172 (p&h))

523. **Districts and sale of movable property.** The deputy commissioner or any other revenue officer fo the 1st grade can distrain and sell the crops and the movable property of the defaulter. But the exceptions prescribed by section 60 of the civil procedure code (act V of 1908), as regards sales in execution of decrees of court apply, and in addition so much of the produce must be left unattached as the deputy commissioner thinks necessary for see-grain and the subsistance of the defaulter and his family and of exempted cattle until the next harvest. "the process is liable to very much the same objection as the objection as the proceeding. The usual defaulter are small landed properties whose personal property is of little value to any but themselves, and is easily removed, if it is

destrained and sold little is thereby realized, whist they are greatly harassed and injured. If, however, the defaulter be in good circumstances, and wilfully withholds payment of the just claim of government there cannot perhaps be a better mode of proceeding than to distrain at once the most valuable articles of his private property. This course should be followed only when there is good reason to suppose that it will be the means of compelling payment of the whole or a considerable protion of the arrear. (thomsan's director for colectors, eddition of 1850, paragraph 70)

525. Advantage of this form of coercive process. In cases in which the second and third forms of coercion fail, or are held to be harmful or useless, this is the process which it is ordinarily best to adopt. It has the great advantage of preventing the intrusion of a stranger into the community. If an arrangement can be made whereby a plot of land is left for cultivcation in the defaulter's hands, he can still support himself and his family in his old home, and there may be some hope that he or his sons will learn lessons of thrift in the years in which they are excluded from the rights and temptations ownership.

526. Attachment of estate or holding. The deputy commissioner can attach the holding or estate and bring ir under direct management. [section 72(1)] this process is known as kurk tahsil. Usually the tahsildar should be the manger; but,if the estate is large, a non official agent may be appointed and paid by a fixed salary or by a percentage on the collections. The land revenue assessment it not affected. The manager steps into the position of th defaulting owner or community, and is bound by all existing engagements between landlord's and tenants. [section 72(2)] the rents and points received after attachment must be credited-

firstly, against the cost of management, and

secondly, against the demand of the current harvest on account of land revenue and cases,

only the surplus, if, any is available for the liquidation of the balance on account of which the land was attached [section 72(3)]. As such as it has been satisfied any in any case at the end of five years, the land must be restored to the defaulter, who is entered to a full account of receipts and disbursements during the period of management. [section 72(4) and paragraph 21 of financial commissioner's standing order no. 29]

527. **Use of above process.** Obviously this process is unsuited to the case of an ordinary peasant holding, except as a mere temporary measure, to prevent waste, when the deputy commissioner thinks one or other of the two following process must shortly be adopted [land revenue rule 70] it may occasionally be of use when the defaulter is a quarrel between the member of a village community as to the distribution of the burden over the different holdings. In the later case, the manager takes for the time being place of the headman and collects from properties the cost of management including his own remuneration, the land revenue and ceases, the arrear and the village expenses. He does in fact by authority what the headman improved incapable of doing, and can, with the help of the tahsildar quickly settle any dispute as to the bachh.

528. **Above process may be used by deputy commissioner of his own authority.** The five process described above can be carried out by the head of the

district without reference to any higher authority. He may choose the particular one he thinks most likely to succeed, and is under no obligation to try effect of the one before he employs another. The three remaining methods of coercion can only be used with the assent of the financial commissioner.

529. Annulment of assessment of holding or estate. If the arrear has been outstanding for over month, and the deputy commissioner, after trial or otherwise despairs it by any of the above proceses he can issue a proclamation attaching the holding or estate, and can propose to annual its assessment, and to manage ir direct or lease it to a farmer [section 73(1) and (3). This process cannot be used for the recovery of an arrear of land revenue which has accured on land which deputy commissioner has already taken under his control either on behalf of th ecourt of wards or in pursuanace of the crave process descibed in paragraph 526 supra. On receipt of sanction from the fianacial commissioner a proclamation is issued declaring that the assessment has been annulled. The effect of the issue of a proclamation attaching a holding or of one annulling its assessment is that thereafter on payment before publication of rent properly due till some date after publication is invalid except with the special sanction of the deputy commissioner. [section 74(2) and (3).

530. Term of direct management or farm. The term of direct management or of the farm must not exceed 15 years. When it is over, the holding or estate is reassessed in the light of the evidence as to its real assets which has been obtained. Care should, however, be taken that the land revenue imposed on such land does not raise the total assessment of the circle in which it is situated to more than one-fifth of the net assets of the circles. If section 51(3) by section 51(4) of the punjab land revenue act, 1887 this object can in most cases be secured for all

practical purposes by providing that the average rate of incidence on such land does not exceed the average rate of the estate in which it is included. Any case in which this is not suitable, as for example of especially valuable land, should not be such as to raise the existing average rate of incidence of the assessment circle beyond the limit prescribed in section 51(3).” If the owners refuse to accept the new assessment, the financial commissioner can order direct management for the remainder of the term of the current settlement of the district or for any shorter term.

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531. Effect of farm or direct management. Direct management accompanied by annulment of the assessment is known as kham tahsil. It differs from kurk tahsil because the proprietary rights and obligations of the owners are for the time being in abeyance and the land revenue settlement made with them is cancelled. If part only of an estate is under farm or direct management, the joint responsibility of the landowners of the rest of the estate is suspended as regards that part only [section 73(7)]. The financial commissioner made by the defaulter, or by other persons under whom the defaulter claims, shall not be binding in the deputy commissioner [section 73(8)]. If it is part of the sanctioned arrangement that the owners shall remain in cultivating possession of their khudkashat lands, they will do so as tenants, and will pay such rent as the deputy commissioner thinks proper.

532. Landowners cannot claim re-entry till end of term. However profitable direct management may be to government, the defaulters cannot claim re-entry until the end of the term, and they are not entitled to any account of profit and loss when they recover possession.

533. Remarks on direct management. Kham tahsil is only suitable in the case of a whole estate, or at least of a recognized sub-division of an estate. It is a punitive, or at least an exemplary measure, which it would only be right to adopt in case of contumacy on the part of a village community, which is nowadays very rare, or where the assessment has broken down on account of the gross mismanagement or idleness of the owners. Mr. Thomson's remarks may be quoted: "when land is valuable, population abundant, and the assets..... consist of money collections from non proprietary cultivators, and the rent roll shows a

fair surplus above the government demand, there should be no hesitation in holding kham. Ordinary care will enable the collector to recover the balance, and probably improve the estate. But when the population is scanty, when the defaulters are a community of cultivating proprietors, when the collections are made in kind, and when the estate is deteriorated and fallen out of cultivation, kham management requires much caution. Its success evidently depends upon knowledge of agriculture influence over the people and prompt and steady action. When the collector is conscious that he possesses these qualities himself, or can command them through means of his subordinates, he has the strongest possible hold on the people. Nothing more convinces them of the hopelessness of attempting by combination to defraud the government of its dues, or to force a reduction of settlement, than the example of a few estates successfully held kham and made to yield more than the original assessment. It should not however be attempted on any great scale because of the time and minute attention it requires, nor should it be attempted at all unless the collector finds himself in a position where he may reasonably expect to have time and opportunity to carry his experiment fairly out.” [Thomson’s Director’s for Collections, edition of 1850, paragraph 78] management should be firm, but sympathetic the object to be kept in view being to fit the landowners ultimately to resume their old position with changed habits.

534. **Remarks on farma.** Farm to a private person after annulment of the assessment is a still more drastic measure than kham tahsil. Paragraph 531 applies mutatis mutandis to this process. If the defaulters are inferior proprietors. It will usually be right to offer the lease to the superior proprietors. No female, minor, or resident non-Indian state can be appointed farmer.

535 . Rights of farmer. a farm is neither heritable nor transferable, subject to this limitation and to any other conditions expressly embodied in the lease, the farmer has for the time being all the rights of ownership in the estate, at least all the rights which government takes into account in fixing the assessment. the lease lapses on the death of the farmer unless the financial commissioner to fit to renew it in favour of his heir. In any case the old proprietors are not entitled to resume possession on account of a lapse occurring before the end of the period originally sanctioned, for further conditions of farming leases paragraph 25, 26 and 28 of financial commissioner's standing order No. 29 may be consulted. The case of direct management or farm rendered necessary by the refusal of the landowners to accept the demand fixed at a general reassessment of the land revenue has been dealt with in paragraph 521 of the settlement manual.

536. **Yearly statement of results of direct management.** A yearly statement showing result of direct management is submitted through the commissioner to the financial commissioner.

537. **Sale of estate or holding.** The sale of a holding or of an estate on account of arrears is fortunately a very rare event in the Punjab. This measure can only be adopted when all the foregoing processes are deemed to be in effectual. The sanction of the financial commissioner is required (section 75 of act XVII of 1887 and section 14 of Punjab act No. II of 1903) and in order to obtain it, the deputy commissioner would require to prove that the proprietor or the community was either hopelessly insolvent or stubbornly contumacious. Land managed by the court of wards cannot be sold for arrears and so sale is allowed on account of balances accruing while land is under direct management or leased to a farmer. (proviso to section 75) as a preliminary step, the deputy commissioner should

attach the holding or estate under section 72 of the land revenue act.

538. **Effect of sale.** If sale is sanctioned, the first step is to issue a proclamation [section 79(1)]. The land is sold free of all encumbrances, and all previous grants and contracts respecting it become void as against the purchase [section 76(1)]. The justification for this lies in the paramount claim of the state on the land until its title to a share of its produce has been satisfied. But rights of occupancy not created by the defaulter, and leases of land for gardens, building, and certain other non-agricultural purposes, are saved, and also any rights excepted in the proclamation of sale [section 76(2)] for the procedure to be followed in sale, sections 79-96 of the land revenue act may be referred to. If the highest bid is eventually inadequate, and especially if it does not cover the arrears and the cost of the sale, it will usually be advisable to buy in the estate for government. The defaulter is still liable for the balance, but except under very exceptional circumstances, it would be wrong to take any further proceedings against him. He is entitled to receive any surplus.

539. **Proceedings against other immovable property of defaulter.** The law has still further safeguard the title of the state to its land revenue. If an arrear cannot be received by any of the measures described above, or if the financial commissioner is of opinion that their adoption is inexpedient, he can order the deputy commissioner to proceed against any land or immovable property belonging to the defaulter other than the holding on which the balance has accrued. In this case no grants or encumbrances created or contracts made in good faith by the defaulter are affected.

540. **Actual employment of coercive processes.** In the Punjab the drastic

character of the law on the subject of the collection of land revenue is in marked contrast to the general midness of its administration. For proof of this assertion a reference need only be made to statement XI in the annua land revenue reports which gives the number or writs of demand and other processes issued and executed under section 68-72 and 75-77 of the land revenue act.

541. **Local rate and village officer's cess.** The procedure for the recovery of land revenue is also applicable to the recovery of the local rate and of the village office's cess (see also sections 97-99). A rule issued under section 71 of the Punjab district board act, XX of 1883, prescribes that the local rate shall be collected by installments bearing to one another the same proportion as the installments of land revenue with which it is collected.

542. **Canal occupiers ate.** The 5th section of the land revenue recovery act (I of 1890) provides that where any sum is recoverable as an area of land revenue by any public officer other than a collector or by any local authority is situate, shall, on the request of the officer or authority, proceed to recover the sum as if it were an arrear of land revenue. The chief demand which deputy commissioner in the punjab have to realize under the authority given by this section is that in account of accupier's rate levied under section 36 of the northern india canal and drainage act, VIII of 1873. It is the attention to the collection of canal dues as he does to the realization of land revenue. In some districts the income from the latter is trifling compared which that from the former.

543. **Procedure for recovery of canal dues.** After the kharif and rabi harvests the canal executive engineer sends to the deputy commissioner an english demand statement showing for each estate the amount due on account of

occupier's rate and the commission payable to village headmen at the rate of 3 percent in the demand on condition of the collection being deputy commissioner may confiscate the whole or part of his quota in time, the simultaneously with the despatch of these English statements, the executive engineer sends to the tahsildar a vernacular khatauni for every village showing the amount due from each cultivation on account of occupier's rate. The deputy commissioner must not receive any petitions against the correctness of any demand under the head of occupier's rate entered in the khatauni. Objections must be referred to the canal officer. Any additions granted after the preparation of the statement, are communicated by the executive engineer to the deputy commissioner, who on his part furnishes to the executive engineer monthly statements of collections and balances.

CHAPTER XVI

SUSPENSIONS AND REMISSIONS AND SPECIAL REDUCTIONS OF ASSESSMENTS.

544. **Advantage and drawbacks of fixed demand.** When the British government substituted a fixed cash demand for collections in kind, and after painful experience learned the secret of assessing it with fairness and moderation it conferred a great boon on the country. The opportunities for oppression and exaction by underlings were much curtailed, the cost of living was raised, and the value of the proprietary right in the land was enormously enhanced. But the measure was not without serious drawbacks, some of which have only been slowly recognized as evils, requiring remedy. In this chapter we are concerned with one of these evils, namely, that arising from the occasional incompatibility between fixed assessment and fluctuation of outturn, and

with the measures taken to remedy it without foregoing the undoubted advantages of a demand which does not vary.

545. **Exception that landowners would save to meet deficiencies of bad seasons disappointed.** It was the theory of those able officers who founded the revenue system of north-western india that, if a moderate revenue of fixed amount was assessed the land owners could be expected, to an extent in which actual experience has failed to meet the government demand in bad seasons from the surplus of good years. The expectation was plausible, but it took too little account of two important factors—the indian climate and the indian people. It did not allow enough for the extreme vicissitudes of the harvests in many parts of the country, and it assumed that habit of thriftlessness, the growth of many centuries of misrule, would be readily unrooted by supply a reasonable motive for saving. The peasant farmers of the punjab have had the advantage of a fair fixed demand for more than half a century, but it is still true that a considerable proportion of them is lazy and thriftless, a larger number hardworking and thrifty, and only a small fraction both industrious and thrifty.

546. **Fluctuating assessment.** Where the fluctuations in the crop areas from year to year very extreme, it has in some cases been judged best to give up a fixed demand altogether, and to adopt in its place an assessment varying in the acreage of crops harvested. But, so far, these fluctuating assessments are confined to some canal-irrigated tracts, and the extension of the system to areas dependent on rainfall in which variations (see chapter XXVII of the settlement manual)

547. **Rigidity of fixed demand should be tempered by suspensions and remissions.** In most tracts therefore, government looks to its to

make a fixed demand, which is popular with the people and convenient to the state, work successfully by the use of the powers they possess of suspending and remitting revenue when there is a serious failure of crops. the rigid enforcement of the demand, irrespective of calamities of seasons is, a disastrous policy which government has clearly condemned. the folly of collecting revenue from people who by reason of severe drought have not food in their houses, and whose credit with the graindealer is well nigh exhausted seems obvious, but in this matter routine has sometimes proved strong enough to overpower common sense.

548. **Evil resulting from laxity in collection.** On the other hand a fixed demand must be treated as such, and the realization of on part of it should be suspended, and still less entirely foregone, without plain necessity. It is easy by laxity to demoralize the people and their headman. But it must be confessed that until comparatively recent times there was much more danger of undue rigour than of over leniency. It is certainly not the intention of government to authorize anything in the shape of laxity or carelessness in the collection of the fixed demand, or to make the system of suspension and remissions as has been proposed, “a regular feature of the revenue administration policy of the state, but is to be recognized as a measure purely of grace, and not of right, to be exercised only in exceptional cases of calamity so as to justify and necessitate a relaxation of the settlement contract. It is true that, even within the areas under fixed assessment, the necessity for relief will require with greater frequency in some part than in others, and that in tracts of great precariousness which it has not been thought advisable to be brought under fluctuating assessment, such relief may be frequently needed as a matter of administrative necessity but even in such tracts, government has not attention of abandoning the general principle “fixed demand”, with its attendant certainly, as the basis of its revenue system it

recognizes, however, that it is unwise, even in the interests of its own revenue to insist absolutely upon what has been termed “the sacredness of the settlement contract”, or to call upon the cultivator to pay the revenue or rent in all circumstances however unfavourable, that while it is wholly some and legitimate to expect him to take the bad with the good in years of ordinary fluctuation, payment should not be enforced under condition which would compel a cultivator of ordinary care and prudence, who has to buy food for family on credit, to further imperil his future solvency by borrowing to meet the demand of the state.

549. **Proper working of suspensions presupposes knowledge of agricultural economy of district.** No man can hope to deal successfully within the questions that arise as regards the collections of and revenue unless he has a clear grasp of the agricultural economy of his districts of the soils and the crops of its different parts the security of the insecurity of their harvests, the character of the land owners as regards industry the size of their holdings, and the extent of which they are burdened with, or free from debt, the best written sources of information are the assessment reports on the different tahsils, the districts gazetteer's, the settlement officer's table and maps classifying estates as secure and insecure, and this scheme for the working of suspension, but the study of these should only be an aid to the knowledge to be gained by close personal observations.

550. **Demand should be punctually collected or regularly suspended.** It should be an invariable rule either to collect the demand punctually or to suspend it regularly. Left to themselves, tahsildars are apt, even when they know that there will be difficulty in realizing the revenue, to let matters slide, in

seta of making up their minds definitely whether suspensions are, or are not. If possible, proposals for suspensions and remissions should be dealt with by the deputy commissioner before the crops are cut and garnered. Failing that, all questions regarding the grant of suspensions on account of a harvest should have been decided the deputy commissioner before the installment on account of that harvest falls due. In his tours and tahsil inspections he should find out what the estates are in which suspensions are likely to be needed, and should either himself inspect them at harvest time, or arrange for their inspection by the revenue assistant, or by possible, no suspension should be given until the estate affected has been visited by some officer of a higher grade than the tahsildar. Until recently this was required by the instructions in every case. But, in practice, where failure in crops affected a large number of estates, the rule had to be treated as a counsel perfection. An experienced revenue officer, who by marching through a stricken tract has gained a good general idea of the condition of its crops, need not hesitate to give suspensions to villages which he has not seen himself if he has before him the harvest jinn's war statements and inspection note by the tahsildar or his naib. Accordingly, the following rider has been added to the rule. "in case of widespread distress, where the number of estates requiring suspensions is so large that all cannot be inspected by officer of higher rank, in section by a tahsildar or naib-tahsildar may be accepted as sufficient provided that as many villages as possible are visited in such assessment circle affected."

551. **Classification of grounds for relief.** The circumstances which call for suspensions and remissions may be roughly classes as-

- (a) ordinary, which are usually widespread ;
- (b) extraordinary, which are usually local and isolated.

The distinction is one practical important for the treatment appropriate to the two

descriptions of cases is, as a rule, different.

552. **Ordinary calamities of season.** The circumstances falling under the head of “ordinary” occasions for relief are mostly those arising from the normal vicissitudes of the seasons. Loss of crops is generally due to deficiency or excess moisture. The rainfall in most parts of the Punjab is very capricious both as regards its total amount, and, what is quite as important, its distribution over the months of year. According to the time at which the deficiency occurs, the calamity takes the shape either of a shrinkage in the area shown or of the destruction of growing crops. In a very bad season it is but too common to find both these evils united to produce disaster. (see paragraph 373 of the settlement manual). When rainfall are seed-time the contraction of the area shown is of course most marked, in unirrigated lands, but well crops are also affected. The acreage is often reduced, and the cost raising them is much enhanced. If the land has to be watered before it can be shown, the effect of drought on growing crops can hardly escape the most careless observer. But the mischief done by frequent heavy falls of rain to crops on light sandy soils is more likely to pass unnoticed. The case of flooded lands under fluctuating assessment will be referred to later. Where their assessment is fixed, the same principles apply as in the case of other unirrigated lands. But it must not forgotten that a flood which ruins the autumn crops may be of the greatest value for the much more important spring harvest.

553. **Fluctuations of yield allowed for in assessment.** The calamities of which we are now treating being due to ordinary changes of the seasons, ought in some measures to have been sore seen allowed for by the settlement officer. His final settlement report and his scheme for the working of suspensions should throw light on this point. Assessments nowadays are

ultimately based in the application of a rate to the average area of successful crops for a series of years, and not to the cultivated area of the year of measurement, which may or may not, have been normal. In so far as functions of yield have really been allowed for by lowering the rate on the cultivated area, the doctrine that landowners must meet the shortage of a bad year from the surplus of good seasons should be kept in view. But great watchfulness must be shown if there is a succession of poor harvests, otherwise an unfair burden may be laid on the people. If the collector is satisfied that distress really exists, and that the profits of the land injuriously affected have fallen much below what were anticipated at the time the assessment was made, the suspension of a portion of the current demand will be appropriate.

554. **Insecure dry tracts in south-eastern Punjab.** In very insecure tracts it will probably be found that the settlement officer has himself clearly stated that there was no demand which he could with justice to the state impose which could be paid alike in good and bad years, and that he regarded the grant of suspensions from time to time as essential to the smooth working, of his settlement. This is a position which no one who has had experience of the rain lands in the south-east of the Punjab will dispute, and it has been fully accepted by government. In the orders of Punjab government on the report of the first revised settlement of the rohtak district sanction was given to the assessment “on understanding that in the case of all unirrigated lands the revenue assessed so one which is to be paid in full in ordinary years, but which government does not expect to realize at once during severe or long continued droughts. In such seasons suspensions will be freely given (paragraph 11 of review of settlement report of rohtak by Mr. H.C. Franshawe) an object lesson was soon after furnished by the breakdown of the revised settlement of Gurgaon, which was

aggravated, if it was not caused, by bad revenue management. In explaining the conditions on which the reduced assessments proposed were accepted Sir James Lyall remarked.

“these conditions are that the full revenue of insecure tracts shall not be realized in years of severe or long continued drought, but that such relief shall be given by way of suspensions, and, when necessary, by way of advances for the purchase of bullocks etc., as may be called for by the actual circumstances of the case when carefully considered by the light of the continuous record of agricultural conditions which is now.....maintained.

“it is impossible not to feel that the necessity for a general division of the original assessment.....would probably never have arisen but for the neglect of these principles. It is equally impossible.....to believe that any adequate assessment could ever be devised for the insecure tracts of this districts which could be safely realized without suspensions in yeas of severe and long-continued drought.....the variations in the rainfall, and especially in the sensonsbleness of the rains’ the consequent fluctuations in the area sown, and still greater fluctuation in the area harvested; the liability of the people to terrible losses of cattle in years of drought; the great mortality from fever which is apt to follow upon abnormal seasons; and the character of the population most liable to suffer from the effects of such seasons-all these circumstances constitute a marked condition of these things which demands special and exceptional treatment (paragraph 22 of Punjab government orders on Mr. Channing’s settlement report of Gurgoan)

555. **Other rain lands in Punjab.** These principles are clear enough, and, while they apply in the fullest degree to the south-eastern districts of the state, where the rainfall in good years is sufficient to mature an immense area of unirrigated kharif crops but where the variations from the normal are extreme, they apply less or more to all parts of the Punjab plains in which the rainfall permits of barani cultivation, except a few specially favored tracts close to the hills. It is easy moreover to exaggerate the security of submontane lands. In the low hills and the broken country sometimes found near the outer spurs of the Himalayas the harvests are often very precarious. An instance of the former is the hill circle of Gurdaspur, and examples of the latter are the bharrari of the same districts and the kandi circles of Ambala. Submontane tracts are only secure where the surface is flat, otherwise in years of drought the rapid drainage does away with much of the benefit of a somewhat larger rainfall.

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

557. **Well lands.** The case of well lands is widely different. The effect of drought in well-irrigated estates should be closely watched just because

the signs of the disease are likely for a considerable time to elude the notice of a careless observer. Well irrigation and small holding generally together, and the surplus remaining with the husband man, after paying the revenue and providing for the support of his family, is always small. The price and the deep of the bullocks are heavy items of expenditure. In the drier parts of the state the wells by themselves cannot mature any large area without the help of the river floods in autumn or of watering from inundation canals, both precarious sources of moisture. On such wells moreover a considerable part of the area has to be given up to provide fodder for the cattle, and in dry years this area inevitably expands. Even in more favoured tracts during seasons of severe drought, the sacrifice of valuable crops, such as sugarcane, to keep the bullocks fit for works is a common sight. Well estates bear up at first in years of short rainfall better than unirrigated ones. But, if drought is very severe, especially if it is prolonged over several harvests, they suffer more severely and recover more slowly. Where relief has to be given in well-irrigated estates consisting mainly of small holding the collector should consider whether it should not take the form of remissions. The calamity is one for the possible occurrence of the form of remission's. The calamity is one for the possible occurrence of which little or no allowance may have been made in assessing the village, the rates are as a rule far higher than on unirrigated soils and absorb a larger proportion of the average net assets, and the surplus even in good years, is small. These conditions are just the opposite of those which prevail in those unirrigated tracts which are classed as insecure. If the relief given has taken the form of suspension, much care and patience is required in the recovery of arrears, and if good seasons do not specially return, remission may be proposed before it would be admissible under the provisions of paragraph 576(1)

558. **Remissions of revenue when wells fall out of use.** The precariousness of the well cultivation in some of the western and south-western districts has been so clearly recognized that it has been made a condition of the land revenue settlement that well assessment will be remitted when a well falls out of use from use cause and re imposed when it is again brought into use. The following rules have recently been sanctioned providing of the reduction of revenue when a private irrigation work fall out of use during the term of settlement.

The rules do not apply.-

- (a) to any district, or parts of district, for which local rules has been sanctioned, or may here after be sanctioned
- (b) to unlimited (Khacha)wells on jhaalars of similar description.

RULES

I. The collector shall remit so much of the assessment of the land irrigated from a masonry or rube-well as is based on the profits of irrigation from such well.

- (a) when it ceases to be fit for use;
- (b) when irrigation from it is superseded by sanal irrigation and canal advantage revenue has been imposed.

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

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

NOTE- The revenue versed on the profits of irrigation form the well shall ordinary be assumed to be as follows:-

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

111. cases nay occur which will not be sufficiently met by the remission of only so much of the assessment as is based upon the profits of irrigation from the well. Such cases should be refereed through the commissioner for the orders of the financial commissioner.

IV in deciding whether to use the discretion given to him by rule II, the collector shall consider whether the disuse of the well is due to some cause beyond the control of the landowner, such as the sread of salts in the soils, the loss of tenants or cattle, and extreme difficulty in replacing them.

V. except with the sanction of the financial commissioner, no remission's shall be given under these rules unless the distribution of the assessment of the estate has been made in one or other the ways described in the note to rule II

VI. when a remission is granted, it shall take effect from such harvest as the collector may determine.

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

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

If in any case the collector thinks the whole should not be reimposed he should report the case for the orders of the commissioner.

IX. these rules may be applied, so far as they are applicable, to the grant of remissions in the case of their irrigation works constructed at private expense, such as canals water-courses, dams embankments, reservoirs, and masonry Jhhalars. They may also be applied to wells which, though only partially lined with stone or brick, are expensive to make and may ordinarily be expected to last for some years.

Change in the fixed land revenue roll necessitated by the remission or reimposition of well assessment, either under these general rules or under

abalogous special lecal rules, as approved should be reported once a year on 1st September for orders in the form of a comparative demand statement prescribed by paragraph 9 of Standing order No.31.

Commentary

The principles of natural justice were required to be observed because the matter had to be determined by the Tehsildar and the collector as quasi-judicial Tribunal and also under section 3(2) of Punjab land revenue(special assessment) Act,1955 requires a speaking order.

558-A Suspension and remission of land revenue when cultivable lands are rendered unfit due to thur, sem, dhoes and sand - Damage to crops is also caused by Thur, Sem,Chos and Sand,etc., which necessitates the suspension and remission of land revenue. Accordingly the following rules have been sanctioned in this behalf when the cultivable areas are rendered unfit for cultivation due the these cases.

1 short title and commencement - (1) these rules may be called the Punjab land revenue (thur, sem, chos and sand) remission and suspension rules, 1960.

(2) they shall come into force at once.

2. **Definitions** - In these rules, unless context otherwise requires:-

(a) “Act” means the Punjab land revenue act 1887 :

(b) “ cho” means a bed of a torrent strating from the siwalik hills:

(c) “from” means a form appended to these rules:

(d) “sem” means the rise or collection of sub-soils water or moisture to such an extent that the land so affected becomes unfit for cultivation: and

(e) “thur” “kallar” or “reh” means a white or ash coloured substances which may or may not subside after rains but the existence whereof betrayed by the crispness of the crust swelling over the powered earth underneath it.

1. **Patwari to make entries of all unfit and uncultivable lands.**

At the time of each harvest inspection the patwari shall enter in the khasra girdawari all those fields which may have been rendered unfit for cultivation due to thur, kallar, reh or sem as thur, kallar reh or sem, as the case may be, along with the word khali. He shall also enter all such fields which have been rendered unfit for cultivation or grazing due to cho or deposit of sand in consequences of heavy floods as “ Ghairmumkin cho” or “Ghairmumkin sand” as the case may be.

2. **Entry as kharaba to be made where production estimated less than twenty five percent.** Whenever a field affected by thur, kallar, reh, sem, cho or sand is sown with a crop but the yield is less than twenty-five percent of the normal yield the entry shall be “kharaba” together with the word thur, kallar, reh, sem cho or deposit sand as the case may be.

3. **Only affected areas considered.** Wherever a part of the yield is affected by thur, kallar, reh, sem, cho or deposit of sand, only the area affected thereby shall be taken into consideration.

4. **Entries to be inspected regularly by inspecting officers.** All fields, for which new entries as required by rule 3 and 4 are made shall be checked by the filed kanungoes and at least fifteen percent of them by the

tehsildar or naib-tahsildar concerned. A specific note showing that such inspection has been made shall be given by the inspecting officer. The revenue assistant or the sub-divisional officer (civil) shall also check the girdawaris of at least ten percent of the villages which are affected by thur, kallar, reh, sem, cho or deposit of sand.

5. Entries to be changed after three consecutive harvests.

Where an entry is made for a particular field or a part thereof as required by rule 3 successively for three harvests, and a similar entry has to be made in the fourth harvest word “banjar jadid” shall be substituted for “khali” in the fourth harvest and if this entry persists further for four succeeding harvests, it shall be changed into banjar quadim in the eighth harvest in the case of lands affected by cho and deposit of sand, the entry shall continue to be ghairmumkin cho or ‘ghairmumkin sand’ as the case may be.

6. Name of crop to be shown if uncultivated land brought under cultivation. Any field or part thereof for which the previous entry in the khasra girdawari is ‘banjar jadid, thur, kallar, reh or sem” or “banjar quadim, thur, kallar, reh or sem” or ghairmumkin cho or ghairmumkin sand and which is again brought under cultivation, the entry in the khasra girdawari shall show clearly the crop sown:

Provided that if the yield of the crop sown is less than twenty-five percent of the normal yield it shall be shown as ‘kharaba’.

7. (1) Land revenue to be remitted from Rabi harvest - The land revenue of every field or part thereof, for which an entry exists as banjar jadid quadim, thur, kallar, reh, or sem, ghairmumkin cho or ghairmumkin sand’ at

the time of coming into force of these rules shall be remitted with effect from the Rabi harvest following the enforcement of these rules.

(2) The land revenue of every field or part thereof for which an entry is made as banjar jadid/qadim, thur, kallar, reh or dem of ghairmumkin cho of ghairmumkin sand, after the coming into force of these rules shall be remitted with effect from the Rabi harvest such an entry is made in that harvest and from the following Rabi harvest if the entry is made in the kharif harvest.

8. **Revival of assessment of land revenue.** Recycle of assessment Subject to the precision of rule 19, the remission shall cease and the assessment of land revenue remitted under these rules shall revive after the field of part thereof, with respect of which the remission was granted has produced four crops the yield of each of which is more than twenty five per cent of the normal yield.

9. **Revival of assessment to take effect from Rabi crop.** The revival of assessment of land revenue under rule 10 shall take effect from the fifth harvest if it is Rabi and if the fifth harvest is kharif from the Rabi harvest following such kharif harvest.

10. **Statements to be drawn up by patwari.** After the expiry of Rabi harvest every year and within five days of the expiry of the Rabi girdawari of the village the patwari shall draw up a statement in form A showing all the field number in which remission under rule 9 has to be given and another statement in form C showing the field number in which assessment of land revenue is to be revived under rule 10.

11. **Statements to be checked up by officers.** Every field kanungo shall carry out a complete check of these statement with the relevant entries of the khasra girdawari and record a certificate to that effect on them. The Tahsildar or naib tahsilfar cimderned shall carruy out similar check of twenty-five per cint enteies in Forms A and C. the assistant sollector and the collector may at any rime carry out random checks of these forms.

12. **Tahsildar to forward consolidated statement to the collector.** The tahsildar shall have a consolidated statements prepared for his tahsil in form B and submit it together with the statement in form A to the collector by the twentieth april, every year.

13. **Statements to be checked and forwarded to tahsildar.** After the statements in forms A and C have been prepared and checked by the revenue officers the same shall be forwarded to the tahsildar concerned.

14. **Collector to suspend or remit the land revenue.** On receipt of form B the collector may remit the land revenue, as proposed there in, if the total amount to be remitted for the tahsil, does not exceed Rs. 3,000 or suspended it if it exceeds this limit and forward the proposal for remission to the commissioner or the division for sanction. The order or suspension or remission thus made by the collector or the commissioner, as the case may be, shall be conveyed to the tahsildar concerned immediately who shall give effect to it. Necessary changes in the Dhal Bachh and other relevant papers shall made accordingly.

15. **Patwari to enter statement in daily diary.** The patwari shall enter in his daily diary the statements of all fields mentioned in forms A and C for each village at the time of their submission to the tahsildar.

16. **Patwari to furnish parcha landowners and enter it in daily register.** A parcha in form D of the filed numbers mentioned in form C shall be delivered by the patwari to the landowners concerned or in his absence to the lambardar or sarpanch of the gram panchyat and a copy thereof shall be pasted on the residential house of landowner in the village, within ten days of the completion of the rabi harvest girdawari of that village and an entry to this effect shall be made in his daily diary.

17. **Procedure for revival of assessment.** (1) after the parcha has been delivered in accordance with the provisions of rule 18 of the landowner may within a period of fifteen days of the date of its delivery file his objections with the tahsildar or naib-tahsildar concerned who shall after making such inquiries as he may deem proper pass such orders as he may deem fit. As far as practicable such orders shall be passed every year before the 10th of May.

(2) After the objections have been disposed of under sub-rule(1) the tahsildar shall forward a consolidated statement in form E of all the statements forwarded to him in form C along with a copy of each of the orders passed by him on the objections preferred under sub-rule(1) to the collector of the district who may confirm the revival of assessment of land revenue with or without amendment.

18. **Statement to be furnished by collector.** The collector shall furnish to the financial commissioner through the commissioner a statements

showing separately the total amount of land revenue remitted as well as the amount of land revenue with respect to which the assessment has been revived under these rules. Such statements shall be furnished before the 15th of June, every year.

19. **Repeal of existing rules.** These rules shall supersede all previous rules in force in the state for suspension, remission or revival of assessment or land revenue or culturable areas rendered unfit for cultivation due to thur, kallar, reh, sem, cho or deposit of sand (the forms mentioned in these rules are attached to similar rules appearing in appendix II to F.C.'s S.O. no. 30)

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

560. **Extent of crop failure justifying relief.** It is impossible to lay down a fixed criterion for the determination of the exact point of crop failure which should be deemed to justify the grant of relief. It has been suggested that

only those calamities which are too severe to have been contemplated by the assessing officer as include in the normal course of events should be recognised, and the principle is sound in itself, but does not cover the whole case. An eight-anna failure of crops in a precarious tract where it is of no unusual occurrence would have been taken account at assessment, and would not in this principle admit of the grant of relief, whereas a similar degree of failure in a rich and stable tract, not having been taken into consideration, would, on the same principle, be held to justify relief. In this matter it has been decided to accept the conclusion arrived at in 1882 and endorsed by the famine commission of 1901 that “relief will not ordinarily be required when there is half a normal crop” it may indeed be necessary to vary the standard for special tract or under special conditions, and the considerations indicated above should then be borne in mind, but it should not be departed from except in rare cases and under exceptional circumstances. On the other hand, it does not necessarily follow that the failure of more than half a crop will always justify relief, as much depends upon the nature of the harvests immediately preceding and upon the importance of the harvest in question.

561. **(1) Scale on which relief should be given -** (1) once it is decided that relief is necessary. It remains to determine the scale on which relief should be afforded. In dealing with the scale of relief to be given when the crops do not reach half the normal standard, it would be fallacious to suppose that the various degree of crop failure can be accurately dealt with by slavishly following any arithmetical formula. At the same time, without the guidance of arithmetical standard, it is impossible to ensure any kind of uniformity in the grant of relief, and accordingly, although anything in the shape of servile adherence to formula is to be deprecated, a standard scale of relief on an arithmetical basis is now prescribed for general guidance, and a scale should be laid down in this form for

each districts or other suitable tract. When a district comes under settlement, the revision of the scale for that district will be made a part of the duties of the settlement officer. In deciding in the correspondence between the degree of relief should increase, as the yield decreases, more rapidly than the degree failure,. The cultivator has to depend for his own sustenance and that of his family upon the margin left to him after his obligatory payments have been deducted from the yield of his field. The amount required for that substance will no doubt be larger in good than in bad years since in the latter he must be content with a lower standard of living than in the former, but there is a minimum standard below which it is impossible for him to go a minimum which depends to some extent for subsistence being to this extent a constant quantity, it is obvious that a four anna crop will leave much less than half the margin which will be left by an eight-anna crop out of which to pay rent or revenue. The relief therefore should be more than double in the former, of what it is in the latter, case. Accordingly, the following may be taken as a suitable type in cases where no relief is given for a failure of less than half the normal crop:-

crop (16 annas normal)	degree of relief
6 annas and less than 8 annas	25 percent
4 annas and less than 6 annas	50 percent
less than 4 annas	100 percent

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

(ii) Caution regarding use of scale. In regard to the above scale, it must be

remember that in judging the value of a crop and in deciding whether it is, for instances equal to 6 annas and less than 8 annas, regard must of course be had not only to the area matured, but also to the yield. Thus occasionally bad conditions at showing time may be followed by very favourable conditions later with the result that out turns on a reduced, natured area may be larger per acre than the normal moreover, the general rule that yield per acre falls as the matured area decreases applied less fully to irrigated, than to unirrigated lands. Other considerations, which should not be lost sight of in applying the scale of relief, as distinct from judging the value of the crop, are given in paragraph 563 (iii) infra. Revenue officer should bear in mind that, in dealing with suspensions and remissions, the normal standard of return and area of crop is that assumed by the settlement officer on which the assessment was based.

562. **Differential treatment of landowners and estates how far justifiable.** The question of suspensions with reference to the treatment of strong and of poor and impoverished estates a distinction must be drawn between times of famine and widespread scarcity when suspensions on a large scale have to be given, and times when the area affected is circumscribed and purely local. Famine or widespread scarcity may be held for present purposes to be established if the area affected exceeds that which could be inspected thoroughly by the revenue assistant in a month. In this case no differentiation between rich and poor revenue-payers should be attempted, and such discrimination, when exercised at all must be confined, to cases of remission (see paragraph 583 infra) when the area is circumscribed of purely local the collector should use his discretion and must ordinarily hold the balance between the course of treating all the land-holders in one and the same estate alike, to which he is ordinarily practically bound by motives of convenience and expediency, and the

policy which would make a distinction between the village which can pay without borrowing and that which cannot. In deciding whether a suspension or remission of land revenue is called for any estate, the collector should have regard to the consideration whether such relief is called for in the interest of tenant, irrespective of those of the landlord. Rich landlords are often willing to pay in the revenue demand, although there has been failure in harvest, because the power which this gives them over tenants who have statutory rights. Consideration for the interest of the tenants of an estate may necessitate suspension or remission of the land revenue, even where landlords do not wish for any such relief. It is only in cases where government cannot secure the suspension of rent for tenants that discrimination between rich and poor landowners is permissible, and even in such cases only the following three classes may be excluded from the relief afforded by suspensions. Firstly, the men who are known to be bad landlords and rack-renters; secondly, those well-to-do landlords who can pay without imperilling their future solvency and thirdly the capitalist, money-lending, and professional classes who hold land purely as an investment. It may indeed be true, as pointed out by the famine commission of 1901 in paragraph 279 of their report, that many members of this last class are small men who speculate with borrowed capital; but there is no reason why they should not be held to their contract, and should not take risk if investment in the land as much as of any other form of investment. While however, authorizing the discrimination of these three classes of landlords in tracts where the extension of relief to tenants cannot be secured, or where the rent is realized as a share of the produce, and thus is automatically adjusted to the output of the harvest, government at the same time recognizes invidious character of any arrangement by which relief granted to landowners generally is denied to an occasional money-lender or retired government officer who here and there may have invested his money in land, and it will, in their

opinion, be wise to abandon any attempt at discrimination, except in areas where the classes to be discriminated represent a reasonable proportion of the landowners or own fairly large tracts of land. But, at the same time, the collector should remember that, while discrimination against people of the above three classes is not prohibited, the general rule should be that discrimination between individuals should not be attempted at this stage, but should be limited to villages or in comparatively rare cases to such patties or tarafs of villages, as are distinguished from one another in some marked way, either physically or by the caste or tribe of the landowners or mortgagafes in possession. In such cases the wishes of the village community should be ascertained, but the interests of the poorer, rather than those of the well-to-do, members of community should state briefly the policy he has followed and the reasons for discrimination where he has done so.

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563. **The danger-rate** (*i*) when suspensions have to be granted in a large scale, Collectors should always refer to the district suspension scheme drawn up under paragraph 554 of the Settlement Manual. For each district, and where necessary, for such assessment circle, and with the special permission of the of the Financial Commissioner, for smaller, areas, a danger-rate will have been framed by the settlement officer, or, if special orders have been given in this behalf, by the Collector.

(ii) The danger-rate is intended as a rough guide to the necessity for giving relief in insecure areas, and in no way supersedes the necessity for oral and general enquiries whereby the need for such action may be otherwise established. It is not meant that suspensions shall of course be confined to villages to which attention is called by the danger-rate or of necessity granted in such villages. Nor is it intended that the danger-rate should be used for the purpose of determining the scale on which relief should be afforded. The relief will be granted in accordance with the crop standard referred to in paragraph 561 *supra*, after account has been taken of the considerations mentioned in (iii) *infra*. But it may safely be said that any village in an insecure tract in which at any harvest the incidence of the revenue instalment on the matured area equals or exceeds the danger-rate, should be inspected by a revenue officer, and the circumstances which bear on the question, whether relief should be allowed or not, should then be fully investigated.

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

CAUTION : - READ SEPARATE PARA FOR PUNJAB AND HARYANA

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

565. **Discrimination between holdings desirable.** Fortunately hailstorms move in narrow, well defined lines, and the damage done by locusts is also likely to affect some holdings more than others. Relief therefore is as a rule required not for a whole estate, but only for particular holdings. The correct method of calculating remissions of land revenue necessitated by extraordinary calamities such as hailstorms, visitations of locusts, floods, and the like, is to apply the *bachh* rates worked out for each village concerned at settlement to the area actually damaged. No

remission should be given if the amount so arrived at is less than one-fourth of the total land revenue of the holding.

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

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

568. **Relief to tenants.** Section 30 of Punjab Tenancy Act (XVI of 1887) provides that in the case of tenants who pay fixed rent in cash or kind the order of a duly empowered revenue officer (Collector or Assistant Collector of the first grade see section 76(2) of the Act) is required to secure to the tenants the benefit of the relief granted to the Land Lords. A separate order of this description for each tenancy is not necessary. A general order may

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

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

(iii) If a landlord collects from a tenant rent of which the payment has been remitted or is under suspension, section 30 gives the power to realize from the landlord, and refund to the tenant, the rent so realized, and it gives the further power of realizing from the landlord by way of penalty an amount equal to the rent so realized and refunded. It should be recognized that the power of imposing a penalty is to be used with some discrimination. A landlord might be willing enough to recognize the justice of requiring him to refund to a tenant rent which he had improperly realized, but might resent the imposition of the penalty and endeavour to visit his dissatisfaction on the tenant. In deciding whether the penalty should be imposed in any case, the revenue officer should consider the possible effects on the relations between the landlord and tenant; in many cases it would obviously be to the disadvantage of the tenant that the landlord should regard him as being the cause of his punishment. In the case of kind rents other than those mentioned above, no orders are required because, where the landlord takes a fractional share of the crop, the tenant gets relief automatically.

CAUTION : - READ SEPARATE PARA FOR PUNJAB AND HARYANA

569. **Procedure in case of suspensions and remissions** - The grant of suspensions is a matter within the discretion of the Deputy Commissioner. But the action taken must be reported at once to the Commissioner, who may cancel or modify the orders of his subordinate. The district suspension statement is forwarded to the Financial Commissioner for information after the Commissioner has recorded his orders on it and communicated them to the Deputy Commissioner. Even when the Deputy Commissioner thinks that remissions should be given at once, he ought as a first step to pass orders suspending the collection of the revenue. Commissioners may sanction immediate remission of land revenue in any harvest due to locusts, flood and hail and the like in the harvest for which the land revenue is due up to a limit of Rs. 1,000 per district. They may sanction remission of revenue which has been under suspension for more than three harvests (paragraph 576 *infra*), upto a limit of Rs. 10,000 for one harvest per district, if they are satisfied that since the revenue was suspended due diligence has been shown in collection. Remissions sanctioned by Commissioners must be reported at once for the Financial Commissioner information. The Financial Commissioner may sanction remission without limit.

570. **Procedure in case of suspensions and remissions** - The grant of suspensions is a matter within the discretion of the Deputy Commissioner. But the action taken must be reported at once to the Commissioner, who may cancel or modify the orders of his subordinate. The district suspension statement is forwarded to the Financial Commissioner for information after the Commissioner has recorded his orders on that and communicated them to the Deputy Commissioner. Even when the deputy commissioner thinks that remissions should be given at once, he ought as a first step to pass orders suspending the collection of revenue. The recovery of land revenue/land holding tax/abiana should be suspended forthwith by the deputy commissioner/executive engineer till final orders for remission are passed.

The deputy commissioner/executive engineer is competent to sanction remission of land revenue/land holding tax/abiana without limit.

The remission of land revenue/land holding tax/abiana shall be granted as follows:-

- (1) where the loss exceeds 50%, there should be full remission of land revenue/land holdings tax/abiana except in case of abiana on suger-cane crop in which case the remission shall be 50%.
- (2) Where the loss between 25% to 50%, the remission of land revenue/land holding tax/ abiana should be 75% except in case of abiana as on the crops of till, chillies, mash and maize sown in the month of august, in which case there shall be full remission.”

570A. Suspended revenue usually realized - Though there are circumstances under which suspension ought to be merely a preliminary to remission, and others in which the attempt to collect arrears should after full trial be abandoned, the general rule is that suspended revenue shall be recovered whenever the return of better seasons permits. If the expectation that the landowners would in bad years meet their obligations from the stored-up surplus of past harvests has had in too many cases perforce to be abandoned, there is the more reason for recovering from the abundance of future years the amount which the State is compelled to forego in the present (See the orders of the Government of India on the Rohtak Settlement Report (Revenue Proceedings of September 1882); also paragraphs 7 and 8 of Government of India circular No. 58, dated 18th October 1882). As in the case of suspensions, the Collector is required to take account of the value of the crop harvested, as well as of the area and outturn, so, in considering the extent to which recoveries of suspended revenue can be made, it is necessary not to overlook any rise in prices which may have occurred since settlement, and which may cause the value of the estimated produce of subsequent harvests to be materially greater than that which the settlement officer adopted for assessment purposes.

571. Care required in recovery of arrears.- Prudence in the realization of suspended revenue is not

less important than prudence in the grant of suspension, and it is a matter in which mistakes are just as likely to occur. It has sometimes been asserted that landowners set no store by suspensions, coupled with an obligation to pay the arrears so created in the future. Where this feeling exists, it has generally sprung from past experience of ill-considered action in the matter of the recovery of balances. The old practice of fixing in the suspension order the instalments by which the arrear was to be liquidated was a direct encouragement to such action, and has therefore been forbidden.

572. **Instructions on subject. Recovery of suspended revenue after famine.-** The following instructions have been issued on the subjects :-

(1) When, owing to famine or widespread calamity, suspension have been made on a large scale, the people affected should ordinarily be allowed to reap the full benefit to the first good crop or average harvest following the famine or calamity, and should be required to pay nothing for it beyond the current dues of the harvest, no arrears of revenue being collected until the second average crop subsequent to such a calamity as is now under contemplation has been reaped;

(2) **Limit in terms of land revenue.-** For every district, and, where, necessary, for every tract in a district which has distinguishing physical features of its own affecting agriculture and the otturn of crops, a limit shall be prescribed in terms of the land revenue for the time being assessed within which suspended revenue may be collected with any instalment, in addition to the current demand. This will be fixed by the settlement officer at settlement with the sanction of higher authority, or, under special orders by the Deputy Commissioner with like sanction at other times. The rabi and kharif harvests, respectively, but must be fixed for each harvest.

(3) **Exceptions to rule (i).-** It is recognised that there may be tracts where the first of these rules would be unnecessarily liberal owing to the leniency of the fixed demand and the exceptional fertility of the soil in good years. On the other hand, these circumstances will have been taken into account in fixing the limit referred to in the second of the two rules. It may therefore conceivably be better in such a tract to collect a small amount of suspended revenue

with the first good or average crop after the calamity, and to take a somewhat smaller amount with the second. Proposals for limiting the operation of rule (i) should be included by settlement officer in the scheme for suspensions which it is their duty to draw up (*vide* paragraph 554 of the Settlement Manual), or should be made by the Deputy Commissioner, if at any time specially instructed in this behalf.

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No special charge can be levied on Muabi Land.

573. Differential treatment in collecting suspended revenue of rich and poor landowners - (1)

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

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

574. **Procedure in realization of arrears.** A Deputy Commissioner is required, at least one month before the first instalment of the revenue of each harvest falls due, to consider the circumstances of every estate in which there are arrears due to suspensions and decide what portion, if any, of the balance can be recovered in, addition to the demand of that harvest. He should issue the necessary orders, and put them in force. The orders, and the reasons for them are embodied in a statement which is sent to the Commissioner, who modifies them, if he thinks fit, and forwards the statement to the Financial Commissioner for information. It is for the Commissioner to see that the report of each district reaches him not later than one month before the first instalment of the land revenue falls due, and that it contains a sufficient explanation of the orders issued with reference to the circumstances of the current harvest.

575. **Remarks on the suspension of fixed land revenue and the remission and realization of arrears.** In districts where suspensions are frequent it will usually be advisable for the Deputy Commissioner to meet, at each tahsil headquarters, the Sub-Divisional Officer or Revenue Assistant, the tahsildars, naib tahsildars, and in exceptional cases, important landholders of the area concerned, and discuss with them informally, *zail by zail*, the suspension, remission or collection papers. This will enable the Collector not only to know the villages of his district, but also to learn the worth of his various assistant, official and non-official. In deciding what arrears, if any, can be collected, and to ensure the equitable working of the schemes prepared at settlement, the incidence of the current demand *plus* the arrears proposed to be realized on the area matured crops should be compared with the normal incidence in past years. (See columns 23 and 24 of the Abstract Village Note Book.) The office kanungo will check any statement made with regard to previous harvests or any other points raised, and, with the Settlement Officer's notes and statistics contained in the village abstract note-books and *Lal Kitab* before him, the Collector will easily decide what each village can really pay, especially where he is able to correct his opinion by what he or the Revenue Assistant or Sub-Divisional Officer has seen of the village in his tour. It is possible that new villages may be mentioned, for which papers will need to be prepared. It is specially desirable to inspect villages where permanent

deterioration may justify the remedy described in paragraph 582 below.

The amount to be recovered should always be expressed at so many annas in the rupee of the full demand of the harvest in regard to which the suspension was sanctioned. Collections should always be first applied to meet the current demand.

576. **Remission of arrears** (i) It has been usual in the Punjab, in case of ordinary calamities of season, to suspend revenue first; and, if the experience of three years has proved that it cannot prudently be recovered within that time, to remit the arrears then outstanding Government has, however, now decided that the question of the remission of the outstanding arrears should be taken into consideration after the laps of three harvests if it has not been found possible to recover them during his period, notwithstanding due diligence on the part of the Collector. It should not however, be considered hard-and-fast rule that in the case of ordinary calamities, remission shall under no circumstances be given immediately, or, on the other hand, that all arrears must be wiped out which remain unrealized for three harvests. In unirrigated tracts with large holdings no harm will be done by keeping the account open for more than three harvests if care is taken to cover more than the current demand only when this can be done without hardship to the people. But large arrears ought not to be kept hanging over the heads of landowners for an indefinite period. In future, in estates in which the land revenue has been suspended, and has not been recovered for three harvests, the crop statistics of those three harvests should be invariably examined with particular care at the next harvest, together with the statistics of that harvest and the Collector should decide whether any of the accumulated land revenue can prudently be recovered and, if so, how much, of whether any part of it should be remitted.

In connection with the working of the three harvests rule it is first necessary to make clear how the three harvests in question are to be calculated. The easiest way to do this is by a concrete example. Let it be assumed that a Collector is considering, when all the figures of the rabi 1930 crop are before him, whether he should propose any remissions of suspended revenue of preceding harvests. The latest harvest he can consider in this connection is kharif 1928.

But, however bad the intervening harvests may have been in the villages under consideration, if the greater part of the annual land revenue demand on them and of their annual cropping falls in the kharif, he should not propose any remission of land revenue suspended from kharif 1928, or earlier, with the rabi harvest 1930; he should wait till the following kharif to consider the matter seriously. To this point particular importance is directed.

If, however, the incidence both of annual land revenue demand and annual cropping of the villages in question is fairly equally divided between the kharif and rabi harvests, he should, when dealing with past arrears of suspended revenue, take the following points into consideration-

- (a) whether any money due on account of past suspended arrears for any harvest can be recovered with the present demand;
- (b) whether all or any part of those arrears should remain under suspension; or
- (c) whether he should recommend for remission any portion of the demand suspended from kharif 1928; no later.

And, in arriving at a decision on these important points, he should of course be guided by the settlement statistics of the village in question and their crop figures and other relevant statistics for the harvests from kharif 1928 to rabi 1930. It may well be that, having done so, the Collector will decide not to recommend remission at once but to leave the arrears, even though they may have been under suspension from kharif 1928, under suspension for yet another harvest or even more. Such a decision would be in no way contrary to these instructions. The principle object Government is aiming at in this matter is to prevent *large* burdens of suspensions accumulating against villages over a group of harvests.”

(ii) **General conditions regarding scale of remissions.** In the case of fully-assessed tracts with an out-turn

which is fairly constant, the amount of revenue under suspension at any given time should ordinarily be limited to the equivalent of the revenue demand of an ordinary year. In this case it would not follow that, when suspensions exceeded the limit, the whole amount suspended should be remitted, and, logically speaking, only the balance by which they were in excess should be so dealt with. But, in the case of calamities so severe as to call for heavy suspensions, greater liberality than this will no doubt be desirable. An absolute and general rule that the amount under suspension should never exceed a year's revenue would be open to objection; since there are many areas of fertile soil, where there is no irrigation and the rainfall is uncertain in amount, and where, on account of this uncertainty, the revenue is pitched so low, that in a really bumper year the people could pay very much more than the revenue assessed without the slightest inconvenience.

(iii) Special scale for districts. In deciding whether to propose the remission of the arrears of any particular harvest or harvests in an estate the Collector should consider-

- (a) the proportion which the total of all outstanding arrears bears to the annual land revenue of the estate,
- (b) The length of time during which, notwithstanding due diligence, the arrear of the particular harvest or harvests has remained outstanding.

In the case of closely-cultivated and fully-assessed tracts where the holdings are small, it will often be right, when the arrears exceed one year's demand, to remit a portion of them, even though the arrears have not been outstanding for three harvests in the case of precarious barani tracts; where the surplus of good years is very large, and the revenue rates are low, the mere fact that arrears exceed one year's demand, or have been outstanding for three harvests, is not a sufficient reason for remission. In such tracts good and bad seasons often come in cycles, and the main point is to see that, in the case both of the current demand and of arrears, collections are only made of when the people have the wherewithal to pay. The details of these arrangements will be settled for each district in which suspensions on a large

scale are likely to occur.

(iv) **Remission of arrears in the case of fluctuating and fixed assessments-** When in any tract a system of fluctuating assessment is introduced at resettlement, it is usual to remit all outstanding balances of suspended land revenue on the ground that the new fluctuating assessment is supposed to be adapted to the assets of each harvest, and should not therefore, be increased. But, in the case of fixed assessment, this condition does not apply; and, although it is true that Government contemplates taking a certain sum within the term of years for which the settlement runs, this principle applies equally to the expiring as to the new, settlement. As regards fixed assessments, therefore, the only case in which the general principle that all arrears should be remitted on the introduction of a new assessment can be accepted is when the revision (whether of a tract or of an individual village) has resulted in a material reduction of the fixed demand. In such a case there is a practical admission that the previous demand was too high, and the arrears should invariably be remitted. All other cases will be dealt with on their merits, though; if proposals for remission are made immediately after a revision of assessment, they will be treated with somewhat greater leniency than in ordinary cases, especially in the case of estates which are themselves, apart from general seasonal calamities, weak estates. When reporting the collections of suspended revenue which he proposes to make with the rabi installment, the Deputy Commissioner should also report any recommendation he has to make regarding the remission of arrears.

577. Control by Commissioner- The initiative, which the Deputy Commissioner exercises in regard to suspensions and the collection of arrears is subject to the strict control of the Commissioner. The latter has necessarily a wide experience than most of his deputies, some of whom are sure to be very junior officers. The charge of divisions changes far less often than that of districts. A Commissioner, therefore, should be able to supply the ripe judgement and some times even the local knowledge which a subordinate may lack, and can exert his influence to ensure that the policy pursued in different districts, where similar conditions exist, shall follow broadly the same lines. If the question of suspension and of the recovery of arrears is fully discussed with Deputy Commissioners should be necessary, Government expects the Commissioner's control of the matters dealt with in this chapter to be strict, and that he will not hesitate to modify the Deputy Commissioner's orders, both as regards suspension, and collection, if

they appear to be ill-considered or not in accord with the instructions on the subject. Where the crop has been markedly inferior, Commissioners should place themselves in close communication with their Collectors at an early period of the harvest with a view to determining what measures of relief generally will be necessary. This is particularly necessary in the case of junior officers and those who have not had much revenue experience.

578. Suspension and remission of cases- It was formerly the practice in the Punjab that the suspension or remission of a part of the land revenue implied the suspension or remission of a corresponding fraction of the local rate. But in consequence of the orders contained in Government of India, Department of Revenue and Agriculture resolution No. 13-356-10 of 21st August, 1906, this has been changed. Under existing orders the local rate will no longer be proportionately suspended or remitted with suspensions or remission of land revenue. Except in a great emergency, or unless special measures in any particular case are required, the collection of the local rate will, subject to the exception noted below be made in full at harvest, suspension and remission falling on land revenue alone. Occasions may possible arise when the remission of the local rate will be inevitable but the intention is that under all ordinary conditions the local rate will be recoverable, notwithstanding the remission of the land revenue. But, when the land revenue demand in any estate has been entirely suspended or remitted, it will be convenient to suspend the collection of the local rate until the next collection of land revenue takes place. Under the provision of section 62 of the Punjab Land Revenue Act, 1887, the land revenue for the time being assessed on an estate or payable in respect of a holding, is the first charge upon the rents, profits and produce thereof, but as a matter of administrative convenience it has been decided that wherever there are collections of land revenue (including current demand) the local rate demand both current and arrears, will first be satisfied, the balance being credited to land revenue. Thus in all but the most exceptional circumstances, if the whole of the revenue is suspended or remitted, the local rate will be suspended; if only part of the land revenue is suspended, the local rate will be collected; and whenever any part of the land revenue is collected, the local rate account will be cleared. These orders do not affect the headman's *pachotra*¹.

¹*Financial Commissioner's circular letter No. 3 dated 20th April, 1907, and Punjab Government notification No. 157-Revenue, dated*

18th duly, 1907. See as to the village headman's pachotra, paragraph 308, and as to the zaildar's inam, paragraph 341 of this manual.

(2) Local rate on fluctuating land revenue is calculated on the amount assessed according to rates fixed at settlement and therefore is not affected by the grant of special remission.

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

580. Nature of enquiry- As regards each village affected, the first step to take is to study the settlement officer's note concerning it and the grounds of its assessment. The next is to trace its later history, as evidenced by the annual statements, especially the area, crop and ownership statements, in the village notebook. The Deputy Commissioner may be fortunate enough to find remarks by some of his predecessors or their subordinates on the state of the village in their time¹. Having thus, got a clear idea of the facts so far as they have been recorded, and having heard what the tahsildar and the Revenue Assistant have to say, he will be in a position to make an enquiry on the spot. He may find-

- (a) that the demand imposed at settlement was from the first too high, and that there has been no growth of assets to make its present incidence fair;
- (b) that the demand was originally fair, but has ceased to be so because the assets have fallen off; or
- (c) that the demand is fair, and the difficulty lies in the character of the people or of the headmen.

1. *See paragraphs 404 and 407 of this manual.*

581. Reduction on account of over assessment-If the assessment of a tract as a whole has worked well, a prudent man will be slow to conclude that the settlement officer failed to gauge the resources of a particular estate. But, once

he is satisfied that over assessment exists, he should not hesitate to report the fact and propose a reduction. To maintain an excessive demand is unjust to the people and discreditable to the administration. It is also the surest way of involving Government in ultimate pecuniary loss. There is a tendency to think that any revision of assessment, even though it affects but a single village, must be a difficult and intricate business. As a matter of fact, it ought to be extremely simple. This elaborate calculations of the value of one fourth net assets made at a general reassessment are out of place. It is enough to show that the demand is high compared with that of similar estates in the neighbourhood, whose fiscal history proves that they are properly assessed, and to lower it sufficiently to make its incidence fair as judged by that standard. Care should, however, be taken that the land revenue imposed on such land does not raise the total assessment of the circle in which it is situated to more than one fourth of the net assets of the circle.

582. Action where difficulty springs from reduction of assets- Where an assessment originally just has become burden some through a fall in assets, the Deputy Commissioner should ascertain whether the deterioration is due to any lasting or incurable cause, or to one which the landowners can be helped to remedy. In the former case only will he propose to lower the revenue, with due regard to section 48B of the Punjab Land Revenue Act, 1887. Where the evil can be cured, it is his duty to nurse the estate, helping the landowners to effect improvements by the grant of takavi, and during the period of restoration suspending or proposing to remit, revenue in harvests in which relief is really required.

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

CHAPTER XVII

LAND REVENUE ACCOUNTS

584. Means of checking collection of land revenue good-The machinery for checking the collection of land revenue and cesses is excellent and if used with care and intelligence, it is easy to prevent fraud and to enforce

punctuality. It need only be dealt with very briefly here. For details the reader must refer to Financial Commissioner's Standing Order No. 31.

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

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

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

588. Fluctuating land revenue-"Fluctuating land revenue" falls under two main heads-

- (a) items permanently excluded from the fixed land revenue roll; and
- (b) items temporarily excluded from it.

The former includes not merely fluctuating assessments of the kinds described in the Settlement Manual, but also collections from estates held under direct management.¹ Fortunately the latter is a head of account which it is very rarely necessary to employ. An example of an item temporarily excluded from the fixed land revenue roll is the income derived from a lapsed jagir till its assessment can be added to that roll. This cannot be done till the orders of the Financial Commissioner have been received on the yearly statement of lapsed assignments in which the resumption has been reported.

1. *See paragraph 531-533 of this manual.*

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

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

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

591. Fixed land revenue roll- The demand statement is known as the land revenue roll or in the vernacular as the kistbandi. When a general re-assessment of a district has been finished there is no difficulty in drawing up an accurate kistbandi showing the demand for the whole district on account of fixed land revenue. After the Commissioner has sanctioned the new jamas reported in the detailed village assessment statement² the settlement officer prepares-

- (a) a comparative demand statement showing the fixed assessments of each estate for the last year of the old and for the first year of the new, settlement; and
 - (b) a list of progressive and deferred assessments, if any have been sanctioned.
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2. *See appendix XVII of Settlement Manual.*

The kistbandi for the first year of the new settlement is based on the former of these statements. Copies of both are kept in tahsil and district offices for use in preparing future land revenue roll¹.

1. *For further particulars see appendix XVIII of the Settlement Manual.*

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

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

1. See paragraph 507.

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

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

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

598. Duty of Commissioner as regards collections-The abstract tauzih forwarded to the Commissioner's office should be carefully scrutinized there before it is sent to the Financial Commissioner. All the necessary control over the progress of the land revenue collections of a division should be exercised by the Commissioner and interference on the part of the Financial Commissioner ought not to be required.

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

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

601. Notes on balances in March and September tauzihs-On the tauzih for the month of March the Deputy Commissioner records a brief note showing what part of the balance of the kharif revenue shown is recoverable, and how much of this is under suspension. If a recoverable balance not "under suspension" exists, the reason should be

explained. A similar note as to the balances of both harvest should be added to the tauzih for the month of September.

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

603. “Undetermined” balances-“Undetermined” balances are simply balances which are in reality irrecoverable, but show remission has not yet been sanctioned by the Financial Commissioner.

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

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

606. Demand statement of miscellaneous land revenue-In the case of miscellaneous land revenue the demand statement drawn up at the beginning of the year is a mere estimate which is useless for audit purposes. The amount due under most heads cannot be known when the return is prepared, and in some cases is only ascertained at the end of the year. But, as it is essential to secure that check on collections which an accurate record of the demand supplies, a running register is kept up both in the district office and in each tahsil, in which every item of demand is posted as soon as it is known. The total under each head at the end of every month represents the demand to date. The form of this register will be found in paragraph 29 of Financial Commissioner’s Standing Order No.31. A single example will explain its use. One head of account in the register is “lapsed revenue free holdings”. Under this are columns to show the demand and the collections. As soon as the deputy Commissioner has ordered the resumption of an assignment.

the file is sent to the sadr wasil baki navis, who makes the necessary entry in this copy of the running register, and notes that he has done so. The file is then sent to the tahsil, where the tahsil wasil baki navis does the same. No file, which contains an order creating a demand on account of miscellaneous land revenue, is accepted in the record room without notes by the district and tahsil revenue accountants showing that the demand has been brought to record. The entry in the register is the tahsildar's authority for collecting the amount.

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

608. Balance statements of fluctuating and miscellaneous land revenue-As irrecoverable balances of fluctuating and other land revenue are remitted only and not also struck off by separate order, it is unnecessary to submit balance statements for such demands, the balances will be sufficiently reported in the tauzih. Commissioners are competent to remit balances of such revenue and, where such remissions are required, Deputy Commissioners should obtain the necessary sanction upon a special report.

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

BOOK V.- *State Aid to Landowners.*

CHAPTER XVIII.

STATE LOANS TO AGRICULTURISTS.

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

the construction of wells.

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

612. Why Government loans are necessary. It is notorious that in India, even solvent and industrious landowners can only obtain private loans on very burdensome terms as regards interest. Accordingly the British Government, following the example of Indian administrations (Thomason's Directions for Collectors, edition of 1858, paragraph 45.) has stepped into the breach, and offered loans for agricultural improvements at a moderate rate of interest fixed with a view, not of bringing profit to the treasury, but merely of securing it against the risk of loss. Such State loans are known as *taccavi*.

613. Early rules on the subject. The grant of agricultural loans to private persons was a feature of our Indian administration from a very early date. Section XXII of Bengal Regulation II of 1793 forbade Collectors to advance money on account of *taccavi* without the express sanction of the Board of Revenue and section XL of Regulation XIV of 1793 provided that "arrears of *taccavi*, of any money advanced by Government to proprietors.....for making or repairing embankments, reservoirs, or water-courses, of other improvements to their estates" might be recovered as if they were arrears of land revenue. Soon after the annexation of the Punjab the Board of Administration announced that it was prepared to sanction advances for the repair of old wells, for the sinking of new ones, and for the excavation of water-courses (Board of Administration circular No. 41 of 1850.). The power of sanctioning *taccavi* for works of permanent utility was delegated to Commissioner, but they had no power to give loans for the purchase of bullocks or seed (Board of Administration circular No. 13 of 1851.).

614. System discredited in 1859. Seven or eight years later the system had become discredited owing to want of care in working it, and orders were issued to the effect that “the Lieutenant-Governor desires to discourage such advances as much as possible, and in particular deprecates their being made to impoverished villages suffering from over-assessment and entitled to a reduction of revenue, and that hence- forth no *taccavi* advance shall be made except in cases where security for prompt repayment can be obtained.” (Book Circular LXXIV of 1859). The remarks on the subject in Cust’s Revenue Manual are coloured by the economic doctrine of *laisser aller* in farvour 60 odd year ago.

He wrote: -

“Undue interference with the landowners, though with the best intentions, is to be deprecated and generally fails.... It is notorious that every village has its banker and..... as along as credit exists, so long will advances for purely agricultural purposes in ordinary times and in ordinary cases be forthcoming, and the Government had better leave the matter alone..... As a general rule the practice should be discouraged; it is one for exceptional periods, and in a newly conquered country. The people should be left to their own resources and credit as regards works of permanent utility. Advances for bullocks and seed are wholly to be condemned. In a financial point of view it must be remembered that we are paying 5%, for the money advanced, and there is no necessity for the sacrifice(Cust’s Revenue Manual) pages 135-138.).

These views have long since been abandoned.

The Government of India resolution No. 6-204-16, dated 30th November, 1905, in which a very liberal *taccavi* policy is advocated contains the following note of warning: -

“The Governor-General in Council thinks it necessary to utter a word of caution against what he considers to be a very real and practical danger, namely, the danger of creating , by too active a policy, a forced and spurious demand for these advances. Even under the most favourable circumstances irrigated cultivation requires, at all events in the case

of wells, more capital than dry cultivation; and in many parts of the country, where the wells are costly and their results uncertain, and where physical conditions make it possible to irrigate only a small area from each well, only the highest form of cultivation, which entails very considerable annual expenditure, is likely to be profitable. In such a case it is worse than useless to encourage a peasant to contract a debt for the construction of a well, the profitable working of which is beyond his resources; and the Government of India, while they are anxious to see the system of advances administered in a sympathetic spirit and made as simple and liberal and elastic as possible, trust that no excessive inducements will be held out to individuals to apply for loans which they may find it difficult to repay, and that any increase of demand will be spontaneous and therefore healthy.” (Government of India , Revenue and Agricultural resolution No. 6-204-16 , dated 30th November , 1905 paragraph 15.)

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

616. Act XIX OF 1883. The Act on the subject now in force is Act XIX of 1883. It is a short and simple enactment,

and leaves much to be provided for by rules to be issued by the local Government. (Section 10 of Act XIX of 1883.)

617. Persons to whom loans may be made. Loans may be granted for the purpose of making an improvement “to any person having a right” to make that improvement, or, with the consent of that person, to any other person. (Section 4(1). As regards the right tenants to make improvements see paragraphs 70,71 and 72 of this manual.) The 9th section also provides for loans to several persons or to all the members of a village community on their joint liability. In the 7th paragraph of resolution No. 6-204-16, dated 30th November 1905, the Government of India strongly endorsed the “opinion recorded by the Irrigation Commission (of 1903) that the joint personal security of several persons may often be accepted as sufficient to ensure the repayment of a loan, and recommend for the consideration of local Governments the rule now in force in Madras to the effect that when a loan is applied for by the members of a village community or by a group of cultivators on their joint personal security, the Collector may, at his discretion, advance on such security an amount not exceeding five times the annual assessment of the land held by the applicants.”

618. Definition of “improvements”. The definition of “improvement” is a wide one and covers much the same ground as that contained in the Tenancy Act (Section 4(2) compare paragraph 75 of this manual). It may be expanded by notification so as to include “such other works as the Local Government, may, from time to time, by notification in the local Gazette, declare to be improvements.”(Section 4(2)(f).) The vast majority of the improvements for which loans are taken come under the first clause of the definition , namely, the construction of wells, tanks, and other works for the storage , supply, or distribution of water for the purposes of agriculture, or for the use of men and cattle employed in agriculture. (Section 4(2) (a) of Act XIX of 1883.)

619. Period for repayment. The period allowed for repayment is ample. It “shall not ordinarily exceed thirty –five years” from the date on which the loan has been completely taken up. The Punjab rules, however, reduce this period

to twenty years (Section 6 and paragraph 15 of Financial Commissioner's Standing Order No. 32) except in special case. In the resolution quoted above it is remarked that, 'Government of India are of opinion that in the case of ordinary improvements a twenty years' term for repayment is generally sufficient for the following reason. An examination of interest tables drawn up to show the amount of the annual or half-yearly instalments required to discharge within different periods a loan of Rs. 100 at 6 or even at 5 percent, will prove that to extend the period of repayment beyond twenty years effects no substantial reduction in the amount of the annual or half yearly instalment; so that such an extension affords no great immediate advantage to the borrower; while it burdens him for a longer term with the duty of making repayments. A still stronger reason is to be found in the consideration that the amount of funds available for making such loans is limited, and that the rate at which fresh loans can be made depends to a large extent on the rate at which the money already out on loan is repaid to Government, so that it may be utilised by being re-issued in the form of further loans. Thus to extend the terms generally adopted for repayment would reduce the number of improvements which could be aided by means of the total sum available, and render it less effective for the purpose in view. The Government of India therefore are of opinion that the ordinary term for the repayment should not exceed twenty years, but they have no objection to a local Government taking the power to grant a longer term in special cases.'

620. Arrears recoverable as arrears of land revenue. In order to protect the treasury from loss and to enable it to lend on easy terms as regards interest, large powers are taken to enforce recovery by executive action. Instalments of principal and interest which are overdue may be realized from the borrower or his surety (if one has been required), as if they were arrears of land revenue due by them. (Section 7(1)(a) and(b).)

The land for whose benefit the advance has been made can be dealt with as if it was land in respect of which an arrear of land revenue exists. (Section 7(1)(c), see paragraph 521 *et seq.* of this manual.)

621. Lien of Government on land for improvement of which loan is given, and on land hypothecated as security.) In the rare case of other property being hypothecated as security for repayment it can be sold as if it were

immovable property of a land revenue defaulter other than the land on which an arrear is outstanding. (Section 7 (1) (d) see paragraph 539 of this manual.) The lien of Government over the land for which the loan is granted and over the property (if any) comprised in the collateral security takes precedence of the right of any mortgage over it , even though the mortgage be of earlier date than the advanced . (Proviso to Section 7(1).) In actual practice it is unusual to give *taccavi*, unless the land for whose improvement it is required is free from encumbrances, but the provision of the law referred to above makes it needless to institute very elaborate enquiries regarding title. If the surety or the owner of any property hypothecated as collateral security pays an arrear, he can require the Deputy Commissioner to recover the amount on his behalf from the borrower.(Section 7(2)).

622. Interest. (i) Interest will be charged at the rate notified by the Provincial Government from time to time.

(ii) If *taccavi* is paid at any time between June 1st and November 30th, six months' interest will be charged with the following *rabi* instalment, and if paid at any time between December 1st and May 31st , six months' interest will be charged with the following *kharif* instalment. Loans repaid during the harvest in which advances were made will be charged interest for six months.

(iii) Penal interest will not be charged on instalments that have been suspended by order of competent authority, but in other cases it will ordinarily be charged at a fixed rate of 6 percent per annum, simple interest (equivalent to one pie per rupee per mensem), on the principal overdue, when the delay exceeds one month. Compound interest will in no case be charged . The Collector may remit or reduce the penal interest if he is satisfied that the levy of such interest would be productive of hardship.

(iv) The debtor may at any time pay the whole amount with interest due up to the date of payment and thereby close the transaction.

623. Allotment of funds, and power of sanction. The Financial Commissioner informs Commissioners as to the amounts placed at their disposal for *taccavi* loans during each financial year. Commissioners may divide the allotment

between the districts of their divisions at their discretion; but expenditure in the division must be kept within the amount assigned. Deputy Commissioners distribute their allotments over tahsils according to requirements in order to avoid delay which occurs when a tahsildar has to apply for funds to district headquarters.

Within the limits of the funds allotted to them for the purpose, the following officers are empowered to grant loans under the Land Improvement Loans Act, XIX of 1883:-

Tahsildars up to	Rs. 1,000
Assistant and Extra Assistant	Rs. 1,000
Commissioners upto	
Collector upto to	Rs. 2,500
Commissioner upto	Rs. 10,000
Financial Commissioner	Rs. 50,000

Officers subordinate to the Collector will only exercise these powers when permitted to do so by the Collector.

The limits apply to the amount which may be granted in any individual case. Commissioners may, in very special circumstances, on the recommendation of the Collector, invest selected naib-tahsildars with the powers of a tahsildar as regards the granting of loans.

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

625. Collateral security not usually required. The applicant's interest in the land to be improved is usually amply sufficient to cover the loan, and, when this is the case, no collateral security need be required. (See paragraph 9(1)(A)(a) of Financial Commissioners Standing Order No. 32)

626. Repayment. In order to prevent misapplication , loans for improvements should ordinarily be made instalments ; but this is not necessary with the small sums usually given for seed, bullocks and fodder. Repayment should not begin until, assuming reasonable diligence on the part of the landowner , the improvement will yield a return. “ The Government of India think that within reasonable limits the convenience of the borrower may be consulted, and that the object should be to ensure that payment, either of principle or interest , is never exacted before the date when, by the exercise of such due diligence as may reasonably be expected of an Indian peasant, the profits of the improvement might be expected to cover the payment. This period of grace should not , however, exceed 2^{1/2} years in any case, and interest should be charged during its currency” (resolution No. 6-204—16 , dated 30th November 1905, Paragraph 6.) Instalments are recovered half-yearly on the dates on which the first instalment of the land revenue of each harvest falls due. Repayments are so arranged as to permit of the realization of an equal sum in each half-year. Recoveries may not be spread over a period of more than twenty years except with the sanction of the local Government. (See paragraph 15 of Standing Order No.32.). A less term is

often sufficient and the rules require advances to be repaid within as short a period as is consistent with the object for which they are made.

627. Considerations bearing on period of recovery. The spreading of repayment over an unnecessarily long period means actual loss to the borrower on account of increased interest charges. For instance, if he chooses to repay a loan of Rs. 100 in 10 annual instalments and begins his repayments after one year, he will pay altogether 10 instalments of Rs. 12-10-0 or Rs. 126-4-0 in all: if he begins his repayments after two years, he will pay 10 instalments of Rs. 13-3-0 or Rs. 131-14-0 in all: if he spreads the repayments over 15 years and begins his repayments after two years, he will pay 15 instalments of Rs. 9-11-0 or Rs. 145-5-0 in all; if repayment is spread over 20 years he will pay 20 instalments of Rs. 8 or Rs. 160 in all. For an ordinary well the best arrangement will generally be that repayment should begin after two years and that repayment should be made in 15 annual instalments of Rs. 9-11-0 or Rs. 145-5-0 in all, or in 30 half-yearly instalments of Rs. 4-15-0 or 148-2-0 in all.

(See tables of equated payments appended to Financial Commissioners' Standing Order No. 32)

Payments should be made in 15 annual instalments of Rs. 12-0-0, or Rs. 180-0- in all, or in 30 half-yearly instalments of Rs. 6-2-0, or Rs. 188-12-0 in all. (See tables of equated payments appended to Financial Commissioners' Standing Order No. 32). If this is understood by the borrower, the first thing to consider is his reasonable wishes. If the security is good, there is no great object in increasing or curtailing the period of repayment which the borrower desires and for which he can give good reasons. The matters which should weigh with him and with the Deputy Commissioner are the cost and durability of the improvement made, the necessary expense of maintenance, the rate and amount of the probable return,

and the period from which it will begin to accrue. The debtor can of course at any time repay the whole amount still due on the loan, and thus close the transaction.

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

629. Suspensions and remissions . Instalments may be suspended on proof of failure of crops or other exceptional calamity .

In areas under fluctuating assessment, the Collector of the district may order such suspension upto a limit of Rs. 5,000 for a single tahsil, or a total of Rs. 10,000 for the whole district in any one harvest, provided that the amount involved at a time in any one case shall not exceed Rs. 1,000.

In areas under fixed assessment the same limits shall apply, except that in those cases in which suspensions of *taccavi* follow suspensions of land revenue, the Collector may exercise unlimited powers.

Proposals for suspensions in excess of these limits shall be submitted by the Collector of the district to the Commissioner of the Division who shall have unlimited powers of suspension as in the case of land revenue.

All suspensions of *taccavi* , whenever granted, shall be reported without delay through the Commissioner of the division for the information of the Financial Commissioner.

A suspended instalment should not be made payable in the ensuing year with the instalment of that year, but the effect of suspension should be to postpone for one instalment period the payment of all remaining instalments due on the loan . When a man borrows money he should be required to repay the loan with interest ; but time should be given him to make those repayments in such a manner as will not be ruinous to him. As regards remissions, the Government of India are of opinion that it is a sound principle not to remit repayment of a loan so readily as remissions of ordinary land revenue are granted, and that as a general rule the risk of the failure of an improvement should be borne by the borrower as this affords the best guarantee that the money will be judiciously applied, but they will have no objection to a local Government's remitting outstanding instalments or a part of them, when a work fails from causes beyond the borrower's control ; and when recovery of the loan in full would occasion serious hardship. (Government of India resolution No. 6-204-216,, dated 30th November, 1905). The Commissioner can sanction remissions not exceeding Rs. 1,000 in each case. For larger amounts the orders of the Financial Commissioner are required. (Rule 8 of Land Improvement Loan Rules).

630. Remarks on procedure. Instructions have been issued with the object of marking the grant of loans prompt and easy . To ensure that this object is not defeated the Deputy Commissioner should set his face against all vexatious formalities , and especially against repeated summonings of the applicant to the tahsil . There is no reason why an ordinary *taccavi* case should occupy more than three weeks from first to last. Revenue officers of any grade can receive applications, which may be written or oral. (See paragraph 4 of Financial Commissioner's Standing Order No. 32) In the case of the latter a few questions put to the applicant by the revenue officer will enable him or his reader to fill up

the very simple printed form of application. On the back of that form there is a note stating the different points regarding which a report is necessary .

Landowners should be encouraged to present their applications to revenue officers in camp in order that the enquiry may be made at once, and that the necessity of summoning the applicant and his headman to the tahsil may be avoided. In an ordinary case the simple enquiry called for can be made with the greatest ease. All that is required is for the revenue officer to see the land for whose improvement the loan is asked , to obtain an extract from the entries regarding it in the last annual record, and to put a few questions to the applicant, the village headman and the *patwari*. If however the necessary information cannot at once be obtained, the enquiry can be made by a field *kanungo*, if the loan does not exceed Rs. 500. The tahsildar must state in his report whether the applicant wishes to receive payment at the tahsil or at the *sadr*. In the former case his attendance at the district office is usually quite unnecessary . When the tahsildar decides to recommend the loan he sends the file to the district revenue accountant (*wasil baki nawis*) and, if the applicant is to receive the money at the district office , gives him a slip containing the date on which he is to appear before the Deputy Commissioner. The date should be so fixed as to give the revenue accountant time to check the file carefully before it is brought before the Deputy Commissioner for orders. The Government of India have authorized a system of employing selected officers to take money into camp and disburse loans on the spot. (Government of India, Revenue and Agriculture Department, resolution No. 2-413-2 of 1st March 1905, compare paragraph 11 of resolution No. 6-204-16 of 30th November 1905.) For the details of the procedure to be followed under this system reference should be made to Standing Order No.32, paragraph 7(1) . A system of peripatetic distribution with oral application and disbursement on the spot is also specially suitable for tracts in which it is desirable to encourage any particular

form of agricultural improvement such as the sinking of masonry wells, the embankment of land for purposes of irrigation, etc. Such a system has been approved by Government for adoption under certain conditions. Needful instructions will be found in paragraph 7(2) of the Standing Order above referred to.

631. Order Sanctioning loan. The order of the officer sanctioning the loan is in a prescribed form, at the foot of which is a statement over the signature of the borrower that he has understood and agreed to the conditions stated in the order (See paragraphs 18 and 20 of Financial Commissioner's Standing Order No. 32.). One of these is that the loan shall be applied solely to the purpose set forth in the order, and that, if any part of it is misapplied, the whole shall be at once recoverable. The Deputy Commissioner may, and as a rule ought, to declare in the order the period within which the work must be completed . If he does so, failure to finish it in the time specified is declared to amount to misapplication . Of course a condition of this sort must be enforced with great discretion.

632. Inspection of works.- Works which are being constructed with the aid of *taccavi* loans ought to be inspected from time to time by revenue officers. When they go into camp they should take with them a list of all unfinished works for which loans have been granted in the tract which they mean to visit, and make a brief report of the state of each work to the Deputy Commissioner, and care should be taken to provide for a similar inspection of works near the revenue officers' headquarters. In addition to these casual inspections, works for which advances have been made in a lump sum should be inspected and reported on as soon as possible after the date (if any), on which their completion was directed in the order granting the loan. In the case of an advance made by instalments the work should be reported on before each instalment subsequent to the first is paid,

and also as soon as possible after the date (if any), on which its completion was ordered. Great care must be taken that the completion of the work is not delayed because the inspection preliminary to the payment of an instalment is not made promptly. If the Deputy Commissioner is satisfied that the first instalment has been misapplied, he should order it to be recovered, and make no further payment.

633. Act XII of 1884.- The Agriculturists' Loans Act, XII of 1884, which replaced an earlier Act, X of 1879, enables the local Government to make rules as to the grant of loans "to owners and occupiers of arable land for the relief of distress, the purchase of seed or cattle, or any other purpose for specified in the Land Improvement Loans Act 1883, but connected with agricultural objects (Section 4). As in the case of a loan under Act XIX of 1883, an advance may be made to several persons or to all the members of a village community on their joint and several responsibility (Section 6).

634. Object for which loans may be made.- It has been ruled that " the relief of distress' means" the relief of *agricultural* distress, that is to say, distress directly due to calamity in agriculture, such as the destruction of crops by drought or floods, hail or blight, or the loss of cattle by disease. It must be satisfactorily shown that the distress to be relieved is directly traceable to the failure of some agricultural process, or to damage to crops, articles of husbandry, or cattle." The words " any other purpose not specified in the Land Improvement Loans Act 1883, but connected with agricultural objects" must be interpreted as referring to purposes directly connected with agriculture and its processes. They would cover, for example, the advance of money to buy agricultural implements, such as a sugarcane mill, or to construct indigo vats. But a loan to a village community to enable it to build a new *abadi* on a healthier site would lie outside the scope of the Act. Doubtful cases should be referred to the Financial Commissioner. The grant of loans to agriculturists for the prosecution of industries subsidiary to agriculture

was considered by the Government Of India in 1916, and it was ruled that ‘loans should be given only to facilitate processes which are ordinarily practised by agriculturists or are necessary to the marketing of their crops.’ “The grant of loans, it was said, should be restricted to the case of such operations as, from a sound economic point of view, may be performed by an agriculturist in respect of his own produce or of simple industries dealing with raw produce which can be carried on by individuals or small combinations of cultivators without expert supervision. Where it is the custom of a particular class of agriculturist to enter upon a preliminary stage of preparation of the raw produce before it is put on the market, as a part from manufacturing it as a completed article of commerce, the provision of appliances for this purpose would fall within the category of the purposes for which loans may be granted under section 4 of the Act. Weaving cannot, in the opinion of the Government of India, be regarded as being in the definition.” (Government of India, Department of Revenue and Agriculture, circular No. 178-143-15, dated 7th March 1916.)

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

636. Arrears recoverable like arrears of land-revenue.- Like Act XIX of 1883, the Agriculturists’ Loans Act of 1884 provides for the recovery of overdue instalments of principal and interest from the borrower or his surety as if they were arrears of land-revenue due by them (Section 5 of Act XII of 1884.). It makes no allusion to the hypothecation of immovable property as security, and this should rarely be required.

637. Term of loans.- A maximum period of ten years is allowed for the recovery of a loan (See paragraph 23 of Financial Commissioner's Standing Order No. 32.). But ordinarily advances for the purchase of seed should be repaid from the crop produced from the seed and those for the purchase of plough cattle within two years. In practice loans under the Act are almost invariably made for one or other of these purposes.

638. Interest on, and recovery of loans.- The rules (See rules 2, 3, 5, 7 and 8 of Agriculturists Loans Rules, (volume II, Punjab Land Acts.) as regards interest, and recovery, suspension, and remission, of loans are practically the same as those dealing with the same matters issued under Act XIX of 1883.

639. Use made of Act.- It is not the object of Act XII of 1884 to supplant the village *sahukar* as the source from which the peasant landowner draws the small temporary loans which he constantly requires in carrying on his business. It usually comes into play when the village bankers have for the time being ceased to lend altogether. Hitherto therefore no great use of the Act has been made except in seasons of severe and prolonged drought. Small capitalists in rural districts are a very timid race, and the difficulties under which the people labour at such a time are much aggravated by the drying up of credit. Unless therefore the State come to their aid, tracts which have suffered from scarcity would recover slowly even on the advent of better seasons, and many a man would be ruined outright for want of a little ready money at a critical period to provide himself with the means of tilling his fields. The resolution of the Government of India quoted above certainly encouraged liberal advances under the Agricultural Loans Act ' where funds are available' even in ordinary times. (Resolution No. 6-204-16, dated 30th November 1905, paragraph 11.)

640. Advances for purchase of seed and cattle. Care should be taken only to make these advances at a time when they can immediately be put to a profitable

use, otherwise they are sure to be misapplied . Loans for the purchase of seed should only be made when the land is irrigable, or has received from rain, floods, or percolation sufficient moisture for the seed to germinate. They should be made more readily for the *rabi* than for the *kharif*, as the cost of seed per acre is much higher, for instance, in the case of wheat than in that of millets . It is useless to advance money for the purchase of plough or well cattle unless the borrower has the means of keeping them alive. The want of fodder is one of the worst evils from which drought-stricken tracts in the Punjab suffer, and it is the evil with which Government finds it most difficult to deal.

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

642. Advances for purchase of fodder. (I) Experience has shown that when fodder becomes excessively dear in one part of the province, it can be profitably imported by rail from a considerable distance. If it is obtainable in this way , but only at a price which is beyond the means of the poorer landowners, it is reasonable to make small advances to enable them to buy the food necessary to keep their agricultural cattle alive. Loans for the purchase of fodder should only be made in small sums not exceeding Rs. 20 in each case, or, if the advance has to be repeated, on each occasion. These loans are subject to the ordinary rules regarding *taccavi* advances contained in the Financial Commissioners' Standing

Order No. 32. It is the custom where herds are kept for pastoral purposes to drive them in seasons of drought into the low hills or the river valleys . There is therefore no object in giving *taccavi* to graziers.

(ii) But loans may be made to selected zamindars and registered Co-operative Societies for purchase and storage of dry fodder in scarcity tracts on condition that-

- (a) the amount to be so stored should be not less than 4,000 maunds, and
- (b) the advance should not exceed annas 8 for each maund so purchased and stored .

(iii) The minimum amount of fodder to be stored being 4,000 maunds at anans 8 per maund, it is necessary to provide for greater security by hypothecation of property as a preferable alternative to combined security.

643. Procedure must be exceedingly prompt. It is essential that advances under Act XII or 1884, which are usually small in amount, should be made without any delay. A poor man who wishes to take advantage of long looked for rain to plough or sow his fields cannot wait while files are being sent backwards and forwards between the tahsil and the district office. The rules therefore provide that within the limits of the funds allotted to them for the purpose the following officers are empowered to grant loans :-

	<i>For cattle and other Objects including Agricultural implements</i>	<i>For seed</i>
Rs.	Rs.	
1. Tehsildars up to	250	100
2. Canal Ziladars up to	100
3. Reclamation Zailadars up to	100

4. Deputy Collector, Reclamation.....	...	100
5. Assistant Land Reclamation Officer up to..	...	100
6. Assistant Commissioners and Extra Assistant Commissioners up to	300	100
7. Land Reclamation officer up to....	...	250
8. Collectors up to.....	500	250
9. Commissioners up to	2,500	750
10. Financial Commissioners up to	10,000	3,000

Officers subordinate to the Collector will exercise these powers only when permitted to do so by the Collector: -

The limits apply to the amounts which may be granted in any individual case. For the granting of these loans the Commissioner may, on the recommendation of the Collector invest selected tahsildars with the powers of an Extra Assistant Commissioner, and, in very special circumstances invest selected naib-tahsildars with the powers of a tahsildar.

In time of famine it may be necessary to enlarge powers of tahsildars, Assistant Commissioners and Extra Assistant Commissioners and Collectors , and this may be done by the Commissioner subject to a report to the Financial Commissioner.(Rule 1 of the Agriculturists Loans Rules) He should satisfy himself that the selected officer understands fully the circumstances under which loans should be made. It is a good thing to let him take the money which is likely to be required into camp and distribute it on the spot. This plan for the distribution of *taccavi*, which has been sanctioned by the orders referred to in paragraph 630, is particularly suitable in the case of advances under Act XII of 1884. The money required can be drawn on abstract bills and accounted for in the same way as contingent expenditure(See paragraph 29 of Financial Commissioner's Standing Order No. 32).

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

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

646. Grants in aid or irrigation works in insecure tracts. “The Irrigation Commission (of 1903) have made certain proposals with the view of encouraging irrigation in specially precarious tracts. They recommend that in selected areas, which have suffered severely in recent famines and have not since obtained by irrigation or otherwise protection sufficient to guarantee them against the recurrence of similar calamities, landowners should be encouraged to apply for loans ordinary conditions sufficient to pay for a portion of the cost of the contemplated improvements, and that Government should make a free grant of the remainder of the cost, the proportion of the free grant to the total cost

depending on the property of the applicant and the marginal profit from irrigation, the suggested maximum being half the total amount required upto a limit of Rs. 500 The Government of India have no objection to free grants being made under such circumstances, i.e., when they are applied to works the success of which is calculated to reduce future expenditure on famine relief.” (Any grants that may be made are chargeable to provincial revenues.)

647. Loans in times of famine. “The foregoing considerations are applicable to the case of loans made in ordinary times, and it remains to consider the case of loans made to agriculturists in anticipation of scarcity or during the currency of famine. As regards such loans the Government of India agree with the opinion expressed by the Famine and Irrigation Commissions that loans to agriculturists are especially required in the very early stages of famine as a measure of moral strategy and to put heart into the people, and that a system of advances when made in good time and with prudent forethought is a most efficient form of relief, and one which can to a very great extent be freed from the pauperizing influences of State Charity . These principles have been incorporated in the revised Famine Codes and will no doubt be acted upon when occasion arises. It has been usual in most provinces to make advances in famine times in low interest or free from interest altogether, and to remit them with great generosity. The Government of India, however , agree with the Famine that this is mistaken charity, likely to demoralise the people . They are of opinion that these advances should always carry interest at the usual rate, and that while due regard should be paid to the subsequent seasons and the circumstances of the borrowers, repayment of these loans should take precedence of the recovery of arrears of land revenue. If it is necessary to grant some remission, it should take the form of a remission of land revenue, and the loan with interest should be recovered; or if this will involve

great hardship, a portion of the loan itself, and not merely the interest, should be remitted. In times of famine in place of granting loans free of interest, the system of making free grants in addition to repayable loans, already alluded, to, may be freely utilised . Advances may be made to landowners for the construction of private works to enable them to give employment to the poor, a portion of the advance being made in the form of a loan repayable with interest on ordinary terms, and the remainder in the form of a free grant-in-aid from famine funds, to be spent on the employment of labour in accordance with the system of ‘Aided Village Works’, for which provision has been made in the revised Famine Codes. In such times a similar system may be adopted as regards advances for the purchase of seed, fodder, or cattle.”

Chapter-XIX

Rural Co-operative Credit Societies

648. Condition in Europe- Amongst the factors influencing the political and economic revolutions of the middle of the nineteenth century in Europe was the rapid increase in the import of wheat from the newly exploited plains of north America. The direct result was to intensify the existing agrarian depression. It appeared as though the land could no longer be cultivated with profit and agriculture seemed to be definitely on the decline. In the British Isles the situation was relieved by extensive emigration and by the demand for labour for the rapidly expanding industries. On the Continent, however, the general tendency was to meet the crisis by adopting more intensive methods of cultivation and by the replacing of wheat by more valuable crops or by animal products, such as butter, bacon and eggs. For this great change more capital was required, and in order to attract it, credit had to be established. The Rochdale Pioneers had since 1844 shown how success was to be obtained by co-operation, but their plan applied originally to distributive stores, and it was several years before Scheulze

Delitzscha and Raiffeisen adopted the essential principles to the granting of credit to farmers. General speaking, in European countries other applications of the co-operative principle preceded that of credit. The period was one of rapid transition; the advent of the steamship about the time of the Crimean War greatly facilitated international trade and deprived the farmer of his previous monopoly of the home market. The science of modern agricultural chemistry was slowly achieving recognition, and it gradually became clear to the more thoughtful that in the application of its teachings lay the best method of restoring the position of the farmer. The first step was to organize the supply of fertilizers, improved agricultural implements, etc., and much work was done in Europe in this direction between 1870 and 1885. The need for Credit Societies to enable the cultivator to adopt modern improvements in order to increase his production was also appreciated, and the first experiments were started in Germany about 1862, but it was not until much later that they became general. Organisation on co-operative lines brought the benefits of the new methods within the reach of all who could afford them, and from this to the co-operative provision of capital was a small step. From 1880 onwards rural co-operative credit societies have steadily spread over Europe.

649. The problem in India-In India the problem to be faced had not arisen from outside competition but from internal causes, amongst them being the ever increasing pressure which a rapidly growing population exert on the soil, while the capriciousness of the seasons, on which the success of the harvests depends, continues to give unceasing cause for anxiety as to the food supply.

The report of the Famine Commission of 1880 contains a list of eighteen famines and four periods of scarcity not amounting to famine in India in the period 1769 to 1878; and it gives expression to the conviction "that Indian famines are necessarily recurring calamities against which such precautions as are possible

must be taken beforehand, and that it is the duty of the Government to do its utmost in devising some means of protecting the country, and to persevere in its attempts till some solution of the problem has been obtained.” After dealing with the obligation of Government to afford relief, the Commission urged that it is important that the measure should be so framed “as to avoid every tendency to relax in the people the sense of the obligation which rests on them to provide for their own support by their own labour, to cultivate habits of thrift and forethought, and as far as possible to employ the surplus of years of plenty to meet the wants of years of scarcity.”

Amongst the principal rules of action advocated was “to give loans both to small landed proprietors who are in need of such assistance, and also to larger proprietors who may be trusted to apply the money usefully.” Concerning these loans, the Commission wrote that “the suspension of revenue does not entirely provide for the case of the small agriculturist who finds himself without the necessary means either of subsistence or of preparing his lands for tillage and who, if he is obliged to have recourse to the money lender, can only obtain a loan on ruinous terms. It should, therefore, be the policy of the Government to advance money freely and on easy terms on the security of the land, whenever it can be done without serious risk of ultimate loss.

Shortly after the publication of this report Mr. Wedderburn of the Bombay Civil Service proposed the establishment of an Agricultural Bank at Poona on lines similar to those since adopted in Egypt. The management was to be in unofficial hands, but Government was to guarantee interest on the capital and was in the last resort to collect instalments of the loans through its subordinate revenue staff. In the initial period it was not certain that Government would not have to provide the capital also. As Government was to assume all responsibility and risks, it was considered preferable to assume the management as well, and a

system of State loans was introduced by the Land Improvement Loans Act (1883) and the Agriculturists' Loans Act (1884). (See chapter XVIII). These measures only partially met the recommendations of the Famine Commission. They provided capital for agricultural purposes at a low rate of interest but did not include in their scope the encouragement of thrift and forethought. It was left to another Famine Commission to suggest a method of achieving this end. At the same time these Acts and the rules framed thereunder indicate the lines on which a sound system of rural credit could be established: careful examination into the objects for which money is required supervision over the expenditure on those objects and recovery by instalments repayable from the addition to income which the use of the capital has yielded, subject always to a suspension when the vagaries of the season render rigid repayment impracticable.

650. Co-operative credit recommended. In 1892 the Government of Madras placed Mr. Nicholson on special duty to enquire into the possibility of introducing a system of agricultural or other land banks. His report in two volumes (1885-97) was reviewed by the Madras Government in 1899. About the same time Mr. H. Duperneux, I.C.S., began to experiment with village banks in the United Provinces. In 1900 he published a little book "Peoples' Banks for Northern India:" meanwhile in the Punjab, Mr. Maclagan, I.C.S., was trying to start rural banks in Multan, and his example inspired his former Assistant, the late Captain Crosthwait to make tentative efforts in what are now the Bhakkar and Leiah tahsils of Mianwali and Muzaffargarh, respectively. The problem appeared to be ripe for discussion, and the Government of India assembled a committee at Calcutta in December 1900, which reported in favour of the institution of banks on Raiffeisen lines.

In May 1901 appeared the report of the Famine Commission, presided over by

Lord Macdonnell. It contained a clear statement of the united opinion of those who had recently given the closest consideration to the problem of rural finance: “We attach the highest importance to the establishment of some organization or method whereby cultivators may obtain, without paying usurious rates of interest and without being given undue facilities for incurring debt, the advances necessary for carrying on their business . Agriculture, like other industries , is supported on credit. The *sahukar*, or *bania*, has, from being a help to agriculture , become in some places an incubus upon it. The usurious rates of interest that he charges and the unfair advantage that he takes of the cultivator’s necessities and ignorance have, over large areas, placed a burden of indebtedness on the cultivator which he cannot bear..... It should be understood from the outset, and made perfectly clear to all concerned, that the establishment of a village bank does not imply the creation of an institution from which the villagers may draw money at their discretion.....It is not intended to frighten the village money-lender by permitting a village bank to enter into competition with him over the whole field of his business ; still less is it the intention to encourage borrowing for unproductive purposes. No association, borrowing on the joint responsibility of its members, would be justified in devoting any of its funds to loans for unproductive purposes . It does not consequently enter into the scope of a village bank’s operations to lend for marriage festivities or for caste feasts or for similar objects . If people wish to borrow money for such purposes or for any other purpose unconnected with agriculture, they must still go to the village *sahukar* or *bania*. The co-operative agricultural bank only aims at freeing the great business of the cultivator’s life from the terrible burden which now presses on it owing to the usurious interest taken for agricultural loans.”

The Commission favoured the establishment of credit associations on Raiffeisen

principles which they proceeded to enunciate.

651. Acts of 1904 and 1912. The results of much careful consideration and prolonged enquiry and discussion was the enactment of the Co-operative Credit Societies Act of 1904. This was introduced and explained in an able and clear statement by the late Sir Denzil Ibbetson, published as a resolution of the Government of India (Revenue and Agriculture) No. 1-63-3 dated 29th April, 1904. It was subsequently repealed and replaced by the Co-operative Societies Act, 1912. In 1914 the progress of the co-operative movement during the preceding ten years was reviewed in a resolution of the Government of India (Revenue and Agriculture) No. 12-287-1, date 17th June, 1914 and a Committee was appointed under the presidency of Sir Edward Maclagan to examine whether the movement was progressing on sound lines, and to suggest any measures of improvement which seem to be required . The report of this committee published in 1915 should be studied by all who have at heart the interests of the mass of the people.

652. The rural problem as described by the committee on co-operation. To committee on co-operation considered it desirable to explain that the chief object was to deal with the stagnation of the poorer classes, and more especially of the agriculturists who constitute the bulk of the population . They proceeded :-
 “It was found in many parts of India, as in most European countries , that in spite of the rapid growth of commerce and improvements in communications , the economic condition of the peasants had not been progressing as it should have done, that indebtedness instead of decreasing had tended to increase, that usury was still rampant, that agricultural methods had not improved , and that the old unsatisfactory features of a backward rural economy seemed destined persistently to remain . The more obvious features of the situation presented themselves in the

form of usury and land-grabbing on the part of the money-lending classes, while the agricultural classes either hoarded their savings or owing to thriftlessness and indebtedness showed themselves unable to withstand bad seasons and to meet organised trade on equal terms. The depression of the rural classes was further characterised by an underlying absence of any desire for education or advancement and a certain resigned acceptance of oppression from those who by wealth or social position occupied a superior position, an attitude which though often spoken of as 'conservative', has frequently little of intentional conservatism about it, but is due rather to ignorance to a traditional subservience in the past, and to an absence of ideals for the future. The peculiar feature of co-operation as a remedy for stagnation is that it is intended to meet not only the more obvious material evils but also the underlying moral deterioration to which the poorer classes have so long been exposed.

“The stagnation of the agricultural classes in the greater part of the country has for many years attracted the attention of Government, and various remedies have been tried for improving their material condition. A system of State loans was introduced. Post Office Saving Banks were opened, the Civil law relating to debt was frequently and extensively amended, special legislation was initiated at various times in different areas for dealing with tenant right, the alienation of land, the general settlement of debt and the curbing of usury. But although much has been done by some at any rate of these measures to help the peasant community, the general effect of the action taken can only be described as partial and incomplete. The further efforts which have been made by sanitation and education to improve the environment and the intellectual condition of the poorer classes have not been more successful. Without, therefore, abandoning the class of remedial measures previously attempted, the Government turned to co-

operation as the most hopeful method of dealing with the problem before it. The theory of co-operation is very briefly that an isolated and powerless individual can by association with others and by moral development and mutual support obtain in his own degree the material advantages available to wealthy or powerful persons, and thereby develop himself to the fullest extent of his natural abilities. By the union of forces material advancement is secured, and by united action self reliance is fostered, and it is from the inter action of these influences that it is hoped to attain the effective realisation of the higher and more prosperous standard of life which has been characterised as 'better business, better farming and better living.' We have found that there is a tendency not only among the outside public but also among supporters of the movement to be little its moral aspect and to regard this as superfluous idealism. Co-operation in actual practice must often fall far short of the standard aimed at, and details inconsistent with co-operative ideals have often to be accepted in the hope that they may lead to better things. We have in our report been compelled to deal mainly with the co-operative organization from a business stand point. But we wish clearly to express our opinion that it is to true co-operation alone, that is, to a co-operation which recognises the moral aspect of the question, that Government must look for the amelioration of the masses, and not to a *pseudo*-co-operative edifice, however imposing, which is built in ignorance of co-operative principles. To this point we shall return when we deal with the constitution of co-operative societies, but in the meantime we desire to point out that the combination of the material with the more or less intangible moral element constitutes an important difference between co-operation and the other remedies adopted by Government for dealing with agricultural stagnation."

653. Advantages gained by cooperation. To the above may be appended the

following extract from the resolution of 1914:-

“The aim of those who form themselves into societies is primarily economic. Their object is to obtain money or the other necessities of production at cheaper rates, or to sell their produce at higher prices than those which prevail in the market to which they would individually resort. If this object can be attained over a considerable portion of India, the result will be of immense economic value. It has, for instance, been calculated that in interest alone the agriculturists of India, by taking loans from co-operative credit societies instead of from the village money-lenders, are even now saving themselves from an absolutely unnecessary burden of at least 20 lakhs of rupees per annum, and there is no reason why in a few years this figure should not multiply itself several times over. The mere saving in interest charges is, however, a part only of the benefits received. With the progress of co-operation and with credit democratised money that has lain rusting in boards has been produced and placed in deposit; money that would otherwise have lain idle has found a serviceable form of investment; capital that would otherwise have lain idle has found a serviceable form of investment; capital that would otherwise have been inaccessible has come into the hands of the agriculturists; old debts have been paid of and old mortgages redeemed, cases being reported in which the debts and mortgages not of individuals only but of whole villages have been cleared off. With freedom from debt and with access to capital on reasonable terms, the agriculturist is enabled to develop his means with better heart and increased resources, while the production of hoarded money and its application to the development of the country, coupled with an improvement in the economic position of the people, must result in an increase in their purchasing power and in the expansion of external and internal trade.

“In no direction is co-operation more full of promise than in the improvement of agriculture . From the first it has enabled cultivators to grapple with the difficulties caused by bad finance and an undeveloped system of rural economy, but during the last two or three years it has begun to show how it can assist them in winning a better living from a reluctant soil and treacherous seasons. In time of need , Government has never been backward in helping the peasant. Loans for the purchase of seed and cattle have been generously given, lenient treatment has hastened recovery from seasonal disasters , and by the greatest gift of all-irrigation- the liability to such disasters has been prevented over large areas. But more helpful than any of these gifts is the teaching which the Agricultural Department is setting before the people . The field , however , is too wide, and the skilled workers so few, that mere departmental efforts can never suffice to bring home to every cultivator the benefits that agricultural science offers . It is here that co-operation has stepped in . It has, in some provinces, provided the means whereby , as each improved variety is perfected and made ready for use, seed can be conveyed from the Government farm to every village over large areas and can be multiplied a thousand fold; it has enabled the purity of the seed to be maintained, and the best price to be secured for the produce; it has placed within reach of the cultivator cheap manure and implements tested and approved by experts; it has supplied to cattle –breeders bulls of superior strains for the improvement of the village herds; and it has provided the means by which useful information can be disseminated.

The association of co-operation with agricultural improvement may assume different forms. In one place the co-operative society may perform the functions of an agricultural association; in another agricultural societies or unions may have

a separate existence, but may work in the closest touch with the co-operative movement. But wherever agriculture and co-operation have experienced the assistance which each can derive from association with the other, they are fast developing truly organic connection and there can be little doubt that before many years this will be the case throughout India. It has indeed been stated by outside observers that the efforts of these two departments have made a deeper impression on the life of the people than any of the other measures which Government is engaged in promoting.

But these direct economic improvements are not the only benefits which co-operation is conferring on the country. Co-operation has been, in the widest sense of the term, education, both intellectual and moral. When men are associated for business purposes, they feel the need of education. There are tangible reasons for learning to keep accounts, to sign promissory notes, to read pass-books and receipts, and knowledge of this kind must lessen the chances of fraud, while members who are able to read simple co-operative literature will take a more intelligent interest in their society and in the progress of the movement. Illiteracy is a hindrance to the movement, and just as co-operation leads to a demand for literacy, so literacy encourages the demand for co-operation. The effect of co-operation, however, extends beyond this, it does more than merely provide cheap credit; it encourages thrift. The criterion for admission to a society is a man's character and not his wealth, and men, when brought together for their common weal and when pledging their common credit, have influenced each other's conduct and advanced each other's interests in ways previously undreamt of in this country. The fact that the members are ultimately responsible for the payment of the debts of each and every member, operates as a powerful check on expenditure on unproductive purposes greater than that absolutely required by public opinion, and marriage

expenses have accordingly been curtailed. Drunkards and gamblers have been reformed or excluded from societies. Self-restraint, punctuality, straightforwardness, self-respect, discipline, contentment and thrift have been encouraged. In some areas litigation has markedly decreased. In others the common funds have been used to start schools, to provide scholarships, to distribute quinine, to provide drinking wells, to clean streets. The impetus of co-operative credit has led on to saving banks, benefit funds and provision for the poor. Those who have first-hand knowledge of co-operative societies are emphatic in their appreciation of the change which the movement is making in the character of the people affected by it, and it is important to bear in mind that co-operation is not merely a device for obtaining cheap money, or for increasing the economic resources of members, but is also a potent educational influence and, as such, is deserving of the warmest support from those who have the welfare of the people at heart. The managing bodies of the societies have frequently been entrusted with the arbitration of disputes and with other duties which belong to the traditional village *panchayats* and there is some reason to think that the continuity of aim, and the solidarity of feeling inherent in the movement, may lead to a revival of the corporate village life which has been so weakened by the disintegrating influences of modern times. “

654. Benefits peculiar to co-operation Before proceeding further it may be well to indicate the grounds on which the co-operative method claims to be more worthy of encouragement than its rivals.

The *taccavi* system described in the previous chapter possesses many advantages. It is based on the credit of the supreme Government which does not desire to derive any profit from it. This credit enables Government to borrow at from 5 to 6

per cent interest and to re-lend this money at 7-7/24 percent. The difference represents the cost of administration of the system plus allowance for irrecoverable loans. Its great advantage is the low rate of interest charged, and it might be assumed that this alone would ensure its popularity. The very fact, however, that co-operative credit has made such headway in the country suggests that the *taccavi* system is not free from defects. In order to be able to lend at such a low rate, it is necessary in the interests of the general tax-payer that Government should have adequate security for the money advanced and a certainty of its ability to recover the principal. The powers considered necessary (see paragraph 620 of this manual), are liable to prove harsh in the hands of unsympathetic officials, and the machinery available for working the system is apt to involve the borrowers in delays and vexations attendant on the direct receipt of loans from Government treasuries. (Cf Committee's report, paragraph 206.)

Moreover, as security, Government obtains a charge on the land and crops and can in the last resort sell proprietary rights by auction. The protective provisions of the Land Alienation Act and Civil Procedure Code do not curtail the right of Government to realise on its security. An agricultural bank would insist on a direct charge on the land or crops; it is doubtful if it could afford to lend merely on personal security. As Government realises no profits from its *taccavi* transactions, it would seem that an agricultural bank would have to lend at a higher rate, if its share-holders were to receive dividends. It would be a stranger to its clients, serving their needs on a business basis, the welfare of the one would be of no interest to the other.

655. What co-operation means. Co-operation claims to be more than a method of doing business, it is an idea, a faith. It depends for its success on a moral bond.

Given a body of persons of limited means, similarly situated, economically it provides the means for improving the interests of each through unselfish devotion to the common interests of all. The members come to realise that the advantages secured to them are not due to outside help from Government or philanthropists but to the combination of their own efforts and to loyal adherence to the rules they have themselves adopted. They stand or fall on their own merits, whether they achieve success or suffer failure depends on their own character and their own efforts. Co-operation is largely mutual self –help, and as the members are equally responsible for the management and are drawn from the same class in the same neighbourhood, the delinquency of one hurts his friends as well as his own society and himself. There is thus a strong moral incentive to straight dealing.

Further, co-operation is an association of persons and not of capitalists, the members meet on terms of equality, void of all distinctions of class , creed, birth or money, and they bring to the task of promoting the economic interests of all their honesty, good character and determination to work together for success . There is no element of charity , it is self help through mutual help.

656. Conditions of success in co-operation. The system of rural co-operative credit adopted is based on that of Raiffeisen; the essential principles are honesty, good character and determination to work to described in paragraph 3 of the Report of the Committee on Co-operation as follows :-

“The society to be fully co-operative must fulfill many conditions. The theory underlying co-operation is that weak individuals are enabled to improve their individual productive capacity and consequently their material and moral position, by combining among themselves and brining into this combination a moral effort and a progressively developing realisation of

moral obligation. The movement is essentially a moral one and it is individualistic rather than socialistic. It provides as a substitute for material assets honesty and a sense of moral obligation and keeps in view the moral rather than the material sanction. Hence the first condition obviously is that every member should have a knowledge of the principles of co-operation., if this co-operation is to be real and not a sham. In the formation of a society the first essential is the careful selection as members of honest men, of at any rate of men who have given satisfactory guarantees of their intention lead an honest life in future As. regards the dealings of the society, it should lend to its members only , and the loans must in no circumstances be for speculative purposes, which, so far from encouraging thrift and honesty have exactly the opposite effect. Loans should be given only for productive purposes or for necessities which, as essentials of daily life, can fairly be classed as productive . The borrowers should be required to satisfy their fellows that they are in a position to repay the loans from the income that they will derive from their increased productive capacity, or that by the exercise of thrift they can effect a margin of income over expenditure which will suffice to meet the instalments of their loans as they fall due. When a loan has been given, it is essential that the committee of the society and the other members should exercise a vigilant watch that the money is expended on the purpose for which the loan was granted. If it is improperly applied, it should be at once recalled. It is further advisable to add to the general supervision of the society the special supervision of individual members, by taking personal sureties in the case of each loan. In the event of any default by the borrower an instant demand should be made on these sureties. In the more general matters of the society's business there should, of course, be a committee of management with a president and a secretary , all of whom, except those who perform

purely clerical duties and have no voice in the management, should be members of the society and give their services to gratuitously. At the same time the ultimate authority should never be delegated to the office bearers, but should be retained in the hands of the members who must continue to take a practical interests in the business of the society. With this object the constitution should be purely republican; each member should have one vote and no more in the general meeting, and all business should be transacted with the maximum of publicity within the society. For example, there should be kept in some place open to the inspection of every member a list showing the loans issued to every member, the names of his sureties and the amount of the loan still unpaid, and each member should be required to know generally how this account stands; general meetings should be frequently held at which the accounts and affairs of the society are fully discussed and explained The express object of the society should be the development of thrift amount its members, with the hope too that this idea of thrift will spread in the neighbourhood. To effect this object loans must be given only when they are really necessary and desirable. Further, the development of thrift and of a proprietary interest in the society should be aided by efforts to build up as soon as possible a strong reserve fund from profits The society must also be encouraged to obtain as mush as possible of its capital from the savings which its teaching and example have brought about among its members and their neighbours. With all these must go the elementary business principles of honesty, punctuality, proper accounts, diligence, and payment when due. To ensure all this there must be adequate control from within, increasing vigilance and supervision by the office bearers, and a continuous effort by members in learning the principles of co-operation, in meeting frequently, in watching others, in working hard and observing thrift,

and in punctual repayment of their own loans as they fall due.”

657. The Punjab type of society.- A society must have at least 10 members; its area is usually so restricted that the number is not likely to become unwidely; the average society in India has about 40 members, in Germany it has 94. The smaller the area the more intimate is the personal knowledge and the easier it is to maintain a watch over the economic condition of each member. Usually in the Punjab each member has to subscribe for at least one share of 10, 20 or 50 rupees by equal annual instalments spread over ten years. These shares are not withdrawable, (which is not the same as not returnable). All net profits remain common and inadvisable for ten years, and thereafter one-fourth goes to reserve and three-fourths may be distributed amongst the share-holders as non-withdrawable shares. The object of this is to raise up a buffer of the society's own capital between creditors and the unlimited liability of the members. In these societies liability must be unlimited but this does not necessarily involve the members in much risk; the society is a body corporate, and so liability can only be enforced by a creditor on liquidation. Unlimited liability is universal in all private and business dealings, partnerships, clubs, syndicates, etc., with the single exception of limited companies, and these latter are quite a modern innovation in India. The liability refers to sums owed by the society to outside creditors and is in practice limited by fixing a low maximum to the loans borrowed. This requires as a preliminary a limitation on the credit allowed to individual members. If this latter precaution is carefully observed, and if all loans are fully secured by two sureties, there is little risk of any loss. Year by year the paid-up share capital increases and the profits accumulate, enabling the society gradually to dispense with outside assistance until, as experience shows, after ten years the society frequently owns all the capital its members need, and its outside liability to a

financing institution has been reduced to nil only in name. In the Punjab, in July, 1931, the 16,297 village credit societies, containing 4,99,314 members, owned 38.8 percent of their working capital of rupees 8.17 crores and the amount on loan with the members was Rs. 7.18 crores (For the working of the co-operative societies the annual reports should be referred to.). It is no part of the object of a society to earn a profit on shares; share capital is entitled to interest such as may be charged on loans, but anything above this should be devoted to improving the service rendered to members by reducing the rate of interest or otherwise promoting their economic interests.

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658. Central banks. In order to proceed funds for village societies in the early years of their existence, central banks have been established. These are not necessarily cooperative in form but are joint stock companies with limited liability and fixed capital. They are allowed to be registered under the co-operative societies act and to enjoy the privileges of registered the co-operative societies. In the Punjab these are of two kinds the banking union which has as its members and share-holders only the co-operative societies with which it deal and central banks proper which include individuals among their share-holders. The latter possess the advantage of securing more outside credit and so in the early stages of the movement proved invaluable. Their success has been largely due to the unselfish devotion of a few public-spirited gentlemen to whom the co-operators of the Punjab rest under a great debt. These banks lend only to registered societies and to the extent considered advisable by the Registrar. They have a right to all information concerning their client societies which the staff can provide. They must put one-fourth of their annual profits to reserve, while their clients are not allowed to distribute profits for ten years. Their business is thus unusually safe, and as their reserve funds grow, these banks generally experience no difficulty in attracting all the credit they desire. The Deputy commissioner or sub-divisional officer used in most cases to be ex-officio. President, but there are now many central banks where this is no longer so; and practice is conforming to the recommendations of the committee on co-operation.

In consideration of the special privileges enjoyed by these central banks the Act and rules impose certain restrictions which differentiate them from joint stock companies: at least one-fourth of their annual profits must go to reserve and the dividend must not exceed 10 per cent, and no person may hold more than one

thousand rupees of shares of more than one-fifth of the whole. These restrictions, it will be observed, add to the financial stability of the bank.

659. **Registrar and his duties.** To control the co-operative movement, Government has appointed a Registrar, whose post is now permanent, and maintains a large inspecting and teaching staff under him. In addition to this, the Punjab co-operative union, a non official body, has a large field staff for the purposes of audit and supervision of societies, which it maintains out of its own funds, and with the help of an annual grant from Government. The position and duties of the Registrar are thus described in the committee's reports:-

“The progress of the co-operative movement in India may be said to be due almost entirely to the fact that in every province a special officer of Government has been appointed to guide and control it. In European countries we find that such officers are appointed in some cases, but that their duties are mainly of a formal character. In other cases the movement is in the charge of no individual representative of Government but Government officers in several departments are expected to give it their support and countenance. In the creation of a Registrar not only to fulfill the formal requirements of the Act but also to guide and control the whole movement, the Indian Government occupies a unique position and one which we think has been of great, and could be made of still greater, utility to the movement, when the appointment. When the appointment as first created in 1905 the retention of a Government officer as Registrar was looked on as a more or less temporary measure, and it was hoped that as experience was gained and societies become more

able to stand alone, the fostering care of the Registrar would gradually be round less necessary until ultimately he would be able to confine himself to his statutory functions only. Even now the appointments in the various provinces are on a temporary footing and their further continuance will come up for consideration in 1916, but from what we have said throughout this report, and in view of the duties which our recommendations impose on the Registrar, it will be understood that we cannot subscribe either to the disappearance of the post or to the transference of its functions to non-official agency. Nor can we contemplate the continued development of co-operation in India on any other condition than the permanent maintenance of an efficient and adequate staff of registers.

“under the act it is the duty of the register to receive and inquire into application for registration, to register the bye-laws of societies and amendments to them to audit the accounts or cause them to be audited; to make a valuation of the assets and liabilities of societies and prepare a list of overdue loans; to see that the act, rules and by-laws are observed; to make special inspections when called upon to do so; to dissolve or cancel societies and to carry out their liquidation. In order to fulfill his duties he must be continually studying co-operative literature, which is now most extensive; he must make him-self acquainted with economic conditions and practices both throughout India and in his own province; he must know the principles and methods of joint stock banking, and must examine the system of developing thrift and inoculation co-operation which have been tried in other countries. He is also head of teaching establishment, and must devise effective means for impressing a real knowledge of co-operation on the bulk of the population. He has further to control a large

staff, to draft model by-laws and rules, to collect statistics and write reports, to advice government on various subjects, and to keep in close touch with the higher finance of the movement as managed by provincial banks and central banks. In addition to this he must keep in constant touch with markets, with honorary organizers and other well-wishes and various departments of government for the official press and for co-operation journals. As Mr. Wolf has put it to us, the registrars should not be set down as officials, but he guides, philosophers and friends to the societies, appointed and paid by the state. He must further be remember that there is no finality in the register's work, and he can never feel that it has been cleared off and brought up to date. He will always feel the need of wider reading and of giving more and supervision and teaching to his societies. New means and methods to attain fresh ends must constantly be discussed and devised and devised. His work is moreover, highly responsible, involving a watch over large sums of money deposited by the public and a share in the responsibility for the economic fate of a province. It can well be realized that few officers are entrusted with work more serious or more exacting.”

660. **Position of district officers.** The relation of district officers to the movement was thus described in the resolution of the government of India of 1914:-

“but while the movement must be essentially a popular one and while excessive official supervision must be avoided it by no means follows that government officials outside the circle of those directly connected with co-operation should hold aloof. It is true that the details of initiation and

inspection should be left to the expert agency provided for the purpose, and it is no part of the duty of the district officer to interfere in the internal administration of societies. But as co-operative societies are no longer isolated experiments outside the sphere of district work, and as beyond the material benefits which they represent an influence closely connected with the welfare of the people and powerful, now and in the future, for good, or evil, the district officer cannot dissociate himself from the movement. On the contrary a knowledge of co-operative principles and practice has now become as essential as knowledge of revenue law, allowing them to languish through want of vigilance or to develop on undesirable lines through want of sympathy. Without in any way becoming an active propagandist he should, personally, and not grass of the movement in his district, encouraging and helping those who have formed themselves into societies, enlisting the interest and support of men of influence and wealth and assisting with his advice. Those who seek to avail themselves of the benefits of co-operation. this in no way involves the officiating of co-operation, nor does it trench upon the essential principle that the movement, if it be by such encouragement and guidance, while the more closely the district officer is in touch with societies the more surely will he find to his hand new and valuable agencies to help him in his daily work.

“It is for local Governments to consider to what extent and in what manner use can be made of societies in each province in district administration –how far they can afford a means of ascertaining the real public feeling of the district, how far they can be rendering voluntary aid assist in promoting primary education, rural sanitation and medical relief,

in what manner they can be used in times of scarcity and famine or during the prevalence of epidemics, or whether the training afforded by them will lead to the development of a true system of village Government.

“In these and other ways it may be found possible to utilize the co-operative organization and the movement should if wisely directed, exercise an important influence in prompting the welfare of the people. But although it is still uncertain to what extent and in what manner, societies may assist in the work of the district there can be no doubt that a new factor in administration which cannot be disregarded, has come into being and that new duties and responsibilities have been thrown upon the district officers.”

The committee on co-operation agreed with the above. The only define functions assigned to the Collector by the Act are set forth in section 35. He may call on the Register to make an enquiry into the condition of a society and is entitled to access to all the books and to call for any information regarding the working of any society that the may require. With reference to his position towards central banks the committee wrote – “although we see no objection to the Collector or sub-divisional officer acting as chairman or member of the managing committee of a central bank in individual cases we do not advocate that they should hold these positions ex-officio or as an invariable rule. The district officer should however, in our opinion always have a formal right to attend meetings of the share –holders or directors of a central bank, and it is for the local Government to decide in what manner this arrangement can be best carried out. He would also be the most suitable person to preside at a district

conference . In that character and in any position which Government in accordance with our suggestions above may assign to him on the central bank, he would occupy in our opinion a position which represent correctly his general relation to the movement. He would stand as a well wiser equipped with the requisite knowledge and sympathy, but need not necessarily have any intimate connection with the management or assume direct responsibility.”

660-A. Chief duties to be performed by official staff. The Royal Commission on Agricultural in general supported the recommendations of the Maclagan Committee on Co-operation and added little that was new; it, however, stressed a few points on which critics are apt to go astray . The movement was initiated by a Government faced with the finding that “Indian famines are necessarily recurring calamities” and was intended to be a part of its anti-famine policy. This has resulted in three features characteristic of the movement in the Punjab and other provinces; the movement is closely supervised by Government officer, it has been chiefly developed in the rural areas and it has been concerned more with the organization of credit than with other needs of the people. The Royal Commission accepted the position that the movement must in the main continue to be directed towards the expansion of credit societies until the burden of outside debt has been considerably eased. Those charged with its direction are fully alive to the advantages to be granted from the application of the co-operative principle in directions other than credit. But their most important duty must, for many years to come be that of developing a rural credit system covering the whole field of village life, and we think it should be left to their unfettered judgement to decide what part of there resources at their disposal should be directed towards the extension of the non-credit movement.”

The main function of the official staff is to train the members of societies to manage their own affairs without outside interference or assistance, but practical considerations render necessary some degree of audit; inspection and supervision. The assistance of non-official workers is essential and is always welcomed but the Royal commission, in view of the many and serious defects which had been brought to their notice, recommended that every effort should be made to build up a highly educated and well trained staff of officials, "Its chief duty is to educate members upto the point at which they will be competent themselves to undertake its duties and so to dispense with its services; to strengthen the hands of the honorary workers by furnishing them with skilled advice and guidance in the more difficult problems; to supervise the work of unions and federations engaged in the management and control of the movement and to work out new schemes to facilitate the work of other departments to prepare the ground for their special propaganda and to organize the people to receive and adopt expert advice."

660-B Government aid to co-operative movement. Royal Commission made definite recommendations the subject of Government aid to the movement. "We think that local governments should encourage the enlistment of honorary worker by contributing towards their out of pocket expenses , both while they are under training and whilst they are working in the field.

"Public funds may also reasonably be spend in assisting institutions whose object to spread education in the application of co-operative principle to various objects and also..... in assisting unions for supervision. We found that Government aid was usually given for propaganda work and we approve this. In considering the prevailing illiteracy and the consequent difficulty in reaching the people by paper or pamphlet, we think that Government have a special interest in promoting

organizations on a co-operative basis to facilitate the activities of the agricultural, veterinary, educational and public health, departments and that assistance should , therefore , be freely given to ventures of a novel nature.....” The Royal Commission further recommended that Government expenditure should be devoted to education in preference to audit.

In general the Punjab movement conforms to the various recommendations mentioned above.

660.— C. Organisation of land mortgage banks with aid of loans from Government. The question of organizing land mortgage banks on a co-operative basis has received much consideration and although there has not yet been sufficient experience on which to base final conclusions, a tentative policy has been accepted of organizing two such banks a year with the aid of loans from Government. The recommendation of the Royal Commission on this difficult subject have been adopted and the banks are registered under the Co-operative Societies Act. These institutions can at present only be regarded as in the experimental stage and great caution must be exercised in advancing loans to people whose appetite for credit is greater than their readiness to make the personal sacrifice necessary to ensure repayment.

611 to 671 Cancelled.

CHAPTER XX

THE COURT OF WARDS

672. Object of Court of Wards. The duty of the State to make provision for the care of the persons and property of those who by reason of age, sex, mental,

incapacity or other causes are unfit to manage their own affairs is generally recognized. The Guardians and wards Act, VIII of 1890, embodies the general law on the subject, and under this a competent court is empowered, where no other suitable guardian can be found, to appoint the Deputy Commissioner to that office, But where public interest are involved., as in the case of a large landholder., or where the family is one of political or social importance public policy necessitates a more specialized machinery , which is provided by the Court of Wards Act II of 1903. Action under this Act is regulated partly by statutory rules(Punjab Land Administration Acts, Volume II) and partly by executive order issued in Financial Commissions Standing orders No. 33 . In the general interest of the administration of the province, it is desirable that large landholding families should receive assistance from Government , where that assistance can suitably be rendered. In cases where the official machinery is not suited to manage the particular business, such as an industry or trade , it will rarely be to the advantage of the minor to be brought under the court of words. Such cases must be left to the Guardians and wards Act.

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

property or to bring a suit in court. (*The power which reversions possess under the customary law of the Punjab to sue for the cancellation of the transfers of land made without necessary is a restraint of the same kind (see paragraphs 45 and 8 of this Manual)*)

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

674. Imperfection of law regarding court of wards contained in section 34-38 of Act IV of 1872 and origin of Punjab Act, II of 1903. The old law concerning the Court of Wards contained in the Punjab Laws Act of 1872 (*As amended by Act XII of 1878*) was unsatisfactory and defective, but it was not until after the prolonged examination of the measure required to rescue the rural population from debt that Bills were prepared to deal with some aspects of this problem. The Alienation of Land Act of 1900 (*See paragraphs 24 et seq. Of this manual*) was designed to meet the case of the mass of owners and it was supplemented in 1903 by the Court of Wards Act, to meet the case of families of social or political importance. The remainder of this chapter will be devoted to a short account of the present law followed by a few remarks on some particular questions which arise in connection with the care of wards and the management of their property.

675. Cancelled.

676. Financial Commissioner Court wards for Punjab. By Act No. II of 1903, the Financial Commissioner is declared to be the Court of wards for the whole province. But he can exercise all or any of his powers through Commissioners or Deputy Commissioners to whom also they can be delegated by rules under the Act, or by general or special orders. *(Section 4. For powers delegated to Deputy Commissioner and Commissioners [see the rules under section 4(3) in parts I and II of the rules under the Court of Wards Act in Punjab Land Administration Acts. Volume II.]*

677. Only landholders can be made wards. To be made a wards a person must be landholder i.e, he must possess an interest in land as proprietor, assignee of the Government revenue, lessee of land, otherwise. *(Section 3(b) of Act. No. II of 1903.)*

678. Classes of landholders who may be made wards by order of Financial Commissioner. The court may of its own authority declare the following classes of landholders to be its wards :-

- (a) minors that is to say persons below the age of eighteen. *(Section 3(c) of Act II of 1903 read with section 3 of the Indian Majority Act, IX of 1875)* A person who has been made a ward while still below that age does not reach his majority till he is twenty one. *(Section 3 of Act IX of 1875, as amended by Section 52 of Act VIII of 1890)* The Deputy Commissioner reports the cases of all minors who in his opinion ought to be made wards, and likewise case in which he himself has been appointed guardian of a minor under the provision of section 18 of the Guardian and Wards Act, VIII of 1890 *(Section 7(2))* The

object of the report in the latter case is to enable the Financial Commissioner to decide whether the estate should not be brought under the Court of Wards;

(b) Persons adjudged by a court acting under section 2 of Act XXXV of 1858 to be of unsound mind and incapable of managing their affairs . (*Section 6*) The deputy Commissioner may apply to the District Judge to institute the necessary enquiry. (*Section II(4)* , see also section 3 of Act XXXV of 1858)

679. Classes of landholders who may be made wards by order of local Government. The local Government may order the Court of Wards to take charge of the property of the following classes of landholders if it considers them incapable of managing their own affairs :-

- (a) Females;
- (b) Persons suffering from any physical or mental defect or infirmity;
- (c) Persons who themselves apply to made wards;
- (d) Persons who have be convicted of any non-bilabial offence , and are of vicious character;
- (e) Persons whose habits of wasteful extravagance are likely to dissipate their property. (*Section 5(2)(d)*)

The court may at its discretion take charge of their persons also. In the case of the third class action can only be taken , if it is considered “expedient in the Public Interest ;” in the case of the last two classes it is necessary that the landholder shall belong to a “a family of political or social importance” and that the local Government shall be satisfied that it is desirable on grounds of public policy or general interest” to interfere. (*Proviso to section (2)*)

680. Inquiry by Deputy Commissioner. A proposal to take anyone under the

superintendence of the court of wards usually originates with the Deputy Commissioner of the district in which the whole or the bulk of the property concerned is situated ; but cases occur where the landholder applies direct to the Governor or the Member in charge. In such cases the application or proposal has to be sent to the Deputy Commissioner who acts as if it were his own . The 3rd chapter of the Act gives him the necessary powers for making an inquiry and for the protection of the person and property of the proposed ward until sanction is received.

681. Release from wardship. A minor or an insane person may be released from wardship by the court at any time, When it is proposed to release the person or a minor, the head of the educational institution at which he is studying should be consulted as to this future. The concurrence of the District judge is, however, required in any case in which the Deputy Commissioner was appointed guardian of the minor before he became as Ward of Court. (*Section 44*) On releasing a ward who is still a minor the court may give him a guardian who will have the same rights and duties and he subject to the same disabilities as a guardian appointed by the District Judge under Act VIII of 1890. (*Section 47*)

The property of a landholder who has been made a ward under the orders of the local Government cannot be released without its order; but the court may relinquish charge of his persons at its pleasure. (*Section 44*)

682. Publication of orders. The orders by which the Court of Wards assumes and relinquishes charge of the person or property of a landholder are published in the Government Gazette. (*Section 9 and 50*)

683. Provision to meet case of joint owners. When the landholder declared to be a ward is joint owner of property with other the court may take charge of the whole property.(*Section 8*) But as will be shown here after , its power of de align with such property is subject to restrictions. Again if a person who has ceased to be subject to its jurisdiction owns property jointly with another person who is still in ward, the court may retain the whole under its care. (*Section 46*) This is very useful provision. It obviates the difficulty which arose under the old law, when several brothers were wards and one of them was released from tutelage on attaining his majority . When the court manages property not belonging to a ward it is bound to make over the surplus income to its owner.(*Section 8 and 46*)

684. Wardship may extend only to property. As already indicated the superintendence of the court may extend only to the property of the ward, or to both his property and his person.(*section 6 and 7*) .

685. Disabilities of ward. A ward cannot purchase on credit, borrow money, or transfer his property by lease, mortgage ,sale or gift. (*Section 15(a)*) He cannot make a will adopt an heir, or give permission to adopt.(*Section 15(b)*) He can only use under the authority of the court(*Section 20(1)*) and he cannot be used without the court being made a defendant, (*Section 20(2)*) and without two months notice having previously been given to the Deputy Commissioner.(*Section 19*)

686. Disabilities extending beyond release. A ward's disabilities do not in all cases come wholly to an end on his release . A landholder who was made a ward at his own request or as a consequence of his extravagant habits cannot, after his release from the superintendence of the court, make any transfer of this property

for a term extending beyond his own life. (*Section 16(1)*).

687. Powers of court as regards ward's property. All property which the ward possesses in the Punjab at the date of the order by which the court assumes charge, and all property in the Punjab which the ward may subsequently acquire vests in the court, which however, has discretion as to taking the superintendence of any property of the latter class not received by inheritance. (*Section 13*) The Act only extends to property in the Punjab; property owned by a ward in another province is not affected by its province, the authorities in that province must be moved to take the necessary action under the local Act. The court has for the item being all the powers of a landowner. It can even sell the whole of the property if it thinks that to do so would be to the ward's advantage. (*Section 17(1)*) Of course permanent alienation of any part of the ward's landed property is usually to be avoided. But the sale of outlying or isolated portions of an estate as part of a scheme for the liquidation of debt may be sound policy. The court cannot sell or mortgage the share of a joint proprietor who is not himself a ward, or grant a lease of it for more than twenty years. (*Section 17(2)*) In this connection it must be borne in mind that jagirs notified under the Punjab Jagirs Act, V of 1941, cannot be attached and are, therefore, of no value as legal security.

688. Management may continue after death or release of ward. The cessation of legal disability, or even the death of a ward, does not in every case free his property from management. If still encumbered with debt it may, with the sanction of the local Government, be kept under the charge of the Court till all the debts have been discharged. (*Section 45*)

689. Powers of court over ward's person. When the court has taken charge of the person of a ward it can fix his place of residence and in the case of minor male ward, has complete control of his education. (*Section 24*) This control has been delegated to Deputy Commissioners. (*See paragraph 696 of this Manual*)

690. Ascertainment of debts. To free an estate from a load of debt is too often one of the chief tasks of the court of Wards. The first step is to ascertain exactly what the liabilities are. The 6th Chapter of the Act provided a means of doing this promptly and a notice calling on all creditors to present within six months their claims with the documents on which they rely for their establishment. (*Sections 26 and 27*) Subject to the provisions of section 7 and 13 of the Indian Limitation Act, XV of 1877, claims not filed in time without reasonable excuse of the sufficiency of which the Deputy Commissioner is judge are ipso facto extinguished. (*Section 29*) Suits and executions against the wards, estate pending at the time are stayed until the plaintiff or the decree holders files a certificate that the claim has been duly notified. (*Section 3(2)*). Compare *section 31(3) barring fresh proceeding in execution.*)

691. Deputy Commissioner must determine amount due and may rank the debts. It is the duty of the Deputy Commissioner to examine in to the truth of each claim, and to determine the amount due. (*Section 28*) He cannot of course disallow any sum already decreed and still unpaid. (*Section 3(1)*) He has further to decide in cases in which immediate payment is impossible the rate of interest, if any, to be allowed in future, (*Section 28*) and he may, if he thinks fit rank the debts in the order in which they are to be paid, and fix a date for the discharge of each. (*Section 32(1)*). Debtors will often accept a composition favourable to the ward if, by doing so, they can procure a prompt settlement of accounts.

692. Remedies open to creditor. The Deputy Commissioner's decisions are not subject to appeal, but they may be revised by the Court of Ward. (*Section 33*) No civil suit lies to set aside the order of Deputy Commissioner ranking debts or fixing dates for their discharge. But, if he has wholly rejected a claim or reduced its amount, the aggrieved party may bring a civil action, in which the court of wards will be defendant to impeach the correctness of the decision. (*Section 32*) In such a suit no document which the plaintiff failed to produce before the Deputy Commissioner, though it was in his power to do so can be received in evidence. (*Section 30*)

693. Appointment of tutors, guardian and managers. The 7th chapter of the Act provided for the appointment of tutors, guardians and managers, and explains their duties and obligation. Subject to the control of the court, a guardian has charge of the person of a ward, and a manager of his property. (*Section 35 and 38*) It is often well to consult the friends or relations of a ward as to the choice of manager since a fit private person may sometimes be available. In the case of large estates, however, where a specially competent manager is required, a Government servant should generally be selected. In all cases, the interests to be considered are those of the ward and not those of any friend or relation or other candidate for the post. There is no reason why in suitable cases the two offices of guardian and manager should not be united in a single person. A guardian can only be appointed for the care of a ward. Who is a minor, or an unmarried female, or insane, or suffering from some physical or mental infirmity. (*Section 35*) The next heir of a ward or a person immediately interested in outliving him cannot be his guardian. (*Section 36*) If no guardian or manager is appointed by the court, their powers are exercised by the Deputy Commissioner.

694. Preliminary report and scheme of management. When a Deputy Commissioner has made up his mind that an estate should be brought under the court of Wards, he submits his proposals in a preliminary report, which is followed as soon as possible by a detailed scheme of management . Orders on the subject will be found in paragraphs 4 and 5 of the Financial Commisisoner Standing Order No. 33.

695. Court of Wards rate. (1) A rate is levied on the income of estates managed by the Court of Wards under the authority of section 3 of the Government Management of Private Estates Acct (X of 1892) . The income is intended to cover the cost of all ordinary Government establishments in so far as these have to devote part of their time to Court of Ward’s business. This is of course does not include any staff recruited solidly for the management of any estates or group of estate. Such a staff is paid out of the income of the estate or estate which employ it. The case also covers the share of any contingent expenditure of Government offices, which would otherwise be debatable to the Court of Wards. For the present the rate has been fixed as follows :-

- (a) on gross income up to Rs. 5000 per annum 5 percent.
- (b) On excess upto Rs. 10000 per annum, 4 percent
- (c) On further excess upto Rs. 20000 per annum, 3 percent.
- (d) On further excess above Rs. 20000 per annum, 2 percent.

(2) Gross income is defined in section 2(2) of the government Management of private Estates Act, 1892, as follows:-

“Gross income includes all receipts of every kind in produce or cash , except money borrowed , recoveries of principal and the proceeds of sale of immovable property or movable property classed as capitals.

696. Education of wards. The education of wards for good family has always been difficult problem. There can be no question in these days as to the kind of knowledge to be arity with Western ideas and modes of thought , which is becoming the common property of all educated Indians. But a young Indian leaving conservative home surroundings to receive such an education is very much in the position of a young Englishman in the sixteenth century faring to Rome of Padaua to reap the fruits of the Renaissance. We know what the result was in the case of our own countrymen , and we need not wonder if similar disappointments often occur in modern India. Yet the risks of home education are greater and though a body's relatives commonly urge its advantages, there can in most cases be no doubt that their wishes should be overruled. At best an Eastern home for a fatherless boy of good position and large means is not a school for the development of the mainly virtues; at worst it means an entourage of women trying to keep him in the zanana and of flatterers outside. The general rule that has been laid down therefore is that as far as possible every ward of an age for other than primary education shall , if he is the son or near relative of a hereditary darbari be sent Queen Mary's College at Lahore as a preliminary to sending him to the Chiefs' college. If the estate is too poor to bear the expense or if there are nay other reasons against its adoption, the circumstances should be reported to the Financial Commissioner when the ward has reached the age of 5 years the lowest age at which boys are received at Queen Mary's College. The annual expenses of education at the Chiefs College run to some Rs. 2400 but it is often possible to arrange that the boy shall hold a scholarship. The fees paid by wards of Court have now been as similated to those paid by ordinary pupils at the College. When education at the Chiefs' College is not practicable and a private tutor is not employed a ward should be sent to one of the Government

Schools. (See also paragraph 16 of Standing order No. 33) For the reason stated above private tuition is not usually to be recommended ; but the weak health of a ward or other special circumstances some times leave no choice in the matter. Although the court of wards is not empowered to issued orders compusorily directing the education of female wards the Deputy Commissioner should where possible satisfy himself that suitable arrangements are made. Where funds admit and relations agree Queen Mary's College provide a very suitable education. (See also paragraph 18 of Financial Commissioner's Standing Order No. 33)

697. Investments in improvements. As the accumulation of large cash balances or of readily realizable securities merely provides a temptation to a ward on release from control, it is desirable that surplus funds should be employed on the improvement of the estate and on bringing all buildings etc, into a through state of repair. The advantages to be derived from digging wells tanks, embankments or drains should be carefully considered and all measures which the agricultural department can recommend for the improvement of the soil, or for enhancing the security of the crops and the prosperity of the tenancy should be carried out as funds permit. Attempts should also made to effect improvement of the cattle under the advice of the veterinary department. It is not intended that estates under the Court of Wards should be run on model lines; but whatever an intelligent and enterprising landowner would be ready to spend money on in his own estate, may be object of expenditure by Court. Where Government has provided a body of experts to advice on agricultural matters, there need be little hesitation in taking full advantage of their advice to effect all promising improvements in the estate. The Government of India have especially advised the liberal supply of advances to cultivators upon the ward's estate in the shape of either money, seed, or cattle,

on the security of long leases and conditional on the payment of enhancement rent. (*Government of India, Revenue and Agricultural Department , resolution No. 2771 –79 dated 31st December 1891. Also see paragraph 27 standing Order No. 33*) In fact the expenditure should be on objects on which a wealthy and thoroughly intelligent landowner living in the neighborhood would be ready to spend money in the case of his own estate.

698. In purchase of mortgage of lands. Following the improvement of a ward's own estate come investments in the purchase or taking on mortgage of lands, which should, as a rule be situated in reasonable proximity to the main estate. It will often be found that the difficulties involved in the management of property situated at a distance from the managing center e.g., in one of the canal colonies. Are such as to render this form of investment inadvisable; but where these difficulties can be obviated, and auctions are advertised, inadvisable; but where these difficulties can be obviated, and auctions are advertised, proposals may be submitted for the purchase at auction of Government lands in the colonies. Where the lands to be acquired are not the property of Government; it is essential to see that the vendor's or mortgagor's title is unimpeachable.

It is to be observed that rule (II) under section 4(3) of the Act, part I(see page 93 of Volume II ; Punjab Land Administration Acts) Gives the Deputy Commissioner power to execute and register instruments on behalf of the Court of Wards; but before this power is exercised, care should be taken to see that the sale, mortgage or lease in question has received the sanction of competent authority. Under rule (2) the Deputy Commissioner may himself fix the form of lease to be given in certain cases. In other cases the form of instrument must be approved either by the Financial Commissioner or by the Commissioner. (*Rule*

(3 part II of the Rules under section 4(3) of the Act(see page 94 of Volume II, Punjab Land Administration Acts). It is necessary to lay particular stress on the fact that on no account should loans be advance in the interest of the borrower but solely, as laid down in section 17(1) of the Act for the advantage of the ward. Particular instructions in this respect are given paragraph 31 of Standing Order No. 33.

699. In purchase of government paper. The third form of investment is the purchase of Government promissory notes, but this is not only intended to be a convenient course to be adopted pending the occurrence of an opportunity to invest in less easily realizable securities. In the absence of any special reason to the country , all sum belonging to wards exceeding Rs. 500 and not required for investments in improvements or in land or for current expenses should be invested in Government paper until some letter investment can be secured. *(See also paragraph 30 of Financial Commissioner's Standing Order No. 33)*

700. Treatment of tenants. The treatment of the tenants in an estate managed by the court or wards should be an example to neighboring landowners . Undue enhancement of rents must be avoided . There is often more than a mere business relation between land owner and cultivator –as is testified to by the favourable rents which tenants not infrequently enjoy and it is inexpedient to reduce all to a uniform level, and to abolish privilege which the proprietor himself would wish to preserve. A system of cash rents undoubtedly reduces the difficulties of management and renders accounts easier to keep and Government in the case of tiths own lands almost invariably adopts a cash rent system. But local circumstances and the custom of the estate must be considered. The practice of putting leases up to competition is forbidden. No estate can be let in farm without

the sanction of the Financial Commissioner which will rarely , if ever be given as the practice leads to rack renting of cultivating tenants and other evils connected with the employment of middle men. Government Favor a policy of selecting suitable lessees and conferring on them a tenure of sufficient duration to offer an inducement towards the improvement of the land. Short term leases induce a lessee to make the most out of the land while he can. As already stated the grant of loans to tenants is a useful way of investing surplus funds but tenants will not taccavi to carry out improvements unless they enjoy in some degree stability of tenure. Section 18(2) of the Act which makes convenience , entered into the court binding on the ward; after the property has been released from superintendence, gives the necessary basis for the policy here set forth.

In dealing with the subject of tenants , it should be remembered that where the interests of both parties coincide, no efforts should be spread to foster these. The use of pure seed , of improved implements, or manure and of good bulls are examples, and these deserve full encouragement. Managers are apt to be some what slow to adopt any measure which is not hallowed by custom., and hesitate to embark on the campaign for improvement when this involves extra work. Deputy Commissioners should endeavor to secure for the estate all advantages which science can bring.

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697. Instructions issued in 1884. The instructions on this subject issued in 1884 are still applicable :-

- (a) No tenant of such lands who cultivates his holding satisfactorily , pays his rent with regularly and otherwise fulfils the conditions of his lease, should be disturbed merely to make room for some new tenant.
- (b) If the lease has expired or the rent of such land, the grounds for doing this should be placed on record briefly but clearly , and should be explained to the tenants concerned.
- (c) When it is proposed to raise the rent of such land, the grounds for doing this should be placed on record briefly but clearly and should be explained to the tenants concerned.
- (d) It is the duty of officers in charge of such lands to see that fair claims of this nature are asserted from time to time. But this should always be done with due and moderation, rents should not be arbitrarily raised, and the practice of putting leases up to auction or other forms of competition should never be resorted to .
- (e) When the time comes to renew a lease, the officer in charge of the land should fix a fair rent with reference to the letting value of land similarly circumstances in the neighborhood and should offer it at the rate so fixed to the old tenant, and only on his refusal should it be offered to others.

BOOK VI
STATE LANDS
CHAPTER XXI

STATE LANDS RESERVED FROM CULTIVATION.

702. Rights over waste claimed by Indian rulers. The large rights which the Indian rulers who preceded our own claimed in waste lands have been noticed in the 185th paragraph of the Settlement Manual . Even where the Raja did not claim an exclusive title in the soil he often asserted his ownership of certain “royal” trees. Such as the teak in southern India and the deodar in the Himalaya. The first attempt at forest administration in India was made in 1806 in connection with the supply of timber of the King’s Navy. (*See Pages 64-66 of Ribbentrop’s “ Forestry in British India” An interesting account of the rise of forest administration in India will be found in that work pages 61-76.*) It is needless to observe that the close connection between successful agriculture and a reasonable system of forest conservancy was not in those early days recognized. The object of section 8 of Regulation VII of 1822, quoted in paragraph 187 of the Settlement Manual , was not to preserve waste lands for the growth of wood and grass, but to ensure their being rapidly brought under the plough . The present chapter will deal with the use to which state lands have been put in maintaining a supply of timber, fuel and pasturage.

703. Classification of State lands . The waste lands in the Punjab over which Government has asserted rights varying from null ownership to a power of control exercised in the interests of the surrounding communities may be roughly divided into:

- (a) Mountain forests.
- (b) Hill forests
- (c) Plain forests
- (d) Grazing lands.

704. Mountain forests. The first are timber forests of oak, pine, deodar, and fir,

and consist mainly of the parts of the Himalayan Range lying in kulu, Kangra, Rawalpindi and Hazara. (Large parts of the range are included in Indian States, and in some cases Government manages the forests for the Raja.)

705. Hill forests . The hill forests occupy the lower spurs of the Himalayas below an elevation of 5,000 feet, the Siwaliks in Hoshiarpur and Ambala and the low dry hills of Rawalpindi division and the districts of the North West Frontier Province. The last, when nature is allowed to have its way, are covered with sanatha, khair and garanda scrub, and with a taller but scantier growth of phulahi and wild olive. In the most favoured parts of these hills deciduous trees , such as the dhamman kangar, kachnar (or kular) and various species of figs are found and above 4000 feet there is a scanty growth of the chil or chir pine. The Siwaliks in Hoshiarpur and Ambala enjoy a collar climate and a more abundant rainfall, but owing to the destruction caused by unrestricted and unlimited goat grazing up to the year 1902 in Hoshiarpur and to 1915 in Ambala and the Still unlimited cattle grazing in both districts, the low hills have been reduced to a terribly eroded condition resulting in thousands of acres in the plains below being reduced to utter sterility.

706. Plain forests and grazing lands. The plain forests which used to be found in the dry south –western districts have owing to the extension of canal irrigation practically ceased to exist, except in the great sandy tract between the Jhelum and the Indus known as the Thal. The central uplands between the Sutlej and the Jhelum in that part of the province are known as the bar. They were with trifling exceptions recorded as State property at the first regular settlements. Much of the soil of the Bar is excellent only requiring water to make it of great agricultural value. Left to itself it yields abundant grass in seasons of sufficient rainfall and a good growth of jand jal farash and karil. The poorer parts of the bar though

graceless and treeless, are often covered with different varieties of the Sajji plant and afford admirable grazing grounds for camels. Great change have been effected in the bar by the excavation of the great Punjab canals and a vast area of firewood forests has greatly decreased, nearly 20 lakhs of acres having been disforested and brought under cultivation in the colonies in Multan , Montgomery and Lyallpur. To a limited extent their place as full reserves has been taken by irrigated plantations. The Thal is less valuable from every point of view than the bar. Forest growth is scanty but the country is naturally adapted for camel- gazing.

707. Sketch of executive and legislative measures taken for forest

conservancy desirable. The extent to which Government asserted title to waste lands in the early days of the administration of the Punjab is briefly explained in paragraphs 188-191 of the Settlement manual. It will be necessary to deal with the matter here rather more fully but before doing so a short sketch of the executive and legislative action taken with a view to forest conservancy down to the passing of the Indian Forest Act (VII of 1878) will not be out of place.

708. Measures taken by the Board of Administration - The curious dislike felt by the early administrators of northern India to State property in the soil (see paragraph 186 of the Settlement Manual.)and their short –sighted indifference to forest conservancy gave way to sounder views in 1849. When Lord Dalhousie in his famous dispatch constituting the Board of Administration (No. 418 dated 31st March 1849, paragraph 60.) ordered excess waste to be formed into Government estates at the demarcation of village boundaries he was thinking of he most practical measure for spreading cultivation and planting a new population in thinly peopled tracts. But two years later he addressed the Board on the necessity of preserving supply of timber and fuel in the Punjab(Government of India letter No.

645, dated 18th February 1851.) Their reply is interesting as embodying the first scheme of forest conservancy in this province.

They wrote:-

“3rd- The Board are fully alive to the importance of the ends in view and they are glad to have the opportunity afforded them by the Governor – General , of bringing before the Government the question , not only of increasing the growth of timber, but of economizing the existing produce for the future wants of our large cantonments, for the steamers which may hereafter ply , and for the inhabitants or the country generally.

“4th – Although timber of large growth is very scarce, yet large tracts of country , throughout the Punjab are covered with low thick jungle, more or less dense which yields good wood for fuel . This is the case in the center of Doabs, commonly called the Bar and the same kinds of Jungle trees are to be found in different others localities where the ground has fallen out of cultivation , or is altogether unsuited for it owing to its broken and ravine nature. The board have ascertained that near out large cantonments the supply of wood has, in several instances, been nearly exhausted by the demand made for fuel for burning bricks and lime and for the troops and camp-followers; and unless immediate measures are taken , they fear that the future supply, within any reasonable distance, will be impossible . They have ascertained that the jungle wood generally is reproducing and that the wood cut down will be fit in two years to be cut again.

“5th – The large cities and town in the Punjab have hitherto been supplied with wood, cut from the Bars or jungles, convenient to their respective localities. The population of the country is rapidly on the increase and cultivation spreading moreover , the demand for fuel for the large cantonments and public works, now under construction throughout the

Punjab , as also for the large masses of troops can toned in the country , is enormous, and the person who supply wood find it more convenient, as well as more profitable, to stub out the roots of the trees near at hand than to go to a greater distance for the standing tree. Hence reproduction is prevented and the supply altogether fails, if the jungle is limited or it is daily removed to a greater distance.

6th – The Board would therefore, propose with the sanction of Government , to select certain tracts of country, if possible uncultivable , covered with low reproducing jungle , as near as may be convenient to the large cities.

Cantonments and rivers (they mention rivers in view to the future supply of steamers) and to place these jungles under proper surveillance, so as to prevent trees being grubbed up by the roots . The wood should be cut about one foot from the ground and no lower. A small tax sufficient only to pay the cost of a watchmen to protect, and if necessary renew the trees might be levied for cutting the wood ; by this plan the Board would hope to economize it and prevent is being totally destroyed , the local agents in each district being charged with the care of it.

7th – The above general remarks refer to wood in the plains ; but the board understand that the range of hills from hazara, which rule down to Rawalpindi and end at the Jhelum , as also the base of the Rawalpindi hills, yield an immense supply of the timber trees.

8th _Mr. Thornton states that all these useful products are being misused and destroyed, most recklessly.

9th _ The Board purpose, after defining the village boundaries, and allowing such reasonable extant of land as may suffice for the wants of the communities being include in each area, to declare the lands beyond these boundaries the property of Government. In thinly peopled tracts it will

probably suffice, to prevent waste, that the heads of the villages bind themselves to prevent injury to the trees and in return for this care the people might be allowed to collect for their own consumption, firewood to any extent, provided they confined themselves to dead timber. The District Officers should be empowered to grant a written permission to cut down a given number of trees of a specified size and age, when required by the villagers for agricultural or architectural purposes.

10th – Near towns and cantonments where the country is more densely peopled it will probably be necessary to entertain forest rangers paid from the income derived from these woods; for whose guidance a code of rules can be drawn up.” (No. 60 dated 17th January, 1852. In the same letter proposals were made for the preservation of shisham trees in islands on the Indus above Attock, for the encouragement of tree-planting by exempting lands under plantations from assessment (paragraph 512 of Settlement Manual) and for the planting of avenues or groves along public roads.)

709. **Order of Lord Dalhousie :-** These proposals were approved in a letter in which Lord Dalhousie remarked :-

2nd – Certain allotted spaces, calculated according to the ascertained rate at which the wood is reproduced should be set apart near to the great towns and cantonments for the regular supply of fuel in the same manner as grass preserves have already been told off for regular use. The area of the fuel copes should be made ample to secure a constant supply, and the regulations for cutting should from the first be rigidly enforced.

3rd – Immediate measures should be taken for ensuring a supervision and guardianship of the hill timber in the Jehelum division. The want of these precautions elsewhere has produced and is now daily producing probable

scarcity at no distant date which the Governor- General regards with some anxiety.

4th – The cost of the small establishment which will be necessary for the protection of the fuel copes and the hill woods, may be defrayed by the exaction of a small payment from the cutters.

7th – From His Lordship's own observation during last summer and the preceding one, while traversing the districts from chamba to Kunawar, he received the impression that vast supplies of timber exist, and that with proper arrangements much of it may be made available for use in the plains; whereas no exertions hitherto have enabled the officers to obtain it in sufficient quantities.

8th – The importance of securing by every possible means an additional supply of timber demands a thorough examination of all existing resources. (Government of India letter No. 218. Dated 13th February 1852.)

710. General rules of 1855. In 1855 the Chief Commissioner Sir John Lowerence, drew up a set of rules for the conservancy of forest in hill districts. (Chief commissioner's letter No. 196, dated 3rd March 1855, the Rules are given in full on pages 368- 370 of Barkley's Non- Regulation Law of the Punjab." The correspondence is printed as an appendix to Forest proceedings No. 7A of July 1883.

their general scope may be judged from the three quoted below:-

- (1) In any hill district within British Jurisdiction the Civil authorities have power to mark off any tract plot or ground wheresoever situated which they may consider specially adapted for the growth of timber or fuel.
- (2) The tract, plot, or ground so marked off may be declared to be a public preserve denoted by boundary marks, fenced and protected from trespass of all

kinds . Within it the said authorities are empowered to prohibit, restrict, or regulate all felling and cutting and to arrange for the development , preservation and growth of the trees , shrubs, or brushwood in such manner as may seem to them expedient.

(3) No person shall be entitled to object to the foregoing rules, whether relating to enclosures or to particular species of tree shrub, of brushwood on the score of proprietary or manorial right provided always that the Civil authorities do not interfere with the wood or fuel that may be really required by the occupants or owners of the land for agricultural or domestic purposes.

The privilege of felling might be granted with or without payment of fees. (Rules 3 and 5) The firing of forest lands in order to promote the growth of grass might be absolutely forbidden and in case of fires the joint responsibility of the members of adjoining village communities might be enforced. (Rules 8 and 9). Gazing of cattle might be prohibited or regulated . “provided always that the proper grounds for the grazing of pasturing of such cattle be not interfered with. The penalty for a breach of the rules was a fine not exceeding Rs. 100 , or in default imprisonment for a term not exceeding three months.(rule 12).

711. Government of India orders local rules to be drawn up. The Governor – General remarked –

“To any one accustomed only to European rights and regulations the general powers regarding forest trees which are assumed in these rules to be long to the Government would appear to be of an arbitrary character. But His Honor in Council believes that no question will be raised in this country as to the validity of the manorial right thus asserted for the Government in the hill districts, while certainly no person at all acquainted with the local wants of the districts referred to will question the existence of such a public exigency as would call for the assertion of the right.” He therefore accepted the rules “as far as they go.” But they were considered so general and not likely by

themselves to do much good and each Commissioner was to be directed to draw up a set of rules. Adapted to the peculiar circumstances of his divisions and to report without delay to you for the final sanction of Government of India the several steps which he has taken. (Paragraph 7 of Government of India , letter No. 1789 dated 21st May , 1855.)

712. Rawalpindi rules of 1856. In July 1856 the Commissioner of the Jhelum division submitted rules. (No. 123 dated 24th July 1856. See forest proceeding for March 1876. This rules were sanctioned in a letter of the Chief Commissioner No. 1623, dated 4th August 1856. They were cancelled in 1903,(paragraph 749)) for the hilly and mountainous portion of the Rawalpindi district. The first of these rules is the most important. It ran – “In the mountainous and hilly portion of the Rawalpindi district all trees and shrubs of spontaneous growth are hereby declared to be the property of Government. They are available as far as they are really required by the villagers , for domestic or agriculture purposes, but with this exception may not be cut or appropriated by any person without the permission of the Civil authorities. This rule however is to be liberally construed as regards the comfort and convenience of the villagers.” Permits were required for felling trees and cutting brushwood, and fees were charged in both cases. Firing was restricted and regulated. One – eight of the income from frees was to be paid to the village landowners to ensure their co-operation in enforcing the rules to any breach of which penalty of a fine not exceeding Rs. 100 was attached.

713. Hazara and Hoshiarpur rules. In January 1857 the Chief Commissioner sanctioned rules for the management of Hazara forests . Their Chief provisions were –

- (1) that no trees, large or small could be cut without permission;

- (2) that all except agriculturists should pay fees for the wood they were allowed to cut, half the proceeds being used to meet the cost of forest conservancy and half paid to the landowners;
- (3) that ground should not be cleared of trees with a view to cultivation without leave being first obtained from the Deputy Commissioner;
- (4) that firing of grass in the vicinity of forests was forbidden.

These rules were imperfectly enforced, but even so they proved very useful. (paragraph 38 of chapter V of Captain Wace's Settlement Report of Hazara- see also paragraph 720)

714. Kangra and Hoshiarpur rules. In 1859 Major Lake, the Commissioner of the trans-Sutlej States submitted rules which Mr. Bayley Deputy Commissioner of Kangra had prepared for that district and suggested that they should be adopted with certain modifications. These were sanctioned by Lieutenant- Governor , and permission was given to extend them to the Hoshiarpur district. This done by the Commissioner of Jullundur next year. He remarked – “The right of Government merely extends to the timber. The right of grazing and to the spontaneous products of the forest appertain to the zamindars , subject to the restriction prescribed in the rules.”

At the same time he pointed out that some forests in Hoshiarpur were the exclusive property of Government. (Extracts from the correspondence printed on pages 370-375 of Barkey's “Non-Regulation Law of the Punjab “see Barkey's Non Regulation Law of Punjab , Pages 375-378 . They were not sanctioned by the Government of India , or re-issued under section 3 of Act VII of 1865, and they probably never had the force of law.)

The rules forbade the felling the trees without permission of Deputy Commissioner but in the case of inferior kinds of trees required “ bone fide for agricultural purpose, “ the permission of the village headman was to be sufficient. Proprietors of land and hereditary cultivators were entitled to cut whatever timber they required for building or agricultural purpose on paying a fee of four Ann’s while trees unfit for use as timber , but fit for fuel or fodder were to be given free of charge . Persons having an ancient right to graze, gather dry wood, or collect leaves for manure were to be still entitled to these rights . But a third part of each forest might be closed entirely for three years or any less period. Firing was forbidden. Annual licenses were to be taken out by wood –cutters and charcoal burners . One- sixteenths of the receipts was to be paid to the forester and three- sixteenth were to be paid divided between the lambardar, the patwari , and the village community.(See rules 4,5,7,19,20 and 27 for the full text of the rules”

It will be observed that right of user (bartan) were clearly recognized as belonging to the landowners living in the neighborhood of the forests.

715. Taking up of alluvial lands for forests. In 1855 the Chief Commissioner drew “the earnest attention of Commissioner to a scheme proposed by Mr. Edward Thornton for extending plantations of useful timber tree by appropriating portions of alluvial lands newly thrown up by rivers. (See paragraph 190 of the Settlement Manual. For rights claimed by Government in islands in rivers see paragraph 415 of this book) Such lands are well suited to plantations of shisham trees like that at shahdara near lahore.

716. Conservator of Forests appointed . In 1864 Dr. J.L. Stewart became the first Conservator of Forests in the Punjab. In 1869 he published a useful book on

“Punjab Plants”.

717. **Act VII of 1865.** The first “Government Forests Act” (VII of 1865), was intended to enable local Governments with the sanction of the governor-general in Council to issue rules having the force of law like those described above. (Sections 3 to 6 of Act VII of 1865) A local Government might notify any land covered with trees, brushwood or jangal to be a Government forest but no existing rights of individuals or communities were to be abridged or affected thereby. (Section 2 of Act VII of 1865). Forest rules for Rawalpindi were issued under this Act in 1873.

718. **Section 48 of Act IV of 1872 (The Punjab Laws Act).** The Punjab Act, VII of 1865 was supplemented by section 48 of Act IV 1872, which provided that no person shall make the use of pasturage or other natural product of any land being the property of Government except with the consent and subject to rules....prescribed by the local Government.”

By section 50 of the Act such rules required the sanction of the Governor-General in Council but existing rules were to be deemed to have been issued under and in conformity to that section.

719. **Defects of Act VII of 1865.** Act VII of 1865 was very unsatisfactory to the advocates of a proper system of forest conservancy. Its main defects were that “it drew no distinction between the forests which required to be closely reserved, even at the cost of more or less interference with private rights, and those which merely needed general control to prevent improvident working. It also provided no procedure for inquiring into and settling the rights which it so vaguely saved and gave no procedure for regulating the exercise of such rights without

appropriating them. It obliged you in short either to take entirely or to let alone entirely.”

720. **Hazara forest regulations.** Indian legislation , like justice has a limping foot , and the case of Hazara, which came under settlement in 1868, could not wait on its leisurely progress. Accordingly special forest regulations for that district were passed in 1870 and 1873 under the authority of Act 33 Vict. Cap 3 while the General system of forest management in force under the rules of 1855 was maintained, these regulations directed that , due provision having first been made for the ordinary wants of the villagers in whose bounds the forests stood , the more valuable forests should be reserved for the benefit of the public at large. Rather more than one-tenth of the whole waste area of the district which then exceeded 2200 square miles was demarcated as reserved forest , and made over for management to the Forest Department. These State forests are mountain forests of pine and deodar situated in the higher hills. But it was impossible with due regard with to the interests of the landowners to reserve all land yielding timber trees, while at the same time it was essential to prevent waste. The unreserved forest land in the higher ranger and the fuel forests in the lower hills in the west of the district were, therefore treated as “village forests”. (Captain Wace’s Settlement Report of Hazara , pages 134-37). The Hazara district has never been subject to the General Indian Forest Act VII of 1878, and before describing its provisions it will be convenient to finish the history of the Hazara forests. Regulation II of 1873 was replaced by Regulation II of 1879 By the 8th section the Deputy Commissioner was give large powers of setting apart waste lands as “village forests” Within Such forests squatting and the clearing of land for cultivation the removal of soil or dead leaves and the kindling of fires were wholly forbidden . But the deputy Commissioner could give special permission for the firing of land

producing only grass.(Section 16) . Feeling of trees , the loping of tress for folder lime issued by the deputy Commissioner from time to time” under the general instructions “ of fires in the case of forests of both classes was enacted. (Section 28 , compare also section 24)illicit firing and illicit cultivation might be followed by suspension of all rights user in the lands brunt or cleared for a period of two years or for such longer time as might be required to restore the lands to there former conditions six (Sections 29-30 of Act VII of 1865.) Special powers were given for the protection of land from erosion and prevention of land slips (section 20-21 of Act VII of 1865) In 1882 Mr. Forest of the Forest Department was interested with the work of Demarcating village forest , locally known as “mahduda”. The result was that 147,000 acres were set apart for the purpose but the demarcation was not satisfactory for numerous plots of cultivation were included . A revised demarcation was made at the resettlement of the Distinct , and the area of the village forest had been reduced to 83,782 acres, all uncultivated . At present these forests are managed in accordance with the provisions of regulation VI of 1893, which replaced regulation II of 1879 and of rules issued under it. The rules are contained in Government of India Notification no. 2212-G dated 22nd Dec. 1903. The breaking up of land without the permission of the Deputy Commissioner is forbidden right holders are entitled to timber free of charge for their own domestic and agricultural requirements but notice of intention to fell must be given . They can also utilize for fuel without restrictions dry wood and brush wood but the sales of trees and of fuel two outsiders required the sanction of the deputy commissioner.

721. **Indian forest Act, VII of 1878.** The late Mr. Bnaden Powell, a Punjab Civilian, who was Conservator of Forests from 1869 to 1872 and from 1876 to 1879, and who of officiated as Inspector- General throughout 1873 and part of

1874, helped largely in putting forest legislation in India on its present basis. (Forestry in British India, page 116. He was the author of a book “Forest Law” published in 1893) In 1878 the Indian Forest Act was passed . This Act has been amended from time to time but finally in 1927 a new Forest Act. XVI of 1927 was passed and now takes the place of original Act . It merely consolidates the various amendments made and removes certain ambiguities contained in the old Act, but makes no radical changes in the policy laid down in that Act. This Act permits the local Government to constitute any forest land or waste land which is the property of Government, or over which the Government has proprietary rights , or to the whole or any part of the forest produce to which the Government is entitled a “reserved” or a “protected” forest. (Sections 20 and 29 of Act XVI of 1927).It is sufficient, therefore that the State should own the trees or some of them even though it may have recorded the soil , as was imprudently done in the case of Kangara as belonging to village communities.

722. **Reserved forests.** Chapter II of the Act deals with “reserved” and Chapter IV with “protected “ forests. Reservations must be proceeded by a forest settlement in which a full inquire is made into all private rights claimed or otherwise discoverable. (Section 6 and 7 of Act XVI of 1927) The instructions at present in force in the Punjab regarding the conduct of forest settlements will be found in appendix II. When once a forest has been notified as reserved no further private rights can grow up. (Section 23 of Act XVI of 1927) A reserved forest can only be disforest with the previous sanction of the governor-general in Council.(Section 27(1) of Act XVI of 1927.)

723. **Protected forests** - No special forest settlement is required before notifying waste land as “protected forest.” But Government must be satisfied that the nature

and extent of the rights of Government and of private persons in the land have been Enquirer into and recorded at a survey or settlement or in such other manner as it deems sufficient. An add interim order may be passed to protect the rights of Government pending the preparation of a proper record. By declaring waste to be protected forest:” the future growth of rights is not prevented . When land has been notified as reserved forest many acts regarding it at once become criminal . But a notification of a protected forest to be effective must be followed by action under section 30, which enables Government :-

- (a) to declare any trees in a protected forest to be reserved ;
- (b) To close portions of the forest from time to time and suspend the exercise of private rights. “ provided that the remainder of the forest be sufficient and in a locality reasonably convenient, for the due exercise of the rights suspend.” ;
- (c) To prohibit quarrying lime and charcoal burning, removal of forest produce or clearing of the land for any purpose.

Rules for the management of protected forests may be made, (Section 32 of Act XVI of 1927) and a breach of any rules an the doing of any act forbidden under section 30 are criminal offences . (Section 33 of Act XVI of 1927). Where the choice lies between action under chapter II of chapter IV, the former should ordinarily be preferred. There is no reason why the management of a reserved forest should be one with more rigid and less considerate of the needs of the surrounding . Communities than that of a protected forest. Nothing prevents Government from allowing as privileges to be revoked in case of abuse, the enjoyment of forest produce to which no actual right has been established. (See paragraphs 22-27 of appendix II)

724. Interference in case of privately – owned forests . The Act recognizes that fact that occasions may arise in which it is necessary to interfere with the use, or

even to assume the management of privately – owned waste land for the good of the public in general . Reasons for such action are prevention of the spread of ravines., the protection of land from erosion or deposits of sand and boulders, the maintenance of the water –supply in springs or streams and the like.

725. Assertion of State’s title to excess waste. Having sketched the history of the executive and legislative action for Government as regards forests down to the passing of Act VII of 1878, it may now be well to retrace our steps and to show how the claims of the State to excess waste have been dealt with in different parts of the province, and what use has been made of waste over which Government has asserted any sort of title.

726. Claims as a rule forgone in eastern and sub montane districts. Speaking broadly in the plains and submontane districts east of the Beas and Sutlej Government admitted that the whole of the waste belonged to the adjoining village communities. Little use was made of the provisions of section 8 of Regulating VII of 1822. (See paragraph 187 of the Settlement Manual) This is equally true of the districts of Gurdaspur, Sialkot and Amritsar lying to the west of the Beas . The reason was twofold. In the first place the villages lay much closer together than in the west of the Punjab , and proportion between the cultivated and uncultivated areas were very different. In the second place the districts were for the most part settled before the advents of keeping part of the soil of a country in its natural state were fully understood. Even in Karnal, where Government did take possession of excess waste and in Sirsa ,where much unoccupied land was at its disposal , the sole object of the administrators of the day was to get rid of the land as fast as possible by handing it over to any one who would bring it rapidly under cultivation. (For the leased estate of Karnal see paragraphs 106, 109, 112 of the

Karnal – Ambala Settlement report.)

But in 1813 a large tract of village land near Hissar, deserted 30 years before in the terrible chalisa famine, was appropriated as a Government bir. This is time became the Hissar Cattle farm. It was notified as a reserved forest in 1887. (see paragraphs 144-115 of Mr. Anderson's Settlement Report of Hissar.) Government therefore possesses few fuel or fodder reserves east of the Beas and Sutlej; Even the low hills of Gurgaon and Delhi were included in village boundaries though those of the former might probably have been clothed with valuable forests of dhak. (This useful tree also called the palah or palas has very wide range extending in the Punjab and North –West Frontier Province from Gurgaon to the point where the Indus divides British from Independent territory. IN their natural state all the stiffer loan soils in the Punjab plains, where the rainfall exceeds 20 inches yearly must have been covered with it . It gives way to the jal and jand where the rainfall is less . It is also common in the jangals of the Deccan and is found in Ceylon. The name of the capital of Eastern Bengal is supposed by some to be derived from the dhak tree.)

727. **Hoshairpur Siwaliks.** The same mistake was made with deplorable results in the case of the Hoshairpur Siwaliks. Government owns two chir pine forests in the SolaSingh range (Punjab Government Forest proceeding No. 6 –A of June, 1873.) and two bamboo forests at the north –west corner of the Siwaliks , and chir trees, wherever found have been claimed as the property of the State. But here as in Kangra and the hill tract of Gurdaspur, the first settlement officer, Mr. George Barnes, included the land of the forests , with the above mentioned exceptions in village boundaries.

728. Effects of denudation of Siwaliks on cultivated lands in plains. A generation later the effect of the denudation of the low hills , which inevitably resulted from the policy then adopted on the rich Sirwal tract of Hoshiarpur and Jullundur had become so great that the matter was forced on the attention of Government. The Deputy Commissioner Mr. Cold stream and the Conservator of Forests, Mr. Baden Powell united in urging the necessity of prompt remedial action , and the Commissioner of Jullundur, Mr. Arthur Brandreth strongly supported them.

729. Mr. Brandreth's presentation of case. His graphic description of the effects of neglect is worth quoting :-

“The lower Siwalik is a long range of sandy hills which stretch across the whole of the Jullundur Doab, forming the northern boundary of that fertile and productive tract. In the days of the Rajas , when the village common was the property of the Raja or lord of the manor and not made over to the peasantry , these hill slopes were covered with a low stunted brushwood with a few trees here and there. This manor forest growth was not of great value to the Rajas or to their successors, the Sikh Kardars, but it yielded a sort of cover for game, and was consequently generally protected ; and as the towns were not then very wealthy and peasantry had hard enough work to produce the heavy revenue then demanded, there was little demand for fuel , and few persons with leisure to cut it.

“The stunted brushwood had, however once great value. It covered the sandy soil by its roots and by the grass which grew in its shade. The cool air from the shaded hillside arrested the passing clouds and produced a constant and almost regular rainfall , which checked by the leaves of the brushwood and grass , poured down the hillsides at the gentle pace, and bringing with it all

the soluble products of the decayed leaves and grass, spread is wealth – laden waters over the plains below, which thus became so renowned for their fertility as to be known as the garden of the Punjab.

The hillsides were divided among the villages located on the hills, and the whole brushwood and minor forests declared to be their property village common open to every one.

“With the introduction of English rule, towns increased, wealth and property abounded, and the cessation of the continual demand for forced labour created a class of laborers with abundant leisure and in search of employment. With the increasing wealth arose increased wish for comfort and a large demand for firewood of all sorts consequently soon sprung up, and the unemployed class found the brushwood and low jungle of these hillsides a mine of wealth open apparently to every one. Without large public works and railways the demand increased still more, and the hillsides were consequently in a few years stripped of everything that could by any possibility be used for firewood. Where the distance from the towns was too great the still more destructive charcoal burner appeared on the scene and consumed three times the amount needed to render his firewood portable. It might be supposed that the new proprietors would have taken some steps to protect their quasi-forest, but the sense of proprietorship was new, and they were in doubts how far they were entitled to interfere. Most of the laborers and wood cutters were residents of their own villages and what is everybody’s business and consequently none of the former copy-holders now all become joint owners, endeavored to check this waste; indeed on the contrary they rather encouraged it. Many persons paid them some little sum for the

rights of cutting, and the charcoal burners generally paid Rs. 2 or 3 for year's licensee . They could not be expected to consider the future loss to their children, still less to care for the villages below the hills which were slowly bring ruined.

“Yes , I may almost say ruined the injury is so great and so increasing . As the bare hill sides have replaced the green forests, the heated air of the dry sandy soil drives off the rain clouds to pass on the upper ranges. When , owing to the increasing pressure of the clouds, rain does at last fall. * * the condensation produced by its fall on the heated soil produced * * * a great downward rush on the heavily laden upper air, and the * * * late rain soon descends in torrents. The fall is no longer arrested by leaves and brushwood and grass, and the increasing too rent purrs rapidly down the sandy slopes bearing with it thousands of tons of sand instead of the fertilizing deposits of former days. These vast floods spread themselves over the village below tearing away all the fertile fields which formerly lined the edges of the stream and covering the rest of the country with a deep sandy deposit. For the first few years this sandy deposit was not so very injurious. It was fresh soil and still held a good deal of the decayed roots of the grass and brushwood of the former vegetation. Moreover a thin layer of sand is often a great protection to an Indian: it protects and supports the young and tender plants and enables the soil below to retain its moisture for a long period. But gradually the tale become very different. Constant reports of deteriorated crops and distressed villages and tenants unable to pay their revenue replaced the uniformly prosperous report of former days; traffic and trade was checked by the great development of these vast sandy beds, which in trisected all the main roads ; and further demands for remission began to pur in from

villages beyond the action of the flood, but whose fields were being buried by the masses of dry A brought from these torrent beds by the windstorms of the hot weather. Nor was the injury confined to the agricultural peasantry only. The increased volume of waters thus suddenly brought down soon carried away the bridges sufficient for former times and compelled a speedy extension of waterways and further expensive bridging both on the Grand Trunk Road and the railways and when even these proved insufficient the waters submerged the country far and wide.

730. **Results of delay in taking Action.** The picture is highly colored, but it can hardly be said to be exaggerated. Soon after in reporting on the assessment of the Hoshiarpur tahsil Captain J.A.L. Montgomery pointing out that, owing to the destructive action of the chos or sandy torrents issuing from the Siwaliks, cultivation's had decreased by 12 percent in 30 years. (The action of chos is not purely destructive. Far away from the hills after the heavier sand has been dropped, the deposits they spread are often very fertilizing. But wherever the hills from which they run are denuded of vegetation and consist of sandstone rocks loss must far exceed gain..) As we shall see, action was greatly delayed and things went from bad to worse. In 1897 the Financial Commissioner wrote: -

“During the last period of ten to twelve years on account of the action of the chos in Hoshiarpur and Jullundur 16,650 acres of land have been converted into echo beds, or have totally lost their productive power while 23260 acres in addition have been damaged. Government has remitted Rs. 11855 land revenue and has in addition suffered or is about to suffer by reductions in the rent rolls of the two districts an annual loss of Rs. 34719 land revenue while the people have lost at a low estimate over 20 lakhs of rupees in the market value of their lands. (Paragraph 18 Financial Commissioner letter No. 541

dated 1st September 1897,- Forest proceedings No. 14 April 1898.)

731. **Land Preservation Chos Act, II of 1900.** It is needless to tell the story of the causes which led to a case which was urgent in 1877 not being finally dealt with till twenty –three years had elapsed. At Las in 1900 an Act was passed for the better preservation and protection of the Siwaliks and the lands affected by the chos, (Punjab Act II of 1900) Its 3rd section empowers the local Government to put the provisions of the Act in force in any local area “situate within or adjacent to the Siwalik mountain range or affected or liable to be affected by the debasement of forests in that range or by the action of chos.”

732. **Chief provisions of Act.** With respect to any notified area the local Government may regulate, restrict , or prohibit :-

- (a) the clearing of land for cultivation not ordinarily under cultivation before the publication of the notification under section 3 :-
- (b) stone quarrying and lime burning at places where they had not ordinarily been carried on before such publication :
- (c) the cutting of trees or removal of any forest produce other than grass, save for bone fide domestic or agricultural purposes;
- (d) the setting on fire of trees or other forest produce;
- (e) the pasturing of sheep or floats(Section 4 of Act II 1900)

(a) ,(c) and above all (e) are important . Quarrying and lime burning have never been much practice in the Siwaliks and firing is hardly known. All these acts have been forbidden over a very large area by notifications issued in December 1902.(Notifications Nos. 643 and 644, dated 12th December 1902.)As regards any specified village or part of a village comprised within , the limits of the area notified under section 3 the local Government may regulate, restrict, or prohibit –

- (b) Stone quarrying of lime burning anywhere;
- (c) The cutting of timber or removal of forest produce including grass even for

bonafide domestic or agricultural purposes;

(d) The pasturing of cattle other than sheep and goats. (Section 5 of Punjab Act II of 1900).

Provisions are made for compensating persons whose rights it is necessary to restrict or extinguish. (Sections 7 and 14-15 of Punjab Act II of 1900)

Actions has been taken as regards nine estates , (Punjab Government notifications Nos. 295, dated 6th July 1904 and 626 dated 12th December 1905.)

733. Power to declare that barren lands in beds of chos vests in Government

Section 8 of the Act gives powers to Government to take over the whole or any part of the bed of a Cho which is not land under cultivation and yields no produce of any substantial value and such action was taken in the Mohli Cho under the Punjab Government notification no. 384 (Forests) dated August 2nd 1911, but this action proved unpopular and was not pursued.

Some good was done by the original closures; but efforts to encourage the villagers to plant Kana grass in the torrent beds on a large scale failed for lack of sufficient control in the catchment area above.

It was not , however, until 1934 that marked progress was made. In that year a forest Officer was deputed on special duty to Hoshairpur district as Assistant to the Deputy Commissioner. He was responsible to the Conservator of Forest for the correctness of his technical advice. His Principal duty , however consisted of interesting the local inhabitants in the possibility of reclamation . In 1939, a special soil Conservation Circle was formed in the Forest Department to work in close collaboration with the Revenue Department.

Meanwhile , steady progress was being made . Experiment showed that the

closure of the hills to grazing by cattle allowed the more valuable grasses, which before had been mercilessly grazed down, to re-assert themselves and push out the inferior grasses. Where the right to cut grass was sold instead of the sale of grazing rights, it was found that more than ten times as much money could be obtained for the same area. Meanwhile of course, the young trees were rapidly springing up with a promise of large profits later on when they should be ready for cutting. The force of the torrents in these areas was reduced and efforts at planting Kana grass in the beds of the chos was successful. Hedges were planted, running out into the torrent beds. When the water passed through these, the checking of the current made the silt drop and the level of the land behind the hedges was rapidly raised.

At the same time it came to be realized that the hills alone were not responsible for the whole of the damage. Chos could be seen forming themselves in cultivated land where the surface was not quite level. The terracing as well as the embanking of land was preached by all the Department of Government concerned and the Cooperative Department in particular rendered great service by encouraging the formation of societies for these purposes.

Reclamation is now popular, and the only obstacles which remain are the divergences of interest between the landlords, the tenants and other residents in the villages the occasional reluctance of an individual to do things which will help his neighbors as well as himself, and the magnitude of the problem.

It must be remembered that efficient reclamation must proceed from the top downwards and on both sides of the bed at the same time. Where opposition makes this difficult, compulsion must be exercised in the interests of the majority,

and when persuasion has failed, Government has the right to exercise compulsion and is prepared to do so.

Prospects for the future are now bright . Some villages in Hoshiarpur District, where land has been closed to grazing by cattle have been able to pay the whole of their land revenue from this single source of income. Stall-fed cattle which do not exhaust themselves by wandering about in search of fodder , can produce more milk. The area under the chos is being steadily reduced. Plantations of shisham trees are springing up behind the protecting hedges and after some years, these barren sandy wastes will once more come under cultivation. Although by way of experiment more expensive measures have been tried , in the way of contour trenching and embankment building , practically all these results have been achieved at a comparatively insignificant cost by allowing nature to re clothe the hills with vegetation, and by encouraging the cultivators to protect their hillsides to terrace their fields and to provide embankments with drains to carry off heavy rain.

Action has been taken in the Mahli Cho, (Punjab Government notification No. 384-Forest , dated 2nd August 1911)

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715. Shahpur kandi forests in Gurdaspur . As already noted, Government at the first regular settlement claimed no rights in waste lands in the thickly-peopled district of Gurdaspur. An exception, however must be made as regard the Shahpur Kandi tract in the north –east corner of the district , which is occupied by outlying spurs of the Himalayas . In 1850 this formed part of the Kangra district, and Mr. Barnes, the settlement officer recorded all the waste as village common , but the property in the chir trees he claimed for Government. (Chir trees were expressly declared to belong to Government. The right holders were entitled to cut other trees for their own use , but not for sale, (see paragraph 3 of a memorandum by the Financial Commissioner, Sir J.B. Lyall , forwarded to Government with his Senior Secretary’s letter No. 443, dated 9th April 1883, printed in Forest proceeding of July 1883). Seeing that the soil undoubtedly belonged to the villagers it would have been inconvenient to form reserved forests in Shahpur Kandi (See section 11 of Act XVI of 1927). As Mr. Baden Powell remarked :-

“The main , if not sole object of preserving the forest is to prevents these hot dry hills being denuded and turned into a veritable desert, and to preserve such soil as exists from being washed off the bare slopes ; while the inhabitants of the neighborhood may have a supply of wood, of fuel and of grazing accommodation ; in short, the value of the forest is purely local , and it should be maintained solely for the benefit of the people.”

716. Waste lands declared protected forests. Accordingly the whole of the uncultivated land in Shahpur kandi, with some trifling exceptions . has been declared protected forest by notifications issued under section 28 of Act VII of

1878. (Notifications Nos. 3 and 4 of 5th January 1904). Some 8,000 acres of the more valuable forest land have been demarcated. Records have been drawn up declaring the extensive rights of user in the produce of the forests which the owners and tenants of cultivated lands in the estates in which they are situated possess, (Forest proceedings, No 29 of January 1904) and rules have been issued under section 31 of that Act defining the manner in which these rights may be exercised in the case of demarcated and undemarcated forests and undemarcated forests respectively. (Notification No. 115 dated 7th March 1904). Rules have been framed under section 75(c) of Act VII of 1878, for the preservation of chir tree belonging to Government but standing on land owned by private persons, and not included in any protected forest. (Notifications No. 5 dated 15th January 1904.)

717. **Mountain forests in Himalyas.** Before dealing with the hill and plain forest of the western Punjab the action taken with reference to mountain forests in the Himalayas will be shortly noticed.

718. **Rights of State in uncultivated lands in Kangra.** The respective rights of the state and the land-holders in the uncultivated lands of Kangra proper and Kulu have been described in paragraph 149-155 and 188 of the Settlement Manual. In Lahul the waste belongs to Government except in Jagir estates of the Thakurs, who are descendants of the petty barons of Rajput times. In these the Thakurs own the waste.

719. **Early administration of Kangra forests.** For a number of years the Kangra forest were managed by the Deputy Commissioner under the rules quoted in paragraph 710 and 714, which were enforced with more or less strictness. Under the rule which enabled one third of any forest to be closed for

three years. Or for such periods as the local authorities may determine, (see the 20th of the rules referred to in paragraph 714.) certain areas were reserved. These were known as trihis. Doubtless the original intention was that the portions closed should be shifted from time to time, but in practice this was never done. In 1872 the management of the forest was handed over to the Forest Department. (Forest Department proceedings No. 3 July 1872. The management of the Kulu Forests was transferred in January 1873, (Forest proceedings, No. 3 of January 1873). Mr. Duff, the forest Officer, proceeded to demarcate as reserves part of the uncultivated land included in 59 estates in the Nurpur and Dehra tahsils. (Forest proceedings No. 7 of February 1875 and No. 6 of July 1875, and notifications Nos. 111 and 112-F, dated 6th March 1879.) The consent of the people was obtained to an assertion by Government of an exclusive title in these reserves by making certain concessions to them as regards the rest of the waste included in their boundaries.

720. Demarcation ordered in 1880. The area reserved formed a very small part of the area which stood in need of protection, and 1880 Government ordered a demarcation on a more extensive scale as a preliminary to a forest settlement under Act VII of 1878 or the introduction of an improved scheme of management under the rules of 1885. The demarcation was to be made jointly by a civil and a forest officer. The civil officer chosen was the late . Mr. A Anderson who afterwards made the forest settlements of Kangra, kulu, Lahul and Shahpur Kandi. (Forest proceedings, No. 3 of May 1880).

721. Decision to make forests “protected forests” . It was decided in 1883 that it was impossible to continue to manage the Kangra forest under the rules of 1855 and 1859, and that procedure under chapter II of Act VII of 1878 was “unsuitable

to a large tract of country, of which the proprietary right in the soil belongs to the zamindars, and Government has only the subsidiary and ancillary right to the trees, and power of a limited kind to control their conservancy. (See paragraph 6 of Punjab Government letter No. 298, dated 20th July, 1883, in Forest proceedings, No. 7 of July, 1883. It only remained therefore to use the provisions of the Act relating to protected forests, and notifications were issued under section 28 of that Act, appointing Mr. A. Anderson to inquire into and record “the nature and extent of the rights of Government and the private persons” in the forest and waste lands. (Notifications Nos. 207 and 208, dated 27th April 1885).

722. Nature of Kangra forest settlement. The questions involved in this very difficult forest settlement were not finally decided till 1897. The arrangements adopted were on the same lines as those followed some years later in Shahpur Kandi. The small area demarcated by Mr. Duff in 1874 and 1875 continued to be reserved forests. As regards the remaining waste in the estates out of which these reserves were carved, rules have been issued under section 75(c) of Act VII of 1878 for the preservation of the trees which belongs to Government. (Notification No. 61 of 26th January 1897.) The Rest of the waste in Kangra has been declared protected forests (Notifications Nos. 57 and 58 of 26th January 1897.) and for them records of rights have been drawn up. Notifications under section 29(a) and (b) of the above Act have declared certain trees in the protected forest to be “reserved”, and considerable areas, including the former trihais, have been closed against the rights of private persons for twenty years. (Notifications Nos. 59 and 60 of 27th January 1897.) Lastly rules have been issued under section 31 to regulate the exercise of the rights admitted by the record – of – rights. (Notification No. 416 of 14th August 1897.)

In 1917 a revised Working Plan was prepared under the orders of local Government as it has been found in practice that it was impossible to apply the principle of the 1897 rules to all the protected forests owing to the fact that they included such land lying very close to villages which could not be closed without great hardship to the people. The protected forests were, therefore, divided into two classes termed “delimited” and “un-delimited”. The former are to be closed piece by piece in rotation and the latter are not to be closed at all. This division was carried out independently of the legal distinctions between “demarcated” and “undemarcated. Protected forests and the delimited forests contain parts of each class. The difference between “demarcated” and “undemarcated” protected forests is that cultivation is absolutely prohibited in the former, but may be permitted in the latter. In unclassed forests cultivation may be carried on without permission.

723. Forests of Jagirs of Kangra Rajas. The trees in the forests included in the jagirs of the jagirdars Rajas of Kangra (except Lambagron) belong to Government.

724. A Forests in Kulu. In Kulu (Including Kulu proper, Inner and Outer Saraj and Waziri Rupi.) Government as recorded owner of the waste had a freer hand than in Kangra, a fortunate circumstance as some of the finest deodar forests in the Punjab are to be found in that sub-division. A much larger area was therefore reserved under chapter II of Act VII of 1878. But a great deal of the valuable deodar forests lay close to or intermixed with village lands, and in all waste which was easily accessible the owner and their tenants had extensive rights of user. The bulk of the waste in Kulu has therefore been dealt with in the same way as in Kangra, and declared to be protected.

Forest of one of three kinds :-

- (a) first class demarcated forest.
- (b) Second class demarcated forest.
- (c) Undemarcated forest.(The notifications declaring these three classes of forests protected are Nos. 280,281 and 282 of 1st June 1896. There are ancillary notifications under sections 29,31,51 and 75(c) of Act VII of 1878. These will be found in Forest proceedings Nos. 58-62, of July 1896, Nos. 7 of August 1896, and 60. 3 of November 1896.)

To extent of rights of user to be enjoyed and the amount of regulation necessary differ for the different classes.

743-B. Forest in Lahul. Lahul , though it is included in the Kulu sub-division, has not been dealt with in the last paragraph . It is too cold to yield valuable tree in any great number , and were it otherwise , it is too remote for their exploitation. The forest and waste lands are therefore protected solely in the interests of the people, though Government derives a petty income from outside shepherds who drive their sheep and goats into Lahul for pasture. The only trees of any value are the birch , the pencil cedar ,and the blue pine. Seven small forests have been demarcated, and they with the rest of the waste have been declared protected forests. (Notifications Nos. 154 and 155 of 24th March 1897. The ancillary notifications will be found in Forest proceedings Nos. 29-30 and 41 August 1897.)

725. Froests in Simla hills. In the scattered patches of territory, except Kalka and Bharauli, of which the Shimla district is made up , the rights of Government in the waste are the same as in the Kulu. There are few small reserved forests of deodar and kail (blue pine) but these are burdened with extensive rights of user.

A moderate degree of protection is afforded to trees growing in the village waste , and fresh and cannot be broken up without permission. The best forest sin the Shimla hills are in the Indian State of Bashahr, and these are managed for the Raja by the British Government, as are the forests of some of the smaller States.

726. Cancelled.

727. History of mountain forests in Rawalpindi up to regular settlement. We have seen that the general rules issued in 1855 enabled the civil authorities in hilly districts to mark off any tract as a public preserve, and within its limits to prohibit various acts harmful to forest growth. The local rules drawn up in 1856 declared all trees and shrubs of spontaneous growth in the mountainous and hilly portions of the Rawalpindi district to be the property of Government , with the proviso that they were to be available as far as they were really required by the villagers for agricultural or domestic purposes. Provision was made for the issue on payment of fees of permits for the felling of wood and cutting of brushwood. The firing of grass in a way calculated to harm the forests was forbidden. A fine was attached to breach of these rules. (The full text will be found in forest proceedings , No. 1 of March 1876)At the regular settlement of 1859-63, Major Cracroft explained to the people throughout the Rawalpinid district that “all waste lands were the property of Government, and that before closing the settlement such tracts would be demarcated.” But he was unable to touch the mountain forests in the Murree and Kahuta hils

728. Rules of 1873. In 1873 rules were issued under the authority of section 3 of Act VII of 1865 for the mountain forests of Murree and Kahuta and the hill rakhs in the other tahsils.(Forest proceedings, No. 3 of November, 1873).The most

important rules so far as the former are concerned, are quoted below :-

“Explanation – Nothing contained in these rules shall in anywise abridge or affect any existing rights of individuals or communities in respect of the lands to which the rules relate.

“SECTION I – Of the Murree and Kahuta forests , known as first class rakhs.

“I – The officer of the Forest Department authorized in that behalf by the Conservator shall select portions of the forest area not exceeding in the aggregate 30% of the whole, and shall demarcate the selected portions by pillars or otherwise as he shall deem necessary.

“The portions so selected and demarcated shall there upon be closed absolutely against all forests rights of privileges, and shall be called “Reserved forests”.

“Provided that , if by the reservation of any tract, any community or individual , though not having any legal right, be in the judgement of the conservator of Forests put to special loss or inconvenience, it shall be competent for the Conservator to make suitable provision for exercise of grazing and for the supply of fuel and timber (for domestic and agricultural purposes only). Either in the reserved tract or in some adjacent tract conveniently situated.

“II – The remaining portions of forest area not being less than 70 percent of the whole ,. Shall be called “Unreserved forests ,” and shall be open to all

existing village communities as heretofore, for the exercise free of charge of the following privileges only :-

- (a) grazing of cutting grass for their own cattle:
- (b) cutting fuel for their own use ;
- (c) cutting timber or wood for their own domestic and agricultural purposes.

“III- In unreserved forests , land on which trees stand or a growth of young trees exists shall not be cleared for cultivation or for any other purpose except with the permission in writing , of a forest officer duly authorized to grant the same.

Explanation :- Such permission shall not be requisite for the clearance in order to cultivate land free from trees.

“IV – In unreserved forest no person whatsoever shall be entitled to cut for sale or to seal fuel or timber, or to burn charcoal , lime , or surkhi kilns except upon terms of paying the authorized dues to the forest officer on behalf of Government.”

The first rule provided for demarcation . But as a matter of fact no demarcation was actually carried out till the question of forest conservancy had been put on a sounder basis by the passing of Act VII of 1878, and a revised revenue settlement of Rawalpindi had been under taken.

729. State of things existing in 1882. The forest settlement was carried out by Mr. F.A. Robertson, who thus described the state of affairs existing when he began his work in 1882 :-

No restriction whatever had been placed on grazing by the most destructive animals, and timber could be obtained by application to the tahsildar, and grants of trees were made with most extraordinary freedom and censurable carelessness by these officials. The zamindars were not allowed to break up and cultivate forests lands without permission, but besides the fact that such permission but besides the fact that such permission was very easily obtainable the restriction was on which was readily and systematically evaded and plots of cultivation were accordingly met with in the very depths of forests and in most out of the places, and the existence of these plots very materially added to the difficulties of our works.”

730. Forest settlement, 1882-1889. The final result of the settlement carried out in 1882-89 was as follows : One hundred and fifteen square miles comprising, some of the best forest lands were gazette as reserved forests. By far the larger portion of this area is free of rights except rights of way and water, but in parts of some of the forests rights of grazing & c. were admitted. (Notification No. 290 dated 11th August 1888.) By a rule issued under section 14(c) of the Act it was provided that not more than three-fourth of the whole area of any of the reserved forests should be closed to grazing at one time. (Notification No. 257, dated 9th May, 1888) This restriction was modified in 1916 when the area of reserved forests which could be closed was reduced to one-quarter.

Fifty –seven square miles were notified as protected forests. They, like the reserved forests, are the property of the State, but they are subject to much more extensive rights of user. All trees of an value were reserved, and quarrying, burning of lime and charcoal, and cultivation were forbidden. (Notification No.

63, dated 17th February, 1887). Rules under section 31 of the Act regulated the lopping of certain trees , and the removing or grass and fallen wood & c., by rights –holders and provided for the grant to them at a nominal rate of permits to cut timber to the extent of their own actual requirements . They are also allowed to graze cattle, except camel, sheep and goats , in the forests over which they have rights. (Notification No. 335 dated 24th September 1889).

In the remainder of the waste area of waste area of Muree and the mountainous part of the Kahuta tahsil Government gave up all claim to the ownership of the soil, but the trees were recorded as its property. Rule for their protection were issued under section 75 of Act VII of 1878.(Revenue (Forest) proceedings, Nos. 32-64 of July 1901, 16-23 of July 1902, 5-9 of February 1903.

Generally speaking , every resident in a village was allowed to cut free of charge, the wood he required for agricultural or domestic purposes from tree growing on the common waste lands of his village but he could not cut for sale. Nor could he fell trees in order to extend cultivation without the licence of the Deputy Commissioner. By subsidiary rules of procedure framed by the Deputy Commissioner a permit was required even for the feeling of trees for agricultural or domestic purpose.

731. Muree and Kahuta forest conservancy rules of 1903. After the publication of the rules 1889 much doubt was felt whether the rules of 1856 referred to in paragraph 712 remained in force. These rules asserted the ownership of the State in all trees of spontaneous growth in the mountainous and hilly portion of the Rawalpindi district”, and they applied equally to State lands , common village lands, and separate proprietary holdings. But in the revised

settlement the title of the Government to trees in the separate holdings was not specifically asserted. Never the less the rules of 1889 were treated by the local officers as applicable both to common and to private, i.e. separately owned lands. Difficulties arose as to the legality of this construction . The Punjab Government ruled that there was no doubt as to the title of government in the trees growing in private lands and a notification, No. 66 dated 9th February, 1903, was issued under section 75 of the Forest Act, which applied to all lands in the Murree and Kahuta tahsils, except reserved and protected forests and municipal and cantonment areas. Felling for any domestic agricultural purpose was allowed provided a permit was first obtained. The breaking up of land for cultivation in a manner calculated to injure trees or timber “was prohibited. –unless the Deputy Commissioner granted a permit, but it was added that such permits would be readily granted where the tree are not numerous and the ground in sufficiently level to give hopes of good crops beings raised .” The setting of fire to any trees , or without permission of grass of other forest produce “ the combustion of which is likely to cause injury to such trees “was forbidden. The rules of 1856 and 1889 were cancelled. (Revenue (Forest) Proceedings Nos. 32-64 of July 1902, 5-9 of February 1903.) It was a mistake to make the rules issued in 1903 applicable to all lands in Kahuta, for the State has never claimed ownership in trees in the plain villages of the Rawalpindi district, and one-half of the Kahuta tahsil is in the plains. The only trees of spontaneous growth which it owns in the plain portion of Kahuta are the chir pines found in a few villages. So far therefore as plain villages are concerned the restrictions imposed by the rules relate only chir pines. (Punjab Government letter No. 154, dated 12th March, 1907)

732. Cancelled.

733. Hill forests of Rawalpindi and Attock. Some ten years later the original demarcation in Rawalpindi and Attock was revised under Major Wace's superintendence, and after the passing of Act VII of 1878 advantage was taken of its 34th section to gazette as reserved forests nine of ten hill forests in Rawalpindi and Attock. The enquiry into rights of the large Kalachitta forest was not complete enough to allow of this course being followed, and pending a proper forest settlement, it was made a protected forest. (The notification declaring 9 forests reserved and Kalachitta a protected forest is No. 97-F dated 1st March 1879. In the same year the rules of 1856 were cancelled as regards hilly waste in Rawalpindi included in village boundaries and revised rules were issued under the authority contained in the general rules of 1855, (notification No. 457-F.) The settlement was made by Mr. F.A. Robertson in 1896. Seven forest blocks with an area of 84 square miles were declared to be entirely free of private rights, except rights way and water. In sixteen blocks with an area of 64 square miles the ownership by the State is subject to rights of grazing enjoyed by the neighboring villages on payment of light fees. (For full particulars of the forest settlement see paragraphs 337- 342 and appendix III of Mr. Robertson's settlement report of Rawalpindi.) Under the authority given by the rules of 1855 restrictions have been placed on the partition of waste and the sale of wood in villages in the foot hills in the north and east of the Rawalpindi tahsil, (Notification No. 79 dated 24th January 1907).

734. Hill forests of Jhelum and Shahpur. In 1879- 1882 the demarcation of the forests in the Salt Range and elsewhere in Jhelum was carried out by Mr. R.G. Thomson, who has left an admirable account of his work in the 8th chapter of his report on the first revised settlement of the district. (See also appendix X and XI annexed to that report . The notifications relating to hill and plain forests

declared to be reserved in the Helum, including Talagang tahsil now in Attock , are quoted on page 1089 of Regulations and Acts applicable to the Punjab 5th edition) Owing partly to the neglect of Mr. Thomson's recommendations, the question of management had to be reopened at the second revised settlement . The orders passed in 1901 are summarized in the 108th paragraph of Mr. Talbot's settlement report. (See also Forest proceedings. Nos. 1-8 of February , 1901) To prevent hardship the boundaries of some of the reserved forests were rectified. (Forests proceedings Nos. 5-29 of May 1902, Nos. 7-17 of November 1902 Nos. 12-17 of December 1902, Nos. 1-6 of October 1903 and Nos. 1-9 of December 1903.) Mr. J.Wilson made a forest settlement of the Salt Range forest in Shahpur in 1894-1896 . Certain areas were transferred to adjoining villages, and records-of - rights were drawn up and recommendations made for the grant or continuation of certain privileges. (See Forest proceedings Nos. 36-66 of December 1897 , Nos. 1-4 of November , 1898 and Nos. 20-34 of November , 1899 . The notification declaring the forests reserved forests is No. 670 dated 23rd December , 1897 ,and rules regulating the manner in which certain rights are to be exercised have been issued under sections 74(c) and 75 (d) of Act VII 1878 (notification No. 444 , dated 31st October, 1899) The basis of Mr. Wilson's settlement was described by himself to be the policy laid down in the 4th paragraph of Government of India resolution No 22-F , dated 19th October , 1894, as to the treatment of "forests , the preservation of which is essential on climatic or physical grounds." The objects to be kept in view, " Mr. Wilson remarked were only two –

“(1) By the reservation of the forest growth to protect the hillsides from destructive drainage so as to distribute the rainfall as gradually as possible on the

lands below, which are almost entirely dependent on the drainage of the hills for their productive ; and

“(2) to preserve grass and wood for the supply of neighboring villages.

“These rakhs have been accepted by Government as a trust to be managed for the benefit of the neighboring population, and not in order to bring in a direct pecuniary profit or to supply a distant demand”.(This had been clearly recognized at a comparatively early period, (see paragraphs 15- 16 of the review of report on the regular settlement of the Shahpur district by the Lieutenant-Governor, Sir Donald Macleod, dated 27th August 1867)

The same principles governed Mr. Talbot’s proceedings in his forest settlement referred to above .

754 Hill forests in Gujrat. At the first regular settlement of Gujrat the central portion of the Pabbi Range was declared to be a Government forest. Its area is about 39 square miles. It was declared in 1879 to be reserved forest by a notification issued under section 34 of Act VII of 1878. (Notification No. 109-F dated 6th March 1879.) The forest growth of the Pabbi hills consists of phulahi, with a few kikar, dhak and shisham trees.

755. Plain forests in Punjab . The plain forests or rakhs of the Punjab have almost disappeared, being given up for cultivation in the canal colonies; a few small and widely scattered rakhs remain in the Lahore and Multan districts where their only value is as village grazing grounds. A very small number still exists in the Rawalpindi and Attock districts , every year deteriorating owing to excessive grazing.

These vast area which formerly supplied firewood to places as far north as Abbottabad and Peshawar are now replaced by few irrigated plantations which are insufficient to meet the impending firewood famine.

756 . **Bar tracts** - There was no difficulty in dealing with the “Bars” in the dry south-western zone. The rainfall was so scanty that at annexation we found cultivation almost wholly confined to the river valleys and a narrow strip of land above these valleys in which water was sufficiently near the surface to admit of well cultivation. The Bars consisted to great grazing grounds of the kind described in paragraph 706 roamed over by nomad graziers and camelowners. Here and there a deep well had been sunk to afford water to the cattle and there were a few quasipermanent locations of camelmens known as jhoks and of graziers known as rahnas. At the regular settlements Government claimed to the ownership of this no man’s land and asserted its title by levying fees for grazing.

757. **The Thal.** As a grazing tract the Thal is far inferior to the Bar, It is treeless and has little scrub jangle growth of any value. Writing of the 800,000 acres of the Khushab Thal Mr. Wilson Observed.(Forest Department proceedings No. 26 of September 1893).

“this desert tract forms a marked contrast to the level loamy soil of the Bar uplands on the other side of the Jhelum. Although it appears to have a somewhat similar substratum of hard level soil its surface is covered by a succession of sand-hills, on following the other like the waves of any angry sea. There is hardly a tree in the whole tract, the natural produce consisting of scanty grass and stunted bushes of *Caroxylon faetidum*),

bui(*pandera pilosa*) and phog (*Callingoum polugnodies*), all useful for goats and camels, and of ak(*calotropis gigantea*) and harmal (*peganum harmala*), which nothing will touch . Between the hillocks the harder subsoil appears in strips and patches , which in favourable years produce good grass and repay the cost of rude cultivation . At regular settlement about 1864 the population of the Thal was found to be only 14907, living in 25 villages scattered over the tract. They lived an almost entirely pastoral life, and owned about 3500 camels, 16000 cows and bullocks, and 60000 sheep and goats . The area under cultivation was only 4862 acres or less than one percent of the total area. The system adopted at regular settlement of reserving a portion of the waste for the State was much the same as that already , described for the Bar, except that here, owing to the inferior character of the soil and rainfall. 10 acres of grazing ground were allotted to the villages for each head of cattle they possessed. The result was that about 2,70,000 acres were declared to be State land, and the remainder amounting to about two – thirds of the whole Thal area, was allotted in proprietary right to the village communities. “ The huge Thal area of the Mianwali district was pervious to the formation of the North- West Frontier Province, part of the Mainwali tahsil of Bannu and the Bhakkar and leiah tahsils of Dera Ismail Khan. No final decision as to the respective rights of Government and the village land owners was made till the regular settlements of these two districts were carried out. Considering how little cultivation there then was in the Thal , the settlement was an extraordinary liberal one. Roughly out of twenty – six lakhs of acres untouched by the plough Government claimed eight. (See paragraph 200 of Mr. Thorburn’s settlement report of Bannu, paragraphs 518-533 and 535 of Mr. Tucker’s settlement report of Dera Ismail Khan and paragraphs 29-30 of Mr. Lyall’s review of the latter. In the

Thal of the Muzffargarh district the State owns over 1.5 lakhs of acres.

758 to 760 Cancelled.

761. **Rakhs in old Rawalpindi district.** The plain rakhs of the old Rawalpindi district cover an area of about eighty thousand acres. Most of them are in the western tahsils , which now form part of the Attock district. A short notice of their history will be found in the 19th paragraph of the Financial Commissioner's review of Mr. Robertson's settlement report of the Rawalpindi district. The latest orders about these poor rakhs, some of which contain no wood at all- while others show a scanty growth of phulahi and karil, will be found in Forest Department proceedings Nos. 25-33 of April and 1-6 of September 1907 . They are mostly under the charge of the Deputy Commissioner , and are of the class which should be managed entirely in the interests of the neighboring villages.

762. And 763 Cancelled.

764. **Rakhs in Lahore.** The same difficulty arose in an acute form in regard to the Lahore rakhs. Most of the reclamation's of waste lands in these rakhs were first made about the year 1852 when the commissioner of the Lahore division, wishing to see all waste land in the Lahore district brought under cultivation as soon as possible, issued an order that "hopes should be held out to the cultivators that if they fully cultivate the land they would be treated as proprietors, and that if they fully cultivate the land they would be treated as proprietors, and that if they sunk wells the lands would be assessed at barani rates only . "Leases for cultivation were accordingly given upon very favorable terms and security was constantly taken from the lessees , binding them to cultivate the land and not use

it for grazing. This policy was followed for a period of ten years, when, owing to the rapid extension of cultivation which had followed upon the opening of the Bari Doab Canal, a change was made in the policy of Government, and the Financial Commissioner directed that for the future all land given for cultivation in the rakhs should be given upon annual leases only. These orders were gradually acted upon between 1862 and 1869. In the latter year the rentals of the various rakhs were re-assessed and in 1870 the whole of them were handed over to the Forest Department. IN 1872, however many of the rakhs were re-transferred to district management. From those which remained under forest management practically all the tenants were evicted. In the rakhs re-transferred to the Deputy Commissioner the system of annual leases was continued. Although under the tenure of each lessee was nominally terminated each year yet in general the cultivators managed to secure continuity of possession, and if ejected from one portion of a rakh through their rights to cultivate being sold over their heads, established themselves on other land in the same rakh. Of a large class of these tenants Mr. Dane writes .- “Tenants therefore who are the direct representatives of men settled on the land in this way by order of a Government officer, and who have since remained continuous possession, have undoubted claims to be treated with consideration . In many cases the tenants own no other hand, and have founded villages and located themselves permanently in the rakhs, and although by receiving annual leases they have admitted the right of Government to oust them at pleasure, their eviction would be a somewhat harsh and arbitrary measure.”

The rights of the tenants in the Lahore rakhs were the subject of an elaborate report by Mr. R.M. Dane in 1882, Sir Louis Dane in 1885, and Sir W.O. Clark in 1887, and final orders on the case were passed by the local

Government and the Government of India in 1889.(Forest proceedings Nos. 1-2 of January , 1884 9-10 of February , 1885,7-9 of April, 1888,3-4 of May, 1889, and 1 of August ,1889.

765. Fuel Rakhs put under management of forest Department. The construction of the railway from Multan to Lahore , which was opened in 1865, made the fuel supply to be drawn from the rakhs in the Lahore , Montgomery Multan and Musaffargarh districts an urgent question. In 1864 Dr. J. Stewart drew up an important report on the Subject,(See correspondence printed in Forest proceedings No. 1 of 1894.) and in the same year the Forest Department in the Punjab came into being. Dr. Stewart showed that the larger part of the Bar waste was of little use except for grazing and browsing and that the railway and the Indus Stream Flotilla must look for their fuel supply mainly to those rakhs in the Bar or in the lower lands adjoining the Bar in which the jand (proposes spicigera or the farash (tamarir articulata grew freely. (See pages 46 and 288of Gamble’s Mannual of Indian Tibers “ . The jand yields far better fuel than the farash.) In the discussion which followed the policy first emerged of handing over to the stricter management of the Forest Department the fuel rakhs and keeping the rest under the looser control of the Deputy Commissioner. (The colonization of vast area of Government waste in the south –west of the Punjab as a consequence of the excavation of the Chenab and Jhelum Canals has greatly reduced the fuel rakhs managed by the Forest Department. Proposals have been made in connection with the cannal scheme to hand over large areas to the Department to be worked as irrigated plantations.) When rakhs are managed by the Forest Department it is usually desirable to notify them as reserved forests, but those incharge, of the Deputy Commissioner can generally be left as “unclassed forests,” by which is meant Government waste which has neither been

declared a “reserved forest” under Chapter II nor a protected forest” under Chapter IV of the forest Act. Of course a forest officer may be in charge of “unclassed forest” and a deputy commissioner of “reserved forest,” and the limits of jurisdiction have often been re-arranged. The question is largely one of administrative convenience.

766. Relations of Deputy Commissioner and forest Officer. But the nature of forest management is so vital to the comfort of the rural population that, wherever the line is drawn, the Deputy Commissioner must be in constant communication with, and in some important matters must control, the Forest Officer.

The following instructions on the subject were issued in 1888:- (Later amendments have been embodied in the instructions as printed in the text.)

“(1) Nothing in these instructions applied to the working of the Punjab River Rule, to the collection of drift and stranded timber under chapter VIII of Indian Forest Act, to forests in Indian States, or to Changa Manga Reserve. Neither do they apply to limited area in one district managed by a forest officer whose main duties lie in another district.

(2) When the Collector considers it desirable that magisterial powers for the trial of forest offenses should be conferred on a forest officer, the local Government will be prepared to consider such a recommendation; but each case of this kind will be separately treated with reference to local requirements and the personal qualifications of the forests officer concerned.

- (3) (a) In respect of matters mentioned clause (b) of this paragraph the district forest officer is under the control of the Collector in his management of :-
- (i) reserved forests,
 - (ii) protected forests,
 - (iii) all unclassified forests and waste land owned by the State, or in which the State has forest rights.

In a sub-division of a district, as for example in the Kulu sub-division of the Kangra district, the control of the Collector may be exercised through the Assistant Collector in charge of the sub-division.

(b) The control of the Collector will be exercised in respect of the taking up of new forests, the recovery of monies due to Government, the prosecution of forest offenses or the composition of such offenses under section 68 of the Forest Act, so much of the Forest administration as affects the use of the forest and waste lands by the adjacent population and the appointment, posting, and transfer of establishment so far as they affect these questions.

(c) All proposals connected with the disaffirmation of reserved or protected areas should be submitted by the district forest officer to the Collector for an expression of his opinion.

(1) The Collector will see that tahsildars and the subordinate revenue, agency of all grades render assistance not only in the management of Government waste lands, and especially in the assessment and collection of Government dues, but also in the management of all forests. All distinctions and practices which are likely to encourage the impression that forest work lies outside the ordinary duties of land revenue officials should be gradually abolished. The Collector will also authorize the district forest officer to address orders to these officials direct in

matters in which it may be convenient that he should , in ordinary cases , act without the intervention of the Collector.

(2) The district forest officer will keep a diary in which will be briefly noted from day to day:-

- (a) All occurrences of importance relating to duties discharged by him;
- (b) The substance of any reports or representations (verbal or written) addressed by him to the Collector and all orders received from that officer.

Should a forest officer be district forest officer of more than one district, he will write a separate diary for each district.

This diary written on half –margin, will be sent weekly to the Collector , and will be accompanied by a brief precis of any correspondence with the Conservator affecting the matters in respect of which the control of the collector is exercised . The Collector will retain the precis, but will forward the diary without delay to the Conservator of forest adding any remarks he may wish to make.

The Conservator of Forest will return the diary direct to the district forest officer, who will lay before the Collector any remarks that the Conservator may have made thereon.

(6) All the lands mentioned instruction 3(a) shall be administered in accordance with working plans sanctioned by Government.

(7) It has not been possible to provide working plans for all these lands. But when the conservator of forest is in a position to provide a working plan, he will in consultation with the Commissioner of the Division, issue orders for its preparation.

All working plans require the countersignature of the collector and the Commissioner. After countersignature the plans will, if they relate to (I) reserved forest or to (ii) protected forests, be submitted by the Conservator to the Chief Conservator of Forests for scrutiny and approval of technical points. The Chief Conservator of Forests will forward them to the local Government with its opinion and remarks and the local Government will pass orders upon them, furnishing a copy of the same to the Inspector- General of Forests for confirmation or record. But if they relate to (iii) unclassed forests and waste lands owned by the State or in which the State has forest rights , they will be sent by the Chief Conservator of forests to Government direct.

Working plans when sanctioned by Government cannot be altered except under the procedure and sanction above described.

(8) The regulation and management of grazing will be in accordance with the system prescribed by the orders of the Financial Commissioner.

(9) Cancelled.

(10) Cancelled.

(11) **Forest Officers to be consulted in certain case.** The district forest officer will be consulted by the Collector with reference to all proposed alienation's of forests or waste lands by grant, lease or sale; and he will give such assistance in case of this nature as the Collector may require, especially in the selection of the sites and determination of the boundaries of proposed grants . No land whiter protected or unclassed forest or waste , the revenue of which is credited to the forest Department , will be granted, leased or sold until the consent of the Chief Conservator of forests to its alienation has been obtained.

This paragraph does not give the Forest Department authority to grant leases of unclassified forest land in regard to which the rules for the lease of waste lands (See chapter XXII) must be observed.

12(a) Office and routine. The offices of district forest officers will, so far as possible, be located in or in the immediate vicinity of the Deputy Commissioner's Office.

(b) Formal official correspondence between the Collector and the district forest officer concerning matters dealt with by these instructions should be avoided as far as possible; written communications, when necessary, being carried on by the transmission of original files and cases under the same rules as apply to the transaction of business between a Collector and his Revenue Assistant.

(c) The Collector may direct the district forest officer to the files in the district record office such of the forest records as relate to forest settlements or revenue leases or other matters affecting the use of the forests and waste lands by the population adjacent thereto.

(13. Important Proposals. Proposal of importance for the formation of new forests or which affect the use of the forests and waste lands by the adjacent population will be addressed by the Chief Conservator of Forests to Government direct.

(14) Special assessments under section 59(e) of Land Revenue Act.

Nothing in the above instructions is to be understood as affecting the responsibility of the revenue officers in respect of the special assessments described in clause (e) of section 59 of the Land Revenue Act."

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767. Rules for management of unclassified forests- The 48th section of the Punjab Laws Act (IV of 1872), provided that “no person shall make use of the pasturage or other natural product of any land being the property of the Government except with the consent and subject to rules to be from time to time, either generally or in any particular instance, prescribed by the local Government.”

No general actions was taken till the year 1896.(Punjab Government notification No.58, dated 1st February, 1896 . Rules applicable to the Muzaffargarh district had been issued in notification No. 94 , dated 21st March, 1882, see paragraph 772.) The rules issued in 1896 were republished with a few verbal alterations in 1900 when they were being extended to the Agror valley in the district of Hazara. (Punjab Government notification No. 1986, dated 11th August, 1900) They are as follows :-

1.(1) This rule, rules 2 to 9(both inclusive), and rule 17 apply in the first instance to all waste lands which are the property of the Government in the local areas mentioned in the schedule, except:-

- (a) protected and reserved forests;
- (b) land under the control of the military, canal, irrigation, or railway authorities ;
- (c) lands under the control of district boards and municipal committees.;
- (d) encamping –grounds;
- (e) Government land to which any special rules having the force of law under any Act for the time being in force in the Punjab apply;
- (f) Lands included within the area of any cultivating lease, or which have been allotted under the Government Tenants (Punjab) Act, 1893.

But the said rules may be extended to lands of classes (c) and (d) by special order of the local Government published in the official Gazette.

(2) Rules 10 to 16 (both inclusive) apply in the first instance to the

Multan district only, but may be extended to any other local area by special order of the local Government published in the official Gazette.

2. In these rules :-

- (a) “Cattle” includes besides horned cattle, camels, horses, asses, mules, sheep, goats, and the young of such animals.
- (b) “Collector” means the Collector of the district, and any person on whom the powers of a Collector have been conferred under section 27 of the Punjab Land Revenue Act, 1887.
- (c) “Forest Officer” means any officer of the Forest Department in charge of a Forest Range, and includes any person appointed by the Collector or by the Chief Conservator of Forests, Punjab, to discharge all or any of the functions given by these rules to the Forests Officer.
- (d) “Farmer” means a person to whom the right to collect fees for the pasturing of cattle or to cut wood or grass, or to remove fuel or any other natural produce of any land to which these rules apply, has been leased by the Collector.
- (e) “Graze” includes “browse”.

3. Save as hereinafter provided in rules 10, no person shall pasture cattle, cut wood or *sajji* plants or grass, or gather fuel or any other natural product in the above mentioned lands, except :-

- (i) Under the authority of, and in accordance with, the conditions of a licence granted by the Collector or forest officer; or
- (ii) With the permission of a farmer and in accordance with the conditions of such farmer’s lease.

4. Every licence granted under rule 3 clause (i), shall be in writing and signed by the Collector or forest officer, and shall state :-

- (a) the nature , extent, and duration of the rights thereby conferred;
- (b) the consideration paid or to be paid by licence holder; and
- (c) the special conditions, if any , on which the licence is granted.

5. (1) Every lease granted to framers shall be in writing signed by the Collector and the farmers, and shall state –

- (a) the nature, extent , and duration, which shall in no case exceed five years, of the rights thereby conferred; (Grazing leases should be sold at the beginning of rainy seasons.)
- (b) the consideration paid or to be paid by the farmer; and
- (c) the special conditions , if any, on which the lease is granted.

(2) Every such lease shall include:-

- (a) in cases where the consideration-money is payable by instalments, a statement as to the amount of the said instalments and the dates on which they will fall due,
- (b) in cases where the lease relates to the right of grazing:-
 - (1) a specification of the maximum grazing dues which the farmer levy, and;
 - (2) a clause providing that the farmer shall not, without the written permission of the Collector, transfer the lease or close any portion of the leased area to grazing by any cattle in respect of which grazing dues are tendered under rule 6; and
- (c) in all cases a clause providing that, if the leased area or any part thereof is at any time required by Government for public purposes, the lease shall be terminable on payment to the farmer of reasonable compensation to be assessed by the Collector.

6.(1) The owners of cattle grazing on any lands to which these rules apply shall pay to the Collector or forest officer, or to the farmer, as the case may be, fees according to a scale fixed from time to time by the Financial Commissioner for each district:

provided that no fee shall be charged for any sheep or goat less than six months old, or for any other animal less than one year old.

(2) The fees to be charged for licences to cut wood, *sajji* plants, or grass, or to gather fuel or any other natural product in any lands to which these rules apply, shall be fixed from time to time by the Commissioner of the division and shall be paid by the licence holder to the Collector or forest officer or such other person as may be authorised by the Collector in this behalf, or to the farmer, as the case may be.

7 The local Government may, in respect of any local area, exempt from all or any of the provisions of these rules any person or class of persons and any cattle or description of cattle.

8. Every licence – holder and every farmer shall be bound by the conditions stated in the licence or lease, as the case may be, granted to him, and every person acting under rule 3 clause (ii), shall be bound by the conditions of the lease granted to the farmer.

9. (1) In case of any breach of the provisions of rule 8, the Collector may, at his discretion, cancel the licence or lease and thereupon the licence – holder or farmer, and every person acting under the farmer under rule 3, clause (ii), shall forfeit all claims to any produce or wood which at the time of the cancellation of the licence or lease has not been removed from the land to which the licence or lease applies.

(2.) On the cancellation of a licence or lease under-sub section (1), the licence-holder or farmer shall not be liable for any fees outstanding on the produce or wood so forfeited; but he shall have no claim to refund of dues already paid, and he shall not be thereby discharged from his liability for the payment of other dues in arrears or of instalments overdue under the terms of his licence or lease at the date of the forfeiture.

10.(1) The Collector may, with the previous sanction of the Financial Commissioner,

make an agreement on behalf of Government with the whole community of cattle owners residing in any estate to pay such an annual assessment, by way of commutation for grazing dues; as may be agreed upon between the Collector and such community.

(2). Such assessment shall not, without the sanction of the local Government, be made for a period exceeding five years; and when such an assessment has been concluded and recorded in such manner as the Financial Commissioner shall direct, no person comprised in such community of cattle-owners shall be liable to separate assessment in respect of any cattle belonging to him and grazing during the period mentioned in such agreement on lands to which these rules apply, within the limits of the tract regarding which the agreement is made.

(3) Similar agreements may, under the order of the Financial Commissioner, be entered into between the Collector on behalf of Government and associations of cattle-owners, in respect of cattle owned jointly or severally by the members of such associations.

(4) For the purposes of this rule, the consent of persons owning two-thirds of the cattle belonging to a community or association as aforesaid shall be deemed to be the consent of all the cattle owners of such community or associations.

11. If the cattle-owners of any community or association, which has accepted an assessment made under rule 10, prove to the satisfaction of the Collector that the owner of any cattle, in respect of which the assessment was made, has with his cattle left that community or association and resides permanently with his cattle in another community or with another association in the same district which has accepted a similar assessment, the Collector may reduce the assessment payable by the former community or association and enhance the assessment payable by the later community or association proportionately to the number and description of cattle removed from the one and added to the other.

12. The Collector may require the headman of any community or association of

cattle owners with which an agreement is in force under rule 10, to furnish him with a nominal roll of the cattle-owners belonging to such community or association showing the number and description of the cattle owned by each.

13. Disputes arising among the cattle-owners of any community or association which has accepted an assessment made under rule 10, regarding the incidence as among themselves of the assessment, shall be decided by the Collector whose order shall be final.

14. (1) All sums due under an assessment made under rule 10 shall be payable at such times and places and to such persons as the Financial Commissioner shall direct.

(2) The amount assessed under rule 10 shall be collected by *lambardars* of estates or headmen of association of cattle-owners, or by such other persons as the Collector may appoint, and such *lambardars*, headmen, or other persons shall levy grazing dues from the cattle-owners in accordance with rates which shall be fixed by the Collector, so as not to exceed in the aggregate the total assessment and to apportion the incidence thereof among the cattle owners as nearly as may be in proportion to the number and kind of cattle owned by each.

(3.) If the amount of the grazing dues leviable under this rule from a cattle – owner belonging to any community, or association which has accepted an assessment under rule 10, is not paid by such cattle – owner or by some other person on his account when duly demanded, the Collector may entirely rescind the agreement made under rule 10 in respect of such community or association.

15. The person authorized under rule 14 to collect the assessment shall be entitled to a drawback not exceeding 5 percent on all sums paid by them into the Government treasury on account of such assessment.

16. Cancelled.

17. Any person acting in contravention of any of these rules shall be liable, on the first conviction, to simple imprisonment for a term which may extend to one

month, or to fine not exceeding Rs. 100, or to both ;and, on a subsequent conviction under this rule within three years of the first, to imprisonment for a term which may extend to six months, or to fine not exceeding Rs. 300, or to both.

SCHEDULE

(Punjab Government notification No. 816 – Revenue , dated 23rd December 1908.)

Local areas to which rules 1 to 9 and rule 17 apply :-

Hissar	District
Rohtak	District
Karnal	District
Lahore	District
Multan	District
Rawalpindi	District
Attock	District
Jhelum	District
Gujrat	District
Shahpur	District
Dera Ghazi Khan	District
Mianwali	District
Muzaffargarh	District

768. Executive instructions as to *rakhs* under district management-As regards Government waste lands other than those under the Forest Department, these rules have been supplemented by the following executive instructions :- (Punjab

Government letter No. 235 – General , dated 1st April , 1896.)

(i) The Collector should some time before the beginning of each agricultural year submit, for the approval of the Commissioner, a brief report showing generally the arrangement he proposes to make for the ensuing year as regards :-

(a) grazing ;

(b) cutting and sale of timber ,fuel ,grass, and other natural products.

It is not intended that details of management should require the Commissioner's sanction, but it is essential that he should be in a position to exercise a general control over the treatment of Government waste lands in his division.

(ii) No claim on the part of the residents in any estate to a right of grazing in Government lands adjacent to such estate or of obtaining leases or licences connected therewith under the above –mentioned rules should be admitted . But in granting leases or licences, the reasonable requirements of the population adjacent to the Government lands concerned should be carefully considered , and it is often expedient to select leading members of the rural community as farmers of grazing dues.

(iii) Wholesale sales of wood from *rakhs* and forests under the control of Collectors is prohibited , except on special grounds; and with the previous sanction of the Financial Commissioner. Contractors and other applying to Collector for a wholesale supply should first be referred by them to the forest officer. All applications for supply of wood for railway fuel and for large public works should be considered wholesale, and in other cases all applications for a quantity exceeding 3,000 maunds (Punjab Government No. 162-F, dated the 12th April 1880) The intention of these orders is that district officers should co-operate with the Forest Department in an intelligent and economical administration of the *rakhs* and forest lands under their charge and in the prevention of indiscriminate cutting likely to injure the permanent supply of

wood and the reproductive capacity of the *rakhs*.

(iv) But licences to cut wood should be granted under the rules issued under section 48 of Act IV of 1872 and given in the last paragraph to the extent necessary to meet the reasonable requirements of the people residing in the neighbourhood of Government lands in the matter of timber and fuel when they are unable to meet these requirements from the produce of their own lands.

(v) The Collector should insert in leases and licences such conditions as he considers necessary for the prevention of waste and the promotion of good management.

(vi) If a lease or licence is put up to auction the Collector should notify that he will not be bound to accept the highest or any bid.

(vii) No lease of the description mentioned in rule 5 in the last paragraph shall be given for more than one year without the sanction of the Financial Commissioner.

769. **Tirni-** Allusion has been made in paragraph 756 to the fees levied on account of the grazing of cattle in the large waste areas owned by the State in the west of the Punjab . These charges are known as *tirni*. In theory *tirni* is a rent paid for pasturage; in practice it has been partly that and partly an assessment levied on the profits derived from the rearing of cattle. In fact the word has sometimes been employed so as to include the land revenue paid by the proprietors of an estate on account of the village waste . The levy of *tirni* on account of grazing in Government lands has been regulated by the rules issued under section 48 of Act IV of 1872, quoted in paragraph 767. The subject has lost much of its importance with the extension of canal irrigation in the west of the province and the colonization of the Bar tracts. But a brief sketch of its history should find a place in any book dealing with the administration of land in the Punjab.

770. *Tirni* in the Bar tracts of Jhang, Multan and Montgomery- In the South-west of the province an assessment on cattle was an obvious and reasonable way of raising revenue. Diwan Sawan Mal inherited the system of levying *tirni* from the Muhammadan rulers who were displaced by Ranjit Singh , and we inherited it from Sawan Mal.. He was wise enough to make his collections through the leading men of the local tribes, and we continued the same plan, calling them *sadr tirni guzars*. The Board of Administration in 1853 issued rules fixing rates for the assessment of *tirni* varying from Rs. 1-8-0 for a female camel to half an anna for a sheep or goat. Payment of these rates made cattle free of the whole Government waste in the district. The rules contemplated an assessment of *tirni* on village cattle for the term of the short settlements then being made, and an assessment on the nomad graziers of the Bar on the basis of the old payments made by the *sadr tirni guzars* .

771. Rules of 1860. The system of annual leases-Colonel Hamilton, the Commissioner of Multan, reported on the subject in 1858, and rules proposed by him were sanctioned by Government in 1860 for adoption in the old Multan and Leiah divisions¹. The basis of the system then set up was direct collection by Government with the help of the village headmen and *sadr tirni guzars* of a demand revised annually as the result of enumeration. Of course a yearly cattle census was really impracticable, but every village or group of camel men grazing in the Bard was liable to have its assessment changed from year to year on reports furnished by a small and poorly paid *tirni* establishment or by tehsil officials. Norminally a village might declare its intention to graze its cattle solely in its own waste, and claim to be exempt from *tirni*. But if a single head of cattle was found in the Government waste the whole estate became liable. In practice very few villages were allowed to be recusant (*inkari*) otherwise the whole system would have broken down. The cattle of a *tirni guzar* village could graze in any part of the State lands within the limits of the district.

1. See Barkely's *Non-Regulation Law of the Punjab*, pages 321-326.

772. The chak system-The complaints made against the above plan were that it led to much official corruption, that it yielded a less income than would be obtained by dividing the waste into large blocks and leasing the right to collect the authorised fees within these blocks to farmers and that it allowed the pastoral tribes to wander uncontrolled over the whole district, and thus fostered their criminal tendencies and their aversion to settled agricultural pursuits. Orders were accordingly issued about 1870 for the adoption of the chak system. Each chak or block of Government waste was to be leased yearly to a farmer, and cattle grazing in more than one block had to pay the full fees to the lessee of each. In Montgomery the introduction of the chak system was vehemently opposed by the grazing community, but they yielded when they saw that otherwise outsiders would be brought in as farmers, and most of the leases were at first given to leading members of the land owning tribes. Finally all or most of the contracts were combined in the hands of one speculative farmer, who had to be assisted in making his collections by the whole officials machinery of the district. In 1879 the plan broke down under the burden of its unpopularity, and the old system of annual village leases was reintroduced, one payment giving the privilege of grazing over the whole district. The right to collect tirmi at the authorised rates from “naubaramad” cattle or animal brought for grazing purposes from another district continue to be leased. In Jhang the introduction of outside contractors, which led to so much complaint in Montgomery was avoided. Mr. Steedman, the Settlement Officer, described the plan in force in that district as follows;-

“The grazing waste of the Bar is divided into chaks. The right of collecting the tirmi in these chaks is nominally auctioned annually, but as a matter of fact the lessees are almost from year to year the same body of influential zamindars residing in the neighbourhood of the chak and the Deputy Commissioner fixed the amount of lease money.....All the villages in the district are either tirmi guzar (paying) or ghair tirmi guzar. In the former it is taken for granted that

all the cattle graze in the Government Bar, and accordingly rates are levied on every head of cattle existing in the particular chak or other in which they are accustomed to graze. Some few situated close to the boundary of two chaks have been allowed to graze in both on payment of a single fee, but as rule cattle can only graze for a single fee in the one chak to which the village is allotted.....The collection of the fees is left entirely to the lessees.

“The non paying villages are those which are not allotted to any chak, and the cattle of which it is presumed, do not graze in the Bar. If they do they become liable to punitive rates, treble or quadruple the ordinary rate. But these punitive rates are not levied in practice for a lessee is glad to secure these and other outsiders, and even to offer them lower than the prescribed rates in order to attract them to his chak. The nomad graziers who own herds but no village in the Bar, attach themselves to a chak, with respect to which they stand in the same relation as the paying villages. The chakdars collect the full fee from every head of cattle in villages assessed to tirni in connection with their chak, and also collect the tirni payable for the cattle of outsiders grazing in their chak, whether belonging to tirni paying or exempt villages of their district or to another district. The latter collections are know as “nau baramad”.

773. The system of quinquennial leases-The chak system was quite unsuited to Multan with its scanty and capricious rainfall. The particular block of waste to which a village was attached might in any year be bare of grass, and the cattle had to be driven for pasturage to the other end of the district. The attempt to introduce the plan therefore proved abortive from the first. In 1878 Mr. Roe, when Settlement Officer of Multan, proposed to substitute for yearly, quinquennial village assessments, and four years later as Deputy Commissioner he carried out this plan with the sanction of the Financial Commissioner. The opportunities for extortion and corruption on the part of underlings were greatly diminished and the reform was afterwards introduced also in

Jhang and Montgomery. It is still in force, but in the Jhang Bar and in the part of Montgomery lying to the west of the Ravi¹ tirni has become a matter of very small importance. The 10th to the 15th of the rules quoted in paragraph 767 relate to the quinquennial system of tirni assessment.

1. *Revenue proceedings Nos. 11-16 of April, 1905.*

774. Tirni in the Thal-The Thal has been described in paragraph 757. It is now included in four districts. The greater part of it is in the Minawali, Bhakkar and Leiah Tahsils of Mianwali. Up to the formation of the North West Frontier Province the Minawali Tahsil was part of the Bannu, and the other two tahsils part of the Dera Ismail Khan district. The rest of the Thal is in the Khushab Tahsil of Shahpur, the Sinawan Tahsil of Muzaffargarh and in the part of the Jhang District lying to the west of the Jhelum. In the Bannu settlement report Mr. Thorburn described the tirni as it existed before the regular settlement of 1872-78 in the Mianwali Tahsil and the description applies also to the Leiah and Bhakkar tahsils—"On annexation, wherever a community was found, an enumeration of its cattle was made, and tirni imposed after which grazers had, irrespective of residence a right of pasturage over the whole Thal.....Thus tirni was a poll tax on cattle.....As graziers are somewhat migratory and murrain....is occasionally very destructive, the annual imposition of the settlement amount on each village caused serious inequality of taxation."¹ As already noticed (paragraph 757) the greater part of the huge area of the Thal, which is best adapted to the grazing of goats, sheep and camels, was included at the regular settlement in village lands. In Leiah and Bhakkar a fixed grazing assessment was imposed on the Thal waste included in village boundaries. But in order to meet the case of camels which browse over large areas, it was decided that they should not be included in this assessment and should be free to browse in any Thal village. It was the more necessary to make this arrangement as the camels of the powindah traders from Afghanistan, which pay tirni on entering British territory, pass through the Thal.

The tax on the camel belonging to the Thal village is framed to contractors, the estates being grouped in dags or chaks for leasing purposes. The farmers collect from camel owners at rates fixed by Government Powindah camels grazing in village lands pay nothing. The Government rakhs are leased out yearly, generally to the headman of neighbouring villages, who realise fixed fee from all animals including camels whether belonging to residents of the district or outsiders, found in the rakhs, Powindah camels grazing in the rakhs pay the usual fees². The same system was adopted at the regular settlement of Bannu for the Mianwali Tahsil, but there powindah camels were excluded from village waste except with the consent of the landowners, and were charged half rates when browsing in Government rakhs³. The forty five chaks into which the Government land in the Thal of the Khushab Tahsil of Shahpur is divided is sold annually at a fair assessment fixed by the Deputy Commissioner to the headmen of adjoining villages, the grazing fees which the farmers are entitled to collect being of course fixed.⁴ The Government waste lands of the Jhang Thal are also leased annually. There is no separate camel tirni.⁵ In Muzaffargarh too the plan of fixed grazing assessment for village waste and leasing of Government rakhs was adopted and special rules were framed under section 48 of the Punjab Laws Act, IV of 1872 which were substantially the same as rules 3 to 9 and 17 of the general rules issued many years later.⁶

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1. *Mr. Thorburn's settlement report of Bannu paragraphs 202 and 300.*
 2. *Paragraphs 534-538 of Mr. Thucker's settlement report of Dera Ismail Khan and paragraph 72 of Mr. Hailey's Thal assessment report.*
 3. *Mr. Thorburn's Bannu settlement report paragraph 202.*
 4. *Mr. Wilson's Khushab assessment report paragraph 49.*
 5. *Mr. Steedman's Jhang settlement report paragraph 219.*
 6. *Notification No. 94 dated 21st March 1882. The general rules given in paragraph 767 apply to Muzaffargarh.*

775. Tirni in Shahpur and Lahore- In the districts of Shahpur and Lahore where the Government lands in the Bar tract consist proprietary estates, the practice has been to lease out the grazing of each rakh separately. Sound policy dictates the giving of the lease to adjoining villages if a reasonable sum is offered for it. There is no real difference between the tirni system of the Shahpur and Lahore Bar tracts and that of the Thal. In fact the latter was copied from the former¹. The Shahpur Bar has ceased to be a grazing tract in consequence of the construction of the Lower Jhelum Canal.

1. *Paragraphs 525 and 526 of Mr. Tucker's settlement report of Dera Ismail Khan.*

776. Forest policy laid down in resolution No. 22-F dated 19th October, 1894-

This chapter may fitly be concluded with the important resolution on forest policy issued by the Government of India in 1894. It may fairly be claimed that the principles laid down had in the main been enforced by the Punjab Government for a considerable period anterior to the publication of the resolution, but Deputy Commissioners have been instructed to refer for orders any cases which seem to have been dealt with in a way inconsistent with its spirit.

1. In Chapter VIII of his report on the improvement of Indian agriculture, Dr. Volcker dwells at length upon the importance of so directing the policy of the Forest Department that it shall serve agricultural interests more directly than at present; and in his review of forest administration for 1892-93, the Inspector General of Forests discusses in some detail the principles which should underlie the management of State forests in British India. While agreeing generally with the principles thus enunciated by the Inspector General of Forests, the Government of India, thinks that it will be convenient to state here the general policy which they desire should be followed in this matter; more especially as they are of opinion that an imperfect apprehension of that policy has, in some recent instances been manifested.

2. **The object of forests administration is the public benefit-**The sole object

with which State forests are administered is the public benefit. In some cases the public to be benefited are the whole body of tax payers; in others the people of the tract within which the forest is situated; but in almost all cases the constitution and preservation of a forest involve, in greater or less degree, the regulation of rights and the restriction of privileges of user in the forest area which may have previously been enjoyed by the inhabitants of its immediate neighbourhood. This regulation and restriction are justified only when the advantage to be gained by the public is great; and the cardinal principle to be observed is that the rights and privileges of individuals must be limited, otherwise than for their own benefit, only in such degree as is absolutely necessary to secure that advantage.

3. **Classification of forests**-The forests of India, being State property may be broadly classed under the following headings:-

- (a) Forests the preservation of which is essential on climatic or physical grounds.
- (b) Forests which afford a supply of valuable timbers for commercial purposes.
- (c) Minor forests.
- (d) Pasture lands.

It is not intended that any attempt should be made to class existing State forests under one or other of these four heads. Some forests may occupy intermediate positions, and parts of one and the same forest may fall under different heads. The classification is useful only as affording a basis for the indication of the broad policy which should govern the treatment of each class respectively; and in applying the general policy, the fullest consideration must be given to local circumstances.

4. **(a) Forests of which the preservation is essential**-The first class of forests are generally situate on hill slopes, where the preservation of such vegetation as exists, or the encouragement of further growth, is essential to protection from the devastating action of hill torrents of the cultivated plains that lie below them. Here the

interests to be protected are important beyond all comparison with the interests which it may be necessary to restrict; and so long as there is a reasonable hope of the restriction being effectual, the lesser interests must not be allowed to stand in the way.

5. (b) Large timber forests. To be managed on commercial lines subject to the satisfaction of the needs of the neighbouring population- The second class of state forests include the great tracts from which our supply of the more valuable timbers-teak, sal, deodar, and the like-is obtained. They are for the most part (though not always) essentially forest tracts and encumbered by very limited rights of user; and when this is the case, they should be managed mainly on commercial lines as valuable properties of, and sources of revenue to, the State. Even in these cases, however, customs of user will, for the most part, have sprung up on the margins of the forest; this user is often essential to the prosperity of the people who have enjoyed it; and the fact that its extent is limited in comparison with the area under forest renders it the more easy to continue it in full. The needs of communities dwelling on the margins of forest tracts consist mainly in small timber for building, wood for fuel, leaves for manure and the fodder, thorns for fencing, grass and grazing and for their cattle, and edible forest products for their own consumption. Every reasonable facility should be afforded to the people concerned for the full and easy satisfaction of these needs, if not free (as may be possible where a system of regular cuttings has been established), then at low and not at competitive rates. It should be distinctly understood that considerations of forest income are to be subordinated to that satisfaction.

There is reason to believe that the area which is suitable to the growth of valuable timber has been over-estimated, and that some of the tracts which have been reserved for this purpose might have been managed with greater profit both to the public and to the State, if the efforts of the Forest Department had been directed to supplying the large demand of the agricultural and general population for small

timber, rather than the limited demand of merchants for large timber. Even in tracts of which the conditions are suited to the growth of large timber, it should be carefully considered in each case whether it would not be better, both in the interests of the people and of the revenue, to work them with the object of supplying the requirements of the general and in particular of the agricultural population.

6. Opening of forests to cultivation-It should also be remembered that, subject to certain conditions to be referred to presently, the claims of cultivation are stronger than the claims of forest preservation. The pressure of the population upon the soil is one of the greatest difficulties that India has to face, and that application of the soil must generally be preferred which will support the largest numbers in proportion to the areas available for cultivation. Accordingly, wherever an effective demand for culturable land exists and can only be supplied from forest areas, the land should ordinarily be relinquished without hesitation; and if this principle applies to the valuable class of forests under consideration, it applies a fortiori to the less valuable classes which are presently to be discussed. When cultivation has been established it will generally be advisable to disforest the newly settled area. But it should be distinctly understood that there is nothing in the Forest Act, or in any rules or orders now in force, which limits the discretion of local Government, without previous reference to the Government of India (though of course, always subject to the control of that Government), in diverting forest land to agricultural purposes, even though that land may have been declared reserved forest under the Act.

7. Conditions on which cultivation should be permitted- Mention has been made of certain conditions to which the application of the principle laid down in the preceding paragraph should be subject. They have for their object the utilization of the forest area to the greatest good of the community. In the first place, the honey coming of a valuable forest by patches of cultivation should not be allowed, as the only object it can serve is to substitute somewhat better land in patches for sufficiently good land in large block, while it renders the proper preservation of the

remaining forest area almost impossible. The evil here is greater than the good. In the second place, the cultivation must be permanent. Where the physical conditions are such that the removal of the protection afforded by forest growth must result, after a longer or shorter period, in the sterilization or destruction of the soil, the case falls under the principle discussed in paragraph 4 of this resolution. So again, a system of shifting cultivation which denudes a large area of forest growth in order to place a small area under crops, costs more to the community than it is worth, and can only be permitted, under the due regulation where forest tribes depend on it for their sustenance. In the third place the cultivation in question must not be merely nominal and an excuse for the creation of pastoral nominal or semi pastoral villages which do more harm to the forest than the good they reap from it. And in the fourth place cultivation must not be allowed so to extend as to encroach upon the minimum area of forest which is needed in order to supply the general forest needs of the country or the reasonable forest requirements, present and prospective, of the neighbourhood in which it is situated. In many tracts cultivation is practically impossible without the assistance of forests, and it must not be allowed to destroy that upon which its existence depends.

8. Customs of user in timer forests-It has been stated above that the forests under consideration are generally but not always free from customs of user. When, as sometimes happens, they are so intermingled with permanent villages and cultivation that customary rights and privileges militate against their management as revenue paying properties, the principles laid down at the end of paragraph 5 of this resolution should be observed and considerations of income should be made secondary to the full satisfaction of local needs.

Such restrictions as may be necessary for the preservation of the forest, or for the better enjoyment of its benefits, should be imposed; but no restriction should be placed upon reasonable local demands merely in order to increase the State revenue.

9. (c) Minor forests to be used chiefly for the supply of local needs- The third

class of forests include those tracts which, though true forests, produce only the inferior sorts of timber or the smaller growths of the better sorts. In some cases the supply of fuel for manufacturers, railways, and like purposes is of such importance that these forests fall more properly under the second class and must be mainly managed as commercial undertakings. But the forests now to be considered are those which are useful chiefly as supplying fuel and fodder or grazing for local consumption; and these must be managed mainly in the interest of the population of the tract which supplies its forest requirements from this source. The first object to be aimed at is to preserve the wood and grass from destruction; for user must not be exercised so as to annihilate its subject, and the people must be protected against their own improvidence. The second object should be to supply the produce of the forests to the greatest advantage and convenience of the people, To these two objects all considerations of revenue should ordinarily be subordinated.

10. But revenue should not altogether be foregone- It must not be supposed from the preceding remarks that it is the intention of the Government of India to forego all revenue from the large areas that are valuable chiefly for the fuel and fodder which they yield. Cases must be distinguished. Where the areas in question afford the only grazing and the only supply of fuel to villages which lie around or within them, the necessities of the inhabitants of these villages must be treated as paramount, and they should be satisfied at the most moderate rates, and with as little direct official interference as possible. But where the villages of the tract have already ample pasture grounds attached to their cultivation and owned and managed by themselves, and where the Crown lands merely supplement these pastures, and afford grazing to a nomad pastoral population or to the herds that shift from one portion of the country to another with the changes of the season, Government may justly expect to reap a fair income from its property. Even in such cases, however, the convenience and advantage of the graziers should be studiously considered and the inhabitants of the locality or those who habitually graze over it, should have a preferential claim at

rates materially lower than might be obtained in the open market. It will often be advantageous to fix the grazing demand upon a village or a nomad community for a year or a term of years. The system, like every other, has difficulties that are peculiar to it, but it reduces the interference of petty officials to the lowest point, and minimizes their opportunities for extortion and oppression. Where grasing fees are levied per capital, fee passes are often given to a certain number of cattle. In such cases the cattle which are to graze free should include not only the oxen which are actually employed on the plough, but also a reasonable number of milch cattle and calves. A cow or a buffalo is as much a necessity to a cultivator, using the word necessity in a reasonably wide sense, as is a plough bullock and in many parts the oxen are bred in the village.

11. Considerations connected with the formation of fuel and fodder preserves-

In the portions of this report which are referred to in the preamble to the resolution, Dr. Volcker strongly recommends the formation of fuel and fodder preserves and the Government of India has repeatedly urged the same policy upon local Governments. The question whether any particular area can be made to support a greater number of cattle by preserving the grass and cutting it for fodder or by permitting grazing upon it, is one that must be decided by the local circumstances of each case. But when it has been decided, the issues are by no means exhausted. It has been stated in paragraph 9 above that one main object towards which the management of these minor forests should be directed is the supply of fuel and fodder "to the greatest advantage and convenience of the people." In doing so, due regard must be had to their habits and wishes. It may that strict preservation and periodical closures, or the total prohibitions of grazing, will result in the largest yield both of fuel and of fodder in the form of hay. But that is of small avail if the people will not utilize the increased supply in the form in which it is offered them. The customs of generations alter slowly in India and though much may and should be done to lead the people to their own profit, yet it must be done gently and gradually, always remembering that their

contentment is no less important an object than is their material advantage. It must be remembered, moreover that the object of excluding grazing from the preserves in question is the advantage of the neighbourhood and that the realization of a larger income than grazing would yield by preserving the produce only to sell it to the highest bidder for consumption in large towns at a distance from the preserve is not always in accordance with the policy which the Government of India has inculcated. Here again circumstances must decide. It may be that the local supply of fuel or fodder, independently of the reserved area, is sufficient in ordinary years for the needs of the neighbourhood. In such a case the produce may legitimately be disposed of in such years to the greatest advantage, reserving it for local consumption only when the external supply runs short. Finally, the remarks regarding agency in paragraph 12, and the more general considerations that are discussed below in paragraph 13 of this resolution, apply in full force to areas thus reserved for the supply of fuel and fodder.

12. (d) Pasture land. Same principles apply as to class (c), but with greater force- The fourth class of forests referred to are pastures and grazing grounds proper which are usually forests only in name. It is often convenient indeed to declare them forests under the Act in order to obtain a statutory settlement of the rights which the State on the one hand and private individuals or communities on the other possess over them. But it by no means follows as a matter of course that these lands should be subjected to any strict system of conservation, or that they should be placed under the management of the Forest Department. The question of agency is purely one of economy and expediency and the Government of India believe that in some cases where these lands are managed by the Forest Department, the expenditure on establishment exceeds the revenue, that is, or at any rate the revenue that ought to be realized from them.

The following remarks apply, not only to forest lands under the Act, whether administered by the Forest Department or not, but also to all Crown waste, even

though not declared to be forest. Here the interests of the local community reach their maximum while those of the general public are of the slightest nature. It follows that the principles which have been already laid down for the management of minor forests apply, if possible, with even greater force to the management of grazing areas pure and simple.

13. Difficulties of management- The difficulties which arise in connection with these areas are apt to present themselves in their most aggravated form where the tenure of land is raiyatwari. In Zamindari tracts the Crown lands generally assume the second of the two forms indicated in paragraph 10 of this resolution. But where the settlement is raiyatwari, every survey number or field that is unoccupied or unassigned is in the possession and at the disposal of Government, and trespass upon it is prima facie forbidden. In some cultivated tracts, these unoccupied and waste lands are the only source available from which the grazing requirements of the resident population can be met. The Government of India are clearly of opinion that the intermixture of plots of Government land which are used for grazing only, but upon which trespass is forbidden, with the cultivation of occupancy or proprietary holders, is apt to lead to extreme abuses, and especially so when these plots are under the management of the Forest Department. The inferior subordinates of the Forest Department are perhaps as reliable as can be expected on the pay which we can afford to give; but their morality is no higher than that of the uneducated classes from which they are drawn; while the enormous areas over which they are scattered and the small number of the controlling staff render effective supervision most difficult. It is not right in order to protect the grass or the grazing dues on plots of waste scattered over the face of a cultivated district, to put it into the power of an underling to pound or threaten to pound cattle on the plea that they have overstepped the boundary between their owner's field and the next. Still less right it is to permit the exercise of the power of compounding offences allowed by section 67 of the Forest Act to depend upon the mere report of a subordinate servant, or to expose him to the temptation which such a

power holds out. Where the interests involved are sufficiently important it may perhaps be necessary to accept the danger of extortion while minimizing as far as possible the opportunities for it. But in the case under consideration the interests involved are trifling, while the opportunities are unlimited.

14. Should generally be leased to be managed through the agency of neighbouring community-It is to be distinctly understood that the Government of India do not desire that grazing should be looked upon primarily as a source of income. But it by no means follows that all revenue from scattered Government lands should be relinquished. It is indeed inadvisable that this should be done as to do so would give the raiyats an interest in opposing allotment and making things unpleasant for new occupants. But the objections to direct management which have just been pointed out are reduced to a minimum, or altogether avoided when the management is placed in the hands of resident cultivators or of representatives from among them. It will generally be possible to lease or otherwise manage the unoccupied land of a village through the agency of the community; not indeed, at the highest price which they are ready to pay to escape such evils as have just been alluded to but at a moderate estimate of their value to them, fixed in view of the fact that herds and flocks, which cannot exist without grazing are often a necessary condition of the successful conduct of that cultivation upon which the Government land revenue is paid. In no case should fields that have been relinquished be let to outsiders at a reduced assessment for grazing purposes for then we might have speculators taking up such fields, mainly in order to make what they can out of trespassing cattle.

15. When “reservation” and when “protection” is preferred-One more point of principle remains to be noticed. The procedure under chapter-IV of the Indian Forest Act, whereby forests are declared to be protected, has been, in certain cases, regarded by the Government of India as a provisional and intermediate procedure, designed to afford time for consideration and decision with the object of ultimately constituting so much of the area as it is intended to retain a reserved forest under

chapter II and of relinquishing the remainder altogether. The Act provides two distinct forms of procedures. But the more strict one, under chapter II, existing rights may be either settled, transferred, or commuted; and this procedure will ordinarily be applied to forests of the first and second classes indicated in paragraph 3 of this resolution. By the second procedure under chapter IV rights are recorded and regulated; and this procedure will often be properly followed where the rights to which the area is subject are extensive and the forest is to be managed mainly in the interests of the local community. It will ordinarily be applied to forests of the 3rd and 4th classes. The second procedure may indeed be provisional, and introductory to reservation under chapter II: but there is in the Forest Act nothing repugnant to giving it a larger and even a permanent operation. As regard Government, the Chief difference between the two procedures is, that new rights may spring up in a protected but not in a reserved forest, and that the record of rights framed under chapter II is conclusive, while that framed under Chapter IV only carried a presumption of truth. It is believed that this presumption offers ample security where the object of regulating the rights is to provide for their beneficial exercise, rather than to override them to the public interest. As regards the people the chief difference is that speaking broadly, in a reserved forest everything is an offence that is not permitted, while in a protected forest nothing is an offence that is not prohibited. In theory it is possible so to frame the permission and the prohibition as to make the results identical in the two case: but in practice it is almost impossible to do so. If it were not so, the distinction drawn by the Legislature would be unnecessary and meaningless. It is only where the public interests involved are of sufficient importance to justify the stricter procedure and the more comprehensive definition of forest offences, that the latter should be adopted.

The Governor General in Council desires, therefore, that with regard both to fuel and fodder preserves, and to grazing areas pure and simple, and especially to such of them as lie in the midst of cultivated tracts, it may be considered in each case

whether it is necessary to class them or if already so classed, to retain them as forest areas; and if this question is decided in the affirmative whether it would not be better to constitute them protected rather than reserved forests.

16. Concluding remarks- Such are the general principles which the Government of India desire should be observed in the administration of all States forests in British India. They are fully aware that the detailed application of these principles must depend upon an infinite variety of circumstances which will have to be duly weighed in each case by the local authorities to whose discretion the decision must be left. One of the dangers which it is most difficult to guard against is the fraudulent abuse of concessions for commercial purposes; and only local considerations can indicate how this can best be met. The Government of India recognize the fact that the easier treatment in the matter of forest produce which His Excellency in Council desires should be extended to the agricultural classes may, especially in the case of true forest areas, necessitate more careful supervision in order that the concession may be confined within its legitimate limits. But, on the other hand, they think that, in some provinces, it will render possible a considerable reduction of existing establishment; and they desire that this matter may be carefully considered with reference to what has been said above in paragraph 12. They know also that in some provinces forest policy is already framed on the lines which they wish to see followed in all. But the Governor General in Council believes that local Governments and Administrations will be glad to receive the assurance now given them, that the supreme Government will cordially support them in recognizing and providing for local requirements to the utmost point that is consistent with Imperial interests. Where working plan or plans of operations are framed for forests, the provisions necessary for this purpose should be embodied in them. The exercise of the rights that have been recorded at settlement will necessarily be provided for in these plans. Where further concessions are made by way of privilege and grace it will be well to grant them for some such limited period as ten years, so that they may, if necessary, be revised from time to

time, as the circumstances on which they were moulded change.

CHAPTER XXII

STATE LANDS DEVOTED TO THE EXTENSION OF CULTIVATION

776 –A.- **Early policy as regards leases of waste lands.** Prior to 1848 , the question of the utilization of waste lands for the extension of cultivation was not of much importance . An attempt at colonization was made in Sirsa; in Fazilka a number of new estates were carved out of the waste and leased; in Karnal also a number of small estates were formed out of the waste and the abandoned lands which were leased to speculators or zamindars. Most of these lesses later acquired proprietary rights, while many tenants of old standing were given occupancy rights.

After the annexation of the Punjab , however, vast areas of uncultivated land to which no one had any claim came into the possession of the State. In order to encourage the breaking up of this waste lots were given out on lease on easy terms. On fulfillment of the terms of the lease as regards the bringing of the land under cultivation ownership would be conceded free of charge or on the payment of very moderate sum. In 1850 revised lease rules were issued under which all lands commanded by a canal were to be leased out in 100 acre plots to all those who undertook to bring them under cultivation; it was laid down that if the conditions were fulfilled the lessee would be charged and then a gradually increasing rent from Rs. 15 to Rs. 75 per annum for eight years, after which the plots would be liable to assessment at the usual rates. (These rates were exclusive of canal water-rate that might be imposed.) If cultivation were neglected forfeiture of the lease was to be insisted on . For lands not likely to be commanded by a canal in the near future district officers were allowed to accepted such offers as might be made but never on lower terms than those given above. (See Board of Administration circular No. 40, dated 29th June 1850.)

777. Sale rules of 1863 and 1865. The policy of allowing land-owners to redeem the land revenue and of selling public lands free of revenue in perpetuity for a time found favour with the Government of India.(Paragraph 494 of the Settlement Manual.) In Punjab Government notification No. 25, dated 14th Jan. 1863, rules were published for the carrying out of this policy as regards sales. All waste lands belonging to Government unless specially reserved might be sold by auction by the Deputy Commissioner. On receipt of an application to purchase it was is duty to call for objections or in the event of any objections presented being rejected the land was to be put up to auction at an upset price fixed by the Deputy Commissioner and sold to the highest bidder. On payment of the last instalment of the purchase money the land became the property of the grantee “free for ever from all demands on account of land revenue.” But he remained liable to pay cesses. The sale conveyed to the vendee “plenary right to all products both above the surface and below the same,” saving any exceptions specially noted. To aid in carrying out this policy of speedily disposing of large areas an Act, No. XXIII of 1863, which is still in force , was passed to provide for the adjudication of claims to waste lands. A revised edition of the rules of 1863 was issued with Punjab Government notification No. 635 ,dated 16th September 1865. The grantee’s right to minerals was to be “subject to such royalty as may be fixed under the rules in force.” It is fortunate that the rules of 1863 and 1865 did not remain in force long, and that little advantage was taken on their provisions. The dangerous scope of those sale rules was soon perceived . In 1864 the previous sanction of the Financial Commissioner was required for all sales (Financial Commissioner’s Book circular No. 16 of 1864.) and in 1866 the Government of India requested the local Government not to permit the sale of any *rakhs* which were likely by their position to prove useful hereafter for plantations, even through no timber was now to be found in them. (Financial Commissioner’s Book circular No. 14 of 1866.)

778. Lease rules of 1868. The rules issued in 1868 were the first general rules for the lease of waste lands in the Punjab. In these rules it was laid down that the lessee would be entitled to the pre-emption of the proprietary right in the land at a fair and reasonable sum, provided the agreed to the assessment placed on the land. But in 1873 this rule was altered, and it was laid down that if at any time, either during the term of the lease or at its expiration, Government resolved to sell the proprietary right in the said land, the lessee would be given the option to purchase at a reasonable price to be fixed by the Deputy Commissioner.

779. Sale rules of 1876 and 1882 and lease rules of 1882. New sale rules were issued in 1876. They differed from the rules of 1865 in one very important respect, for they provided that the land should be sold “subject to payment of the land revenue demand for the time being assessed thereon.” As in the rules of 1865 Government reserved a right to charge a royalty upon all minerals. (Financial Commissioner’s Book Circular No. VI of 1877) A revised edition was issued in 1882, and in it the title of the State to retain the ownership of all minerals was expressly asserted. (Financial Commissioner’s circular No. 21 of 1882.) At the same fresh lease rules were issued which differed little from the rules of 1868, except that the rights of the State as regards “mines minerals, coal, gold- washing and quarries” were fully explained.

780. Lease rules of 1885. It was partly on account of the uncertainty regarding the terms of purchase in the lease rules of 1868 and 1882 that a new set of rules was issued with the approval of the Government of India in 1885, When Sir Charles Aitchison was Lieutenant- Governor. (Revenue (General) proceeding, Nos. 3-4 of September 1885.) Commissioner were given power to sanction leases of areas not exceeding 300 acres. Leases of larger areas had to be approved by the Financial Commissioner, and, if the area exceeded 3,000 acres, by the Lieutenant- Governor.

As before the assessment was to be framed “with due regard to the revenue rates assessed on land in the neighborhood and to the special circumstances of the case .” But in addition to the assessment a *malikana* or proprietary fee amounting to 25 per cent of the revenue was to be paid by the lessee. The rent was therefore only 1-1/4 times the land revenue , and it might be remitted altogether for one or more years. The term was ordinarily to be fixed so as to expire with the current settlement of the district. Minerals and the rights of Government over rivers and streams were fully reserved. The Government had power to determine the lease during its currency if the land was required for public purposes on paying compensation for any improvements made. On the expiry of the original term the lessee was entitled to claim renewal on such terms as to payment of land revenue and proprietary due or *malikana* as the officer renewing the lease might determine. If the lease was renewed the lessee had no claim to compensation for improvements. The conditions regarding purchase were extremely liberal . The lessee could purchase proprietary right at any time by paying five times the amount of the maximum rent, that is to say , 6-1/4 times the land revenue. After the rules of 1885 were published the Financial Commissioner issued instructions requiring Deputy Commissioners to arrange , without needlessly harassing lessees, for the regular inspection of lands held on lease so as to ensure the proper fulfillment of the conditions. (Financial Commissioner’s Circular No. 60 of 1885)

781. Sale rules of 1885. Revised sale rules were also issued in 1885 . Sales might be made by public auction after the publication of a notice in the gazette. The sale must not take place for three months from the date of the notice. (Section 1 of Act XXIII of 1863). The land was to be sold subject to all existing rights of way or water and other easements and the title of Government to all minerals was to be reserved. The purchaser was bound to pay half the purchase money within three months of the date of sale, and on doing so was to be put in possession of the land. As security for the

payment of the remainder in five equal yearly instalments he was to execute a deed mortgaging the land to the Government. Few sales of waste land by public auction, except in the case of the canal colonies to be presently mentioned, have taken place in the Punjab. The sale rules of 1885 apparently ceased to be in force when the lease rules of 1897 were issued .

782. Operation of Lease Rules of 1885 restricted. The operation of the lease rules of 1885 was soon greatly restricted . IN 1887 the Government of India expressed the view that in practice they “do not appear to protect the interests of Government , and it is evident that a lessee may purchase the proprietary right in waste land for a price which is far below the market value of the land.”(Government of India , Revenue and Agriculture Department letter No.432-R-19-25 dated 12th August,1887-Revenue (General), proceedings No. 9 of October 1887.) About the same time the meaning of the

783. Lease rules of 1897. For various reasons great delay occurred in the issue of the new rules and they were not actually published till 1897.

They will be bound in appendix III(I). The principal points in which they differ from earlier rules are :-

- (a) the limitation of the areas which may be leased.

All tracts are excluded which are embraced by any colonization scheme for lands commanded by a Government canal and all areas likely to be so commanded. The local Government alone can made exceptions. The amount of Government land suitable for leasing is now small. Lists of such lands are to be drawn up by the Deputy Commissioner, and local Government is to determine from time to time which of these lands shall be deemed available for leasing. Subject to these stringent conditions the Commissioner can sanction a lease up to a limit of 75 acres if the land is not irritable from a canal and the Financial Commissioner upto a limit of 150 acres ,

whether the land is irritable from a canal or not for a maximum period of 20 years in each case , provided the total area held on lease by a single lessee does not exceed 75 and 150 acres respectively. Leases of areas exceeding 150 acres must be approved by the local Government. (See rules 1 to 3 in appendix III).

(b) the exaction of fuller rent.

The rent was to be calculated so as to be equivalent to the land revenue plus a proprietary due or *malikana* in addition.

The former is to be calculated with due regard to :-

- (1) the revenue rates assessed on similar lands at the last settlement ,
and
- (2) the present renting value for cultivation and grazing of similar land in adjacent estates.

In applying this canon so much of the area is to be treated as cultivated as the lessee may fairly be expected to bring under cultivation within the term of the lease.

The proprietary due or *malikana* is to be 4 per cent of the market value of the land in its waste condition , and, if that is not ascertainable, not less than 50 per cent of the land revenue assessed.

The Financial Commissioner is given certain powers of reducing the *malikana* for special reasons. Initial exemptions from payment of rent may also be allowed.(See rule 10 in appendix III.)

(c) the permanent rights which the lessee can acquire are either :-

- (1) right of occupancy under section 8 of the Punjab Tenancy Act, or
- (2) ownership.

Different forms of instrument of lease are employed according as it is proposed to grant the one or the other.

If a right of occupancy is acquirable it can be claimed after the lessee had been in occupation for five years, if meanwhile he has fulfilled all the conditions. At the end of the term of the lease the rent is fixed at the land revenue with an addition of 75 per cent, as *malikana*.

Where the lease gives the lessee the option of obtaining ownership he may do so at any time during the currency of the lease. (Rules 18,19 and 21 *ibid.*)

(d) the price charged for the land is the full market value.

The local Government can reduce the amount for special reasons. (Rule 19(iii) *ibid*)

784. Leases for a single harvest- The 24th of the rules exempts from their operation leases for a single harvest. The practice of giving such licenses for temporary cultivation in respect of lands which, being low lying received local drainage and therefore could in good seasons be cultivated without irrigation , used to be common in some of the south –western district. The spread of canal irrigation has made the matter one of the small importance , and rendered it necessary to impose restrictions on the practice. The instructions at present in force will be found in appendix III (2).

785. Other alienations of State lands- So far we have been dealing with sales and leases of waste land owned by the state made on the authority of rules issued with the sanction of the Government of India(“Under Government of India circular letter, Revenue and Agricultural Department , No. 3-471-1, dated 19th November, 1909, the local Government is now authorized to make amendments in details without previous reference to the Government of India.”). But the State may have acquired by escheat or otherwise cultivated land or town sites, the ownership of which it is prepared to transfer on various terms to public bodies or private individuals . Occasions may also arise for the grant of waste lands on conditions more favorable than those embodied in the lease rules. A classification of the transfers referred to above and directions as to the sanction required in each description of case are contained in the resolutions of the Government of India reproduced in appendix IV.

Nazul property, within the limits of municipality, notified area, or small town not being a colony town, means land and buildings of all kind which belong to

Government and, are not in departmental charge. Nazul property, outside the limits of a municipality, no tidied areas, or small town means all immovable property other than agricultural land and wells and tanks used primarily for agricultural purposes, which belongs to Government and is not in departmental charge.

(See paragraph 2 of Punjab government consolidated circular No. 27). The instructions issued by the Government of India as to the alienation of town sites will be found in appendix IV.

786. Construction of private canals by leases- During the first thirty five years after annexation the policy described in this chapter fairly successful. To its complete success Nature has set up obstacles of a formidable kind. Where the State owns most waste and the rainfall is usually too scanty to allow of dry cultivation except of very limited extent and most precarious character, and at the same time the water level is too deep to make well sinking easy or well working profitable. Indeed in the south-west of the province the rainfall is so light and so capricious that wells unaided by river flood or canal water are of little use. Some lesses were therefore encouraged to dig private canals to irrigate their grants and a good deal was done to extend cultivation in this way, especially in the Shahpur District. The canal owners used the water largely to irrigate their own lands, but gave any they could spare to their neighbours, charging a water rate usually in the form of a share of the produce. The people of the tahsils of Ferozepore bordering on the Sutlej under the energetic guidance of their Deputy Commissioner, Major Grey, constructed many years ago a number of small *zamindari* canals to water their proprietary lands. It was inevitable that difficult questions should arise in connection with private canals, and it was evident that the elaborate provisions of the Northern Indian Canal and Drainage Act, VIII of 1873, were not well to many smaller irrigation works whether private or not which were managed or controlled by Government. "The owner of a private canal is not, like the owner of an irrigation well, independent of relations with all persons

outside the ring – fence of his own property . Even when the canal is constructed solely to irrigate the owners’ land the interest of the State are involved in the detraction of water from the river or natural stream, and it is rarely the case that the supply channel can be constructed without its bed passing through land belonging to other persons. When as is more commonly the case, irrigation is supplied not only to the canal –owners’ lands, but also to whatever area , however owned, may be commanded by the available supply, relations arise which, in the interest of canal owners and irrigators and of peace and good Government generally , require to be controlled and regulated.” (Statement of objects and Reasons attached to Bill No. 3 of 1903) Moreover it was possible that a private individual having secured a monopoly of the water –supply might charge others so high a price for it as to interfere with the legitimate claims of Government to land revenue. These considerations led to the passing of the Punjab Minor Canals Act, No. III of 1905.

787. Punjab Minor Canals Act, III of 1905- In that Act a very wide definition of “canal” is given . (Section 3(ii) . A number of irrigation works are included in the two schedules appended to the rules in volume II of the Punjab Land Administration Acts and It is to these works that it in the first instance applies. Schedule I is primarily intended for small irrigation works owned in whole or in part by Government or managed by Government Officers or by any local authority while schedule II is intended to include canals , which are owned and managed by private individuals. (Proviso to section 2) The local Government has power to make additions to the schedules , or to transfer a canal from one schedule to another or exclude it from both , by notifications . (Section2(2). Government may notify “any natural canal , lake or other collection of water.” Thereafter no one can without its permission construct a canal to draw water from that source of supply.(Section 4,5 and 7).The 6th section States the procedure to be followed by a Deputy Commissioner who thinks a canal should be constructed from such a source. The levy of “water dues” by which term is

indicated what was formerly called royalty, by Government from canal – owners on account of use of water is legalized and regulated by section 8. Chapter III of the Act gives the Collector the powers necessary for the management of canals included in schedule I, and provides for the levy of water-rates. Both water dues and water –rates to be collected by the officers of Government are recoverable as if they were arrears of land revenue. (Sections 29-32 and 68.)The system of providing for yearly clearances by labour contribution (*cher*) is legalized in certain cases. (Sections 26 and 27 see paragraph 449 of Settlement Manual) Power is given to draw up a record for a canal showing *inter alia* the custom or rule of irrigation, and the rights to water or to erect mills(Section 28) Rights in or over any canal may be extinguished by the local Government on payment of compensation if the exercise of them “ is prejudicial to the interests of other irrigators or to the good management, improvement , or extension of the canal.” (Section 11) Chapter IV applies to canals included in schedule II. The local Government is given power to fix the limits of irrigation and the amount of the rate, and to regulate the supply and distribution of the water to and from a canal and to order the preparation of a record of rights. (Section 35 and 39) The Collector may appoint a manager in certain cases (Section 34) and the local Government may assume control with the canal-owner’s consent, and in case of grave mismanagement or willful and continuous breach of order passed under section 39 , without it . If control is taken against the will of the owner he can require the Government to acquire the canal (Sections 36 and 37). The local Government can undertake the collections of water –rates livable on a private canal , if requested to do so by the owners. (Section 40). Chapter V applies to canals of both classes. It gives the Collector the necessary powers.

- (a) to ensure that canals and the works connected with them are maintained in good working order and protected from injury; (Sections 52-7)
- (b) to settle disputes among the shareholders(Section 42-3)

It gives power to regulate the construction of mills, (Section 58) and the flow of the water in rivers, creeks, natural channels, or lines of natural drainage, and for the removal therefrom of obstructions. (Sections 49-51) It enables Government to acquire any private canal when it appears expedient in the public interest to do so. (Section 45-8.) The jurisdiction of the civil court is excluded, (Section 60) and light penalties are provided for certain offences under the Act. (section 71) Cases relating to such offences must be tried by magistrates of the 1st or 2nd class.

788. Canal colonization schemes- The efforts described in the preceding paragraphs to extend cultivation pale into insignificance before the results of the great schemes of irrigation which have been carried out in the last forty years. These will be found fully described in the Punjab Colony Manual, Volume I.

CHAPTER XXIII

REVENUE COURTS AND REVENUE SUITS

789. Meaning of “revenue court”- A revenue court is simply a revenue office acting in a judicial instead of in an executive capacity. There are, therefore, the same classes of revenue courts as of revenue officers, and ordinarily a revenue officer of any grade is a revenue court of the same grade, and his jurisdiction in the one capacity is co-existent with his jurisdiction in the other.¹

1. Section 77(2) of Act XVI of 1887. The sections referred to in this chapter are to sections of this Act.

790. Reason why certain classes of cases are heard by revenue courts- The distinction between revenue and civil courts is one of agency, not of procedure. It is well that cases of the kind referred to in paragraph 793 should be tried by officers whose daily work is concerned with the revenue and the produce of the land and with the record-of-right, and brings them into close contact with the rural population, because the special experience so acquired conduces to a readier appreciation of the

points at issue and greater skill in obtaining and appraising the evidence.

791. Procedure of revenue courts-The procedure of revenue courts is governed by the Code of Civil Procedure¹ and the Rules and Orders of the High Court, so far as these are applicable. Power to make special rules of procedure for revenue courts is given by section 88(1) of the Tenancy Act, but it has not been exercised². The idea that revenue litigation is less regular and more subject to the idiosyncracies of the judge than civil litigation is quite erroneous. The investigation of revenue suits should be every whit as careful as that of civil cases, and in both classes of courts equal respect should be paid to positive injunction of law and to considerations of equity.

1. Section 88(2) (a).

2. Section 89-92 and 101 and two rules under section 106(1) (f) deal with certain minor points of procedure. The rules are 12(i) and 13 of the rules under the Tenancy Act.

792. Jurisdiction of revenue courts at different times- At one time the jurisdiction of revenue courts was a good deal wider than at present and embraced all suits for landed property. It is needless to cumber this chapter with an account of the powers of revenue courts at different periods.

793. Suits reserved for revenue courts-By section 77 (3) of the Tenancy Act, as amended by section 22 of the Punjab Alienation of Land Act, XIII of 1900, and Act III of 1912, seventeen classes of suits are reserved exclusively for the decision of revenue courts. Eleven of these are suits between landlords and tenants regarding ejectment, rent, occupancy rights, etc. The other six are:

- (a) suits for sums payable on account of village cesses¹ or village expenses;
- (b) suits by a co-sharer in an estate or holding for a share of the profits or for an account;
- (c) suits for recovery of over payments of rent or revenue, or of any other demand for which a suit lies in a revenue court;
- (d) suits by a landowner for sums due for the enjoyment of rights in or

over land or in water².

(e) Suits for sums payable on account of land revenue or of any other demand recoverable as an arrear of land revenue and suits by a superior landowner for other sums due to him as such;

(f) Suits relating to the emoluments of kanungos, zaildars, inamdars and village officers.

It is provided by section 43 (2) (a) of the Punjab Minor Canals Act, III of 1905, that in deciding disputes relating to the ownership of a canal or the mutual rights of owners in the use of the water of a canal, or the construction or maintenance of a canal or the payment of any share of the costs of such construction or maintenance, or the distribution of the supply of water from a canal, the Collector shall proceed as a revenue court.

1. *See paragraph 94 of the Settlement Manual.*
2. *See paragraph 356 of the settlement Manual.*

794. Parties may be referred to civil courts for decisions of some question in issue-If in any case pending before it a revenue court is of opinion that “any question in issue is more proper for decision by a civil court”, it can apply to the court to which it is subordinate for leave to direct any of the parties to institute a suit in the civil court in order to obtain a decision of the question. If the injunction is obeyed the proceeding in the revenue court must be decided in accordance with the finding of the civil court. If no civil suit is instituted the revenue court may decide the matter in issue as it thinks fit¹.

1. *Section 93.*

795. Powers of High Courts as regards questions of jurisdiction-The Tenancy Act also provides for references to the High Court for the resolving of doubts as to jurisdiction¹ and for the validation by the High Court of proceedings taken by either a

civil or a revenue court under a mistake as to jurisdiction².

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1. *Section 99.*
 2. *Section 100.*

796. Suits reserved for Collector-The highest revenue court of original jurisdiction is that of the Collector. Of the four classes of revenue suits which are reserved exclusively for his court¹ or for that of an Assistant Collector of the first grade invested by name with power to hear them² the only one requiring special notices is suits for the enhancement or reduction of the rent of an occupancy tenant.

797. Suits for enhancement of rent of occupancy tenants-

The law regarding the enhancement and reduction of rents paid by occupancy tenants is explained in the 216th paragraph of the Settlement Manual. The rates of malikana there mentioned are the highest that can be imposed. A court is under no obligation to decree the fullest rent permitted by the law, and in many cases it would be very unwise to do so. The attention of all revenue officers is drawn to the necessity for caution in enhancing at the conclusion of settlement operations, the rates of malikana payable by occupancy tenants in cases where; owing to enhancement of land revenue assessment, there has been a substantial automatic enhancement in the amount of malikana calculated at the previous rate. Before the passing of the Tenancy Act of 1887 the payments made by occupancy tenants in addition to the land revenue and cesses were in some parts of the country very trifling, and throughout whole districts enhancement was barred by entries in the village administration papers.

798. Severe enhancements deprecated-One object of the Act was to enable landlords to increase the rents of privilege tenants when these were very low. This intention must not be defeated, but severe enhancements, which would raise the rent of particular occupancy tenants much above the standard prevailing in the neighbourhood in the case of other tenants of the same class should be avoided. Nor may it always be fair to exclude from consideration the rents usually paid by tenants-

at-will in the neighbourhood. It used to be quite common in some parts of the Punjab, especially in the south eastern districts, for such tenants to pay no rent properly so called. The demand of the harvest on account of revenue, cesses and village expenses was spread over the cultivated area, and tenants equally with landowners simply paid their quota. This primitive state of things is probably disappearing everywhere. But wherever it exists, or where for any reason the rents paid by tenants-at-will are very light, care must be taken to avoid heavy enhancement in the case of occupancy tenants.

799. Decree bars further proceedings for ten years-Considering that over two millions of acres in the Punjab are tilled by occupancy tenants paying cash rents, the number of suits for enhancement is surprisingly small¹. A decree raising the rent of an occupancy tenant or rejecting on its merits a claim for enhancement is a bar to any further proceedings with the same object for a period of ten years².

1. *Further information on this point can be obtained from statement XV of the annual Land Revenue reports.*

2. *Section 24(3) of Act XVI of 1887. See also as regards compensation for improvements in enhancement cases, paragraph 804.*

800. Suits within jurisdiction of Assistant Collector of the Ist Grade. Suits to establish right of occupancy- Of the ten classes of cases which can be heard by Assistant Collectors of the Ist grade, but not by Assistant Collectors of the 2nd Grade, the first calling for mention is suits to establish a right of occupancy. The grounds on which such a claim can be founded are discussed in paragraphs 208-211 of the Settlement Manual. In the Punjab length of occupancy does not under any circumstances ripen into occupancy right¹. The status of tenants has, therefore, in the vast majority of cases been finally settled long ago, and the number of suits for occupancy right is not large. Most of them are probably launched in reply to ejection proceedings with small prospect of success.

1. *See paragraph 207 of the Settlement Manual.*

801. Suits relating to ejectment-The next three descriptions of cases to be noticed from one group. They are suits-

- (a) by landlords for the ejectment of tenants;
- (b) by tenants to contest ejectment notices; and
- (c) by tenants to recover possession or compensation in cases of wrongful ejectment.

802. Suits to object occupancy tenants and tenants for a term of years- The summary procedure by which a tenant-at-will can be ousted from his holding has been described in paragraphs 60-62. It is of course inapplicable to the case of occupancy tenants, and tenants for a term exceeding one year. Such tenants can only be ejected in pursuance of a decree of a revenue court¹ or in the case of an occupancy tenant when a decree for an arrear or rent remains unsatisfied after due warning². The grounds on which an action for the ejectment of an occupancy tenant can be brought are stated in the 213th paragraph of the Settlement Manual. The same reasons may be pleaded in the case of tenants holding for a term under a lease or a decree or order, and in addition “any (other) ground which would justify ejectment under the contract decree, or order”.³ When the landlord asserts that the tenants right has been forfeited by failure to cultivate, the matter must be dealt with in a reasonable way. The words used in the Act are “that he (the tenant) has without sufficient cause failed to cultivate the land in the manner or to the extent customary in the locality in which the land is situate.”⁴ An occupancy tenant who from loss of cattle or for other good reason is unable to till his holding in a year of great drought must not be made to endure the additional misfortune of losing it altogether. Even where the tenant is not entirely free from fault it is not always expedient to declare his occupancy right forfeit. The 48th section of the Act gives to the court a large discretion, instead of passing a decree depriving the tenant of his land, to order him to remedy, or to pay compensation for,

any injury cause to the landlord by the act or omission which is the foundation of the latter's claim. Ejectment suits are fortunately not at all common in the Punjab.⁵

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1. *Section 42.*
 2. *See paragraph 65.*
 3. *Section 40(c).*
 4. *Sections 39 (b) and 40(b).*
 5. *For the number of ejectment suits reference should be made to statement XVI of the annual Land Revenue reports.*

803. Suits to contest notices of ejectment-Every ejectment notice warns the tenant-at-will on whom it is served that he must if he intends to contest his liability to be turned out, institute a suit in a revenue court within two months.¹ Such suits are pretty numerous and are often successful. If the tenant fails to prove his case a decree for his ejectment is passed.²

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1. *Section 45(3).*
 2. *Section 45(6).*

804. Claims for compensation-In all suits by a landlord for enhancement of rent or for ejectment or by a tenant to contest an ejectment notice, it is the duty of the court to direct the tenant to put in any claim he may have for compensation for improvements. In the cases in which his ejectment is the question at issue he must also be told to include in his claim any compensation for disturbance to which he considers himself to be entitled.¹ If compensation is found to be due, any decree for enhancement or ejectment that may be passed cannot be executed till the landlord pays into court the amount for which he is held to be liable.²

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1. *Section 70(1).*
 2. *Section 20 (2).*

805. Suits for recovery of possession-If a tenant has been ousted by force or by any proceedings not authorized by the Tenancy Act, or if he is ejected after the issue of a notice, whose validity he has failed to contest by a suit, he may, within one year of dispossession, bring an action in a revenue court for the recovery of his holding or for compensation or for both¹. He cannot bring a suit under section 9 of the Specific Relief Act of 1877.²

1. *Section 50 and 50-A.*

2. *Section 51.*

806. Suits to cancel alienation by occupancy tenants-The powers of alienation possessed by different classes of occupancy tenants before the passing of the Punjab Alienation of Land Act XIII of 1900 (as amended by Punjab Act No. I of 1907), are explained in the 214th paragraph of the Settlement Manual. The law does not contemplate the forfeiture of the tenant's right of occupancy as the consequence of an inadvertent, or even willful, exceeding of his powers of dealing with his holding. It merely provides that irregular transfers "are voidable at the instance of the landlord" and allows him to bring an action for the cancellation of the alienation or for the dispossession of the transferee, or for both purpose. If the suit is successful the plaintiff and his tenant simply resume their old relations, provided the latter has not parted with the possession of the land to the transferee.¹

1. *See No. 6 P.R. 1893 Revenue.*

807. Suits within jurisdiction of Assistant Collectors of the 2nd grade suits for arrears of rent-The most important of the three classes of cases within the jurisdiction of Assistant Collectors of the 2nd Grade is suits for arrears of rent. More than one half of the total litigation in revenue courts in the Punjab falls under this head. Rent cases are for the most part heard by Tehsildars and Naib Tehsildars. They

are often by no means simple in their nature. After the first question at issue, whether rent has or has not been paid, has been settled, the problem remains of determining what amount should be decreed. Seeing that in the vast majority of cases rent is paid in kind, this involves a valuation of crops of uncertain yield and whose price varies extremely from year to year. The area under each crop grown in the harvest for which rent is claimed can be excerpted from the Khasra girdawari, failed crops being, of course, left out of account. The assessment of the average yield of various crops in respect of each Assessment Circle should be got gone by the Deputy Commissioners in consultation with the Agriculture Department on the basis of crop cutting experiments carried out by the Agriculture department in selected villages of each assessment circle at the time of each harvest inspection. The assessment of average yield shall be valid for five years. The Revenue Officers may also be advised to keep in view the instructions contained in paragraph 13 of the Financial Commissioners' Standing Order No. 2 while dealing with Kankut cases under Sections 16, 17, 18 and 19 of the Punjab Tenancy Act, 1887. In order to convert the grain rent into money, one must find out what the harvest prices were. These are recorded for each assessment circle in its revenue register, to which the Tehsildar or Naib Tehsildar can easily refer. In the judgement of the revenue court the process by which it arrived at the rent decreed ought to be briefly explained and appellate courts should insist on this being done.

808. Limitation in rent suits- The limitation for rent suits is three years. The difficulty of an equitable decision is increased when a court has to deal not with the harvests of the past twelve months of which the presiding officer may have a vivid recollection, but with more remote seasons. Landlords, and especially mortgagee landlords, are sometimes tempted to refrain from taking their share in a bad year, trusting to recover more by means of a revenue suit than a fair division on the threshing floor would have yielded. There is, therefore, some reason to suspect that a landlord, who has failed to sue for rent till several years after it fell due, abstained

from doing so at the proper time because it could then have been shown that the outturn was poor. In such cases it is fair to refuse to make a doubtful calculation of rent by estimating the value of the produce and simply to decree twice the land revenue and cesses in the case of districts or parts of districts settled before the passing of the Land Revenue (Amendment) Act, III of 1928, and four times the land revenue and cesses in the case of areas of which the assessment has been confirmed on or after the 22nd February, 1929.¹ If, however, the harvest is known to have been a very short one, this may be too large, and some smaller sum may be decree.

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1. *Theoretically the cesses should not be included. But in practice it is unnecessary to leave them out, as the revenue will usually be well below one fourth of the rental.*

809. Remissions of rent- Even where the rent is a money one of fixed amount the court has power, with the previous sanction of the Collector, to remit part of it where the area of the holding has been diminished by diluvion or otherwise or where its produce has been reduced by any calamity of season.¹ The principle to be followed in such cases is to treat the tenant with reference to his rent as the landlord has been or will be treated with reference to the revenue. If the State foregoes part of the revenue, the landlord ought to forego a proportionate share of the rent.

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1. *Section 29. The section applies to kind, as well as to cash rents.*

810. Suits under section 14 of the Act-By Section 14 of the Tenancy Act, a person who is in occupation of land without the owners' consent is liable to pay at the rate of rent current in the preceding agricultural year or if none was paid in that year, at such rate as the court determines to be fair and equitable.¹ What is paid in such circumstances is not, strictly speaking, rent, but suits under section 14 are classed in the same category as actions for arrears of rent.²

1. *For suspension and remission of rent by executive order- see paragraph 573.*
2. *Section 77 (3) (n).*

811. Deposits of rent- A defendant who admits that the rent claimed is due, but asserts that the plaintiff is not the person entitled to receive it, must pay the amount into court, otherwise his plea will be disregarded. Once he has made the deposit his responsibility is at an end. Notice is given to the person whom the defendant alleges to be his landlord¹. If the latter does not within three months bring a suit against the plaintiff in the action for rent, and obtain an order restraining payment of the deposit, it will be made over to the original claimant².

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1. *Section 95(1), (2) and (5).*
 2. *Section 95(3) sub section (4), provides that nothing in this section shall affect the right of any person to recover from the plaintiff money paid to him under sub section (3).*

812. Execution of decrees for Arrears of rent- A court on giving a decree for rent may order execution against the movable property of the tenant, or any uncut or ungathered crops on the holding in respect of which the arrear is due. But so long as the tenant is in occupation of the land he can not be imprisoned in execution of such a decree¹.

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1. *Sections 96 and 97.*

813. Restriction of processes involving arrest of tenant or landlords- No revenue court can issue any process involving the arrest of any tenant or of any landlord who cultivated his own land during either of the two harvest seasons¹ except for reasons of urgency, which must be put on record.

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1. *Tenancy Rule 14. The harvest seasons are from 1st April to 31st May and from 15th September to 15th November.*

814. Control, appeal and revision- The law as regards administrative control, appeal and revision, applicable to revenue courts is practically identical with that applicable to revenue officers as described in Chapter VI. The only classes of cases which can usually come on appeal before the Financial Commissioner are those referred to in paragraph 796. In revision cases a Financial Commissioner can only interfere with the order of an inferior revenue court “on any ground on which the High Court in the exercise of its revisional jurisdiction may, under the law for the time being in force, interfere with the proceedings or an order of decree of a Civil Court” (Section 84 (5) of the Tenancy Act). But by the operation of section 88(2) (a) and (b) of the Act, section 113 of the Civil Procedure Code and Order XLVI of the first schedule apply to the proceedings of revenue courts and an inferior of the Financial Commissioners.

CHAPTER XXIV MISCELLANEOUS

816. Meteorological observations and returns- At some important stations there are observatories under the direct control of the Director-General of Observatories. A note on the climatic conditions of each month by the Meteorological Department of the Government of India is published in the Gazette.

At other headquarter stations and at tahsils there are rain gauges in charge of the assistant to the district kanungo and the tahsil office kanungo, respectively. Registers are kept up by the district kanungo and the tahsil office kanungoes in which the rainfall is recorded. The headquarters register contains columns to show the rainfall at every recording station in the district which is in charge of the district Kanungo. At the beginning of each month a return of the rainfall of the past month with notes on

the agricultural situation, is furnished to the Director of Land Records. Besides the rain-gauges in charge of revenue officials others have been put in a number of places where a record of the local rainfall was considered necessary. These are in charge of competent officials, such as Sub-Assistant Surgeons. The rainfall is also recorded by officials of the Irrigation Department and at the chief agricultural farms.

Crop reports-Whenever the Deputy Commissioner, or any Assistant Commissioner or Extra Assistant Commissioner visits a tahsil, he should inspect the rain-gauge and register, and satisfy himself as to the capacity of the office kanungo to observe and record the rainfall correctly. The result should be communicated to the Director of Land Records and to the Meteorological Department of the Government of India. It should be part of the duties of one of the officers at headquarters to inspect the rain-gauge and register at regular intervals.

Reports on the snowfall for the months of January to May are sent by the Deputy Commissioners of Shimla, Kangra, Gurdaspur, Rawalpindi and by the Assistant Commissioner in Kulu to the Meteorological Department of the Government of India, a copy being furnished at the same time to the Director of Land Records. A special report is also sent if possible, about the middle or end of July.

A return showing the monthly rainfall at each district headquarters in the province is embodied in the Director's yearly Season and Crop Report. (*For detailed instructions as to the record of rainfall and snowfall Financial Commissioner's Standing Order No. 37 should be referred to.*)

817. Crop Reports- From fifteen districts a weekly telegraphic report is sent to the Director of Land Record in which the rainfall, the progress of agricultural operations, the prospects of harvest, any serious damages done to crops, the condition of

agricultural stock, any marked failure of pasturage, fodder or water supply , when it occurs , and the chief objects of those reports to ensure that the approach of scarcity anywhere in the province shall be signaled. Similar reports are sent from every district in which scarcity is impending or famine or other abnormal circumstances exist. The Deputy Commissioners of the remaining 14 districts are also required to submit by letter a summary of the weekly weather and crop conditions during the period from the 1st of April, till the 15th October (inclusive).

Deputy Directors of Agriculture submit similar reports, converting the same ground to the Director who forwards them through the Financial Commissioner , Development , to the Minister.

For some of the principal spring and autumn crops estimates are furnished by Deputy Commissioners and Deputy Directors of Agriculture to the Director of Agriculture at intervals generally of about two months. There are , therefore three estimates for each crop. The first and second are preliminary and corrected estimates of the area sown, the third prepared after the culture harvest inspection gives the actual area of crops sown, and an estimate of the outturn. In the case of cotton and wheat a fourth estimate is also required.

A statement showing the results of the kharif harvest accompanied by a brief note is sent by Deputy Commissioners to the Director Land records not later than the 10th of December. The district returns with a general note by the Director are published in the Gazette. The rabi crop return forms one of the statements appended to the Crop and Season report which Deputy Commissioners sent to the Director of Land Records and to the Commissioner by the 10th of July, each other.

The note on each harvest should include a concise account of the factors which have

influenced the area or the yield of important staples.

The note should be prepared by the Revenue Assistant who should base it upon the reports of tahsildars and his own personal observations . Both the Revenue Assistant and the tahsildar should check their own personal observations by the opinions of reliable agriculturists.

The provincial Crop and Season report is drawn up the Director of Land Records. (For detailed instructions as to weather and crop reports, monthly agricultural prospect reports , estimates of area, yield of certain crops and Season and Crop report, see Financial Commissioner's Standing Orders Nos. 36,37, 38 and 53.)

818. Crop Experiments-The most reliable crop experiments are those conducted by the settlement staff when a district is under re-assessment. But experiments are also made harvest by harvest in all the districts of the province, except Simla , by the revenue and agricultural staff and the results reported to the Director of Land Records and Director of Agriculture , Respectively. They should be made by naib-tahsildars, tahsildars, Revenue Assistants and Sub-Divisional Officers in the case of revenue staff and by Agricultural Assistants , Extra Assistant Directors of Agriculture and Deputy Directors of Agriculture in case of agriculture staff. Detailed instructions will be found in the Financial Commissioner's Standing Order No. 9- A.

819. Prices-The deputy Commissioner of the following districts report on 1st and 15th of each month of wholesale prices of the principal food-grain prevailing at the markets and noted against each:-

Gurgaon

Palwal

Ambala

Jagadhri

Jullundur	Jullundur
Ludhiana	Ludhiana
Ferozepore	Ferozepore
	Abohar
Lahore	Lahore
Amritsar	Amritsar
Gurdaspur	Gurdaspur
	Pathankot
Sialkot	Sialkot
Shahpur	Sargodha
Jhelum	Jhelum
Rawalpindi	Rawalpindi
Attock	Campbellpur
Montgomery	Montgomery
	Okara
Lyallpur	Lyallpur
Multan	Multan

This prices of the different crops obtaining in each assessment circle at harvest time are entered in the crop abstracts in the circle note-book in accordance with reports received from district kanugos. A register of the retail price at headquarters of the same crops and of salt and firewood is kept up by the district Kanungo. The prices recorded are those current on the fifteenth and the last day of each month . From the register a return showing the retail prices of some of the chief staples and of slat and firewood is compiled and sent to the Director of Land Records on the 1st and 16th of each month. An officer not below the rank of Extra Assistant Commissioner, either the Treasury officer or some other member of the staff whose work ordinarily keeps him at headquarters, should be made responsible for checking the figures of retail

and wholesale prices in the returns , and each price current should bear his attestation (Government of India Revenue Department , No. 6-150, dated 20th March, 1872). Through the prices recorded are only those of particular days , it is his duty to keep himself informed from day to day of all variations in the market.

In districts where there is a Cantonment the same officer should be made responsible for the preparation of the monthly lists of bazar prices furnished to the Indian Army service Crops.

Their accuracy is a matter of great importance , as they may be used as the authority for the payment to Indian troops of compensation for dearness provisions. (For detailed instructions as to price lists see Financial Commissioner's Standing Order. No. 39.) A copy of the military bazar prices current is sent monthly to the Director of Land records for scrutiny.

The industrial surveyors working under the control of the Director of Industries , Punjab , will also check the records of retail prices at the head quarters of districts once a month. They will report the result of their check to the tahsildar and will not give any directions to the revenue staff, whose responsibility will remain unimpaired.

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820. Locusts. Locusts are frequently seen in the province, but as a rule they speedily disappear after doing an amount of damage which, through it may be small in proportion to the total out-turn, may be very serious for the cultivators whose crops have been attacked. In some seasons, however, vast swarms invade the province, and commit widespread devastation. Their power of multiplication is enormous. Whenever locusts are observed in a district measures should be taken to ensure.

- (a) that the laying and hatching of eggs shall be promptly reported and
- (b) that measures shall at once be taken for the destruction of the eggs and of the young nymphs when hatched.

An account of the history of locusts with detailed instructions as to the best means of destroying their eggs and the young insects before they acquire wings will be found in appendix V.

Once the locusts have begun to fly no measures hitherto devised appears to be really effective. The use of airplanes to drop dust powder has not been tried in the Punjab. Flame guns can be used to kill the insects as they are resting at night but this measure is obviously of very limited value.

821. Carriage and supplies for troops. The rules for the provisions of carriage and supplies to troops on the march will be found in Financial Commissioners Standing Order No. 58. IN carrying them out a good deal of care and tact is required to ensure on the one hand that nothing taken without payment and on the other that the reasonable requirements of regiments are met. It is important that civil official should be the medium of communication between officers commanding troops on the march and the country people, No definite rule on the subject can be laid down; but Deputy Commissioners must invariably accredit to the commanding officer an official of sufficient standing powers and

intelligence to accompany troops on the march or if the number of the troops is small to be present at each encamping ground on their arrival and departure. When the detachment or force on the march consist of European troops, an English –speaking official should, if possible be sent.(Punjab Government circular No. 12-1724, dated 31st July, 1883). Grass cutters of regiments on the march should on arrival at encamping –grounds be directed to best places for cutting grass. Private property must be respected but there is usually abundance of grass on the sides of the roads and other public places. (Punjab Government Circular No. 22-657, dated 28th March 1870.)

822. Horse, mule and cattle breeding. As all the chief agricultural operations are carried on with the aid of bullock power, the supply of efficient cattle is a mater of great importance. On the whole the live – stock in the Punjab are of better quality than in the rest of India. And in some parts their reputation stands very high. The spread of canal irrigation over the old breeding ground has had a serious effect on the supply and has added to the importance of the cattle –breeding work of the Veterinary Department. Certain districts which are regarded as suitable or horse –breeding have bee n classed as “selected”, and in these the Army Remount Department devotes special attention to the matter; they provide and replace a number of stallions and pay for all costs of establishment, feed and keep. If district boards maintain their own stallions in these districts, these are supervised by the officers of the Army Remount Department.

In other districts , classed as “non-selected” the horse and donkey stallions are supervised by the civil veterinary department ; the initial cost of acquisition is shared between Government and the district boards. While the latter pay for maintenance.

In all districts, the breeding of horned cattle, cattle disease, cattle fairs ,etc. are the care of Director , Veterinary Services , and his Superintendents (see Agricultural circular No. 6)

At Lahore there is a vernal College for training students , stipends are given both by Government and Local bodies (see Agricultural Circular No.3)

Until recently the only organization for the supply of suitable bulls for breeding purposes was the Government Cattle Farm at Hissar (see Agricultural circular No.1) but the establishment of the grantee farms in the Lower Bari Doab Canal colony and the introduction of the Dhanni and Haryana breeding schemes in the districts including the homes of these breeds have provided facilities for obtaining bulls of different breeds required for various districts of the province.

An area has been set apart for a new cattle breeding farm in the Nili Bar colony, which it is hoped, will be developed for the supply of high class bulls.

823. Cattle and horse fairs. Cattle and horse fairs have come to be regarded as a very valuable means of stimulating interest in breeding as well as of facilitating the sale of young stock. They are being used for the exhibition of the better types of stock as well as improved agricultural implements and farm produce. They tend to brighten the prevailing dullness of rural life by providing an occasional district fete. (See Agricultural circular No.2) Several district boards derive a substantial income from such fairs, and there is in consequence a tendency to encourage them as a source of income.

824. Important epidemic diseases among livestock. The principal epidemic

diseases of equines and brownies are enumerated below :-

Equines	Brovines
Glanders	Rinderpest
Surra	Haemorrhagic Septicacemia.
Lymphangitis epizoopica	Anthrax
Dourine	Black – quarter
Anthraz	Foot and mouth Disease.

Strangles

Gillar

Pleuro – Pneumonia contagious.

As a result of the propaganda work done by the Civil Veterinary Department with regard to contagious diseases and their prevention, live-stock owners readily admit the usefulness of preventive inoculations against the most serious contagious diseases such as rinderpest and hemorrhage septicemia.

The occurrence of epidemic disease amongst live-stock in a village is reported by the lambardar to the patwari who sends the information by postcard (supplied by the Civil Vernally Department for this purpose) to the nearest veterinary assistant concerned . On receipt of information from the patwari , the veterinary assistant adopts the following procedure.

If the report relates to an outbreak of equine epidemic disease in any part of a selected district where such disease is dealt with by the Army Remount Department , he will merely transfer the post-card to he local veterinary assistant of that department for disposal in other cases he himself will proceed at once to the scene of the outbreak for the purpose of taking the necessary remedial and preventive measures. On arrival at the spot at which the contagious disease had

been reported to exist , the veterinary assistant takes all requisite steps for the treatment of the disease and for the prevention of its spread. If the situation is sufficiently serious to require this , the veterinary assistant warns his immediate superior that his presence is needed, and the latter will order to the spot such extra staff as may be necessary when the nature of the disease has been ascertained, the veterinary assistant or veterinary assistant surgeon fills in a printed form provided for this purpose and submits it through the proper channel to the Superintendent of the Circle for information . Similar information is also sent to the Deputy Commissioner through the tahsildar on another form supplied by the department. Whenever a serious outbreak of epidemic disease occurs in a district or whenever there is a danger of the disease spreading into the adjacent districts the Deputy Commissioner intimates the occurrence to the Commissioner of the division and also to the Deputy Commissioners of the neighboring districts in order that due precautions may be taken. When epidemic disease appears in a camp or cantonment or amongst animals on a military line of communication , the military authorities have instructions to inform the nearest civil authority without delay. Such information is immediately communicated to the local veterinary assistant or veterinary assistant surgeon and the Superintendent of the Circle in which the infected area lies. Similarly when any epidemic disease amongst animals appears at a horse or cattle fair or in the neighborhood of a cantonment or on a line of military communication the fact and the nature of the disease is at once reported to the nearest military authority.

825. District arboricultural. The importance of arboricultural to a province so bare and arid as was the greater part of the Punjab was early recognized and in 1852 the Board of Administration issued orders designed to increase the fuel supply. The same order provided also for the comfort of travelers; they

sanctioned remissions of land revenue on plantations and for the grant rent free, or plots of Government land at every three miles along the main roads to persons who would undertake to sink wells and plant groves Zamindars receiving inams from Government were to be required to raise one kanal of young trees for sale or distribution among their tenants. Trees were to be planted by official agency round all Government building of every description and along roads under construction and officers in charge of canals were to raise plantations at every three miles along their banks; and at every jail and every tahsil nurseries of young trees were to be kept for distribution.

826. Cancelled.

827 **Progress of district arboricultural** - The success of all arboricultural operations depends so much on the taste and opportunities of individual hand worked officers that progress has been intermittent and sometimes slow; but no one who has toured the province can fail to appreciate the vast amount of good work that has been done. Almost all the main roads run through avenues and the great canals have everywhere well-wooded banks. Most Government building are surrounded by trees and nearly all civil stations have a pleasing appearance. The mileage of avenues along roads and canals must run into many thousands.

828 **Tree Planting by private persons.** The rules regarding the encouragement of tree-planting by private persons will be found in paragraphs 511-512 of the Settlement Manual. Under those relating to plantations of trees the Deputy Commissioner can at any time send up proposals to free the land from assessment. Those relating to wayside groves (Financial Commissioner's circular No. 4 of 1882) and the making of tree-planting a condition attached to the grant of inams must be considered as now obsolete. No Compulsion can be exercised to secure the planting of private lands and men with very small

holdings cannot afford to plant trees except a few in the immediate vicinity of a well. But they can be encouraged to preserve what trees they have and men with more land can be helped by the distribution of seedlings and especially where the local conditions are favorable, of fruit trees from Government nurseries.

829 . Tree planting by public agency. The expenditure on the planting of trees along roads is met by the authority which is responsible for the maintenance of the roads, that is to say either by the Public works Department or the district boards or municipalities. So far as the work is in charge of local bodies, obviously a great deal must depend on the interest shown in it by the Deputy Commissioner and Commissioner. A general superintendence is exercised by the Conservator of Forests, and his advice should be asked on doubtful points. Much help may be derived from the manual of arboricultural. IN this branch of their work commissioners correspond direct with the local Government. It is important that there should be definite scheme as regards tree planting and under existing orders working plans for periods of from 3 to 5 years should be drawn up for each district:-
 “The working plan should be of a simple nature, and it may be best, as suggested by some of the officers consulted, to concentrate operations on one or more selected roads in each tahsil and to complete the planting of trees on such road or roads before other roads in the tahsil are taken up. When the plan is sanctioned, the Conservator of Forests should be informed through the Commissioner at the beginning of each year of the operations it is proposed to put in hand during the year, and a report should be submitted at the close of the year showing how far these operations have been carried out. IN the case of roads already planted with trees, it should also be stated what measures have been taken to replace by the planting of young trees losses that may have been caused through trees being blown down by storms or the removal of which has been otherwise necessitated. As suggested by the Conservator (

Letter No. 2790 , dated 21st October , 1901.) where this was not already been done a map on fairly large scale should be prepared and hung up in the Deputy Commissioner's office showing the actual state of the avenues etc. in the district –a system of lines, full , broken , or dotted, showing whether a road is fully planted whether there are gaps to be planted up or only a few trees here and there.

Arrangements have been made at the Imperial Forest Research Institute and College at Dehra Dun as well as at Changa –Manga for putting district board official through a simple course of training Where feasible, Deputy Commissioner's should make over to some member of the district staff the immediate supervision of the operations of the whole district, but at the same time the responsibility of the tahsildar for the work in his tahsil should be maintained and encouraged.”

830. Orders of Government of India. The Government of India Issued a resolution (Proceedings September , 1905, Nos., 12-17 – A , Forests file No. 32.) No. 21 dated 11th July, 1905, on the maintenance of avenue trees along roadsides, a few extracts from which may fittingly conclude the discussion of this subject :-

“The question is one of the real importance because of the welcome shade afforded thereby to way –fares, the substantial addition to the beauties of the landscape, and mitigation of the discomforts of long journeys by road. The practice of planting avenues of this description was in earlier days as much a feature of British Administration as the construction of the roads themselves; and some of the order avenue on the main roads of India still supply the most agreeable of memorials to the taste and provision of their founders. The practice has no where died out; and it is still fairly widely , though

intermittently and unmethodically , pursued. In recent years, however, great havoc has been caused in some tracts by the mutilation and cutting down of timber in times of famine; and observations tends to show that these ravages have only been partially repaired. In other parts of the country the importance of the matter appears to have been imperfectly kept in view , and , from the want of sustained policy , money and effort have been wasted, and in many places avenues formerly in existence have been allowed to disappear or to become disfigured by unsightly blanks.

“The Government of India are of opinion that the authority responsible for the construction and upkeep of any road upon which the provision of shade is required for the comfort the way – fares , should consider it almost as much its duty to maintain along the road a line of shade giving trees as it is to keep the roadway and bridges in proper order , and should allot its available funds accordingly ,and more especially it should not manage these avenues so as to derive from them a net profit, until all the needs of the roads under its charge in matter of trees have been supplied. The Government of India are far from discouraging all reasonable measures devised in order to make an income from the avenues , which taken as a whole form a very valuable property. Indeed, they are of opinion that in many cases a much larger income might legitimately be secured by more judicious thinning and the felling and replacing of over-mature trees, while steadily keeping in view the main object, which is to provide a continuous row of healthy shade – giving trees, and more especially such trees as a give shape , such as may be seen some of the fine old avenues left to us by the far-sighted officers of an earlier generation. But they would suggest that each authority having roads in its charge not yet provided with avenues, should be required to keep a separate account of its income from and expenditure on arboricultural, and , until the needful roadside

avenues are completed, to spend on arboricultural a sum at least equal to the income derived from the existing roadside trees. Moreover, in considering the provision of funds generally for the purpose, local Governments should look to the net expenditure. Rather than to the gross expenditure. On this object, in the connection it is material to observe that the liberal grant recently made to district boards from general revenues will enable them to make better provision for all their duties, including arboricultural.

“In most provinces the responsibility for roadside trees devolves partly on the Public Works, Department and partly on local bodies, In either case it is essential that effort should be concentrated and properly directed and that the work of planting and tending the trees should follow a prearranged system. As a general rule provision should first be made for filling up gaps in existing avenue; next for establishing avenues which have been planted, but in which the trees are not yet beyond the reach of danger from drought or cattle; and lastly for planting new avenues. In taking up new work, preference should be given to those roads which are most frequented and where avenues can be established at the least cost and no more should be attempted at one time than can be thoroughly established by means of the money and supervision available. Care should be taken that the most suitable kind of tree is chosen., preference being given to fruit trees, where otherwise suitable, and to trees which will give shade, rather than to trees which merely develop a rapid growth. The character of timber must also be selected with special reference to the dryness or moisture of the soil. In some cases it may be possible to provide means for the watering of trees by the utilization of neighboring sources of supply. Local Government are requested accordingly to see that where this had not already been arranged for a clear working plan, similar to

those prepared for Government forests, and accompanied by the necessary maps is prepared for each district or public Works Division concerned. The working plans should be passed by some responsible officer, such as the Conservator of forests, or the Director of Land Records or Agriculture, or in the case of Government roads the Superintending Engineer; and arrangement should be prescribed for ensuring that they are not lost sight of by the local bodies or officer concerned. The services of the local forest officer where available might be utilized both in the preparation of working plans and in inspecting and advising upon the actual operations. Many cases could be cited in which, when gaps occur in an old avenue trees of a different and often heterogeneous description have been carelessly introduced in the vacant places, both interrupting the uniformity and spoiling the future appearance of the avenue.

“The subordinate in direct control of arboricultural work, whether under local bodies or under the Public works Department, should as far as possible, receive a training of some kind in the technical branches of the subject either at some Government garden or at a forest school or plantation. The Government of India are aware that funds cannot always be forthcoming for the entertainment of full time officials of the forester, class for arboricultural work and they also recognize that the success of roadside planting depends far more on strict supervision than on technical details; but they are at the same time convinced that even a few months training in the technical part of the work will add to the efficiency of the present controlling staff, and every facility will be given in forest and Agricultural institutions under the control of the supreme Government to provide a suitable training for such men as may be sent to them for instruction by local bodies or the Public Works Department. It is suggested that such facilities should be arranged for in similar

institutions controlled by local Government.

“ Good results have been obtained in some tracts by entrusting certain supplementary work such as the planting of detached piece of road or the filling up of blanks in avenues to village or private agency and paying by results , and in others private enterprise has been stimulated by rewards and by revenue – free grants. The encouragement of private tree- planting by these and other means is , in the opinion of the Government of India. Worthy of the special attention of the local Government, and they are requested to consider whether anything further can be done in this direction than is effected at present.

“It is essential that , as far as possible , the sympathies of the neighboring population should be enlisted in the preservation of the roadside trees. In the case of fruit trees , the produce of which is the little value, the cultivators of the adjoining field should be allowed to take the fruit on condition that they protect the trees from serious damage. And when a fodder famine is prevalent, judicious arrangements should be made to utilize the edible leaves of trees along roadsides as fodder for the cattle at reasonably cheap rates. This does not mean that the trees themselves should be heedlessly mutilated, or cut down but that a temporary sacrifice of sylvan amenity may be gladly accepted in the interest of saving valuable animal life.

“There is one practice that calls for particular deprecation . It is that of lopping or otherwise injuring a beautiful avenue when preparations are being made for the reception of a high Government official. In the anxiety to made proper arrangements for a party or procession proceeding in carriages, it is not an uncommon thing for the district authorities to cut away all the branches from the roadside trees within a certain distance from the ground, serving thereby

no purpose. Whatsoever and inflicting damage which it may take years to repair. Officers of Government should maintain a vigilant watch in order to prevent this unthinking and regrettable from of depredation.”

831. Minerals and quarries. All mines of metal and coal all gold washings and all earth oil belong to Government. As regards other minerals such as quarries and canker beds , the land as contained in section 42 of the Punjab Land Revenue Act., is explained in paragraph 191 of the Settlement Manual and is also dealt with in paragraph 10 of the Financial Commissioners’ standing order No. 42 . In some estates these minor minerals are private property, elsewhere they belong to Government, even where the surface is private property.

The extraction of metals , coal earth-oil , gold, salt and generally speaking minerals not included in the definition of “minor minerals” is governed by the Punjab Mining Manual . For minor minerals a references should be made to the Punjab Minor minerals Rules published with the Financial Commissioner’s notification No. 4345-R dated the 23rd December, 1963 (see Punjab Land Administration Act Volume II). Royalty is imposed on minerals belonging to Government extracted by private endeavor. Wherever the minerals are the property of Government the dues of Government are taken in the shape of a royalty. Where on the other hand minerals are the property of the landowners , the gains from them should be included in the assets of the estate at settlement. Section 59 (1) (e) of the Land revenue Act provides for a special assessment in cases where this has not been done.

832. Treasure trove. Rules as to treasures trove are contained in Punjab Government consolidated circular No. 43.

833. (I) Creation of department of fisheries in the Punjab (I) In about 1868 the Government of India deputed Dr. Day to enquire into the economic conditions of the fisheries of India , as a result of frequent complaints from all the provinces regarding the wholesale slaughter of fish. A second inquiry by Mr. H.S. Dunsford was under taken in 1911 in the Punjab , and he corroborated Dr. Day’s Statements and suggested various remedial measures for the preservation of fish in the province.

(ii) As a result of Mr. Dunsford’s report Mr. G.C.L. Howell, I.C.S. was sent to America to study fishery problems and on his return was appointed Director of Fisheries in 1912 with a small staff, to collect data in order to enable Government to decide whether Fisheries Department in the Punjab was justified , and what steps should be taken to preserve the fish supply. As a result of his efforts the Punjab Fisheries Act II of 1914 came into being . On his vacating the post of Director in November , 1915 the post was abolished but it was decided to retain the department under a Warden of Fisheries which post was accordingly created.

(i) **Scope of rules.** (ii) The Punjab Fisheries rules and regulations are all drafted either under the Indian Fisheries Act IV of 1897, or the Punjab Fisheries Act II of 1914. Act IV of 1897 and the rules thereunder prohibit the use of poison, dynamite and other explosive and obnoxious substances for killing fish, and close certain waters, which are spawning grounds of important species of fish to fishing altogether for specified periods. The rules framed under the Punjab Act, II of 1914, are simple and merely prohibit the use of fixed engines and small – meshed nets and the diversion of water for killing fish , in order to save the small fry and immature fish. These rules are applied to waters which are not “Private

Water” these can also be applied to “Private Waters” with the consent of the owners thereof.

These rules were first issued Kangra in 1916 and are now in force in 25 districts of the province. They also regulate fishing by prescribing the kinds of gears which are permitted, the seasons during which they may be used and the fees payable for the various kinds of licenses.

Briefly, licenses are of two kinds- general and angling. The former include nets and gears of all kinds as used by professional fishermen and the later for rod and line only , and are for the most part taken out by sports men.

There are different kinds of angling licenses and the fees there of vary considerably for instance provincial licenses, canal head works licenses, trout waters and district. They are obtainable from Deputy Commissioners of districts from the Warden of Fisheries and in case of canal heads works from the Executive Engineers , Irrigation’s Branch.

In 18 districts individual licenses are issued to fishermen and in 7 districts in the western Punjab , and on canals leases are auctioned annually and license issued to highest suitable bidder along with a number of permits for use by his nominees of agents.

In two districts size limit for mahsir and trout has been prescribed below which no fish of these species can be killed. The offering or exposing for sale or barter of mahsir and trout killed in contravention of the rules has also be prohibited in these two districts .

The breaches of the rules are compoundable and compensation not exceeding Rs. 10 for each breach is charged . Such breaches are also punishable with a fine upto Rs. 100.

(iii). Rules under Punjab Act applies to all rivers and streams in Punjab. As almost all the rivers and streams in the Punjab are not the exclusive property of any persons, rules under the Punjab Act have been applied to them.

(ii) **Conditions.** The conditions on which the waters as licensed or leased are :-

(a) that the licensees are bound to fish in accordance with the conditions laid down in the rules.

(b) That they are bound to report breaches of the rules which come to their notice to the Deputy Commissioner, tahsildar, or any officer the Fisheries Department;

(c) That if, according to the entries in the wajib-ul –arz or record – of –rights , the owners of any village are entitled to a share of the catch of fish from the waters within those villages, the licensee shall be bound to give that share to the owners;

(d) In the districts in which fishing is leased, the lessee is required to pay the lease money in advance or by three equal installments; in the latter case he is required to furnish sufficient security for the payment of the future installments ; short payments are recoverable as arrears of land revenue.

If a licensee is convicted for a breach of the rules his license can be cancelled.

834. Changes in limits and numbers of tahsils , districts and divisions. An

increase in the number of divisions into which a province is divided can only be made with the sanction of the Governor –General in Council. But the local Government may add to the number of tahsils and districts and may vary their limits and those of divisions. (Section 5 of Act XVII of 1887) Such Changes are generally unpopular with the people, and can hardly fail to produce some confusion in administration . The make the comparison of past and present statistics difficult , and are apt to be embarrassing when the time for a general re-assessment comes round. They should , therefore only be proposed when they are essentially necessary for the proper management of the estate or tract concerned.(Government of India , Home Department, Circular No. 194-202, dated 2nd June , 1870. For reports to surveyor –General of changes of boundary , see Financial Commissioner standing order No. 25.)

834-A. Boundary disputes. Any boundary disputes with Indian States which arise should be dealt with promptly . The procedure to be followed in such cases will be found in Punjab Government consolidated circular No. 25. The adoption of fixed boundaries between the Punjab and Indian States where the line of demarcation follows in the main course of a river.(See paragraph 437) ought greatly to reduce the number of such disputes.

In the case of land boundaries the operations of the Survey of India Department and successive settlement operation have left little room for doubt as to the actual border. No difficulties are likely to arise and any that do arise should be easily settled , if the orders requiring Deputy Commissioner whose districts march with Indian States to inspect the boundary or cause it to be inspected every year are carried out. (Government of India. Foreign Department, resolution No.1758, dated 21st August , 1871. The inspection should be noted in the annual revenue report.)

The Darbar should be informed when the district officer proposes to make his inspection and asked to depute a representative of the State to meet him. The State of the boundary pillars should be noted and arrangements made to carry out any necessary repairs.

835. Skeleton maps. Special $\frac{1}{4}$ district maps showing villages, tahsils and district boundaries, railways main rivers, canals roads and other prominent features as well as a few of the more important places, are issued by the Director of Land Records for use in illustrating new proposals and reports, and can also be conveniently bound into district statistical atlases, the necessary additions being made under the Deputy Commissioner's orders.

Subsidiary to the above a limited number of $\frac{1}{4}$ maps are printed with the villages numbered a key sheet being added with alphabetical lists of villages in English and vernacular. These maps are prepared in the Surveyor –General's Office, and are reductions of the published survey sheets.

835. Authenticated to CM : 1KM tehsil maps, 1 CM' 2 $\frac{1}{2}$ KM district maps and M 10 KM state Map drawn on the basis of survey of India's Topographical map sheets showing village, sub –Tahsil, Tahsil and district Boundaries, railways, roads, rivers, canals and other prominent features as well as important places, are issued by the Director of Land Records to cater the needs of the various Government Departments for planning purposes.

The necessary additions and alterations made from time to time are incorporated in these maps of the Director of Land Record, Punjab.

836. Gazetteers. The revision of the gazetteer is under taken at each settlement by the settlement officer. (See paragraph 552 of the Settlement Manual.) But to assist him in his task and at the same time to make the gazetteer more useful, it should be kept up to date in the interval between settlements. Deputy Commissioners have therefore been ordered to have a copy of the district gazetteer interleaved with good writing paper and to maintain a gazetteer note-book.

In the first they should enter brief notes correcting any statements in text which seem to them to have always been or to have become erroneous or which need to be supplemented. For instance , after a new census it is well to correct all figures relating to population . The notes made in interleaved copy of the gazetteer should be very brief.

The gazetteer note book should contain longer entries on any matter which the Deputy Commissioner thinks will be of use in the preparation of the new edition. Each entry should be marked in bold figures with the serial number of the gazetteer heading under which it will fall No. two entries should be appear on a single page. Only one side of the paper should be written on , so that the settlement officer may be able to remove the leaves and made use of the entries without recopying them . When the information is available in convenient form in the district or other records a full reference to the papers in questions, with a brief indications of the nature of the material which they contain will suffice.

Both at the time of the redrafting of a new edition and during the interval between the editions , the officers who are collecting information should try to obtain help from residents of the district, Indian and European official and non-

official. For example , it may be possible in this way to get better notes on the botany or geology of a district, its manufactures its archaeological remains , or its folklore than the Deputy Commissioner or the Settlement Officer may have either the time of the special knowledge to compile. If vernacular papers are to be made use of they should be composed in a simple style , and the hand-writing should be neat and clear.

The latest instructions as the revisions of district gazetteers are contained in Government of India, Home Department , letter No. 3375, dated 1st November 1902.

The chief difficulty which stands in the way of periodical revision of the existing gazetteers, and the reason which has caused so large a portion of their contents to become obsolete is that they contain a mixture of permanent matter such as that relating to the history , physical characteristics , religion, ethnography etc. of the district ; of matter which changes gradually but as a rule slowly such as that dealing with the agricultural and economic conditions; and of ephemeral matter mainly statistical, which soon becomes out of date. For this reason when a new District Gazetteer is issued it should consist of two volumes. A and B Compiled on the following lines :-

(1) In the first edition all descriptive matter should go into the A volume ; but that volume should contain only such general figures (incorporated in the latter press) as are necessary to give point to remarks in the text . The arrangement of subjects in this volume should follow the order prescribed for the provincial articles in the Imperial Gazetteer. All detailed statistics should be relegated to the B volume, which would at first consist only of these and of such notes as may be necessary to elucidate them.

(2) On the occasion of the next revision of statistics in the B volume should be recompiled and this volume should be expanded by adding to it any matter that might be required to correct or supplement the A volume. Thus if there had been a famine since A was published, if new railway had been opened and so forth information on these points would appear in B as supplementary to the appropriate chapters in A.

(3) This process would go on till the time had come for revising the A volume. Then all the supplementary text matter should be incorporated in the new a Volume and B would revert to its original form as a statistical appendix with explanatory Notes.

(4) A new edition of the B volume should be brought out after each census. The revision of the A volumes must be left to the discretion of the local Governments. The occurrence of a new settlement will ordinarily be the best time for such revision; but it may well happen that plenty of copies of the original A volume are still available and that the settlement and lapse of time have not brought any important change in the conditions of the district. In that case the revision of A should stand over till the stock of it no longer suffices for the demand; but a brief account of the settlement operations and of the changes which they have produced or disclosed in the state of affairs described in the A volume, should be prepared by the Settlement Officer before he is relieved of his duties, for inclusion in the next decennial V volume.

(5) The statistical part of the B volume should be issued with interleaved blank pages so that those who use it can have the figures of later years written in. The tables included in the B volume should be drawn up on uniform lines and should contain the main administrative statistics of the districts and its tahsils of other sub-divisions. Those prescribed enclosure D

to my circular letter of 24th September , 1902 No. 2948 –60 , seem generally suitable for adoption , but local Governments will doubtless vary or add to these as local circumstances demand. It is thought that including the explanatory notes they should not ordinarily exceed a maximum limit of 50 pages.

(6) Similarly a limit of size for A volumes might be fixed at about 300 pages within which compass it should be possible to comprise all really useful information . Some of the present provincial gazetteers err in the direction of excessive size. The history chapters for example could often be materially condensed by assuming a general knowledge of Indian history on the part of the reader and dealing only with events which occurred in or were connected with the district. Where adjoining districts resemble each other in respect of climate , physical features , fiber and fauna history, distribution of castes, and economic conditions much labor might be saved by writing a single account of these and reproducing it. With the necessary local adaptations , in each district volume . It seems desirable that in future editions the several districts should be dealt with in separate volumes.

(7) The Government of India have decided that there shall be a separate Index volume in the case of the Imperial Gazetteer and think that it would be very convenient for purposes of reference if a similar index were prepared for each series of provincial gazetteers.

837. Annual Reports : The Crop and Season Report has already been noticed in Paragraph 817. The other yearly reports which Deputy Commissioners have to prepare in connection with the Subjects dealt with this manual are :-

Land Revenue Administration Report. (See parts I , II and IV of Financial

Commissioner Standing Order No. 53.)

Report on Land Records

Report on estates under the Court of Wards (See part F of Standing Order No. 53)

838. Escheats. The principles governing the escheat to the State of property left by hairless properties are set forth in Punjab Government Consolidated Circular No. 9 and in the judgement of the Financial Commissioner in Wazira and other Versus Mangal and Others, No. 2 Punjab Record , Revenue , of 1911.

The following propositions were laid down Sir Jame Douie in that case :-

- (1) The right of the Crown to claim escheat rests not on Customary or Hindu Law, though Hindu Law recognizes escheats , but on grounds of general of universal law.
- (2) The right can only arise in the absence of relations entitled by law or custom to inherit.
- (3) The right of the proprietary body as a whole to succeed in case in which it exists is primarily based on real or assumed relationship to the holder of the land or to the member of the proprietor body from whom his title was derived.
- (4) Such a right should be assumed in the case of homogeneous estates or sub-division of estates where the owners are all or nearly all of the same tribe as the last holder of the land or the member of the proprietary body from whom he derived his title.
- (5) It should not be assumed in the case of heterogeneous estates or sub divisions of estates held by persons of different tribes or different got of the same tribe . The presumption in such cases is that the State has right to

escheat.

(6) When the property in the land was originally derived by gift from a member of the tribe of the original proprietary body the right of that body should be recognized on failure of the donors and donee's lines.

(7) In any case in which the Wajib-ul-arz declares the right of the proprietary body to succeed to the land of hairless owners Government should set up no claim.

It is further been held by the Financial Commissioner that escheat should not be claimed for Government when there is a daughter, daughter's son, sister, or sister's son.

838-A. Succession –A.I.R. 1940 The attention of all revenue officers is drawn to the judgement of the Lahore high Court reported as A.I.R. 1940 Lahore 416, which lays down that in the absence of all agnates of a childless proprietor, a cognate however, distantly, related to him is entitled to succeed to his property in preference to a stranger.

839. Forfeiture of Property. The attention of all officers is drawn to the judgement of the Chief Court reported as Punjab Record 8 of 1908, the summary of which is as follows: -

“Held by a majority of the Full Bench (Johnstone. J./ dissenting) that where ancestral immovable property held by a person subject to Punjab Customary Law attached and sold by order of criminal Court under section 88 of the Code of Criminal Procedure, the sale conveys the life interest of that person only and does not extinguish the right of inheritance after his death of his male lineal descendants or of collateral's descended from the original holder of the property.”

Cases have come to the Financial Commissioner's notice in which land so sold has been purchased in the bona fide belief that full proprietary rights were being conveyed. Care should be taken to make it clear in all announcements of such sales, and at the time of sale that a life interest only is being sold.

APPENDIX I

Section 59 of the Land Revenue Act recites the cases in which special assessment may be made by Revenue Officer whose procedure is to be regulated by the provisions of the Act relating to general land Revenue assessment subject to such modifications as the Financial Commissioner may introduce by executive instructions.

The following statement gives references to the executive instructions issued under the various clauses of the section :-

Cause (a) of Section 59(1) – Paragraph 179-A and 181-183 of the Settlement Manual paragraphs 197-198 of the Land Administration Manual and Paragraph 19 of Financial Commissioners Standing Order No. 7.

Clause (b) of Section 59 (1) Paragraph 10 of Appendix III and paragraph 5 at page 376 in appendix IV to the Land Administration Manual and paragraph 89 of Financial Commissioner's Standing Order No. 28.

Clause (c) of Section 59 (1) – Paragraphs 529 –536 of the Land Administration Manual and paragraph 521 of Settlement Manual.

Clause (d) of section 59(1) paragraph 438-446 and 579-583 of Land Administration Manual paragraphs 445 and 497 of the Settlement Manual and Financial Commissioner Standing Order No. 26.

Clause (e) of section 59(1) paragraphs 191-192 and 458-460 of the

Settlement Manual, paragraphs 767-769 and 831-833 of Land Administration Manual and Financial Commissioners Standing Order No. 42 – especially paragraph 1.

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APPENDIX II

FOREST SETTLEMENTS

1. Instructions for guidance of forest settlement officers. The following instructions were issued in 1887 by the Financial Commissioner, with the sanction of the Lieutenant – Governor, for the guidance of Forest settlement Officers in proceedings under Chapter II of the Indian Forests Act, 1878 (now Act XVI of 1927).

Preliminary proposals

2. Preliminary reports by Collector. Proposals to constitute reserved forests (whether initiated by local officers or framed in consequence of instructions received from superior authority) should be submitted by Collectors to Commissioners and should be accompanied by :-

- (i) a map showing the land which it is proposed to treat in this manner and also the lands adjacent thereto;
- (ii) a draft notifications under section 4 of the Act;
- (iii) a report stating the rights in the land so far as known , the manner in which the land has hitherto been managed and the reasons for which it is desired to convert it into a reserved forest with suggestions for the appointment of a Forest Settlement Officer and Other agency , if nay required for his assistance.

3. Collector should obtain assistance from District Forest Officer. In drawing up this report the Collector should avail himself of the assistance of the district forest officer. In his absence, or for the proper treatment of cases of sufficient importance the Chief Conservator of Forest May be able to place a forest officer at the Collector's disposal for the purpose. No detailed inquiry into rights should be made at this stage.

4. Scope of Report. It is of particular importance that this report , which is the first step in forest reservation proceedings , should state clearly the purposes for which the reservation is proposed e.g., for the better supply of the adjacent population with timber, fuel, grass or other forests produce; to meet the demands of railways , cities or cantonments ; to protect by forest growth hillsides and prevent destructive drainage; to grow or protect a high class of timber. The manner in which the reservations is likely to affect adjacent estates or population should be noticed. To this end the map accompanying should show not only the lands which it is proposed to reserve , but also the lands adjacent thereto, distinguishing inhabited sites, cultivation and waste . IT is ordinarily difficult for an agricultural or pastoral population to modify their habits in conformity with novel demands of regulated forest management and it is for the reporting officer to show either that the proposed reservation will not affect the conveniences of the adjacent population , or that sufficient necessity exists for restricting their convenience.

5. Disposal of report. The Commissioner on receipt of the Collector's report will forward it to the Chief Conservator of Forest for his opinion and after receipt of that officer reply , will submit the report to the Financial Commissioner with his recommendations.

Forest Settlement Procedure

6. Map When a proposal to constitute a reserved forest has been notified, and the forest settlement officer has entered upon his duties and has issued the proclamation required by section 6, his most immediate duty is to ascertain whether he has at his command a sufficiently accurate map of the land to be

reserved, and if he has not, then to provide one, for which purposes section 8 of the Act furnishes him with the necessary authority. Except for special reasons, the map should not be on a smaller scale than four inches to the mile. Its outer boundaries and the boundaries of all interior holdings should be carefully attested and be compared with the existing records available in the district record office.

7. Investigation of claims. Section 7 of the Act. In the meantime all claims preferred and statements of rights of which the existence is ascertained(whether from previous records or from local enquiry, should be put up in a file and be dealt with in the manner provided by the Act, claims should be clearly set out, either by petition or by deposition , or in both ways. If rights are believed to exist and the right holders do not appear, these persons should be summoned and be examined with reference to their rights . Documents relied on should be fitted in original , or if copies are filed , they should be admitted only after comparison with the originals . Where previous records are referred to , the original records should be inspected and certified extracts should be filed. If claims or rights are disputed, suitable issues should be framed, evidence heard and findings be recorded thereon. In short, the Forest Settlement Officer should remember that he is armed with the power of a Civil Court, and that his decision possesses a similarly finality. AT the same time, separate files need not ordinarily be made up for each claim. Unless difficulties arise it will be usually sufficient to deal with all claims and rights in four files according to the classifications given in the next paragraph. Section 8(b) of the Act.

8. Four Classes of Claims. In respect of the treatment of claims, attention is directed to the following instructions :-

Chapter II of the Forest Act divides the claims with which a forest settlement

officer has to deal into four classes, and provides a different method of treatment for each class. The four classes :-

- (i) claims to public or private ways or water –courses;
- (ii) claims to rights of pasture or to forest produce (section 12);
- (iii) claims to other rights (section 11);
- (iv) claims relating to the practice of shifting cultivation (section 10).

9. Public and private ways and water courses. The forest settlement officer must be careful to record all public and private ways and water –courses existing at the time his enquires, and in this class of claims must be included right to use the water of well, springs and streams situate inside the boundaries of the proposed reserve, for if the right to use such water exists . It cannot be enjoyed unless a proper way to approach to the water is allowed. But though the forest settlement officer is required to record all rights of this class he has no authority to expropriate or commute them. His duty is limited to the drawing up of a clear record of them. Their future regulation is a matter for the executive Government under section 25.

10. Rights of pasture or to forest produce. The treatment of the second class of claims viz. Claims to rights of pasture or to forest produce is the most difficult part of the forest settlement officer’s duty. If after the enquiry to which reference has been made in paragraphs , above he rejects a claim in whole or in part, he should be careful that this order contains all the particulars required by section 13. If he admits a claim, he should proceed to record with as much completeness as is possible all the particulars required by section 14.

Having made this record, it remains for the forest settlement officer to secure by one of the three methods laid down in section 15 of the Act the

continued exercise of the rights so admitted. He may either transfer the right to another forest tract under the condition stated in section 15(a) , or under the condition stated in section 15(b) ; he may exclude from the forest an area sufficient for the exercise of the rights established . Both of these methods possess obvious advantages, especially in the eyes of the right holders, but it lies with the forest settlement officer to take care that in resorting to them he does not burden any land with rights so extensive as to insure its ultimate deterioration. It is easy by a too ready resort to expedients of this nature to purchase the proper forest preservation of one forest area at the cost of the ultimate destruction of another forest area. The forest settlement officer is under no necessity to sanction wasteful adjustments of this nature. Under section 15(c) he can record an order appointing the seasons at which , and the portions of forest in which , the rights shall be exercised and he can also propose in his final report any rules which , without restricting the rights admitted, place appropriate safeguard on their exercise. In making arrangements of this nature, it is useful to bear in mind the necessity for providing that all areas burdened with rights shall be closed in rotations for reproduction. For instance , where a right of grazing can be sufficiently provided for in a hundred acres. It is expedient if possible to record the right in larger in area, subject to adequate conditions for securing the closing of the whole in rotation.

All this is to be done to the best of the forest settlement officer's ability and with due regard to the successful maintenance of the forest under reservation. Primarily the Government is not interested in extinguishing rights of pasture or to forest produce. But in the last resort and where really necessary in the interests entrusted to this charge, the forest settlement officer has authority under section 16 of the Act to expropriate these rights.

11. Other rights In respect of the third class of claims the legislature leaves no option to the forest settlement officer. He must either exclude from the forest the land on which these rights are claimed or he must extinguish the rights. IN this connection it should be remembered that provided a given area of land is expressly excluded from the reserve being clearly demarcated off, the mere fact that the reserved forest surrounds such land does not necessitate expropriation of the latter. No doubt such areas (commonly known as chak khariji) often create difficulties in forest management , and where this is the case the settlement officer will act rightly in expropriating them. But in each case the question is for his decision.

12. Expropriations .In carrying out expropriations care should be taken to comply with the rules issued by Government for the guidance of Collectors in their proceedings under the Land Acquisition Act,. I of 1894. For all proposed expropriations village statements should be prepared and filed as required by paragraph 36 of Standing order No. 28 and the award should be entered in form A given in paragraph 73 of the Standing order. If reductions in the revenue roll are necessitated by these expropriations, the forest settlement officer should prepare and forward to the Collector the statement prescribed by paragraph 79 of the Standing order.

13. Certain Orders to be communicated to forest officer. Under section 17 of the Indian Forest Act., an appeal can be lodged by a forest officer against any order passed by a forest settlement officer under sections 11,12,15 or 16. This appeal must be presented within three months after the date of the order. The forest settlement officer after passing an order under any of these sections should at once send a copy to the local forest officer for communication to the Chief Conservator of Forests.

14. Making of boundaries. As the settlement of the reserved forest proceeds , if its boundaries have not already been permanently marked out, it is the duty of the district forest officer to set up permanently marked out, it is the duty of the district forest officer to set up permanent pillars and to test the agreement of these pillars with the final record of the forest settlement officer.

Final record and report.

15. Form of final report. This final record will be prepared by the forest settlement officer as soon as the decision of claims has progressed sufficiently . It should comprise for each forest separately demarcated or where the forest tract is of great size, for each convenient section thereof (I) map (ii) proceeding and (iii) final notifications. Instructions as to the form and contents of these documents are appended and no other paper should be added to the file excepting only orders subsequently issued by the local Government under section 22 of the Act.

16. Form and scope of final report. All claims having been disposed of and the above record having been complete . It will then only remain for the forest settlement officer to move the local Government to issue the notification contemplated by section 19. It is necessary that the local Government should before taking this step be informed of the nature .of the proceeding to which its final sanction is desired. To this end the forest settlement officer should draw up a brief report standing in addition to the information required by clauses (a) , (b) and (c) of section 20 of the Act, the general result of his proceeding . This report should be written by way of continuation of the preliminary report summated under paragraph 2, and need not repeat matters already sufficiently explained therein. No exact form is prescribed for the report. What is required is a brief

summary of so much of the proceedings as has not already been reported , and of such a nature as to satisfy the local Government that these proceedings can appropriately be confirmed . It should notice specially the matters referred to in paragraphs 11 and 12 above, and also the extent to which expropriations (by agreement or by award) have been resorted to and the cost and other results of such expropriations. It should be accompanied by a draft notification for issue under section 20 of the Act, by a map showing the limits of the forest as finally settled on the scale and with the other details required by paragraphs 2, 4 and 6 above and also an English abstract of the information given under heads (v) and (vi) of the proceedings prescribed by paragraphs 1 and 3 of the annexure. This abstract should be drawn up with some care for its is intended to serve as a convenient guide to the officers by whom the forest will be managed. If expropriations have been made an abstract statement in the form prescribed by paragraph 79 of Financial Commissioner's Standing Order No. 28 should also be added. See Cir. No. 17-F . of 18th July, 1885, from Government of India Home Department.

17. Boundaries of reserves on rivers, Government of India No. 746 of 16th July, 1893. In case of all forest reserves which are situated on the banks of a river, the exact position of which owing to allusion and dilution changes , is not constant , the boundaries of the forest should be fixed by maps giving bearings from boundary pillars on the firm land. The boundaries can be altered from time to time under the Act whenever a change of sufficient importance may take place. It would be only after the lapse of some years that newly-formed land would become of sufficient importance may take place . It would be only after the lapse of some years that newly-formed land would become of sufficient importance from a forest point of view to make it worthwhile to take it into a forest. In draft notifications

under section 20 of the Act all boundaries which are liable to river action should in future be described in the manner here indicated. (This paragraph was added in 1893)

18. Disposal of Report. The report should be addressed to the Commissioner of the division , but it should be forwarded, unless the Collector is himself the forest settlement officer, through the Collector, who is required to add to it both his own opinion and that of the district forest officer. The Commissioner before forwarding the report to the Financial Commissioner, will proceed as directed in paragraph 5.

19. Disposal of final record - The Final record (paragraph 15) should not be forwarded to the commissioner, but should be deposited in the district record office at the same time as the final report is submitted. These records will be permanently preserved.

20. Preservation of files. The files of claims (paragraph 7) will also be deposited in the district record office, and part A of these files should also preserved permanently.

Special Proposals

21. Forest Settlement Officer should consider effect of reservation on usage's and submit special proposals, if necessary. The preceding instructions relate to the necessary procedure prescribed under Chapter II of the Indian forest Act when it is proposed or resolved to constitute a reserved forest. In carrying out this procedure , a forest settlement officer must carefully limit himself to ascertaining setting and recording , settling and recording rights actually existing and providing

for their exercise and enjoyment in the manner prescribed in the Act. But much more than this is required to enable the local Government to judge whether after the events mentioned in section 20 of the Act have occurred, it is, or is not, expedient to issue a notification under that section declaring the area to be a reserved forest. The result of the procedure of the Forest Act, when rights have been recorded and maintained, is to impose great restrictions on their exercise and materially to alter the previous usage's of the people. To such changes, as already observed, the people are slow to accommodate themselves, and it is therefore incumbent on the Government to satisfy itself as to the probable effect which the reservation of the area and its strict management as a reserve will have upon the requirements of the neighborhood and habits of the people. This can best be ascertained by the forest settlement officer in the course of his inquiries for the settlement of rights. If not ascertained and reported on by him, it would have to be separately Enquirer onto and reported on, by the Collector or other revenue officer, which would only cause delay and additional expense. In addition therefore to having his record of rights in strict accordance with the Act the forest settlement officer should in a separate proceedings, record his opinion on the above points. If, on regarding his work from this point of view, he is opinion that the Government ought to make certain concessions beyond what has been awarded under the strict letter of the law, it is his duty to frame recommendations accordingly and to submit them, either in a special report or as an appendix to his final report required by paragraph 16.

22. Two classes of recommendation usually made. The recommendation would usually deal with two classes of cases, viz, those arising out of (1) the use of forest produce permitted as a matter of ordinary convince in the absence of any strict management but not supported by any clear right established by adverse

enjoyment ; and 92) the prospective wants of village communities or of individuals whether members of village communities or not.

23. Use of forest produce. As regards the first class, it is desirable to avoid on the one hand, embarrassment to Government by hastily granting unduly liberal concessions which must ultimately be withdrawn in the interest of sound forest management ; and on the other hand serious popular discontent by the harsh , illiberal or undue restrictions of usage's which contribute to the comfort and convenience of the adjacent population . The aim should usually be some executive arrangement giving no ground for any substantial grievance, and so carefully guarded as not to infringe the recognized principles of forest management , or to suggest claims that cannot legally be sustained.

24. Prospective want of neighborhood. The cases of the second class are amongst the most difficult of any which occur in the course of a forest settlement. While it has been determined that the Forest Act does not justify the forest settlement officer, and possibly more numerous generation . It is nevertheless pointed out that he might have to take into account prospective wants in particular cases, as when a claimant had established a right of such a nature that it would probably in course of time entitle him to large benefits from a forest than he was entitled to at the time of settlement. It is to be expected that in practice many intermediate cases will arise in which the forest settlement officer will rightly entertain doubts as to what should be done under the Forest Act, and what by order of government outside the Act and by way of executive arrangement. It will be the safest plan to refer, by an intermediate report, for the special orders of Government (1) such doubtful cases (2) any cases in which the results of a strict adherence to the procedure of the Forest Act would apparently conflict with some

local popular custom , and (3) any cases in which claims are advanced or arrangements seem advisable not only for the present, but the prospective population of any village or tract.

25. Reasonable requirements of people and desirability of executive orders to be considered. On receipt from a forest settlement officer of any intermediate or final report of the nature required by these instructions , the Collector (when not himself / the forest settlement officer) and the Commissioner of the division will pay special attention to the questions how far the awards under the Act adequately provide for the reasonable requirements of the people , and what , if any executive arrangements , beyond the scope of those awards , it would be expedient or equitable to make in order to meet those requirements.

26. Orders on special proposals to noticed in record and report. The orders passed by Government of special proposals submitted under paragraphs 21 to 25 should be briefly stated in the final – record (See annexure), and, if passed before submission of the final report, should be recapitulated therein.

27. Procedure when reservation appears undesirable. If in any case a forest settlement officer in the course of his Enquires ascertains that difficulties and objections exist ,which render the completion of the reservation probably undesirable, he should stray proceedings and submit a report through the Collector. This report will be dealt with by the Commissioner in the same manner as directed in paragraph 5 for the original report.

28. Completion of records. The attention of Collectors is directed to 3 (vii) and 4 of the appended instructions concerning the record. The duty of Completing the

record by the addition of a copy of the final notification and instructions of the nature contemplated in paragraph 21 to 27 have been issued by Government, which the forest settlement officer has not already incorporated into head (vii) of the proceeding it is duty of the Collector to add them.

ANNEXURE

Instructions as to the form and contents of final records prepared by Forest Settlement Officers for reserved forest.

The final record shall consist of map, a proceeding and a copy of the final notification issued under section 19 of the Act.

2. **The map should not usually be on a smaller scale than 4 inches to the mile.** It shall show distinctly boundary pillars, permanent survey mark and physical features so far as may be convenient. The direct distance between each pair of boundary pillars shall wherever possible, be chained and recorded on the map. The map shall also distinguish by interior boundary lines and survey numbers.

- (i) Areas surrounded by the forests, but excluded from them (chak khariji);
- (ii) Areas from which rights have been expropriated or in which they have been maintained, or in which claims have been rejected in their entirety;
- (iii) Public and private ways, water-courses, springs, and watering-places.

3. The proceedings shall contain the following information.

(i) It shall quote the number and date of the notification issued under section 4 of the Act, and give the contents of the notification, and the name of the forest settlement officer appointed thereunder.

(ii) It shall give a list of all areas (Chaks khariji) surrounded by the forest boundaries but excluded from the forest , thus :-

Number of map	A	Village to which it appertains
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(iii) It shall give an abbreviated list of all claims rejected in entirely under sections 11 and 12 of the Forest Act, thus :-

	Area in which claimed			
Description of Right claimed	Number on map	Area	By whom Claimed (name with description)	Shortabstract of order rejecting the claim

(iv) Also a list of all rights expropriated, whether expropriated under section 11 or section 16, thus :-

	Area in which claimed			
Description of right claimed	Number of map	Area	Persons expropriated(name with description)	Short abstract of award

(v) It shall describe the rights to pasturage and rights to forest produce admitted by the forest settlement officer under section 12 of the Act, and the manner in which he has, under sections 14 and 15 directed that those rights shall be hereafter exercised, recording them in a schedule in the following form :-

	Area in which awarded			
Names of description of personsto whom rights have been awarded	Number of map	Area	Nature of rights, with full detail of all matters covered by section 13 of the Act	Orders issued under section 14 of the Act for the future exercise of these rights

(vi) It shall describe rights of way; public or private, and existing water-courses, also springs and watering places to which any persons have access, arranging them in the schedule thus :-

	Area in which exercised	
Nature of rights	Number of map	By whom, or how used

And shall declare that these rights will in future be subject to regulation as provided in section 25 of the Forest Act.

(vii) A brief resume shall be given of any special report submitted to Government under paragraphs 21 to 25 of this appendix and of the orders

passed thereon . This resume shall be in sufficient detail to guide both revenue and forest officials and also parties interested in these reports. Copies off the reports themselves should not be given to applicant; and any notice of opinions expressed by the reporting officers, but not approved by Government, should be excluded.

4. When the final notification issues a copy and translation thereof, shall be added to the record. This copy shall be endorsed with a report stating the date on which , and the villages in which translation has been published ,as required by section 21 of the Act.

5. The records shall be drawn up in the vernacular language used in land revenue proceedings, and the survey shall be made on the land measure used in the land revenue records of the district in which the forest is situate.

NOTE :- In the above instructions the words names, with description mean name, father's name caste or tribe and residence. If the entry is in favour of a whole village, it may be so stated name of individuals being omitted.

Appendix III

(see paragraphs 783 and 784)

(1) RULES FOR THE LEASE OF WASTE LANDS IN THE PUNJAB

(Sanctioned by Government of India letter No. 132-2, dated 20th April 1897.)

1. Areas in which leases may not be granted. Except, with the previous sanction of the local Government leases of waste lands owned by Government may not be granted in any tract of country included in any colonization scheme established for lands commanded by a Government canal or in any large tract of country for which there is a prospect of perennial canals being contracted by Government.

B – GENERAL RULES IN RESPECT OF SANCTION.

2. Lists of Government waste lands to be maintained. Lists of Government waste lands in each district shall be maintained by the Collector. The local

Government will determine from time to time which of these lands shall be deemed available for leasing and which of these again should be leased with a condition for acquiring occupancy rights, and which a condition for acquiring proprietary rights.

Where lists such as are contemplated in this rule, are not already in existence in any district. The financial Commissioner has directed that a register in English in the form below should be opened. Land acquired for public purposes, nazul lands and encamping grounds will be executed from this register.

1	2	3	4	5	6	7	8
Name of estate	Whether consisting of whole or part or estate.	Area	Whether irrigable from a canal or not.	Annual Income			remarks
				Year	income	Source of income	

Note :- Column 1. Observe that all demarcated rakhs are estates by Land Revenue Rule 31.

Column 5 :- This column will contain a continuous record of income.

Column 8. Note the purpose for which the land is useful. If the land is sold or granted away, note this.

8. Powers of sanction - Leases of waste land owned by Government not irrigable by a canal may be granted up to a limit of 75 acres by the Commissioner and 150 acres whether irrigable from a canal or not, by the Financial Commissioner, for a maximum period of 20 years in each case, provided the total area held on lease by single lessees does not exceed 75 and 150 acres, respectively. Proposals for the leasing of lands commanded by a Government

canal should be accompanied by a report by an officer of the Irrigation Department regarding the extent to which water will be available. A lease of a larger area than 150 acres, or a lease which (if sanctioned would make the total area held on lease by a single lessee more than 150 acres, required the sanction of the local Government, and should only be recommended in special cases.

C- Procedure in dealing with applications for leases.

4. General procedure in cases of individual applications for leases. If an applicant is made to the Collector for the lease of any waste lands owned by Government, the Collector shall subject in every case to the provisions of rules 1-3, deal with the application in accordance with the instructions relating to the cultivation of such waste lands from time to time received by him from the Financial Commissioner.

5. Rejection of application. The Collector may reject the application at any stage of the proceedings if, with reference to those instructions or for other reasons, objections exist in his opinion to granting a lease of the land. If the Collector rejects an application, he shall record his reasons in writing.

6. Procedure if application is not rejected (I) If the collector entertains the application he shall, when necessary require the applicant to deposit the cost of demarcating surveying and mapping the land and cause the land to be demarcated, surveyed and mapped. He shall, at the same time publish a proclamation stating that the land has been applied for on lease, and that all claims and objection should be preferred within three months.

(ii) The proclamation shall be published in the vicinity of the land applied for on lease and after it has been so published, a copy shall also be posted at the Collector's office and at the office of the tahsil in which the land is situate.

7. Report by Collector for grant of lease. If no claims or objections are preferred within three months of the posting of the proclamation at the Collector's office, or in the event of any claim or objection being preferred, then after the proceedings contemplated by Act XXIII of 1863 have been concluded, the collector may prepare a report giving particulars of the land which it is proposed to lease and the terms on which he proposes that it shall be leased and may submit the same for the orders of the authority who under these rules, is empowered to sanction the lease. The report shall be drawn up, as far as may be in the form annexed to these rules.

8. Consideration in defining area to be leased. In determining the area proposed to be leased, the Collector shall see that it forms a compact block so as not to detract from the value of the surrounding land. And, in case the area be bounded on one side by a canal, river or public road, the block shall ordinarily be so formed that the length of canal river or road frontage shall not exceed one-half of the depth of the block.

9. Term of lease. IN the absence of special orders fixing the term for any case or class or cases, the term of lease applied for under rule 4 shall be fixed with reference to the purpose to which the land is to be applied, the time and capital required to bring it under cultivation and other like considerations, but shall not exceed twenty years, except with the sanction of the revenue authority who immediately controls the officers sanctioning the lease.

10. (1) Assessment of land revenue. In the absence of special instructions issued by the Financial Commissioner with the sanction of the local Government

for lands of the class to which the area applied for belongs, in fixing the charges payable in the case of a lease applied for under rule 4, the land revenue shall be assessed with due regard (a) to the revenue rates assessed on similar land at the last settlement of the district and (b) the present renting value for cultivation and grazing of similar land in adjacent estates. Care should, however, be taken that the land revenue imposed on such land does not raise the total assessment of the circle in which it is situated to more than one-fourth of the net assets of the circle. If the land forms part of an estate and is not excluded from the provisions of section 51(3) by section 51(4) of Punjab Land Revenue Act, 1887, this object can in most cases be secured for all practical purposes by providing that the average rate of incidence of such land does not exceed the average rate of the estate in which it is included. Any case in which this is not suitable, as for example of specially valuable land, should be referred for orders. If, however, the land consists of a fresh estate, the rate of incidence of the assessment imposed thereon should not be such as to raise the existing average rate of incidence of the assessment circle beyond the limit prescribed in section 51(3). In applying this rule, so much of the area to be leased shall be treated as cultivated as the lessee may fairly be expected to bring under cultivation within the term of the lease.

(2) **Malikana ordinarily to be calculated on market value.** To this assessment of land revenue there shall be added as proprietary due or malikana a sum which shall ordinarily be calculated with reference to the market value of the land in its waste condition, (Subject to land revenue and cesses). The malikana so fixed shall be four percent of that market value unless the Financial Commissioner for special reasons to be stated, considers that a lower rate of malikana should be fixed.

(3) Malikana to be based on land revenue and rent in other cases. If the market value of the land or of similar land in adjacent estates is not ascertainable or approximately ascertainable the malikana shall be sum based on the difference between the land revenue assessment and the renting value as ascertained under clause (1) , but which shall not ordinarily be less than half the land revenue assessment. IF any case it is proposed to fix a rate or proprietary due less than one-half of the land revenue assessment ,the case shall be reported to the Financial Commissioner for sanction, and the Financial Commissioner may , for reasons to be stated, reduce the malikana to a sum not lower than one-fourth of the land revenue assessment.

(4) Considerations in fixing land revenue and proprietary due. In fixing the assessment of land revenue and malikana in the manner above prescribed, regard shall be had to the improvements necessary to bring the land into cultivation and to the time necessary for the execution of those improvements; and the authority by whom the lease is sanctioned may in view of these considerations, exempt the lease for a portion of the term of the lease from payment of the whole or part of the land revenue or malikana or both assessed under this rule.

11. Orders on Collector's report. On receipt of the report of the Collector by the authority who under these rules is empowered to sanction the lease, that authority shall subject to the provisions of these rules and to any instructions issued by the Financial Commissioner in respect of any case or class of cases –pass such order in respect of the refusal or sanctioning the lease and in the event of his sanctioning the lease in respect of the area, term , assessment and other conditions of the lease, as he shall think fit.

D-RULES AND CONDITIONS APPLICABLE TO ALL LEASES.

12. Execution of dead of lease and giving possession. When a lease has been sanctioned by the authority appointed by these rules in that behalf , the Collector shall execute and cause to be executed a lease in form A attached to these rules, provided that, if Act V of 1912 has been extended to an area in which leases are being granted , the provisions of that Act shall be followed.

Possession of the land shall not be given to the applicant until the lease has been executed or until the provisions of section 4 , Act V of 1912 have been complied with, as the case may be.

13. Rates and cesses. A lessee shall in every case convent with Government to pay all rates and cesses chargeable on the land ; and also all charges (other than penalties), at any time livable under chapter VIII of the Punjab Land Revenue Act, 1887, in respect of the land leased to him. He shall also convenient to pay the price as determined in the manner hereinafter laid down , of the timber and brushwood on the leases area.

Explanation :- The words “rates” and “cesses” in this rule have the same meaning as in the Punjab Land Revenue Act, 1887.

14. Failure to take possession. If within six months of the execution of the lease having been communicated to the applicant he fails to take possession of the land , or if at any time he fails to comply with any of the conditions of the lease the Collector may cancel the lease and shall report the fact to the officer by whom the lease was sanctioned.

15. Reservation of certain rights of Government and settlement of disputes.(I)

There shall be reserved in every lease the right of Government over all rivers and streams, and the rights of the public to use existing thoroughfares traversing the grant. There shall also be reserved in every lease all mines, minerals, Coals, gold-washings, earth-oil and quarries in or under the land leased, together with the right of entering on the said land and doing all acts and things that may be necessary or expedient for the purpose of searching for, working, getting or carrying away any such mines, minerals coals, gold-washings and quarries.

(ii) The Government on its part will in every case, consent with the lessee to make reasonable compensation to him for all damage occasioned by the exercise of the said rights.

(iii) And the lessee on his part shall consent with Government that, in case of a dispute arising between the lessee and Government as to the property and rights hereby reserved, or any matter incidental or in any way relating thereto, or as to any compensation as aforesaid, the decision thereon, in each case, of the officer empowered by these rules to sanction the lease of the land shall be considered final and binding on both parties.

16. Trees and brushwood. (I) where trees or brushwood are found on land proposed for lease under these rules, the collector shall estimate the value of such trees or brushwood. In estimating the net value the Collector shall take into account of the prices which the lessee will probably be able to realize and of the probable facilities for sale and shall also make due allowance for expenses, waste and other losses likely to be incurred in the cutting, removal and sale of the said produce. If the Collector finds that the value which the lessee could obtain for the timber or brushwood would only equal or be less than, the cost of cutting or removal nothing shall be charged for it.

(ii) The Collector shall record the grounds of this estimate and the amount

thereof in a proceeding; and in the same proceeding either require the lessee to pay the amount before entering into possessions or fix the installments and dates in and on which the lessee shall pay the same.

(iii) In cases in which these installments extend over a longer period than twelve months from the date of entry, the proportion of the produce actually removed by the lessee in any given year shall not exceed the proportion of the value payable within that year, and in the event of the lessee's removing in any year a larger proportion, the entire outstanding proportion of the amount of the estimate shall at once become due.

17. Rights of lessee in the land leased. A lessee shall be entitled to sink wells, make water courses, plant trees, build houses and otherwise improve the land ; and subject to the due fulfillment by him of the conditions and liabilities of the lease and to provisions of rules 15 and 16 shall be entitled to all the products of the land, but except with the sanction of the local Government previously obtained no lease of waste land shall authorize the lessee to construct a private canal for the irrigation, either of the land leased to him or of any other land. In granting any sanction in cases falling under this clause, the local Government may attach to its sanction such other special terms and conditions in respect of the constructions and maintenance of a canal and irrigation from a canal as it shall think fit.

17-A. Loyalty and good conduct. The lessee shall be bound to be and to remain at all times of loyal behavior and to render active support to the Government and its officers in any time of trouble or disorder. The decision of the local Government whether this condition has been violated by the lessee shall be final , and if the local Government is of opinion that the lessee has committed a breach of this condition, it may resume the grant or any portion thereof, either

temporarily or permanently, and such resumption shall not affect any other penalty to which the lessee may be liable under these conditions or otherwise.

For leases carrying a promise of occupancy rights on fulfillment of Certain conditions

18. Acquisition of occupancy rights. If at the expiration of five years from the date of the lease the lessee has regularly paid all sums due to Government under the provisions of the lease, has fulfilled the other conditions of the tenancy and has brought under cultivation one –half of the culturable area held on lease , a right of occupancy of the nature of the subject to the conditions attaching to a right of occupancy established under section 8 of the Punjab Tenancy Act may on the payment of the Nazarene (if any) fixed by the lease, be conferred on the lessee by an endorsement by the Collector to that effect on the lease.

For lease carrying a promise of proprietary right on fulfillment of certain conditions

19. Purchase of proprietary right. (I) The lessee may purchase the proprietary right of the land at any time during the currency of the lease at the full marked price of the land to be fixed by the Deputy Commissioner, subject to the same sanction to which the grant of the lease was subject.

(ii) The lessee may pay the sum so determined, either in a lump sum or by such installments, extending over a period of not more than five years, as the authority sanctioning the sale may fix. When the whole of the purchase money has not been paid previous to the delivery to the purchaser of the deed of conveyance, the purchaser shall execute a deed of mortgage to secure payment within five years of the unpaid balance with or without interest as the authority sanctioning the sale may determine . The deed of conveyance shall be in form B and the deed of mortgage in form C attached to these rules. They shall both be registered, and the

deed of mortgage shall be stamped at the purchaser's expense, and both shall remain in the possession in the Deputy Commissioner until the whole of the purchase money, with the interest due thereon, if any shall have been paid, when the deed of conveyance shall be made over to the purchaser or his heirs or assigns, the mortgage deed having first been cancelled by the Deputy Commissioner.

(iii) Should the local Government consider that for special reasons the sum payable should be reduced, it may reduce it to such an amount as it thinks fit.

General

20. Procedure on expiry of lease.(I) On the expiry of the lease (if neither proprietary nor occupancy rights have been acquired by the lessee), Government may resume the whole of the land or any portion of it.

(ii) Failing such resumption, the lessee shall be entitled to a renewal of the lease for such term and on such conditions as to the amount of land revenue and rent or malikana and other charges to be paid by him as the authority who sanctioned the lease may, subject to the provisions of section 68 of the Punjab Tenancy Act, then determine.

(iii) In fixing these terms and conditions, the sanctioning authority shall be guided by the rules for the lease of waste lands for the time being in force, so far as these rules can be made applicable.

20.-A. Power to sanction alienation by lessees. The power of the local Government to sanction alienation's by the lessee of State lands has been delegated to the Financial Commissioner, in all leases where it is a condition of the lease that alienation should not be made without the sanction of Government. In cases in which the transfer is a bonafide attempt to arrange for the cultivation of the land without lessee himself giving up his position as cultivator or manager,

the power delegated to the Financial Commissioner may be exercised by Commissioners of divisions.

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3. Readjustment of rent. If the lessee has acquired occupancy rights during the currency of the lease on the expiration of the term of the lease originally given, the amount of rent including land revenue and malikana and the other charges to be paid by him, will be readjustment in the manner provided by rule 20, provided that the rate of malikana shall in no case exceed 12 annas per rupee of the amount of land revenue.

4. Compensations to lessee in certain cases. Should the lease be determined under provisions of rule 20, the lessee shall be entitled to receive compensation in accordance with the provisions of the Punjab Tenancy Act from Government for any improvements made by him in the said land.

5. Appeal and review of orders. All orders passed by revenue officer under these rules shall be subject to review and revision by the authorities which would review or revise his orders under the Punjab Land Revenue Act 1887.

6. Saving of operation of rules in certain cases. Nothing in these rules shall be held to prohibit the local Government from authorizing by general or special orders the lease of the grazing of waste land or the lease to tenants at will of the right to cultivate plots of cultivable land in blocks of waste land for a single harvest only.

Nothing in these rules shall be held to affect the power of the local Government to make rules for the granting of leases of plots of land along the sides of roads not exceeding ten acres in area for the purpose of providing roadside groves for the convenience and comfort of travelers.

Nothing in these rules shall be taken or understood to interfere with or anywise

affect, the rights of Government under the Land Acquisition Act, 1 of 1894.
 From of report on an application for a lease of Government waste land under rule
 7 of the rules for the lease of waste lands in the Punjab.

1. Districts and tahsil in which the land is situate
2. Area and description of the land applied for.
3. Present income from the land
4. Facilities for irrigation , existing or proposed.
5. Name and description of applicant, with date of his application.
6. Proposed terms of lease, distinguishing.
 - (a) nature of lease, where to carry a promise of proprietary rights or of occupancy rights or lease for the purpose of planting and maintaining roadside plantations;
 - (b) duration;
 - (c) annual payment;
 - (d) disposal of existing timber;
 - (e) other matters;
7. Recommendations and orders of the Collector and revenue officers of higher classes to be entered consecutively by each officer who deals with the application.

FORM A

RULE 12

“A lease made by Governor of the Punjab (hereinafter called Government) of the one part to _____”;and
 son _____resident of village _____parties
 Tahsil _____
 _____in the _____District of the Punjab(hereinafter called the tenant)of
 the other part :

IN PURSUANCE of the orders contained in letter No. _____ dated the _____ recital Form the _____ to the _____ .

WHEREAS the tenant has paid to Government :-

- (i) the sum of _____ rupees on account of trees and brushwood;

NOW THIS DEED WITNESSETH as follows :-

Terms of the Lease

1. Area leased. Government hereby demises to the tenant all that plot of land, containing _____ acres more or less, more particularly described in the schedule hereto and delineated and coloured _____ in the plan hereunto annexed, subject to the exceptions and reservations and on the terms and conditions hereinafter appearing.

2. Purpose of the lease. (a) The land is leased for purposes of agriculture only.
(b). The lessee may take to himself all natural products growing on the surface of the land, *excluding/including* trees and brushwood, subject to the payments and conditions hereinafter mentioned.

(a) The lessee may construct such water – courses, temporary buildings or similar improvements as may be necessary for the purpose of cultivating the land as herein provided, subject to the conditions hereinafter provided and to the condition that no claim shall be made against the Government for improvements of any kind , except as hereinafter specifically provided.

3. Period of the lease . The period of the lease shall be for ___years , and shall be deemed to have commenced with effect from the *Rabi / kharif* season of _____

4. (1) The tenant shall pay a yearly rent of _____ rupees in two equal half –yearly installments of _____ rupees each.

(1) Out of each installment a sum of _____ rupees shall be paid in advance during working hours at the nearest treasury or at such other place as the Collector may appoint on the _____ Day of and

the _____ day of _____ during each year and the rest as provided hereunder.

Rent and other payments. (3) The balance of each installment, amounting to _____ rupees, shall be paid in the manner provided for the payment of land revenue and the tenant shall in addition to the rent reserved above pay to Government or as the Collector may direct a sum equivalent to all rates, cesses and other periodical charges which would have been payable by the owner of the land if it had been assessed to land revenue at this rate.

(2) The tenant shall further pay all other rates, cesses, taxes, charges and other out going which are or may become payable by the owner of the land or occupier thereof.

(3) The tenant shall further pay on account of the trees and brushwood now standing on the land and described in the schedule hereto a sum of _____ rupee's , to paid strike out whichever is inapplicable) :-

(1) before entry

(2) in the installments herein stated namely :-

on the _____ day of _____ Rs.

On the _____ day of _____ Rs.

Provided that the value of the trees brushwood actually removed by the tenant in each year shall not exceed the following proportions namely :-

In the year _____

In the year _____

And In the year _____

Of the whole value of the wood and brushwood now existing on the said lands, and if the tenant removes in any year a larger proportion of the wood and brushwood on the said lands then as above stated, the whole amount then outstanding on account of the sum of rupees shall at once become due.

Exceptions and reservations on behalf of Government

5. Mines and Minerals. Government does not demise but excepts and reserves to itself all mines minerals and quarries of whatsoever nature existing on, over or below the surface of the land with liberty to search for, work and remove the same, in as full and ample manner as if this lease had not been made.

6. Rivers, water courses and roads. Government does not demise but excepts and reserves to itself all rivers and streams with their beds and banks all water courses and drainage channels and all public thoroughfares now existing on the land or shown as proposed for construction in the plan annexed.

7. Construction and alteration of roads and water –courses. Government reserves the right to create a public right of way not exceeding three karams in width across the land whenever this may be considered desirable in the public interest by the Collector, without paying any compensation.

8. Re-entry for the exercise and protection of rights reserved. For the full discovery enjoyment and use of the rights hereby reserved, or for the protection and maintenance of any property hereby excluded, it shall be lawful for government through its authorized agents or for any officer of the Crown to enter upon the land and make such use thereof as may be necessary for these purposes without making any compensation to the tenant for such use and occupation except as may be provided hereunder.

Obligations of The Tenant.

9. The tenant hereby conveniences with Government as follows :-

Payment of rent etc. : (1) To pay to or on behalf of Government the rent and any other payments which may become due under this lease at the proper time and place and in such manners may be prescribed by law or by the order of any competent authority .

Use of Land. (2) To use the whole or any part of the land for no purpose other than that of agriculture, and not to use it in any way likely to lessen its value.

Boundary marks. (3) At his own cost, when so required by the Collector, to

erect permanent marks on the lands hereby leased, demarcating correctly the boundaries and limits thereof, and at all times to maintain the same in good repair in accordance with any directions from time to time issued in that behalf by the Collector.

Against injury and interference. (4) Not to do or suffer to be done any act inconsistent with or injurious to any of the rights excepted and reserved to Government.

Entry. (5) To permit without let or hindrance all officers or servants of the Crown or other persons duly authorized by Government in this behalf to enter the land at all times and do all acts and things necessary for or incidental to ---

(a) The purpose of enforcing compliance with any of the terms of this lease , or of ascertaining whether these have been duly performed or observed or,

(b) Any purpose connected with the full enjoyment discovery and use of the mineral or other rights hereinafter reserved to Government without claim to compensation whether by reduction of rent of otherwise except as hereinafter specifically provided.

(c) Public rights etc. (6) Not to interfere with lawful used by the public of any thoroughfare on the land or with the exercise by any third person of any existing rights and easements now existing thereon or which the tenant thereon is bound by the terms of this lease to create or allow.

Private canal. (7) Not to construct a private canal for the irrigation of the land demised or of any other land , without the permission of Government in writing first obtained in granting which sanction Government may impose such terms and conditions in respect of the construction and maintenance of the canal and. Or irrigation therefrom as it may deem fit.

Surrender for public purpose. If the land or any portion thereof is required for any public purpose, to surrender the whole or so much of the land as may be required on demand by the Collector, without claiming compensation except as provided hereunder ,and subject only to a proportionate remission of rent.

Restriction on assignment.(9) Not to assign , sublet or transfer by mortgage or otherwise or part with land or any part thereof, except to cultivators holding directly under him who will cultivate the land in a proper manner, without the permission of Government first obtained.

Cost of Survey Etc., (10) To pay such towards the cost of following works as the Collectors acting under the general or special orders of Government may determine whether the cost has already been incurred at the time of the grant or may be incurred thereafter –

- (a) the survey and demarcation of the land;
- (b) The construction of any water – course on the estate in which the land situated and from which a supply of water is available for the land;
- (c) The construction of any roads , paths, culverts or bridges necessary for the general convenience of the estate in which the land is situated; and
- (d) The maintenance and repair of any such roads, paths, culverts or bridges.

Peaceful surrender. (11) At the end or sooner termination of lease, to leave the land and surrender it peaceably to the collector, and during the concluding season of the lease that is the season of kharif / Rabi 19, not to sow any Rabi / kharif it crop.

Loyalty . (12) To remain at all times of loyal behavior and in any time of trouble or disorder to render active support to the Crown and its officers, and to accept the decisions of Government as to whether this convenient has been fulfilled or not.

(13)To render all such assistance in the prevention or discovery of crime as is incumbent on the owner or the occupier of land by any law or rule for the time being in force in the Punjab ,and to be responsible in the same manner as headmen, a watchmen or other inhabitants of villages are under any tract law for the time being in force in the Punjab.

[Sub –clauses(14) to (18) shall only apply if the area of the demised land is 125 acres or more and the lease is for 10 years or longer.] (14) Within 6 calendar months next after the date of these presents at his own cost to erect and finish fit for use on on the land hereby demised or elsewhere as near to the land as possible , houses for the use of sub – tenants and dependents in accordance with a plan or plans to be approved in writing by the Collector and not erect or suffer to be erected on the demised land any building or permanent structure other than and except the said houses and buildings for agricultural purposes and to comply with all such directions as the Collector may issue from time to time as regards the construction of boundary marks and keep the same when erected in good repair and order.

Re-entry.(15) Not to make any alteration in the plan or –elevation of the said houses without such consent as aforesaid in order to use the same or permit the same to be used for any purpose other than that of houses for sub – tenants and dependents.

(14) At all times to keep the said houses and premises in good and substantial repair and on the termination of this lease peaceably to yield up the property in such good and substantial repair unto the Government.

(15) At all times to keep the said houses and premised in good and substantial repair and on the termination of this lease peaceably to yield up the property in such good and substantial repair unto the Government.

(16) To ensure that the methods of farming ,housing and living of sub –tenants and dependents conform as far as possible to the principles and program of rural reconstruction laid down in the publications of the Department of Rural Reconstruction, Punjab the various departments of Government and the book “Better Villages”.

(17) Failure to comply with either sub-clause (14) or (15) or (16) or (17) above shall be deemed to be a breach of the terms of this lease and the Collector's decision whether there has been a breach or non-fulfillment of the said clauses or any of them shall be final.

Provisos

10. In any of the following events :-

- (a) if the tenant commits any breach or fails to perform any of the terms or conditions of this lease, or suffers or permits such breach or non-performance.
- (b) If the tenant is declared insolvent, or
- (c) If the tenancy is attached.

Government may at any time thereafter re-enter upon the land and determine this demise, in which case the tenant shall make all the payments due under these presents for the current season, provided that such termination of the tenancy shall not prejudice any right of action or remedy of Government in respect of any antecedent breach of this agreement by the tenant.

11. Compensation. No compensation shall be payable by Government to the tenant in respect of the exercise of any of the rights reserved in this lease or on the termination of the tenancy, except as provided hereunder :-

- (a)** For damage caused to the surface of the land or to anything attached thereto, or to any property of the tenant by act or negligent omission of any person duly authorized to enter the land in exercise of the mineral rights reserved to Government such compensation as may be assessed by the officer under whose orders such action is taken.

(b) For damage to standing crops caused in exercise of the right to construct or alter water –courses , such compensation as may be assessed by the officer under whose orders such action is taken.

(c) For any improvements existing on the land on the termination of the tenancy otherwise than through any default of the tenant , such compensation as may be assessed by the Collector in accordance with the provisions of the Punjab Tenancy Act, 1887 , for the payment of compensation for improvements effected by occupancy tenants;

Provided that---

- (i) the amount of any compensation so assessed may be enhanced or reduced under the orders of the Financial Commissioner, Punjab and
- (ii) any compensation payable by Government to the tenant or any sum or sums otherwise due to Government from the tenant may either be deducted from or set off against any such compensation or may be recovered otherwise as and at such time as Government may deem fit.

12. Stamping and registration . The lessee shall purchase the stamp and within four months from the date of execution shall present this instrument for registration at his own cost failing which, without prejudice to Government 's rights otherwise , such failure shall be regarded as a breach of the conditions thereof and the Collector shall be entitled to rescind and cancel the same without any compensation whatsoever.

13. Arbitration (1) IF any question , doubt or objection shall arise in any way connected with or arising out of these presents or the meanings or operation of any part , thereof or the rights duties or obligations of either party , then save in so far as the decision of any such matter has been hereinbefore , provided for and has been so decided ,every such mater shall be referred to the arbitration of the Commissioner, including the following questions :-

- (a) Whether any other provision has been made in these presents for the decision of any matter and if such provision has been made , whether it has been finally decided accordingly and;
- (b) Whether the lease should be terminated or has been rightly terminated and what are the rights and obligations of the parties as the result of such termination.

Interpretation (2) The decision of the Commissioner shall be final and binding and when any of the matters above mentioned involves a claim for or the payment, recovery or reduction of money only the amount so decided shall be recoverable in respect thereof.

14. In these presents unless context otherwise requires :-

- (a) “the Collector” and the “Commissioner” mean the Collector and the Commissioner for the time being of the District Division in which the land is situated and include any other person duly authorized by general or special order to act on behalf of Government in this behalf
- (b) “Government includes the successors and assigns of Government.
- (c) “kharif crop” and “rabi crop” mean the crops generally sown and harvested in the kharif and rabi seasons respectively; and should any question arise whether any is kharif or a rabi crop, the question shall be decided by the Collector.
- (d) “the kharif” season and the “rabi season” mean the season for approximately six months each generally known as the kharif and rabi seasons respectively ; and should any question arise whether the date on which anything has been done or should be done falls in one season or another the question shall be decided by the Collector, whose decision shall be final;
- (e) “the land” means the land hereby demised together with all rights appertaining thereto and not herein excepted or reserved;
- (f) “the tenant” includes the heirs, legal representatives and permitted assigns of the tenant and if the said term includes co-shares , any liability imposed by this deed shall be joint and several liability of each co-shares.

(g) “minerals” includes all substances of a mineral nature which can be won from the earth, such as coal earth-oil , gold washings stones and forms of soil which can be used for a profitable purpose or removal.

IN WITNESS Whereof the parties have hereto set their hands on the dates hereinafter in each case specified.

THE SCHEDULE ABOVE MENTIONED

Description and boundaries of the land

An area of _____acres _____roods _____poles(equal to
–ghumaons _____ kanals _____marlas).

Situated in the (*mauza /the town of*) Tehsil _____District_____

Shown in the (*Revenue records / records of the local authority*) as no. _____

And bounded as follows :-

On the north by _____ ;

On the east by _____ ;

On the south by _____ ;

On the west by _____ ;

THE PLAN (*Note – The following alterations and additons made to the above lease in the circumstances specified below:-*

If it is proposed to sell trees and brushwood existing on the land –

*For clause 1(2)(b) **substitute** the following :-*

“(b) The tenant may take to himself all the natural products growing on the surface of the land including trees and brushwood, subject to the terms and conditions hereinafter mentioned”.

Add the following to 1(4)

“(c) The tenant will also pay on account of (as in the present clause 5 on page

365))

Signed for an on behalf of the Governor of the Punjab by _____ officer of _____ acting under Officer the orders of the Governor of the Punjab, in the presence of _____ (address) _____ description) on the _____ day of _____ in witness the year one thousand nine hundred and _____

Singed by the said _____ in the presence of _____ (address) _____ (description) on the _____ Day of _____ in the year one thousand nine hundred and _____

“References to the colonization of Government Lands(Punjab) Act , 1912 wherever they occur in this form should be omitted when grants are made of land to which this Act has not been applied.”

Recital

IN PURSUANCE OF the conditions contained in Punjab (*Notification/Letter*) Government _____ No. _____ dated.

WHEREAS the land hereinafter mentioned vests in the Crown for the purposes of the Government of the Punjab , which is authorized to dispose of the said land by the provisions of section 175 of the Government of India Act, 1935.

AND The grantee has paid a sum of _____ rupees to Government.

NOW THIS GRANT WITNESSETH as follows :-

Grant. (1) Government on behalf of the Crown as beneficial owner grants unto the grantee ALL that plot of land , containing _____ acres more or less, and more particularly described in the schedule hereto, and delineated in colour _____

In the plan annexed, TO HOLD the same in proprietary right subject to the

exception and reservations and on the terms and conditions hereinafter appearing.

1. This grant is made for the purpose of agriculture only.

Exceptions and reservations on behalf of Government

Mines and minerals. 3. Government does not grant but excepts and reserves to itself in full proprietary right all mines, minerals and quarries of whatsoever nature existing, on over below the surface of the land with liberty to search for, work and remove the same in as full and ample manner as if this grant had not been made.

Rivers , water –courses and roads. 4. Government does not grant but excepts and reserves to itself all rivers and streams , with their beds and banks all water courses and drainage channels and all public thoroughfares now existing on the land or shown as proposed for construction in the plan annexed.

Construction alteration of water-courses. 5 Government reserves the right :-

- (a) to create a public right of way not exceeding three *karams* in width across the land whenever this may be considered desirable in the public interest by the Collector; and
- (b) to construct new water –courses on the land, or to alter the direction of any water course now existing on the land or to be constructed in future, whenever this may be considered necessary by the canal officer in the interest of irrigation.

Without any liability to pay compensation except as provided hereunder.

Re-entry for the exercise and protection of rights reserved. 6 For the full

discovery enjoyment and use of the rights hereby reserved or for the protection and maintenance of any property hereby excluded, it shall be lawful for Government through its authorized agents or for any officer of the Crown to enter upon the land and make such use thereof as may be necessary for these purposes without making any compensation to the grantee for such use and occupation except as may be provided hereunder.

Obligations of the grantee

Land revenue and other payments. - The grantee hereby covenants with Governments as follows:-

- (a) To pay promptly the land revenue and all rates cesses, charges and outgoing to which the land be from time to time assessed.
- (b) **Against injury** . Not to do suffer to be done any act inconsistent with or injurious to any of the rights except and reserved to Government.
- (c) **Entry.** To permit without let or hindrance all officers or servants of the Crown and all other persons duly authorized by Government in that behalf to enter the land at all times and to do all acts and things necessary for or incidental to –
 - (h) the purpose of enforcing compliance with any of the terms and conditions of this grant or of ascertaining whether they have been duly performed or observed or
 - (iii) any purpose connected with the full enjoyment discovery and use of the rights hereby reserved to Government.
- (d) **Public rights and easements.** Not to interfere with the lawful use by the public of any thoroughfare on the land or with the exercise by any third person of any rights and easements now existing thereon or which

the grantee is bound by the terms of this grant to create or allow.

(e) Boundary marks. At his own cost, when so required by the Collector, to erect permanent marks on the land demarcating correctly the boundaries and limits thereof, and at all times to maintain the same in good repair in accordance with any directions from time to time issued by the Collector.

(f) Construction of water –courses. Not to construct or alter any canal water – courses or drainage channel upon the land without the permission of the Canal Officer.

(g) Resumption. If the land is resumed under the terms of this grant to leave the land as soon as the grant is terminated and surrender it peaceably to the collector and if so required by the Collector, to pull down and remove any structure existing thereon, and deliver up the land in a level state as in its former condition.

(h) Surrender for public purpose. If the land or any portion thereof is required for any public purpose to surrender the whole or so much of the land as may be required on demand by the Collector, without claiming compensation except as provided hereunder.

(i) Loyalty. Remain at all times of loyal behavior and at any time of trouble to render active support to the Crown and its officers, and to accept the decision of Government as to whether this convenient has been fulfilled or not.

(j) To pay such amount towards the cost of the following works at the Collector or the Canal Officer, acting under the general or special order of the Government may determine whether the cost has already been incurred at the time of the grant or may be incurred thereafter :-

(i) Cost of survey, etc. The survey and demarcation of the land;

- (ii) The construction of any water –course on the estate in which the land is situated , and from which a supply of water is available for the land;
- (iii) The construction of any roads ,paths , culverts or bridges necessary for the general convenience of the estate in which the land is situated; and
- (iv) The maintenance and repair of any such roads, paths , culverts or bridges,
- (v) Not to use the land for any purpose other than that for which it is granted and not to permit or suffer such usage.”

Provisos

8. **(a) Application of the Colony Act (to be omitted for sales of land to which this Act has not been applied).** This grant is subject to the provisions of the Colonization of Government Lands (Punjab) Act, 1912, so far as they are applicable thereto.

(c) The grantee shall be deemed to be a tenant of such land unless and until he has fulfilled the terms and conditions of this grant.

9. **Resumption.** If the grantee fails to perform or commits any breach of any of the terms or conditions of this grant, or suffers or permits such a breach or non-performance, the Collector may at any time thereafter determine the grant and resume possession of the land and may pull down any structure existing thereon and may sell the materials thereof and retain the proceeds of the sale, whether these rights may have been waived in respect of any earlier default or not without prejudice to any other right or claim.

10. (To be omitted for sales of land to which this Act has not been applied).

(I) (Except as provided in section 25 of the Act) no compensation shall be payable by Government in respect of the exercise of any rights reserved or conferred by the terms of this grant, except as provided hereunder :-

(a) Compensation. For actual damage or occupation arising out of the exercise of rights other than those relating to the construction of water-courses , such compensation may be determined by the Collector;

(b) For damage caused to standing crops in exercise of the rights relating to water courses, such compensation as may be determined by the Canal Officer;

(c) On resumption of the whole or any portion of the land otherwise than on exchange or for breach of conditions, a proportionate reduction of the rent or a proportionate refund of the purchase price, if any paid and such additional sum if any, as may be determined by the Collector in accordance with the general principles applicable to the acquisition of land for public Purposes.

(ii) When any claim for compensation arises, the officer assessing the amount of the compensation shall give the grantee an opportunity of being heard; and when the amount to be determined by the Collector, he shall act under the control of the Financial Commissioner, Punjab.

(iii) When any sum becomes due to the grantee by way of compensation any moneys due to Government shall be deducted therefrom; and if Government has any unsettled claim against the grantee, the sum due may be withheld until the claim is settled.

11. Stamping and registration. The grantee shall purchase the stamp and within four months from the date of execution, shall present this instrument for registration at his own cost failing which, without prejudice to Government's rights otherwise, such failure shall be regarded as a breach of the conditions thereof.

12. (I) If any question or difference whatsoever shall at any time hereafter arise between Government and the grantee in any way touching or concerning this grant, or the construction meaning operation or effect thereof or of any clause herein contained, or as to the rights duties or liabilities of either party under or by virtue of this grant, or touching the subject matter of this grant, or arising out or in relation thereto, then save in so far as the decision of any such matter has been hereinbefore provided for and has been so decided, the matter in difference shall be referred to the arbitration of the Commissioner, who shall have power to decide any matter so referred, including the following questions :-

(a) Arbitration. Whether any other provision has been made in these presents for the decision of any matter and if such provision has been made, whether it has been finally decided accordingly and,

(b) Whether the grant should be terminated or has been rightly terminated and what are or will be the rights and obligations of the parties as the result of such termination.

(II) The decision of the arbitrator shall be final and binding and when any matter so referred to arbitration involves a claim for the award increase of reduction of a sum of money by way of compensation or any other payment or recovery of money, only the amount decided by the arbitrator shall be recoverable in respect of the dispute so referred.

Interpretation

13. In these conditions, unless there is anything repugnant in the context.

[(a)(to be omitted for sales of land to which this Act has not been applied).
 “the Act” means the Colonization of Government Lands (Punjab) Act, 1912, as in force for the time being;]

(b). “the Canal Officer” means the appropriate officer of the Irrigation Branch of the Public works Department, Punjab;

(c) “the Collector “ and “the Commissioner means the Collector and the commissioner for the time being of the district of division in which the land is situated and include any other person duly authorized by general or special order to exercise the powers of a Collector or Commissioner in respect of conditions governing the grant;

(d) “the Government “ and “the grantee” include their successors in title respectively ; all rights hereby conferred and obligations hereby imposed shall be available for and bind their successors in title as the case may require; and when the term “the grantee” includes co-sharers , any liability of each co-sharer;

(e) “the land” means the land which is the subject of this grant and includes all rights , easements and appurtenances thereto belonging or pertaining;
 and

(f) “minerals “ include all substances of a mineral nature which can be won from the earth, such as coal, earth oil, gold –washings, stones and forms of

soil which can be used for a profitable purpose or removal.

THE SCHEDULE above mentioned.

Description and boundaries of the land

An area of _____ ghumaons _____ kanals _____

Marlas.

Situated in (*mauza/the*) town of tahsil _____ district _____

Shown in the *revenue(records/records)* of the local authority as no :-

And bounded as follows :-

On the north by :

On the east by :

On the south by :

On the west by :

THE PLAN

Signature of expectants and witnesses. Signed for and on behalf of the Governor of the Punjab by _____ officer of _____ acting under the orders of the Governor of the Punjab in the presence of _____ (address) _____ description) on the _____ day of _____ in the year one thousand nine hundred and _____

Signed by the said _____ in the presence of _____ address) _____ (description) on the _____ Day of in the year one thousand nine hundred and _____

Note :- If there is no canal omit references to Canal Officer and water –courses.

Instructions to officers preparing conveyances of proprietary rights.

1. If the conveyance is to be made in favour of a body of persons, reference should be made to the instructions circulated with the Home Secretary's letter No. 1289-J , dated the 17th March , 1938.
2. No conveyance is to be drawn up until the last installment has been paid.

3. The total of the installments should then be entered in words, and not in figures , in the recital of the deed.
4. Two copies of the deed should be prepared and both should be signed by the grantee as well as by the Collector ; it is not sufficient to keep an office copy,
5. The Collector should see that the copy put up by the grantee is properly stamped before he signs it, and should refuse to sign any deed which is not so stamped.
6. Before the deed is executed ,a special assessment of land revenue should be made under Section 59 of the Land Revenue Act, 1887.
7. Only after the deed has been properly executed , should any change in the revenue records be allowed.
8. No entry of proprietary rights should be made in the revenue records without an addition stating that these rights are subject to the relevant statement of conditions issued by Government.

FORM C

Rule 19(ii)

AGREEMENT

Parties. A **GRANT** made by the Governor of the Punjab (hereinafter called Government) of the one part to _____son of _____resident of _____tahsil_____in the District of the Punjab (hereinafter called the grantee) or the other part.

Recital In pursuance of letter No. _____dated the _____from

The Deputy Secretary to Government, Punjab Development Department to the address of the Commissioner, _____division.

Whereas the grantee has offered to purchase the Crown land vested in the Governor of the Punjab for the Purposes of that Province and hereinafter described in Schedule “A” and delineated in the plan attached hereto in _____colour and his offer has been accepted.

AND WHEREAS the grantee has paid to Government at the time of the execution of this agreement the sum of _____ rupees as first installment of the price of the land.

NOW THIS GRANT WITNESSETH as follows :-

1. (a) Area granted. Government hereby grants to the grantee all that plot of land containing _____ Acres more or less and more particularly described in Schedule "A" hereto and delineated in the plan and coloured with _____ colour therein , attached hereto , subject to the exceptions and reservations and on the terms and conditions hereinafter appearing.

(c) **(I) Purpose of the grant.** The land is granted for the purposes solely of agriculture .

(ii) The grantee may take to himself all natural products growing on the surface of the land including trees and brushwood, subject to the payments and conditions hereinafter mentioned.

(iii) The grantee shall pay to the Government, within six months from the date of the allotment of the land, the value of the trees and brushwood existing on the land at the commencement of the grant as determined by the Government;

Provided that any tree not cut before the determination of the grant and any tree cut but still lying on the land when the grant is determined shall be the property of the Crown and that one tree at least shall be left standing in each acre of the land.

(iv) the grantee may construct such water –courses temporary buildings or similar improvements as may be necessary for the purpose of cultivating the land.

(d) **Period of the grant.** The grant shall be deemed to have commenced on the _____ and to have concluded on the day the deed of conveyance referred to in clause 4(e) is registered unless the grant is sooner determined in accordance with the provisions hereinafter appearing.

(d) **Price and interest.** The price of the land shall be _____ rupees

. The first installment of price has already been paid and the balance of the price shall be paid by the grantee to Government in _____ installments on the _____ Day of _____ in each year with interest on unpaid balances at the rate of _____ per cent per annum , the second installment or price and interest being payable on the of _____ ; provided , however that if any of the said installments are not paid on the due dates then such installments shall bear interest during the periods of such default at the rate of _____ per cent per annum instead of percent per annum. The last installment of price and interest shall be paid on the _____ .

(e) The grantee shall pay land revenue demand, or rent, for the time being assessed on the land and all general taxes local taxes and cesses to which revenue paying lands are liable.

Exceptions and reservations on behalf of Government

2.(a) Mines and Minerals. Government does not grant but excepts and reserves to itself in full proprietary right all mines minerals and quarries of whatever nature existing on over or below the surface of the land and with liberty to search for, work and remove the same, in as full and ample manner as if this grant had not been made.

(b). Rivers , water-courses and roads. Government does not grant but excepts and reserves to itself all rivers and streams with their beds and banks, all water –courses and drainage channels and all public thoroughfares now existing on the land or shown as proposed for construction in the plan annexed.

(c). Construction and alteration of paths and water-courses. Government reserves the right :-

(j) To create a public right of way not exceeding three karams in width across the land whenever this may be considered desirable in the public interest by the Collector; and

(ii) To construct new water –courses on the land or to alter the

direction of any water course now existing on the land or to be constructed in future, whenever this may be considered necessary by the Canal Officer in the interest of irrigation.

(e) **Re-entry for the exercise and protection of the rights reserved.** For the full discovery , enjoyment and use of the rights hereby reserved or for the protection and maintenance of any property hereby excluded, it shall be lawful for Government through its authorized agents or for any officer of the Crown to enter upon the land and make such use thereof as may be necessary for these purposes without making any compensation to the grantee for such use and occupation except as may be provided hereunder.

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