

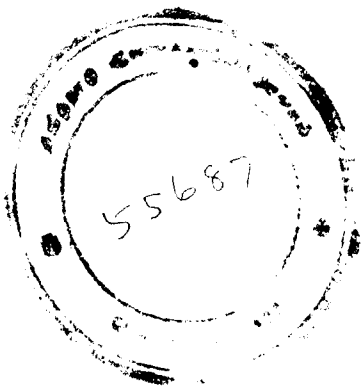
REPORTS
AND OTHER PAPERS
IN VIEW TO A
REVISION AND RECASTING
OF
THE REVENUE LAWS
OF
THE MADRAS PRESIDENCY.

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MADRAS:
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MADRAS,
20th September 1855.

FROM H. STOKES, Esq.,

On Special Duty,

TO T. PYCROFT, Esq.,

Chief Secretary to Government.

SIR,

In their Minutes of Consultation under date the 20th of June last, the Government were pleased with reference to a recent correspondence between themselves and the Board of Revenue, to commit to me in communication with that Board, and with the assistance of the Government Pleader, the task of revising the law as it now stands in this Presidency for the recovery of revenue and of rent.

2. In their Orders of the 27th June, the Government referred to me for a similar purpose their correspondence with the Revenue Board upon a proposed revision of Regulations XII. of 1816, and V. of 1822.

3. Subsequently, the Board of Revenue have forwarded to me as connected with the inquiry on which I am engaged, two letters from the Collector of Madura relating, the first to the removal of Curnums in permanently settled estates, under
Board's Proceedings 30th July 1855. Regulation XXIX. of 1802; the second, pointing out the
" " 11th Aug. " want of a law to compel Zemindars or Enamdars to keep up works of irrigation.

4. In laying down the course to be followed by me, the Government observe, that my "first business will be to ascertain the existing law; next to decide what parts of it are obsolete, what contradictory; or what objectionable or inconvenient; and then to determine the general scope" of a comprehensive enactment "to be now adopted which should repeal all existing Regulations and Acts on the subject, and should contain the whole body of law upon it." In the first of these Orders it is suggested, and directed in the second, that before proceeding to draft the New Acts, I should submit for the consideration of the Governor in Council a summary of my views as to their purport and scope on all material points.

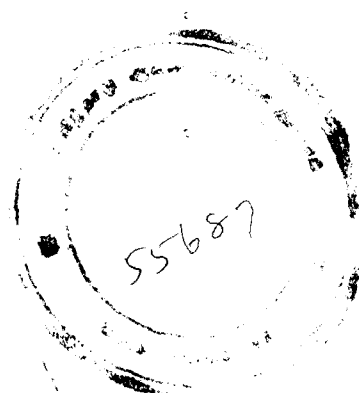
5. In acknowledging* the Minutes of Consultation of the 20th of June, I intimated my intention of consulting the records of the Revenue Board and Sudder Adawlut in the first instance, and also applying to the Collectors for their views and experience, on the points under consideration.

6. Having gone through the papers supplied to me from these two Offices, the Heads of which have kindly extended to me every facility in their power, and having collated in a general way the codes of the three Presidencies, so far as they relate to the subject in hand, having also conferred with the Members of the Board of Revenue and the Government Pleader, I now venture to lay before the Right Honorable the Governor in Council the preliminary exposition of my views for which he has been pleased to call.

7. Considering that the foregoing instructions embraced so important a portion of the whole Revenue law, and the stress justly laid by Government on consolidation, I cannot but think it highly desirable to take the present opportunity of extending the same process of revision and re-arrangement to the remainder, so as to form a complete and succinct Revenue code, after the model of that of Bombay. This, indeed, would seem to be almost unavoidable, whenever, as is understood to be in contemplation, the Civil and Criminal branches shall be codified.

8. The better to afford the Government the means of judging on this suggestion, I shall transcribe from the Classified Table prefixed to Clarke's Edition of the Regulations and Acts, an outline of our present Revenue Law. I shall then state for their consideration the principles which I think ought to be applied to its reform, and give a sketch of the mode in which I propose to carry them out in practice. I reserve for future reports a more detailed analysis of the present law, and the proposed alterations. Meantime I expect to receive and avail myself of the replies of the Collectors to the accompanying Circular dated 15th Ultimo, which have already begun to come in.

9. Clarke's Madras code it will be observed, comes down only to the end of 1847; but the Revenue Acts since passed for this Presidency are easily added in their proper place. Thus completed, it will be found to contain 69 Regulations and Acts, arranged under eight general Heads, exclusive of certain statutes of local operation, as shown in the following Table, which also gives in juxtaposition the corresponding branch of the Bombay Law. The reasons why I take the latter, rather than that of Calcutta as a model, are, 1st, because in Bombay alone has a code been constructed; 2d, because it was framed at a much more advanced stage of administrative experience than the main body of Bengal Law; and 3d, because I find it to be in all respects simpler and better adapted to the tenures and modes of settlement of Madras than either those laws, or our Regulations of 1802 which were borrowed from them.



SYNOPTICAL ABSTRACT OF THE REVENUE MADRAS.

1. Powers and Duties of Revenue Board, Collectors and Court of Wards.

Year	No.		Sec.	Pages.
1803	I.	General Powers and Duties of Board of Revenue, - - -	58	7
1803	II.	General Powers and Duties of Collectors, - - -	69	7
1804	V.	Constitution, Powers, and Duties of Court of Wards, and their Officers, - - -	27	9
1816	XII.	Collectors may refer to Panchayets Disputes respecting Possession, Cultivation, and Irrigation of Land, - - -	13	4
1821	II.	Collectors to report mis-conduct of District Moonsiffs, - - -	1	4
1822	V.	Judicial Powers of Collectors in Suits of a Revenue Nature, - - -	21	4
1822	IX.	Judicial Powers of Collectors in Cases of alleged Malversation and mis-conduct of Public Servants, - - -	19	8
1823	I.	Public Suits against Collectors &c., how to be tried, - - -	4	14
1823	III.	Powers of Board of Revenue in respect of decisions of Collectors under Regulation IX, 1822, - - -	3	4
1828	VII.	Powers of Subordinate and Assistant Collectors, Judicial Powers of Collectors under Regulation IX, 1822, - - -	7	2
1831	X.	Power of Court of Wards to assume charge of Minor's Estate, - - -	3	4
1832	III.	Limitation of Time for Appeals under Regulation IX, 1822, - - -	3	12
1837	XXXVI.	Powers of Collectors under Regulation IX, 1822, and VII. 1828, enlarged, - - -	2	12
1841	XXX.	Repression of Obstructions to Proceedings of Revenue Authorities, - - -	2	4
2. Settlement of the Revenue.				
1802	XXV.	Proprietary Right and Permanent Settlement, - - -	15	34
1802	XXX.	Issue of Pottahs. Their form and effect, - - -	15	3
1806	II.	Revenue and Judicial Administration in Districts not permanently settled, - - -	7	14
1822	IV.	Relative Rights in Land and Revenue Tenures, - - -	2	12
1831	III.	Punishment for refusing to attend Annual Settlement of the Land Revenue, - - -	5	1
3. Recovery of Arrears of Revenue.				
1802	XXVII.	General Rules for Recovery of Arrears of Revenue, - - -	34	134
1826	I.	Recovery of Arrears of Revenue other than Land Revenue, - - -	5	1
1839	VII.	Tahsildars to sell distrained Property, - - -	6	1
1851	XII.	For Securing Land Revenue of Madras, - - -		
Of Rent.				
1802	XXVIII.	General Rules for recovery of Arrears from Ryots and under Renters, - - -	42	13
4. Sale and Sub-division of Malguzary Tenures.				
1802	XXVI.	General Rules for Sale and Sub-division, - - -	21	3
1819	I.	Limitation of Sub-division. Revision of Erroneous Allotments, - - -	5	14
1830	III.	Validity of certain Sales. Periods at which Sales may be made, - - -	4	1
1832	VI.	Prohibition of Purchases by Public Officers and private servants of Collector is at public Sales, - - -	2	4
5. La-Khiraj Tenures, Grants and Pensions.				
1802	XXXI.	Validity of Titles to, and registry of La-Khiraj Tenures, - - -	20	4
1831	IV.	Protection of Revenue Grants and Pensions, - - -	4	1
1831	VI.	Protection of hereditary Revenue and Police Official Emoluments, - - -	8	2
1836	XXXI.	Extension of Regulation IV, 1831 to Grants made by Natives and confirmed by the British Government, - - -	1	4
1838	XXIII.	Exemption of Grants from Sequestration and Attachment, - - -	1	4
6. Miscellaneous Revenue Abkarry and Drugs.				
1813	I.	Import and Excise Duties on Spirituous Liquors, - - -	11	14
1820	I.	Manufacture and sale of Spirituous Liquors, - - -	17	54
1838	XIV.	Storing of Ganjah and Bhang, - - -	1	4
1841	XXIII.	Import of Rum and Rum Shrub prohibited, - - -	10	2
1845	XXXII.	Manufacture of Spirits by European process, - - -	6	11
1852	XIX.	For Securing Madras Abkarry, - - -		
Stamps.				
1808	VIII.	Stamp Duties between 1809 and 1817, - - -	11	2
1813	II.	Stamp Duties on Cadjans between 1813 and 1817, - - -	2	1

VENUE LAW OF MADRAS AND BOMBAY.

BOMBAY.

1. Powers and Duties of Commissioners of Revenue and Collectors.

Year	No.		Sec.	Pages.
1827	XVI.	Powers and duties of Collectors, - - -	27	8
1827	XVII.	Civil Jurisdiction of Collectors in disputes relating to Land, - - -	51	19
1830	V.	Appointment of a Revenue Commissioner—his Powers and Duties. Appointment of Principal and Sub-Collectors, their Powers and Duties, - - -	2	14
1830	VI.	Powers of Collectors to refer Revenue Suits to Native Collectors. Appeals from them and from Collectors, - - -	7	14
1837	XXI.	Governor in Council may dispense with Official Oaths, - - -	4	14
1838	XVI.	Relative Jurisdiction of Revenue and Civil Courts defined, - - -	6	14
1838	XVIII.	Powers in taking Security from their Subordinates, - - -	6	1
1839	III.	No exemption from Revenue Courts by reason of Birth or Descent, - - -	3	14
1841	XXX.	Repression of obstructions to Proceedings of Revenue Authorities, - - -	3	14
1842	XVII.	Number and Powers of Revenue Commissioners, - - -	3	14
1842	XVIII.	Powers of Revenue Commissioners in the investigation of Criminal Cases connected with the Revenue, - - -	3	14
1850	XVIII.	Officers not liable to be sued for judicial acts, - - -	1	14
2. Native Officers, their Appointment, Removal and Duties.				
1827	XVI.	Appointment and Removal of Native Collectors and other Native Officers, - - -		
1830	VI.	Reference of Suits to Native Collectors—their Powers and Duties, - - -	1	4
1831	XV.	Punishment of Patels for falsifying Revenue Records, - - -	4	14
1833	V.	Duties and Responsibilities of Hereditary Officers and Collectors Native Officers, - - -		
1839	XXV.	Powers of Magistrates and their Assistants in the Punishment of Offences, - - -	15	24
1843	XI.	Regulation of the Services of Hereditary Officers, - - -	4	14
1849	XII.	Arrest and Trial of Native Officers of Civil Courts, - - -	6	14
1850	XII.	Avoidance of Loss by Default of Public Accountants, - - -	17	34
1850	XIII.	Punishment of Breaches of Trust, - - -		
3. Settlement of the Land Revenue.				
1827	XVII.	Settlement, how and with whom to be made, - - -	29	8
1827	XIX.	Assessment of the Revenue at the Presidency, - - -		
4. Realization of the Revenue.				
1827	XVII.	Security for, and Recovery of the Revenue from Ryots, Superior Holders and Farmers, - - -	2	1
1827	XIX.	Collection of the Land Revenue at the Presidency, - - -	8	2
1832	II.	Recovery of Arrears of Revenue other than Land from Farmers, - - -	11	54
1842	XIII.	Realization of Revenue by Jagheerdars and other Holders of alienated Revenue, - - -		
1845	XV.	Privileges of Native Officers and Soldiers in respect of Arrears of Revenue, - - -		
5. La-Khiraj Pensions and Hukks.				
1827	XVII.	Validity of Titles, Investigation of Tenures and Registry, - - -	1	14
1831	X.	Validity of Vachania and Gerania Tenures, - - -	1	14
1833	VI.	Term of Possession required to constitute a Title, - - -	3	14
1839	XX.	Power of Government to abolish every description of Hukks and Fees, - - -	4	1
1842	XIII.	Powers of Jagheerdars and other La-Khiraj holders in the realization of their Revenue, - - -		
1849	VI.	Security of Government Pensions and Allowances, - - -	16	4
6. Boundaries.				
1827	X.	Trial of Boundary Disputes by Special Commission, - - -	6	14
1846	III.	Establishment and Maintenance of Field Boundary marks, - - -		
7. Europeans and Americans.				
1827	XXIII.	Restrictions on the occupation of Lands by Europeans and Americans, - - -	6	3
1837	IV.	British subjects may acquire and hold Lands, - - -	2	14
1839	III.	Amenability of all persons to Revenue Courts in respect of Arrears of Rent or Revenue, - - -	3	14
			246	754

Year.	No.		Sec.	Pages.
1816	XIII.	Stamp Duties, General Rules, - - - - -	31	11
1817	II.	{ Operation of Regulation XIII, 1816, deferred till 12th July 1817, - - - - -	8	14
1817	VI.			
1825	II.	Stamps for Rowannahs and Tobacco Licenses, - - - - -	7	2
1831	V.	Modification of Regulation XIII, 1816, - - - - -	8	24
Penalties for Breaches of the Salt, Tobacco, and Stamp Laws, - - - - -				
Salt.				
1805	I.	Provision and Monopoly of Salt, - - - - -	23	8
1807	II.	Extension of Salt Monopoly to Malabar and Canara, - - - - -	4	3
1818	II.	Import of Foreign Salt, - - - - -	2	1
1831	V.	Recovery of Penalties for Breaches of the Law, - - - - -	1	1
1840	XVII.	Penalties recoverable before Magistrates, - - - - -		
1844	VI.	Price of Salt, - - - - -	68	132
1852	VII.	Penalties for Breaches of Salt Laws, - - - - -		
Tobacco.				
1811	VII.	Provision and Monopoly of Tobacco in Malabar and Canara, - - - - -	18	43
1811	VIII.	Extension of Tobacco Monopoly to Coimbatore, - - - - -	2	1
1820	III.	Storing of Tobacco near Madras prohibited, - - - - -	5	12
1835	V.	Recovery of Penalties for Breaches of the Law, - - - - -	2	3
1831	IX.	Storing of Tobacco Rules Extended, - - - - -		
Taxes.				
1816	I.	Police Tax in Tanjore, - - - - -	6	24
1818	IV.	Assessment and Collection of the Veasabuddy Tax in the Ceded Districts, - - - - -		
1832	V.	Ley of the Mohturfa Tax, - - - - -	3	1
7. Native Officers, their Appointment, Removal and Duties.				
1802	XXIII.	Appointment and Duties of Record Keepers, - - - - -	8	1
1802	XXIX.	Office, Appointment and Duties of Kurnums, - - - - -	19	42
1806	II.	Special Rules for Kurnums in Districts not permanently settled, - - - - -	3	1
1822	VII.	Appointment and Removal of Native Officers generally, - - - - -		
1822	IX.	Inquiry into mis-conduct or Malversation of Native Officers, - - - - -	4	3
1823	III.			
1828	VII.			
1837	XXI.	Governor in Council may dispense with Official Oaths, - - - - -	4	3
8. Miscellaneous Public Works.				
1817	VII.	Maintenance of Endowments and Public Works, - - - - -	16	3
Removal of Disabilities, and Exemptions of Europeans and their Descendants.				
1832	IV.	Descendants of Europeans may hold and farm Lands, and become Sureties, - - - - -	7	1
1839	III.	Europeans may acquire and hold Lands, - - - - -	2	1
		Amenability of all Persons to jurisdiction of Courts in respect of arrears of Rent or Revenue, - - - - -	3	1
Registry of Deeds (See Civil Judicature.)				
1853	II.	Liability of all British subjects in the same jurisdiction as Natives with respect of Public or Police Duties &c., - - - - -		
			737	134

10. Now of the above general subdivisions or Sections, it is evident that the intentions of Government as regards the Sale Laws and judicial powers of Collectors, cannot be carried out without reconstructing the first four, and a part of the sixth. For the rules for the settlement of Land Revenue and those for distraint are connected with each other, and with the powers and duties of the Revenue Officers, and all these are modified by V. of 1822. Again, the Regulations and Acts under the seventh Head are greatly in need of re-arrangement, and, if the reference from the Collector of Madras is to be acted on with respect to Regulation XXIX. of 1802, will come within the scope of the present undertaking. Under this Head, as well as under the first, Clarke has placed the rules which provide for the punishment of Malversation in the Revenue Department, and as Regulation IX. of 1822 with its subsequent modifications and constructions has been found both complicated and ineffective, alteration seems called for. The law relating to Exempt and partially Exempt tenures, grants and hereditary service endowments, is likewise involved in much difficulty and ambiguity. Of the miscellaneous branches of Revenue, Land

Customs and Tobacco have already been abolished. Others probably are about to be placed on a new footing. The recovery of all Revenue other than that from Land is already provided for in a simple enactment which might be retained in its proper place; so that little change is required under this Head. The Sea Customs Law being distinct in itself and complete as it stands, and not even classed by Clarke under the Head of Revenue, need not be touched. Nor, I should say, need those enactments which prescribed the powers of the Court of Wards, or the Collection of the Revenue within the limits of the Supreme Court.

11. Such being the general tenor and arrangement of the Madras Revenue Laws as they now stand, I have next to explain the principles I propose to apply to their improvement.

12. The great design of legislation I conceive to be the protection of Government and its subjects in their just rights. With this view it aims to repress crime, to adjudicate between conflicting claims to property, and to define and regulate the powers of the State in the levy of taxes: thus, naturally branching out into the three main departments of Criminal, Civil and Fiscal Law; each with its own powers and procedure.

13. But to render the protection of the Law practically available to the people, it is obvious that they must either be themselves familiar with its provisions, or have ready command of the services of those who are. Hence I conceive that the highest merit of enactment, next to its being just and wise in itself, is the capability of being easily known and understood. And if this be true generally, it is especially so in India, and in the revenue branch of Law more than in any other. Our definitions of crime and mode of dealing with it in the Police and Criminal Courts are by this time extensively known. The Laws of property we very wisely did not attempt to originate. We merely profess to enforce the recognized rights and usages which we found to exist, and which are of traditional notoriety. As regards the course and forms of procedure in Civil causes, litigants can always procure information and assistance about the Courts to which they must resort.

14. It is not so with Revenue ordinances. The revenue executive is in immediate contact with the agricultural classes, the least educated of any, and it would be difficult to say whether the Revenue Servants or the Ryots have the greater impatience of legal precision, and legal forms. Sir Thomas Munro has repeatedly recorded his experience as to the unsuitableness of legal formalities to the habits and feelings of our agricultural subjects, and notwithstanding the progress of enlightenment, such as it is, since his time, I believe every Collector will still give the same testimony. I attribute to this cause the very partial and limited operation of Regulation V. of 1822 and the Panchayet Rules, notwithstanding their beneficial provisions.)

15. To prescribe by Law a long and intricate procedure, infringement of which invalidates the act of either party, and to endeavour to define it to a hair's breadth by multiplying legal technicalities, may provide employment for the legal profession, but will never promote public security. Such Laws often aggravate the evil they are intended to prevent; they act as a fetter to the executive, and a trap for the people who would rather submit to the oppression of absolute power, than to the delusive protection of complicated and unintelligible statutes.

16. Neither are we to overlook the important fact that our Laws can only reach the mass of the people through the medium of translations, and the difficulty of rendering them in plain and popular language in the vernaculars is immeasurably increased by the adoption of the verbose and involved style, which is acquired in the School of English Law, and has been too much admitted into our Indian Regulations.

17. The conclusion I draw from the foregoing considerations is, that our revenue enactments should be as few, as simple and as short as possible.

18. Even in England every statute which is unnecessary is admitted to be mischievous, and the axiom applies with tenfold truth in this country. It is impossible to go over the records which I have had to consult, without being struck with the fact how very little revenue Law is really wanted. With the exception of the Proceedings introduced by the permanent settlement, the Law of distraint Regulation IX. of 1822 and a few other Sections, our revenue Regulations have in most Districts remained a dead letter, and have had no practical influence on our administration, although interminable correspondence has taken place upon their construction.

19. I should on these grounds wish to remove from the province of Law to that of the executive, every matter which the latter is competent to regulate; and where Law is indispensable, lay it down clearly and broadly: definite in the spirit, but simple in the letter.

20. The question here presents itself—what are the respective Provinces of the Legislature and of the executive? without attempting to go into the deeper considerations which have guided the limitation of Executive prerogative in our own country, I think it may safely be asserted, that under the peculiar circumstances of British India, wherever it is competent under Act of Parliament to the Government to regulate a matter by an order in Council, or by rules promulgated from time to time, this course is preferable to legislation. It is sufficiently if not equally binding, while it is free from objections to which the Law is liable. Doubts can immediately be resolved, mistakes rectified and Government is saved from the embarrassment of having its own measures invalidated by a violation of forms.

21. Section II. of the first Madras Regulation defines the province of law as follows.

“Every rule or order that may be passed by the Governor in Council of Fort Saint George, regarding the administration of justice; the imposition or levying taxes, or of duties on Commerce; the Collection of the public revenue assessed upon the lands; the rights and tenures of the proprietors and cultivators of the soil; the provision of the Company’s investment; the manufacture of Salt; and generally all Regulations affecting in any respect the rights, persons, or property of the Natives, or any individuals who may be amenable to the Provincial Courts of Judicature, shall be recorded in the judicial department, and there framed into a regulation, and printed and published as hereafter directed.”

22. Whether or not the above definition be in accordance with the Act of Parliament I cannot say. It is certainly very comprehensive, nevertheless, I cannot but think that Government is competent to prescribe from time to time the forms of procedure of its Revenue Officers, provided such rules be printed, translated and published. I find, too, various other matters which though legislated for on one Presidency, are not in all; and I therefore infer that they do not of necessity lie within the compass of Legislation.

23. Indeed if all conceivable variations of detail are to be anticipated and provided for by definite declarations of law, the task of legislation is hopeless. Were it possible to frame such a Code, its very bulk would make it useless.

24. Keeping in view then the grand desiderata of simplicity and practical convenience, I think we should aim as far as the progress of the community will admit, at maintaining due distinctness between Criminal, Civil and Revenue Laws, in order that every provision may stand in its proper place and connexion. And so on the same grounds, I think it in theory a mistake, to have two sets of tribunals for the disposal of the same kind of causes, or special modes of dealing with crime or delinquency to which the ordinary mode can be made to apply; or to have a variety of enactments to effect what might be accomplished in one. Hence I should prefer to see fraud or embezzlement committed by public servants dealt with by the Criminal Courts; and I see no reason why an act of trespass or violence committed upon land, crops or water, should not be cognizable by the same tribunals and under the same provisions as any other act of aggression, or why the forms of distraint and sale for arrears of Rent or Revenue should differ from the form of distraint and sale in execution of a decree; or why disputes between Landlord and Tenant should not be determined by the same tribunals as those between creditor and debtor. Under such a system we secure the benefits of division of labour. Each set of functionaries is only called on to do the work in which they have been trained, and become expert.

25. But it cannot be denied, that in certain stages of society ruder and less perfect Institutions, may be better adapted for administrative purposes than others of a more perfect character. The people of this country had immemorially been governed under a system by which power was concentrated in the same hands within local limits. The commencement under our rule of a departmental division of authority by the establishment of Courts was an innovation little understood or appreciated by them at the time. They have become gradually accustomed to it; and no one would now for a moment think of reverting to the earlier arrangement, under which the same Officer was Judge, Magistrate and Collector. At the same time I freely admit that for the sake of carrying out a theory, we ought not to deprive the Ryots of the benefit of the prompt and uncostly justice intended to be provided by the summary decisions of the Revenue Department, when they themselves prefer it to the more formal procedures of the Courts.

26. The lists of Regulations and Acts already given, shows that the body of law now to be revised is the growth of half a century. Under Sir Thomas Munro’s government, attempts were made by supplementary regulations to remedy the defects that experience had brought to light in the original code. It is evident that under such circumstances, even were every existing provision to stand, re-arrangement alone would effect a great improvement.

27. But the reform then attempted was far from complete; and these supplemental regulations themselves have given rise to many difficulties. The present law is not fit to stand entire. As the Government intimate, parts of it are obsolete, parts contradictory, parts inconvenient or superfluous. A few of its provisions are now seen to be even wrong in principle, or as the Government express it, objectionable; and others are difficult or ambiguous. The use of foreign terms such as Malguzary, La-khiraj, Khas, Cowle, Pottah &c., without exact interpretations, has led to serious difficulties. Hence there is required not only re-arrangement and consolidation of the existing law, but emendation, abridgment and simplification to a great extent, in order to effect the desired improvements.

28. Such are my views as to the general principles to be followed in revising our Revenue law. I have now to explain how I propose to carry them out, so far as I may have the concurrence of Government.

29. I have already named the Bombay Code as the most eligible model for the frame work of our Madras digest. I do not propose to copy it throughout. I should not wish to borrow from it any of the provisions peculiar to itself, of which experience has not yet pointed out the necessity in the provinces under this Government. Neither should I rigidly adhere to the same order and arrangement. I should wish so far to conform to it, as, if the Government approve of my extending the reform to the whole of our Revenue laws, to embody them in a series of 3 Acts, after the following order.

1. An Act to amend and consolidate the laws relating to the powers and duties of Revenue Officers.

This would comprise six parts or Chapters, relating respectively to

- I. The Board of Revenue, and Commissioners of Revenue.
- II. Court of Wards.
- III. Collectors, Subordinates and Assistant Collectors.
- IV. The Native Establishments of the Revenue Department.
- V. Maintenance of endowments and Public Works.
- VI. Judicial powers of Revenue Officers.
 - A. For determination of certain Civil Causes.
 - B. For the punishment of Malversation.

2. An Act to amend and consolidate the laws relating to the settlement and collection of the Revenues.

This would be subdivided into,

I. Land Revenue: its settlements by permanent Grant village leases, and with immediate occupants.

II. The process for requiring security, for distraint, and sale of real or personal property, and for incarceration of defaulters.

III. Process for recovery of rents.

IV. Miscellaneous Revenue under its several heads. The process for requiring security and for its recovery.

3. An Act to amend and consolidate the Laws relating to Exempted Lands, Grants, Pensions and Hereditary service Endowments. The details of this Act have yet to be considered.

30. My proposed mode of dealing with these several subjects may be gathered to some extent from what has already been said. The superseded Regulations and Acts would be enumerated. Details of procedure in many cases omitted under a Section declaring that they will be regulated and published from time to time by Government as required. New restrictions will not be introduced, or new powers given, unless in a very few instances. The spirit and substance of existing provisions will be retained, unless where the necessity of alteration has been shown, or some obvious advantage can be secured by it; while all that have been clearly found useless will be cancelled.

31. In my next report I intend to give a recapitulation of the present Laws under the second of the above three Heads, and a sketch of the Act proposed to be substituted with reasons for all alterations. This will afford Government a safer criterion for judging of my plan, than the explanation now given.

32. I may mention here that I have not yet gone into the subject of Miscellaneous Revenue, except as to the process of recovery, or the Law of Grants or Exempted Tenures. I do not anticipate any great difficulty in disposing of the former; but the latter will require extensive investigation, and careful and patient thought.

CIRCULAR.

MADRAS,
15th August 1855.

FROM H. STOKES, Esq.,
On Special Duty.

TO H. FORBES, Esq.,
Collector of Tanjore.

SIR,

Having been ordered by Government to revise certain of the Revenue Regulations now in force in this Presidency, I have the honor to request that you will favor me as early as may be convenient with your replies to the subjoined Queries. At present my attention has been specifically directed to the laws regulating the recovery of arrears of Revenue of every branch and of rent to Regulation XII. of 1815 and Regulation V. of 1822. But as it possibly may be found expedient to take the same opportunity of simplifying and consolidating the whole body of Revenue law, I should be glad to know your views also on any point not embraced in the scope of these queries, wherein you think our Revenue administration capable of improvement by additions, omissions, or alterations in the present code, which you will find conveniently arranged in Clarke's edition under eight general heads.

2. As I am expected to complete the task assigned me within a limited time, I shall be glad to receive such assistance as you can give me at once, should you find that to answer all my inquiries will occasion delay.

Sale Law.

QUERIES.

Regns. XXV. of 1802.
XXVI. of do.
XXVII. of do.
XXVIII. of do.
XXX. of do. } 1. Has it been the practice in your District to sell the personal property of Defaulters for arrears of Land Revenue without previously offering the land for sale?

II. of 1806.
I. of 1818.
IV. of 1822.
V. of do. } 2. If so, has the legality of this practice ever been contested, and with what result?

I. of 1826.
III. of 1830.
V. of 1831.
VI. of 1832.
Act VII. of 1839.
XII. of 1851. } 3. What construction has obtained in your District of Section XXXVIII. Regulation XXVIII. of 1802, more particularly of the words "making a khas collection on the part of Government where no settlement may have been made with any proprietor or farmer"?

Reg. XII. of 1816. } 4. To what extent has this Regulation been acted on in your District? Can a return be furnished for the last 20 years?

V. of 1822. } 5. To what extent has this regulation been acted on?

6. When acted on under Sections II. and XI, has it been usual to proceed according to the forms of the Courts with plaint and pleadings, or according to the less formal way in which miscellaneous Petitions are investigated and disposed of by Collectors?

7. Is it your opinion that the cases contemplated in Sections XII. to XIV. are not sufficiently provided for by Section LI. Regulation XI. of 1816, and the general Criminal Law?

General. 8. Mention any parts of the enactments above cited which you have found inconvenient, or which you think obsolete, contradictory, or superfluous.

REVENUE DEPARTMENT.

No. 1115.

Extract from the Minutes of Consultation under date the 5th October 1855.

Read the following letter from Mr. Stokes, on Special Duty.

(Here enter 20th September 1855.)

In this letter Mr. Stokes makes a preliminary report of his Proceedings in pursuance of the orders of Government of the 20th and 27th June, by which he was directed to undertake the revision of certain parts of the Revenue laws of this Presidency, and sketches out the general scope of the enactments which he would propose.

2. Mr. Stokes first takes a general view of the Revenue Law of this Presidency as it now stands, comparing it with that of Bombay; next he states the general principles according to which he is of opinion it should be remodelled; and lastly, he sets forth the method in which he proposes to give these principles a practical application. The present Report is of so very general a character, that there are but few points in it on which the Government need or can express an opinion: the particular scope of the intended legislation is not touched upon, but is reserved for a future report. The Governor in Council will however record his views on the more prominent of the matters treated of.

3. Mr. Stokes states his reasons (paras. 7 to 10) for thinking it the best course, now that the amendment of the Revenue law is to be taken up, to extend the revision to every part of it, instead of confining it to the particular portions to which his attention had been directed by Government. The Governor in Council has no hesitation in declaring his full concurrence in this opinion; in the expediency of reviewing, consolidating, and condensing, the whole of the present heterogeneous law: though this will materially enlarge the original plan of Proceedings, and protract the time necessary for their completion.

4. In paras. 15 to 23 Mr. Stokes considers the question where the boundary should be drawn between the provinces of the Legislative and the executive authorities. He justly remarks on the inconvenience, not to say the impossibility, of regulating before hand every point of procedure, by a Legislative Act. The earlier regulations abound in details on matters of form and procedure, and the rule laid down in the first Regulation of the code* is so comprehensive, as to leave scarcely any thing to the arrangement of the executive. So impracticable was it found to act on this rule, that it has become almost a dead letter; and as it remains unrepealed, very many orders since issued must in strictness be regarded as illegal.

5. But while fully recognizing the evil and the inconvenience of formal legislation on trifling matters, the Governor in Council must yet caution Mr. Stokes as to the necessity of avoiding the opposite error. Formal legislation, binding alike on the executive power and on those subject to it, is necessary to secure the latter against hasty and ill considered, or partial and ex post facto orders; against any change, in short, in the rules by which they are to guide their conduct, without due consideration and due notice. Care must be taken then in excluding formal legislation from unimportant matters, both that the exclusion is not too sweeping, and that the powers of the executive are duly limited, and due provision made for their right exercise, on the subjects thus newly placed within its control.

6. In para. 24 Mr. Stokes declares the inexpediency of having two sets of Officers or tribunals to perform similar Acts, merely because those Acts relate to different departments, or concern the rights of different parties, or rights of the same parties in different aspects. But in the succeeding paras. he expresses the opinion that in this country this principle cannot be applied without material reservation. The Governor in Council is not prepared to deny that there is some truth in this view of the necessity of such exceptions; but he is of opinion that they should be admitted with caution.

7. The revised Code of Revenue Laws as sketched by Mr. Stokes in para. 29 would comprise three enactments, each containing a number of Chapters. Of these three divisions, the second, which treats of the settlement and collection of the Revenue is the most important, and this Mr. Stokes proposes to take up in detail first. The laws for the recovery of the arrears of Revenue, the imperfect and unsatisfactory condition of which at present first led to the design of reviewing the law belong to this division; and it is desirable that that portion of the law should receive the earliest possible attention.

8. With respect to the First General division, the Governor in Council would observe that it does not seem clear that "the punishment of malversation" in the extensive sense apparently intended, should come under this head at all. The settlement of the Revenue and the recovery of arrears, also involve the possession and exercise of certain powers by Revenue Officers, but those subjects are not therefore classed under the first head, and it would certainly not be thought a fitting classification to place the laws defining crimes and their punishment, under the title "Laws relating to the powers and duties of Judges."

9. In connection with this subject, the Governor in Council would have Mr. Stokes consider carefully to what extent it is necessary that Revenue Officers should possess power for the punishment of malversation, beyond those of moderate fine, suspension, and dismissal, should in short possess *judicial* power for that object. In thus expressing himself he would not be understood as signifying an opinion already formed that no such power is necessary; but simply as saying that its necessity, and if necessary the proper extent of it, require to be carefully considered. One observation he will make. It must not be supposed that all the advantages of the present power, whatever it be, is so much clear gain. Whatever circumstances render the position of Public Officers insecure, certainly lower the attractiveness of the employments, and therefore the character of those who hold them. It might be worth while to surrender some of the apparent or supposed security afforded by the present law, for the sake of raising the standard of the Revenue Officers as to respectability and character.

10. The third general head of law relates to Enams; but of this the details, Mr. Stokes states, have yet to be considered. This subject will require, as he justly adds, "extensive investigation, and careful and patient thought;" but it is one on which both legislation and action are very necessary. The Government* have lately, in considering the subject of a General Survey and Assessment of the land, declared their conviction that the investigation and final settlement of the enormous Enams of this Presidency ought not to be longer postponed; and prior to such enquiry a law is necessary, to regulate it and to guide the decisions. On this head too, some useful assistance may be derived from Bombay Legislation; the same subject having been discussed and settled there in Act XI. of 1852.

11. The Governor in Council will now close these remarks, which are as general in their character as the Report to which they refer. He will only remark lastly, that the course of proceeding sketched in para. 30 appears judicious and proper; and that he will be prepared to give full consideration to the further report promised in para. 32, to contain a view of the existing law under the second of the general heads, viz. the Settlement and Collection of the Revenue, with a sketch of the proposed Act on that subject.

(Signed) J. D. BOURDILLON,
Secretary to Government.

MADRAS, 17th November 1855.

From

H. STOKES, Esq.,
On Special Duty.

To

T. PYCROFT, Esq.,
Chief Secretary to Government.

SIR,

I have the honor to submit the result of my revision of the laws relating to the settlement of Land Assessment and the collection of Revenue and of Rent. The papers now sent are a review of the present law, an abstract of the Collectors replies to my Circular, and a sketch of two portions of the proposed Acts.

2. I have received valuable suggestions from the Members of the Board, but they have not yet fully considered the draft Acts in detail, the intention of Government seeming rather to be that their general scope should be previously decided on by themselves.

3. Among the points more particularly calling for the consideration of Government, I may mention the propriety of rescinding the permanent settlement Regulations, the power of Government over waste lands, and the terms in which the law of settlement is laid down.

4. With respect to the Revenue Laws which I have not included in my revision, that is to say, those that lay down the powers of the Court of Wards, the management of the Extra* Revenue, and certain Acts recently passed for the Land Revenue of Madras, and the taking possession of land for public purposes, I am of opinion that every object would be answered by having them printed uniformly with the new law, and bound up with it together with the subsidiary rules which will be passed, if my suggestion be adopted, for carrying out the details of procedure under each new Act. This volume would then form a short but comprehensive manual for the Revenue Service which could easily be mastered and kept in mind for practical use, while it might speedily be printed also in the vernaculars and placed within the reach of our principal native servants.

5. Another suggestion I would venture to make is, that so soon as the general outline of each new Act has been agreed to, it be printed and a copy sent to the Commissioner Northern Circars, and each Collector, for their remarks, which if not received in time to be made use of here, may be sent to the Legislative Member for Madras, and taken into consideration when the Bill may be in Committee.

(Signed) H. STOKES,
On Special Duty.

SECOND REPORT.

On the Laws for the Settlement of the Land Revenue and the Collection of Revenue and Rent.

1. As promised in my preliminary Report, I now submit an analysis of the existing Madras Laws for the Settlement of the Land Revenue and the Collection of Revenue and of Rent, with an outline of proposed alterations. I do not enter upon the Regulations for managing the Extra Sources of Revenue, as except so far as it relates to their Collection, they have not been referred to me for revision, nor do I see any great need of it. Neither does it seem necessary to include the Act for the Land Revenue of the Town of Madras.

2. Thus the enactments now to be considered are Regulations XXV. to XXVIII. and XXX. of 1802 modified by II. of 1806, certain Sections of I. and II. of 1803, I. of 1819, IV. and V. of 1822, I. of 1826, III. of 1830, Clause I. Section II. Regulation X. of 1831, Sections VI. and VII. of IV. of 1832, VI. of 1832, and Acts IV. of 1837 and III. and VII. of 1839.

3. The first five Regulations were all passed at the same time, and, except XXVI. are based upon those enacted nine years previously for Bengal. They pre-suppose that the permanent settlement would be introduced generally in our Districts, and are specially adapted to that mode of tenure. The first of the series, XXV., is intended to define the rights conferred on individuals by this Settlement. It consists of fifteen Sections, the second of which declares that "an Assessment shall be fixed on all lands liable to pay revenue to Government, and that in consequence of such Assessment the proprietary right of the soil shall become vested in the Zemindars, or other Proprietors of land, and their lawful successors for ever."

4. The third Section requires the execution of a "Sunned-i-milkeut istimrar" with a Ca-booleat, that is, a deed of permanent property, and corresponding counterpart, containing the conditions of tenure. The form of this instrument though not prescribed in the Regulation, corresponds with its provisions. These conditions as laid down in the remaining Sections are, that the Permanent Assessment be made exclusive of the extra branches of Revenue, and lands wholly or in part exempt from payment—that Government having charged itself with the maintenance of the Police, no lands are to be holden on the condition of Police Service, unless under special permission—that the Permanent Assessment be payable in the current coin of the District in all seasons, the landholders never being under any circumstances entitled to remission—that failing payment, their personal property should in the first instance be attached, and ultimately, if necessary, their lands sold and transferred from them for ever. The proprietors to have free liberty to transfer by sale, gift, or otherwise any part of their estates, provided that such transfer shall have been registered and the assessment duly apportioned on the accounts of the entire Zemindary for a period of not less than three years preceding the transfer, failing which the whole Zemindary to continue answerable for the whole Assessment. The Regulation also enacts that separate estates should not be created with a Jumma less than 500 star pagodas, reduced afterwards by Regulation I. of 1819 to portions not less than one entire village, or dependent hamlet with defined boundaries—that Curnums shall be appointed by Zemindars but not removed from their office, except by a suit in the Civil Court—that proprietors shall not without the previous consent of Government and the payment by the proprietor of the Assessment upon them, appropriate any lands to charitable or religious purposes, so as to exempt them from such payment. Lastly the issue of Puttahs or written engagements by land holders to their ryots and of receipts for discharges in money or kind, is made obligatory, failure subjecting the proprietor to a civil action for damages.

5. The next Regulation (XXVI.) containing twenty-one Sections prescribes Rules for the sale and Sub-division under the authority of the Board of Revenue of landed estates paying revenue to Government whether to make good the public revenue, or for other causes. The first ten Sections require and provide for the registry in public registers kept by the Collectors, of all transfers of land and the due apportionment of the Assessment upon it—the Collectors apportionment requiring the confirmation of the Board, and failure of registry involving the continued liability of the entire estate for the entire revenue. The last eleven Sections prescribe the form of sale. A notification in the Persian language and in that of the District, specifying the amount of permanent Assessment on the land &c., and the time and place of sale is to be fixed up during the period of not less than one month previous thereto in the Court room, at the Collector's office, and at the Board of Revenue. Possession to be given by publishing the names of purchasers and date of purchase; should entrance be resisted, the necessary process to be issued by the Zillah Judge. Lands are not to be purchased under fictitious names, nor by the defaulters or their securities, nor by the public or private servants of Collectors, on pain of forfeit, and in the case of servants repeating the offence, of fine and imprisonment (Section XXI.) Europeans and their descendants were also prohibited from purchasing land by Section XIX., but this restriction has been entirely rescinded by Section VI. Regulation IV. of 1832 and Act IV. of 1837. These rules are repeated in Sections XVI. to XXIII. of II. of 1803 with some additions, such as that any particular obligation which would fall on the purchaser of land, shall be specified in the conditions of sale, and that Collectors in attaching portions of an estate, shall be careful to select contiguous lands, and to preserve in the same sub-division all that are watered by one tank or watercourse.

6. Grave difficulties have attended the working of these Regulations. The intention of making the Permanent Settlement general was soon abandoned. It was carried out in most parts of

the Northern Circars, in certain Mootahs in Chingleput and Salem, and partially in a few other Districts; but the great bulk of our Madras Presidency has continued under individual settlements, which mode of tenure Sir Thomas Munro's Government intimated their wish, as opportunity should occur, to extend in the Northern Circars. But these Regulations made scarcely any provision for the settlement of Ravetwary lands. Regulation XXVI. was held by the Sudder Judges not fully to apply to saleable lands not held under Permanent Settlement, such as those of Malabar and Canara, and the Meerassy lands of the Carnatic.

7. Hence it was found necessary by Regulation II. of 1806 to declare that in unsettled Districts Collectors should enter into written engagements with Zemindars, Land holders and Farmers on such terms as might be deemed reasonable by the Board of Revenue; and that in cases where the engagements may be with the individual occupiers of lands, they shall be ruled by the Regulations of 1802. By Section VI., Regulations XXVII. and XXVIII. were ordered to be observed by Collectors as well as Zemindars or Farmers in their engagements with the ryots, or immediate occupiers of the soil.

8. The exact intent and force of the Law at this stage is not easily determined. But it seems clear as shown in a subsequent para. 28, that these Regulations were all framed under the opinion that Government retained the proprietary right of the soil, unless transferred by Permanent Settlement, or some other mode of grant, and consequently that the occupiers of land who gave the Government share of the produce, or its monied equivalent direct to Government, were in the position of tenants of Government. This doubt has not been authoritatively resolved to the present day. Moreover the assumption embodied in Section II. of Regulation XXV. that the payment of assessment carries with it in all cases a proprietary right in the soil, involved a fallacy. Parties who farmed from Government the collection of land revenue, could not thereby acquire an equitable right to oust occupants who had a saleable property in their lands. Under this Presidency the assessment had in many places its recognised limits, and such property actually existed. Apparently to meet this difficulty it was finally resolved to declare by Regulation V. of 1822 that in passing XXV., XXVIII. and XXX. of 1802, Government had no intention of authorizing any infringement or limitation of any established rights of any class of its subjects whatever; such rights being properly determinable by judicial investigation only. A few modifications were subsequently made by Regulation III. of 1830 which in four Sections declares the validity of certain sales previously made, rescinds Section LVIII. of Regulation I. of 1803, and empowers the Board of Revenue to fix the period of the sale of lands for arrears of revenue. On receiving the report prescribed by Section XX. Regulation II. of 1803 of the attachment of lands under a decree of Court, they are to order the Collector to cause their sale with as little delay as possible subject to the provisions of Sections XI. and XIV., Regulation XXVI. of 1802. I am under the impression that this enactment has not been generally attended to unless as regards parts of permanently settled estates, and that sales of other lands under decrees of Court are registered without reference to the Board of Revenue. By Regulation X. of 1831, minors estates were exempted from sale for arrears; and by Regulation VI. of 1832 it was declared that native officers and private servants of Collectors were precluded from purchasing at public sales lands of every description, as well as those held under Regulation XXV.

9. Regulation XXVII. of 1802 prescribes the modes for recovery of arrears of public revenue from actual proprietors of land or farmers of land who pay the revenue assessed upon their estates immediately to Government. It empowers Collectors of the several Zillahs to use summary process in certain cases for enforcing without the expense of a law suit the just demands of the State upon such actual proprietors of land. It consists of 34 Sections. Of these, the second defines the terms "proprietors of land," and "an arrear of revenue"—the third and fourth prescribed the mode of serving a demand—the fifth, sixth and seventh, the process for recovering the arrear by attachment and sale of the defaulter's property, and where these means have proved ineffectual and in this case only by his imprisonment. It is the sixth Section which has by its obscurity, and under the modern construction of the Collector of Tanjore, confirmed by the Government pleader, brought the most important function of the revenue executive to a dead lock, and necessitated the present revision of the law. The first Clause of the Section states that the landed estate shall be the security of the public revenue—the second, that it shall however be optional to the debtor to yield up his personal property or a portion thereof to discharge the debt in preference to the sale of his lands. How this proviso taken literally is to be reconciled with

Section VII. of XXV. I cannot see—I believe them to be contradictory, but I have no doubt whatever that the latter conveys the design of the Legislature, and that the construction which until the recent exception seems to have been universally acted on, and never contested, namely that land ought not to be sold until the more lenient measure had failed, was in accordance therewith. I think it was intended that in the first instance a Zemindar's land should be attached, and an attempt made to recover the arrear by the rents and produce, unless he chose to yield up his moveables. In the distraining or sale of personal property, the same rules are to be observed as are laid down for empowering land holders to distrain. Under Section VII. a proprietor of land can only be confined when the arrear cannot be satisfied by sale of the entire estate and personal property, and such confinement is to be reported to the Board of Revenue within 24 hours. The eighth Section declares that arrears bear an interest of one per cent. per month. Section IX. provides for the recovery of any over-collection from the defaulter together with interest thereon at the above rate, by suing the Collector in the Court. The tenth Section consisting of six Clauses lays down the procedure to be held when a Collector may attach the land of a Zemindar, or confine a farmer of land. Under Section eleven, defaulters under confinement may sue the Collector in the Zillah Court. By Section twelve they have liberty to move the Judge of the Zillah to show cause for their continued confinement. The thirteenth Section in five Clauses prescribes the process for arresting and confining actual proprietors of land, or farmers and their securities. If the defaulter be arrested in a different Zillah, he is to be confined in the Jail of that Zillah. Attachment of lands is to be withdrawn so soon as the arrears with the interest on them and expences shall have been recovered. The fourteenth Section in two Clauses enacts the steps for declaring an estate forfeited to Government by the refusal of the defaulter to obey the Collector's process. According to Section fifteen, if the forfeiture be commuted to a fine, the defaulter is to receive back any surplus from the proceeds of the estate when sold, that may remain in the Collectors hands. Where Government may sell a forfeited estate, they are at liberty after liquidating the balance and charges for attachment, to apply the remainder in any manner they may direct. The next Section extends the provisions of the fourteenth Section to farmers of land, and the eighteenth Section shows what is to be done when a lease should be annulled. Sections nineteen and twenty refer to the mode of dealing with sureties whether resident in the same or in another Zillah. The next nine Sections have reference to the forms to be observed when suits may be brought against the Collector in connexion with his acts under this Regulation (Regulation I. of 1823 sets forth the proceeding to be observed generally in regard to suits instituted against the Officers of Government, and would seem to supersede the necessity for this special provision.) The remaining five Sections refer to the countermanding of sales, the arrest of defaulters within the limits of Madras—the recovery of arrears of advances for cultivation or repairs of tanks in the same manner as revenue, and the extension to Assistant or Officiating Collectors of the rules for Collectors, and the exemption from arrest, or personal attendance of females, and except in the cases specified in this Regulation of any proprietor, farmer or surety, Section V. of Regulation III. of 1831 subjects a Ryot to fine commutable to imprisonment for non-attendance at the annual settlement when summoned by the Collector, or Tahsildar.

10. By Regulation I. of 1826 Sections II. and III. the foregoing provisions are extended to the recovery of arrears of revenue of any description.

11. Regulation XXVIII. contains forty two Sections, some of them long, for empowering land holders and farmers of land to distrain and sell for arrears of rent or revenue the personal property of under-farmers and ryots, and, in certain cases, of their sureties, and for protecting the ryots &c., from confinement or corporal punishment. The preamble states its design to be the punctual collection of the public revenue. The Sudder Court have ruled that proprietors of land free of assessment cannot avail themselves of this Regulation. The second Section empowers proprietors and farmers of land to distrain without sending previous notice to any Court or public Officer, the crops, cattle and other personal property wherever found belonging to their under renters, tenants and ryots, and to cause the sale thereof under the restrictions and rules therein after prescribed. Real property, or materials of manufacturers, or tools of tradesmen or laborers, are exempt from distraint by Section III. as also (Section IV.) so long as other property may be forthcoming, are implements of husbandry, ploughing cattle, and seed grain. The next Section (V.) defines the arrear which may be levied by distress, and makes it optional with distrainers to distrain the property of the defaulter, or of the surety, or of both; provided the

whole distress do not exceed the amount of the arrear, and that the surety's property shall not be distrained until demand shall have been made on the defaulter, except where he be not forthcoming. By Section VI. distrainers are liable to make restitution with damages for property sold by them when no arrear was due with costs of suit. If defaulters (Section VII.) tender the arrear demanded in the presence of credible witnesses, the attachment is to be staid. The eighth Section in six Clauses regulates the forms of demand and distress. The distrainer is to furnish the attaching Officer with a demand specifying the date and amount of arrear, which shall be produced as authority for attachment, and on the day when this takes place, the demand shall be delivered to the defaulter with an inventory endorsed on it of all property attached. In defaulter's absence, copy of this demand may be fixed up or left at his residence. Neglect of these forms subjects the distrainer to forfeiture of the arrear, and to restitution of the property with costs of suit. The ninth allows tender of payment of arrears and cost of attachment to be made prior to the sale, in which case the property is to be released. By Sections X. to XV. cattle are not to be driven off the estate, and crops are to be reaped or gathered in due season, and stored if possible on the premises—distrained cattle or goods are not to be used, and distrainers are to provide in the first instance the keep of live stock, and if lost, damaged or destroyed for want of due precaution, the loss or damage is to be accounted for by the distrainer. The distress shall be as nearly as possible proportionate to the arrear, and attachment shall be made after sun rise and before sun set. Fraudulent conveyances if proved in Court (Section XVI.) shall involve the delivery of the property to the distrainer with damages. By Section XVII. a similar course is to be pursued, if the attachment be resisted, for attached property clandestinely or forcibly removed, when damages are to be given equal to twice the amount of the property rescued. Claims to distrained property to be adjudged in the Civil Court; but claims to crops on the ground or gathered crops in defaulter's possession shall not bar the prior claim for rent or revenue due on the ground on which such crop may have been grown, it being the undoubted right of the owner of the land to consider its produce mortgaged to him for the rent in the first instance whether on the ground, or gathered. Section eighteen enacts the penalty for the removal of distrained property by others than the owners. Section XIX. in three Clauses empowers distrainers to force open buildings, except the apartments of women which are only to be entered after notice to and in presence of the Police on pain of liability to imprisonment for six months. Before entering a Zevana, due notice must be given to the women to retire. Infringement of these restrictions involving further the non-recovery of the arrear with liability to a prosecution for damages. Section twenty insures the assistance of the Police when applied for. Section twenty-one prescribes the mode of sale. At the expiration of the fifth day and before the expiration of the eighth, distrainers are to apply to authorized persons to have the distrained property appraised and sold, who shall fix up a notice of the time and place of sale. Two persons are to be appointed to appraise the property, the appraisement shall be stuck up at the house of the Officer, and at the place of sale which is to take place as soon as possible after the expiration of five complete days from the attachment. The Section contains certain other provisions, and the sale or disposal of property attached in any other way than thus authorized, shall involve forfeiture of the arrear and liability for damages, and for the value of the property disposed of with costs of suit. Section twenty-two declares that property shall not be sold for other than ready money, nor be removed without payment—failure thereof within five days involving a re-sale at the risk of the first purchaser.

12. Authority to sell distrained property was first vested in town Cazies, afterwards given to Commissioners, but by Act VII. of 1839 to Tahsildars. The same Act which contains six Sections makes Tahsildars subject to all legal provisions to which Commissioners are subject, *only* under the control of the Collector and not of the Judge, they being also subject to the liabilities prescribed by Section X. of Regulation IX. of 1822. The fees to which Commissioners were entitled are to be carried to the credit of Government, and lastly the Tahsildar has authority under the orders of the Collector to delegate these powers under the same liabilities to any of their Subordinates.

13. By the twenty-fourth and twenty-fifth Sections, the selling Officers are disqualified from acting in cases where they may be interested, and are liable to be sued for damages for connivance at unfair practices. Section twenty-six prohibits distrainers, appraisers and sellers of distrained property to purchase any part thereof on pain of forfeiting it and the purchase money,

in addition to which, distrainers forfeit the arrear. By Section twenty-seven, defaulters are forbidden to bid for their distrained property. The twenty-eighth Section declares that persons farming or under farming lands in fictitious names, or names of their dependants being themselves the ostensible securities, are to be considered as if they were the under farmers and ryots, their property being liable in the same way. By Section XXIX. landholders and farmers are prohibited from confining or inflicting corporal punishment on their tenants for the recovery of arrears, under pain of being prosecuted criminally, or sued for damages. Section thirty declares distraint to be competent to heirs and successors and managers of disqualified landholders, or undivided estates. The property of persons employed in the manufacture of salt, not to be sold until sufficient time may have been given to the Company's Officer to satisfy the demand. The thirty-second and thirty-third Sections have already been rescinded.

14. By Sections III. to V. of Regulation V. of 1822, the distrainer's power has undergone an important limitation. No property attached under this Regulation is to be sold unless puttahs shall have been granted, or tendered and refused—nor until leave shall have been obtained from the Collector for the sale which is not to take place until the expiration of thirty days after notice has been given to the Collector. If an appeal be made, the Collector is to institute a summary enquiry as to the correctness of the demand, and shall order the sale of so much of the property distrained as may appear sufficient to discharge the debt. Neglect of these rules, shall subject the distrainer to forfeiture of the arrear, and to the loss sustained by the attachment.

15. The thirty-fourth Section in eight Clauses prescribes the progress for arrest of the defaulter's person, and his confinements in cases where rents cannot be realized by distress. By Sections II. and XV. of Regulation V. of 1822, Collectors are authorized to take primary cognizance by summary process of the cases which under this Section were cognizable by the Judge. By the sixth Clause of this Section, proprietors or farmers have power to attach the farm or other tenure of their defaulting tenants, who after arrest, still fail to pay; and by the seventh Clause where arrears may not be liquidated within the current revenue year, they have power to make such provision as they may judge proper, consistent with the rights of other persons concerned, for the future receipt of the rents from their lands, and they may also apply to the Court of Adawlut to bring to sale such tenures of these defaulters as may be transferrable. The eighth Clause reserves to Zemindars and other landholders the power of compelling the attendance of their tenants, for the adjustment of their rent, or measurement of their lands, or for any other lawful purpose without previous application to the Courts of Judicature, parties opposing, being liable to damages on a Civil suit, or penalties for breach of the peace in the Criminal Courts. Under the thirty-fifth Section persons confined for arrears may sue their landlord, and by Section thirty-six claims rejected on the summary enquiry may be prosecuted by a regular suit. But by Section IX. of Regulation V. of 1822, judgment cannot be given for the landholders, unless on proof, that a puttah had been tendered and refused, or that both parties had agreed to dispense with it. Section thirty-seven provided that persons considering themselves aggrieved by the summary suits could have remedy by a regular suit in the Zillah Court, there being no appeal from such summary judgment to the Provincial Court. By Section XVI. Regulation V. of 1822 an appeal is open to the Zillah Judge by a regular suit from all decisions passed by the Collector under this Regulation.

16. The next Section extends the preceding rules to the managers of Estates as well as to Collectors, or other public Officers holding lands in the attachment, or making a *Khas* Collection on the part of Government where no settlement may have been made with any proprietor or farmer. What may be the exact force of this Section extended by Regulation II. of 1806 it seems now hopeless, as it is unnecessary to determine. The replies of the Collectors show the varied interpretations of which it is susceptible. My own opinion is that it was meant to include all lands not under permanent settlement, or farm for a term of years, of which the revenue was paid by the cultivator in money or kind direct to Government; that as the old Regulation at first was only in force in Districts permanently settled. Regulation II. of 1806 extended it, and that the construction apparently general before the Sudder's order of 1829 under which Collectors applied it to all lands under Ryotwar, was in accordance with the intention of the framers. Section thirty-nine declares that principals shall be responsible for the acts of their Agents done in contravention of this law, except for entering the women's apartments, or breaking open a dwelling house. Under Section forty, either party may sue the other in the Civil Court, and

proprietors or farmers of land may do so in preference to distraining. Section forty-one gives a priority to suits under this Regulation, and Section forty-two declares that powers of distraint may be delegated, and that neither principals nor Agents shall be liable to penalties for deviation from the Rules, unless it may be found to be wilful and intentional.

17. The above Rules are by Sections IV. and V. of Regulation I. of 1826 made applicable to the recovery of arrears of Revenue, other than the Land Revenue, and to arrears of Rent by farmers of any branch of the public Revenue, under the same restrictions and provisions.

18. Regulation XXX. of 1802 comes next under notice. As already noticed, it appears to have been made applicable by section IV. Regulation II. of 1806 to Collectors where Settlements are made with Ryots or individual occupiers of land. Regulation IV. of 1822 specifies this among the Regulations which it declares were not intended to alter the actual rights of any description of landholder or tenant. It consists of fifteen Sections including the preamble. The five first require that written engagements called "Puttah" and "Moochilka" shall be exchanged between landholder and tenant within six months from the permanent Assessment being fixed, whether they be 1st Village rents in money, 2d a division of the produce, 3d a rent in money, or 4th a rent in grain, the requisite particulars being specified in each case according to its peculiar circumstances. They are to be signed and registered by the Village Curnum, and to exhibit in one consolidated sum what had previously been collected under various denominations,—no new Assessment to be levied—Exactions not consolidated in the Puttah or otherwise authorized, subjecting the farmer or proprietor to a penalty equal to three times their amount, which under Section seven, V. of 1822 is leviable by the Collector. Section eight declares proprietors or farmers of land liable to be sued for damages for refusal or delay to execute Puttahs when demanded by their tenants. This is one Class of the Summary suits which Collectors are authorized to try under Regulation V. of 1822. Under Section nine, the rates if disputed, are to be determined according to those prevailing in the year preceding the permanent Assessment, or, those not being ascertainable, according to the rates established for land of the same description and quality. By Section ten, if tenants refuse to exchange mutual engagements for the space of one month after they have been offered in presence of Witnesses, the proprietors shall have power to grant the land of such ryots to other persons. But by the subsequent enactment of 1822 Section eight, this may not be done without leave from the Collector previously obtained. By Section eleven, collections over and above what is specified in the Moochilka are to be considered extortions, to be repaid together with a penalty of double the amount with costs. Puttahs for one year to be renewable at the expiration of the Fusly, but considered in force until renewed, and unless renewed within two months, to be binding throughout the Fusly. After sale or transfer of Estates for arrears due to Government Puttahs granted by the former proprietor cease to have effect at the end of the Fusly in which such lands may be sold. Undertenants shall be entitled to receipts for all discharges, refusal to give them subjecting the proprietor to be sued for damages. The last Section declares that Puttahs *bonâ fide* granted for any term of years for the erection of buildings or for gardens, or for clearing and bringing waste lands into cultivation, shall be binding on all future proprietors; notwithstanding the Estate shall have been sold. Collusive grants of this kind shall on proof be set aside.

19. It seems unnecessary to recapitulate further the supplementary enactments posterior to 1806, the substance of each having been already noticed in its proper place, with perhaps two exceptions. Regulation I of 1819 sets forth in the preamble that the provisions of Section IX. Regulation XXVI. of 1802 are considered impolitic and inexpedient as impeding the free subdivisions of Zemindary property, and after reducing the minimum as noticed above to a dependent hamlet with defined boundaries, provides by Sections IV. and V. for a revision of the apportioned Assessment on divided Estates, in case of proved fraud or error within ten years from its confirmation by the Board of Revenue. And Act III. of 1839 declares that no one is exempt by reason of birth from the jurisdiction of Revenue Courts in any proceeding connected with arrears, or exaction of Rent.

20. Regulations V. of 1822, except the parts already referred to, and III. of 1831 with Act XXX. of 1841 come under the head of Revenue procedure.

21. As an accompaniment to this Report, I send the Collector's replies to my Circular queries arranged each under the question to which it refers. As I proceed I shall notice such

parts of these replies as bear upon the subject of this letter—the rest will be made use of when I have to do with the powers and duties of the Revenue Officers.

22. I do not think it necessary to enumerate the constructions of the Sudder Adawlut on the laws under revision. I have taken notes of them and given them due consideration.

23. The foregoing review sufficiently shows the law of settlement and collection as it now stands to be in many places obscure of construction, entangled in arrangement, and clogged with details that only serve to impede its operation, while some of its substantive provisions rest upon untenable assumptions, and can only be reconciled with the existing state of things by a forced construction. I will now explain my views on all material points as to the alterations necessary, and give a sketch of the proposed Act.

24. The first matter to be settled is, the enumeration of the Regulations and Acts to be repealed. I think it had best be prefixed to the new law and include all the laws that are superseded. Otherwise parts of Regulations I. and II. of 1803, of V. of 1822 and of some others must be rescinded in one of the New Acts, and other parts in another.

25. A similar remark applies as to a provision for ratifying all past acts of the Revenue Officers done in good faith under the rescinded Regulations which shall not have been contested in any Court of Law prior to the passing of the code. The necessity of such an indemnity rests on the fact that the prevailing practice in regard to the sale of land and personal property—the disposal of suits under Regulation V. of 1822—the procedure of the Revenue Board and of Collectors, and in some other matters, is found to have been at variance with the requirements of these Regulations either in their plain sense, or as construed by the interpreting authority. There are other general provisions which can be introduced among the prefatory sections.

26. In Para. 28 of my last letter, I spoke of dividing each act into parts or chapters, as was done in Bombay. On the whole, however, I think it simpler and better to omit the division into Chapters, and adhere to the usual arrangement of Sections and Clauses.

27. The next point for determination is, how to designate and define the State's claim upon the land, so as to avoid the mistakes made in 1802, and to be at once safe and comprehensive. This claim, as will have been observed, is somewhat loosely termed in the Regulations, and in Revenue Papers—the Government share, the Land Revenue, Land Rent, Quit Rent, Land Assessment, Permanent Settlement, Permanent Land Tax, Permanent Assessment.

28. Without attempting logically to define the difference between Rent and Revenue, or Quit Rent and Land Tax, I think it may safely be affirmed that where the State has claimed a portion of the Annual produce of the soil so large as to absorb all beyond the Cultivator's profit—or when it exercised the power of increasing the demand, and ousting Cultivators who demurred to such increase, though not of ousting them at will, or of selling the land under their occupation, the claim partook of the nature of Rent. Consistent with this notion of rent is the implied necessity which runs through these Regulations, and our Revenue System to the present day, of the consent of the occupant to the terms of the State. A Puttah and Moochilka (Lease and Counterpart) could hardly be requisite to the enforcement of a Tax. All the early arrangements for realizing the Quit Rent within the precincts of the Supreme Court, most unequivocally declare the land to belong to Government, and the Grants were in the terms of a Lease for 99 years renewable on fine at the expiration of 33 years. That such was the relation between the ruling power and the Ryots in most of our Provinces at their first acquisition is notorious. It is also evident that this right is asserted in the Regulations. Thus we have in the Preamble of Regulation XXV. of 1802 the statement “that in the attainment of an increased revenue on such foundations, it has been usual for the Government to deprive the Zemindars, and to appoint persons on its own behalf to the management of the Zemindaries, thereby reserving to the ruling power the implied right, and the actual exercise of the proprietary possession of all lands whatever.”

29. Still more strongly the preamble of Regulation XXXI. of 1802 sets forth that “whereas the ruling power of the provinces now subject to the Government of Fort St. George has, in conformity to the ancient usages of the country reserved to itself and has exercised the actual proprietary right of lands of every description; and whereas, consistently with that principle, all alienations of land, except by the consent and authority of the ruling power, are violations of that right.”

30. It is equally clear that the Government designed by the permanent settlement to abrogate this proprietary right, and by substituting a fixed and moderate money rate for a large and variable share of the produce to convert their rent into a tax which should leave a landlord's profit, and give the occupant the benefit of his own improvements. And all our subsequent modes of settlement have had the same end in view. In none has the attempt been made on sounder principles than in the fixed field Assessment commonly called Ryotwar. It is true that in this settlement Government does not pledge itself on the one hand that the rates shall never be increased, nor on the other declare that remissions shall never be granted. But while it avoids the mistake of attempting to create an artificial proprietary by handing over to Zemindars, or Moottahdars as tenants at will, occupants who had a real interest in the land cultivated by them, it does in fact, so far as any such fiscal regulation can, assure to the rightful claimant whatever saleable value the land may possess, or be capable of acquiring. The crowning act of the authorities in this direction has been the late order of the Home Government securing to occupants the full benefit of wells or other works of irrigation, or improvements constructed at their own cost. The condition of the landholders in Malabar and Canara, is a specimen of landed property without the intervention of Zemindars, and which would have been attained elsewhere, under our field Assessment, had it been possible for cultivators to export produce to the same extent. On this point I beg to refer to the reply of the Collector of Coimbatore on the construction of Section XXXVIII. Regulation XXVIII. of 1802. “In Coimbatore where field Assessment obtains, every landowner, be the extent of the farm what it may, whether large or small, is a direct landholder under Government—his position is just the same as the Zemindar in a settled District—he pays the revenue direct to Government and without the intervention of a middleman, and when he fails, he becomes a defaulter and is amenable to Regulation XXVII. of 1802.” I would observe here that though under a field assessment, the settlement is usually called annual, the rates are permanent. The sum payable varies only with the extent of occupation, and inasmuch as the ryot is neither liable to be deprived of his land so long as he pays the Assessment, nor to have the rate increased, the settlement so far as Government is concerned, is in effect permanent.

31. The fact however still remains that ordinary dry lands are not saleable. Our benevolent design has failed, not because our mode of settlement was wrong, but because this description of land generally though it will yield the Cultivator a subsistence, will not enable him to accumulate wealth. So long as he merely can grow the ordinary esculent grains and pulses, which will only pay for their transport under peculiar circumstances, he can scarcely rise above the position of a cultivating tenant, and the same would be the case had he the land for nothing.

32. The absentee character of our connexion with India, the silent, but constant process of financial exhaustion which it entails, the extinction of our export trade in manufactures, and the slow growth of an equivalent trade in raw produce to replace it, and the neglect until lately, of our communications are among the causes that have depressed the agricultural interest. Happily a re-action has already commenced.

33. In further elucidation of this point, I would refer to the answers of other Collectors on the construction of Section XXXVIII. Regulation XXVIII. of 1802, as showing the difficulty of applying the Law as it now stands, a defect which there is little danger of repeating. It is only necessary to declare the claim of the State upon the land, in such terms as shall be everywhere applicable, without trenching upon acknowledged rights. Of the various terms hitherto used to designate that claim, I prefer “Land Assessment.”

34. The existing law affecting settlements other than permanent in addition to Regulation II. of 1806 which has already been noticed, is contained in Sections XXXVI. and XXXVII. of Regulation I. and Sections XXXVIII. to XLIII. of Regulation II. of 1803, and amounts to this that under the supervision of the Board of Revenue, Collectors shall regulate their demands on the Ryots on principles of moderation, and with a just regard to the rights of the Government and to the prosperity of the people; and shall not alter the rates of warum or of quit rent without the Board's previous permission. I see no necessity for narrowing the corresponding provision in the new Act. But I think it may be well to bring out a little more clearly, that liability of Assessment rests upon the fact of occupation, and to adopt the Bombay rule that the settlement be made with the highest occupant when forthcoming.

35. Notwithstanding the repeal of the Regulations XXV. and XXVI., &c., of 1802 &c., which apply to the permanent settlement, I presume it will be necessary to declare that the conditions of the permanent deed, 'Sumud-i-milkeut istimrar' will be adhered to as regards all estates held under that instrument. It will be for the Government Pleader to settle how far it may be necessary with this view to retain in the new Act any part of those that have been rescinded.

36. The Bombay Regulation contains some judicious rules which I should like to see in general operation in our Madras Provinces. At the same time in conformity with the views I have already expressed, I think this may be better effected by an order of Government than by law. I refer to Clause I. Section VI. Regulation XVII. which requires that an occupant throwing up his land must give notice to the person authorized to receive the revenue previously to the commencement of the Revenue year, or he will be liable for any loss of revenue occasioned in that year by the abandonment of his land. Section X. of the same Regulation requiring that the periods at which the instalments of revenue become due, and of the person to whom payment is to be made, be published in the village. Section XV. of the same Regulation enjoining under pain of a fine to be levied by the Collector, the issue of receipts by the Officer authorized to receive the public dues countersigned by the village Accountant, and also that the books of the village Accountant shall be open to public inspection.

37. As already shown a large proportion of our Assessment has to be realized on lands, not saleable at present, nor likely to become so. I therefore would invest the Revenue Officers with a legal right to require other security from occupants when necessary. Of course it does not follow that they are generally to avail themselves of this power. I think it would be better to require it before land is occupied, or when the Dittum is signed, than when the crops are on the ground. I am not prepared to go further than this in imitation of Chapters II. and III. of Regulation XVII. of the Bombay Code which give the power to prevent the reaping of crops, and to quarter Mohussals (Voluntary Peons or Bailiffs) on defaulters. Both practices I believe have been resorted to in some of our Districts, though to the best of my belief unsanctioned by the present law. The results can as appears to me, be only injurious. It is unnecessary to discuss the question as to the order in which the several descriptions of property are to be held liable for arrears. I believe it a mistake to *prescribe* any order at all. Discretion must be left with Revenue Officers to choose the shortest and most effectual way to the end in view, whether it be by sale of land or moveables, attachment of Estates, or imprisonment of the defaulter.

38. I propose to omit the provision for the forfeiture of land, to which I find nothing corresponding in the Bombay Code. I cannot see the use of such an expedient. I question whether it ever has been, or ever would be acted on.

39. I would likewise omit all the limitations as to purchasers whether of personal or real property. The object of resorting to sale is simply to enforce payment. This object is equally gained whether the purchaser who produces the money be the defaulter himself, his security, or a public or private servant of the Collector. If Revenue servants are permitted to hold land at all in their Districts, I do not see why they should not bid for them at public sales. On this point Mr. E. B. Thomas Collector of Coimbatore writes as follows.

"I consider the provisions contained in this Section XX. of XXVI. of 1802 to be too stringent, and that some latitude should be allowed in favor of minor public servants, restricting the prohibition only to responsible Public officials, such as Serishtadars, Tahsildars, &c. I have strong grounds for believing that these provisions are widely departed from, although it is not possible to procure proof."

40. But my own views on this subject are so exactly expressed by Mr. Minchin, Sub Collector of Nellore, that I cannot do better than transcribe what he has said.

"I cannot either agree with the principle which dictated Section XXVI. of the same Regulation (XXVIII. of 1802), the one object of distraint is the recovery of the arrears, without at the same time an unjust sacrifice of the property of the Defaulter. The distrainer and the defaulter are consequently the two parties most interested in effecting a good sale, and it seems an unwise policy for both to prevent the former bidding for distrained property at a Public Auction, in order to prevent a sacrifice. Section XXVII. declaring that the defaulter shall not be competent to purchase, is apparently intended as a punishment, but here also I doubt the

policy of the restriction. If he is possessed of means to purchase, he is certainly not an object for consideration, but the costs and inconveniences of the process will always be punishment sufficient to such a class. Competition on the part of the distrainer would prevent the defaulter benefiting by a collusive sale."

41. I am aware that abuses have been formerly detected in the acquisition of lands by public servants, but such abuses must take place at an earlier stage in the procedure than in the sale of property, and ought to be met by the vigilance of the Collector, rather than by a prohibitory enactment. Government will always have it in its power when necessary, to interpose by an order forbidding its servants to purchase land. I cannot say I see the policy of such an order, for where land is saleable as in Malabar, Canara and Tanjore, to regard its possession as a disqualification for the public service, would exclude the most respectable Section of the Community.

42. In like manner I demur to the restrictions however humanely intended as to the distraint of seed grain, ploughing cattle, implements &c. I find none such in the Bombay Regulation of in the Revenue Act for Madras XII. of 1851. As already suggested, the Government can, when they find it expedient, revive these restrictions by an order. To weaken the law out of motives of indulgence, is like operating with a blunt instrument for fear of giving pain. The more simply inevitable it appears in its power, the more lenient will be its operation. Real cases of hardship must be dealt with on their merits according to the information, which a conscientious Collector will seldom be unable to procure. The security of our revenue is to be maintained not by the actual exercise of these laws, but by the felt difficulty of evading them.

43. I see no reason to lay down any limit as to what portion of the defaulter's estate shall be liable to sale for his arrears. On the contrary I think it far better that the Collector should possess the power of selling what is most saleable whether the arrear can or cannot be shown to have occurred on that particular portion. This would obviate evasions said by the Collector to be practised in Tanjore, and others which might often occur in Malabar or Canara. Of course mortgaged land under the occupation of a mortgagee, paying the Assessment, would not be liable for arrears incurred by the proprietor on other land.

44. The necessity of the previous permission of the Board of Revenue for the sale of land, has been found decidedly inconvenient. I doubt whether it ever could have been intended to apply except to sales of Zemindary lands. I therefore do not retain it. Government can at any time require previous reports of the sale of lands when they may find it necessary.

45. Among the superfluous matter which needlessly swells Regulations XXVII. and XXVIII. I place the ever-recurring repetition of liability to damages on a Civil Action for wrongs done in carrying them out. The object intended can once for all be secured in a single Section.

46. The rules for serving a demand, and for attachment and sale of property, seem to me tediously minute and prolix, and contrast strongly with Section XII. of the Bombay Revenue Regulation which dismisses the subject in a single Clause directing that the process shall be conducted by the Revenue Officers under the rules prescribed for the execution of decrees of the Civil Courts, which process is found in five Sections of the Judicial Regulation. In like manner Act XII. of 1851 for the Land Revenue within the Town of Madras, has only one Section for this purpose, which simply appropriates the provisions of Act VII. of 1847 for the recovery of rent. I cannot find in our Judicial Regulation any similar rules for distraint and Sale in execution of decrees. Section IX. of III. of 1802 prescribes no form of process. It will be seen that I adopt a middle course.

47. One point remains to be noticed and it is one of considerable difficulty—the relation between Landlord and Tenant. Stipulations bearing on this point in the deed of Permanent settlement must, I conceive, be allowed to stand. Farmers of revenue may be required to observe the same forms in their engagements with the ryots, and under some limitation to exercise similar powers as the Revenue Officers. But the difficulty is, how to legislate, especially in a Revenue enactment; upon the rights actually subsisting, as in the Meerassy tenures of the Carnatic, or the landed properties in Malabar and Canara. I mean more particularly as regards the obligation to give Pottahs and the power of ejectment. It appears to me that this is a branch of the Civil Law which cannot be handled without risk on the present occasion, and that we can provide for the security of the Revenue without meddling with it.

48. Any further notes or explanations which I thought called for, are given in parallel columns with the several sections of the sketch which I now submit.

49. Though I have given this sketch in the form of a draft Act in order that my views may be more clearly seen, both as to arrangement and substance, I must explain that the working has not been settled nor even considered in communication with the Board and Government Pleader. This will be done hereafter.

50. I have also to mention that Mr. E. Maltby does not think so great a change as proposed by me, desirable in the present Regulations.

H. STOKES,

On Special Duty.

Madras, 15th November 1855.

MEMORANDUM.

ABSTRACT OF THE COLLECTORS' REPLIES TO THE QUERIES CIRCULATED BY MR. STOKES ON THE 15TH AUGUST 1855, RELATIVE TO THE REVISION OF THE MADRAS REVENUE REGULATIONS.

In this memo. the replies are ranged under the Queries to which they refer; the Collectors being grouped in their local order, that is to say, first the Northern Circars and Nellore, then the Ceded Districts, then those in the Southern Carnatic or Tamil country, and lastly the Western coast.

The following table shows the Name of each officer, and the date of his reply and of its receipt.

District.	Officer.	Date of reply.	Date of receipt.
Ganjam,	W. Knox, Esq.	22d Sept. 1855.	2d Oct. 1855.
Vizagapatam,	P. B. Smollett, Esq.	5th do " "	13th Sept. "
Rajahmundry,	A. Purvis, Esq.	2d Oct. " "	9th Oct. "
Masulipatam,	J. Fraser, Esq.	29th Sept. " "	5th do " "
Guntoor,	J. R. Gordon, Esq.	29th Oct. " "	3d Nov. "
Nellore,	F. B. Elton, Esq.	11th Sept. " "	14th Sept. "
Cuddapah,	M. Murray, Esq.	5th do " "	10th do " "
Bellary,	C. Pelly, Esq.	6th do " "	12th do " "
North Arcot,	R. M. Binning, Esq.	24th do " "	26th do " "
Madras,	B. Cunliffe, Esq.	7th do " "	8th do " "
Chingleput,	C. J. Shubrick, Esq.	25th do " "	26th do " "
South Arcot,	A. Hall, Esq.	29th Augt. " "	1st do " "
Salem,	H. A. Brett, Esq.	28th Sept. " "	1st Oct. " "
Coimbatore,	E. B. Thomas, Esq.	20th do " "	25th do " "
Tanjore,	H. Forbes, Esq.	14th do " "	18th Sept. " "
Trichinopoly,	J. Bird, Esq.	12th do " "	18th do " "
Madura,	R. D. Parker, Esq.	17th do " "	20th do " "
Tinnevely,	C. J. Bird, Esq.	7th do " "	14th do " "
Malabar,	C. Collett, Esq.	29th do " "	4th Oct. " "
Canara,	W. Fisher, Esq.	24th do " "	29th Sept. " "

REPLIES to the QUERIES circulated to the Collectors on the 15th August 1855, relative to the Madras Revenue Regulations.

Query 1.—Has it been the practice in your District to sell the personal property of Defaulters for arrears of Land Revenue without previously offering the land for sale?

Query 2.—If so, has the legality of this practice ever been contested and with what result?

(REPLIES.)

Ganjam.—It has not been the practice in this District to sell the personal property of defaulting proprietors for arrears of Land Revenue. In all cases the Lands are invariably sold for all arrears of Land Revenue. When the Ryots become defaulters, their personal property is sold, the lands they hold not being as a general rule saleable.

Never as far as I can learn.

Vizagapatam.—It has been the invariable practice in this District to expose the land for sale in the first instance and not to attach the private property of a defaulting Zemindar. The legality of such a proceeding has never been questioned in a Court of Law. In the case of cultivators as their land has no saleable value, private property is of course seized and sold; but personally as a Collector I hardly ever sequester.

Rajahmundry.—It has been the practice in this District to attach and sell when necessary the personal property of defaulting Ryots for arrears of land revenue without previously offering the land for sale. Indeed till quite lately, no right of property in the land on the part of the occupying Ryot has been recognized. The lands of Zemindars and Proprietors (permanently settled) are of course put up for sale on the owners falling into arrear. I cannot learn that the legality of the practice above noticed of selling personal property has ever been contested.

Masulipatam.—In regard to Zemindaries and Proprietary Estates, the practice has been to offer the land for sale. In the case of Renters and Ryots paying direct to Government, the personal property has hitherto been always sold in the first instance. If this has proved insufficient, the land has in a few instances been sold; but the greater part of the Circar land in this District has no saleable value whatever. It has never been contested.

Guntoor.—With reference to Clause 2nd, Section VI. Regulation XXVII. of 1802, it has been the practice of the District to attach and sell in the first instance so much of the personal property as would be sufficient to meet the demand, and the legality of the practice has never been disputed.

Sec. XXXVIII. Reg. XX. of 1802. This Section taken in connection with Section XXX. of the same Regulation is understood to refer to the Managers of the Estates of disqualified landholders and of joint undivided estates, as also to Tahsildars and other Officers appointed to make Khas collection; the word "Khas" signifying the collection of Revenue from each Ryot on the part of Government.

Regulation XII. of 1815 I presume has been erroneously inserted for Regulation XII. of 1816. In former years several cases were disposed of by Punchayets under the Regulation last mentioned. But at this distance of time, it is impossible to furnish any statement shewing the number of those cases.

In former years suits used to be brought and disposed of under Regulation V. of 1822. No such suits have subsequently been preferred in the prescribed manner.

Until Fusly 1250 it was usual to proceed according to the forms of the Courts, with plaints, &c. Very few complaints of this nature have subsequently been preferred, and they have usually been decided in the less formal way in which miscellaneous Petitions are disposed of.

By Section LI. Regulation XI. of 1816, provision is made for preventing the forcible occupation or seizure of lands, &c.; but no power is given for punishing the aggressors. The provision referred to has not therefore effectually operated to prevent the commission of such offences.

Clause 2nd, Section VI. Regulation XXVII. of 1802 declares that landed estates should be attached as a last resource for the recovery of arrears of revenue. Section XX. Regulation II. of 1803, and Clause 2nd, Section IV. Regulation III. of 1830, direct that the sale of landed property should take place with the permission of the Board previously obtained, while the Board's Circular Order dated the 30th April 1855 No. 1249, points out that lands should be first attached for arrears of the current Fusly, and that after the sale of the lands personal property should be seized. Now in cases where the land does not fetch an adequate price, the ryot has an opportunity of concealing his moveable effects before the sale of the land can be effected. It would therefore be a safer course to distrain produce &c. if such property is surrendered by the ryot before the attachment of so much of the landed estate as would be sufficient to meet the demand against him, or to attach the land and personal property simultaneously, where the land is insufficient to cover the demand.

To obtain the sanction of the Board of Revenue in every case requiring the sale of a ryot's land, or to wait until the lands of a number of ryots have been attached and then submit a single report of all such cases, would be a measure calculated to occasion much delay and inconvenience, I would therefore suggest the expediency of authorizing the Collectors with certain restrictions to sell lands as well as personal property, without previously obtaining the sanction of the higher authorities.

Nellore.—Prior to the receipt of the late Circular Order of the Board of Revenue dated 30th April last, it was the practice in this District to sell the personal property of defaulters for arrears of land revenue without previously offering the land for sale.

Sub Collector do.—It has been the practice in the Sub Division to sell the personal property of defaulters for arrears of land revenue. Such personal property being in general the crops on the ground, and until the recent Circular from the Board of Revenue the legality of the practice has never been contested.

Cuddapah.—It has been invariably the practice in this District since the time of the settlement to attach and sell by public auction the personal property of Revenue defaulters without previously offering the land for sale. Should the personal property be found insufficient, application is made to the Board of Revenue for permission to dispose of the land occupied by the defaulter. This application however is of rare occurrence, as the arrears of revenue is collected either by the sale of personal property or arrangements made by the defaulter to liquidate the amount due by him. The late Circular Order of the Board of Revenue enjoining that land of revenue defaulters shall first be offered for sale prior to the attachment of personal property is found inconvenient, as persons in tolerable circumstances refuse to pay their Sisti, knowing that considerable time will be wasted in applying for sanction to the Board of Revenue for the sale of their lands. A case in point is now before me. The Sub Collector applies to the Collector, and he to the Board; some time is consumed before an answer can be received, and the reply passes through the same channel, which allows the defaulter considerable time before he is compelled to discharge the debt against him, in order to prevent his land being disposed of, and when he finds that his land is to be sold, the money is at once paid down—this system causes much correspondence and waste of time which might be avoided. It appears to me that the crop ought to be held answerable for the Government dues, and should the cultivator make away with his produce, his personal property ought to be held responsible for the amount of Sisti due upon the land which he occupies. In the Ceded Districts I consider that Government are proprietors of the land and the Ryots hold the same so long as to continue to pay the tax fixed upon it, they are therefore in a similar position to a farmer tenant in England, the produce of whose farm is the security of the landlord's rent; and in Scotland when a farmer becomes indebted to his landlord, a process is taken out against him called "Sequestration," which prevents the produce being disposed of until the demand of his landlord is satisfied.

The legality of the practice in attaching personal property for the liquidation of arrears of revenue has never been contested.

Bellary.—It is very seldom indeed that the personal property of defaulters has been sold for arrears of land revenue in this district. I am not aware of any instance of the land being at any time offered for sale for arrears.

The legality of selling personal property of defaulters for arrears of land revenue has never to my knowledge been contested.

North Arcot.—The process by which arrears of land revenue are recovered in this district is to attach and sell in the first instance, personal property, and if proceeds of this sale be not found sufficient to make good the arrears due, to extend the attachment and sale to putticut lands.

The legality of this practice was never contested.

Madras.—The enactments alluded to in the Queries accompanying your circular, are not enforced within the limits of Madras.

Chingleput.—Under Clause I. Section VI. Regulation XXVII. of 1802, land is required as the security of the Public Revenue; but in practice the personal property of defaulters has still recently been attached and sold in the first instance. It was only when there was no personal property, or where the personal property attached was not sufficient to cover the balance, or when the defaulters had otherwise disposed of all their property, except their land, or when all other measures for the realization of the revenue had proved unavailing, that the land was taken under attachment and ultimately sold.

It has never been objected to and much less contested in the Civil Court.

South Arcot.—It has been the practice in all the Districts in which I have served to distrain and sell the personal property of a Revenue Defaulter in preference to his land, and that without

giving him any option in the matter. I have never known a case in which land has been attached and offered for sale until it has been found impossible to realize the amount due by disposing of the personal effects of the defaulter.

I do not think the legality of this Proceeding has ever been contested or questioned.

Salem.—Such till very lately has been the practice in this district. It was only when no personal property was forthcoming that the land was attached and application made to the Board of Revenue to sell it. The Collector did not apply to the Board for permission to sell personal property. Collectors have recently been informed that "arrears of land Revenue due on annual, as well as permanent settlements are recoverable only under Regulation XXVII. of 1802, which has been held to direct that the land shall be sold before the personal property of the defaulter."

The legality of the above practice has never been contested.

Coimbatore.—Sales of land for the recovery of arrears of Revenue during the last fourteen years, or from Fusly 1251 have been rare; and except in three instances, no sale has actually taken place. Previous thereto both the real and personal property of defaulters were sold—1st the land and latterly the moveable property. It is however probable there may have been exceptions to this practice; but there is nothing on record to show that such exceptions were ever contested.

Tanjore.—Up to the Fusly 1257 it was the practice in Tanjore to sell the personal property of defaulters for arrears of land Revenue without previously offering their land for sale. On Mr. Bishop rejoining the district in 1847, he determined to alter the practice which obtained up to that time, and to follow the letter of the law which he had found in force in Nellore, and personal property has not since been distrained.

There is no instance on record of the legality of the prior sale of personal property having been contested.

Trichinopoly.—Prior to the receipt of the Board of Revenue's Circular Orders Nos. 902 and 1049, dated respectively the 19th and 30th of April 1855, it was undoubtedly the practice in this district to cause the personal property of defaulting Ryots to be distrained and sold in satisfaction of arrears of land Revenue, in preference to offering the land for sale.

I am not aware that the legality of this process has ever been contested.

Madura.—Yes.

Tinnevely.—Land was not attached in this District until after the personal property of defaulters was found sufficient to clear the arrears.

The legality of the above practice has never been contested.

Malabar.—It has.

The legality of this practice has never been contested.

Canara.—Yes.

The legality of the practice has never been contested.

Queries 3, 4 and 5.—What construction has obtained in your district of Section XXXVIII. Regulation XXVIII. of 1802, more particularly of the words "making a Khas collection on the part of Government where no settlement may have been made with any Proprietor or Farmer."

* *Reg. XII. of 1816.* To what extent has this *Regulation been acted on in your district? Can a return be furnished for the last 20 years?

V. of 1822. To what extent has this Regulation been acted on?

Ganjam.—The enactment referred to in this query does not seem to have at any time attracted the notice of the revenue authorities in this district; but if it means any collection by Government Officers in those Estates where there is no permanent assessment, it is not known in this district. I am however inclined to believe that it refers to collections made by Government on the ryot's crop, when no agreement has been entered into by him and the defaulting Proprietor; but no case of this sort has occurred to my knowledge.

The principle recognized by this enactment has been frequently acted upon in this district, although all the prescribed formalities may not have been observed. A return of cases falling under the Regulation cannot be furnished with any degree of accuracy as the records of this Collectorate are in a most confused state.

Vizagapatam.—In reference to query 3, I beg to reply that the Provisions of Regulation XXVIII. of 1802 were meant to enable Zemindars to recover promptly the current Revenue due to them by undertenants, Renters or Ryots. I construe the provisions of Section XXXVIII. as giving the same summary rights of process to Managers for disqualified Proprietors, to Collectors holding Zemindary lands under attachment, or to Officers of Government settling lands direct with Ryots for the Government. It is held to be doubtful in this district whether proprietors of Rent free tenure have a right to summary process against the Ryots. The practice is to disallow the right to distrain through the Collector. I think the question should be set at rest by special enactment.

Regulation XII. of 1816 has not been acted upon in this District.

Rajahmundry.—It is not very easy to answer this question; but the section seems generally to have been considered as referring to the Collector or other Officer managing lands under attachment. The meaning of the sentence particularly alluded to does not seem to have been much thought about.

Regulation XII. of 1816 I presume is meant. This enactment has not been acted upon to any considerable extent though it seems to have been more frequently brought into operation in this district, than either in Nellore or Guntoor. The return required is in course of preparation but as reference to the old records is necessary it will be some time, I fear, before it is ready.

The same remark applies to Regulation V. of 1822 as regards "Summary Suits," properly so called, though a number of complaints praying that the sale of property attached for alleged arrears of rent by Proprietors, or by Abkarry Renters, may not be authorized by the Collector are annually made and disposed of after due enquiry. You are aware that the Sudr Adawlut long since gave it as their opinion that a Collector was not authorised to decide any "Summary Suits" under the Regulation in question and that the same Regulation "proceeds on a total misconception of previous enactments."

Masulipatam.—This section has been construed to apply not only to the recovery by Proprietors and farmers, of arrears whether of land or other revenue due to themselves, and by managers and collectors on the behalf of such proprietors, but also to that of the public revenue due to Government by the actual cultivators. The words "making a khas &c." have been taken to apply to this as a ryotwar district where the settlement has been made with the cultivators direct, in any mode whatever, without the intervention of any middle man.

Regulation XII. of 1816 must be the one alluded to. For practical purposes this regulation may be said to be a dead letter in this district. From the records it does not appear to have been acted on at all for the last 20 years.

5 and 6. Under this Regulation some cases have been disposed of within the last six years, and some are still pending.

Guntoor.—

Nellore.—I am not aware what construction other Collectors may have put on this Section, but the first part of it appears to need no further elucidation than the words afford; viz. that the preceding rules apply to the parties designated. "Making a Khas Collection on the part of Government, where no settlement may have been made with any proprietor or farmer," I understand to refer to cases where the Peishcush payable on an Estate or Zemindary had not been at that time permanently settled; though it was in contemplation to do so. Of which there might be many instances either actual or anticipated at the time of the passing of Regulation XXVIII. of 1802.

Cases have been disposed of under Regulation 12 of 1816 though not frequently. There being no Register of them kept in the Office, it would require a search of the records of the last 20 years to compile a return such as that required, which cannot conveniently be done. The provisions of the Regulation are such that I doubt if they have been accurately followed. The

main defects of it appear to me to be want of simplicity of procedure; and no provision being made to enable the Collector to carry the award into execution in case one of the parties proves contumacious. An occurrence not improbable in such cases as water disputes on the Neilgherries, where Europeans are concerned. Provision should also I consider be made to enable the Collector to decide the cases himself, or to refer them to a Panchayet, without the intervention of Village or District Moonsiff.

The provisions of this Regulation are not called into frequent requisition in this District. Cases have occasionally been decided under it.

Sub Collector Do.—I fancy this Section has been held to authorise the application of the whole Regulation to every case of arrears of Land Revenue, such having unquestionably been the practice. "Making a Khas Collection on the part of Government" may have been taken to refer to such cases as shotriems under attachment, to which as to all other cases of arrears of land Revenue the provisions of Regulation XXVIII were supposed to apply previous to the late construction of the Sudr Udalt of the Revenue law.

Regulation XII. of 1816 has been frequently acted on in the Sub Division, in spirit if not in letter. It would take a long time to furnish a return of cases for the last 20 years, especially as the records of the Office are kept at Ongole. I confess that I do not myself think the Regulation of any great utility. It authorises the Collector to refer suits for land between Ryots to a Village Panchayet if both parties agree, to a District Panchayet on the agreement of one party, and if neither agree to arbitration, to refer them to the Civil Courts. A special enactment seems hardly wanted to confer such power as this. If both parties agree to such arbitration, they will elect a Village Panchayet themselves, without coming to the Collector, and they never do come to him except with the hope that he will himself enquire into the case, and settle it personally one way or other. The only point in which a village Panchayet is useful, is in the division of lands according to some proportion laid down.

This they can do better than the Talook authorities, but I think that the English Revenue Officer should be a Court of first instance in all suits that refer to Puttah lands, his decision being of course, pending only the final decree of the Civil Courts. This is not the power possessed by a Magistrate of confirming the party in possession, the Collector's decision in such cases, though a summary one, should be founded not on mere possession, but on the justice of the case. Such is at present the universal practice but I am not sure that it is authorised by any enactment now in existence.

Regulation V. of 1822 has also been acted on to some extent, and most of the remarks made to the preceding question, will apply also to this.

Cuddapah.—The Regulation referred to in query 3 relates to Zemindars when the assessment has not been permanently settled upon the land; there is no such Zemindary in this district. The Sumstanum of Poonganoor is the only Poliput in this district which pays a fixed pesheush and the whole of the lands have been measured and assessed at the time of the Pymayesh, so that the Ryot on inspection of the accounts or application to the Curum of his village, can at once learn the exact amount of assessment fixed upon his land, but as the Zemindar has to pay a fixed pesheush, he may, if he pleases, receive grain instead of money, but he is compelled annually to distribute puttahs to the different cultivators at the time of settlement in the same manner the Collector does to the Government ryots. The Zemindar of Vencatagery in the Nellore District pays a fixed pesheush to Government for certain villages within the boundaries of the Cuddapah Province, but how the collections are made and what arrangements are entered into between him and his ryots have never come under the investigation of the Collector.

The provisions of Regulation XII. of 1816 are not in this district brought into frequent operation. In cases where complaints are preferred before the Collector involving disputed boundaries &c., a public servant is deputed in company with mediators to measure the lands of the village and settle the dispute in question, which is generally done to the satisfaction of all parties, and with regard to disputed lands and crops the complaint is usually forwarded to the Tahsildar, desiring him to make the necessary arrangements and settle the disputes between the contending parties; this is generally done by his appointing mediators belonging to that or the neighbouring village, who enter into the merits of the case and settle it amicably between the parties, who enter into an agreement with each other, which is forwarded to the Collector and

kept in deposit in his office. After this agreement has been signed, it is seldom that there is any more dispute with regard to the land in question. The return of cases thus settled within the last twenty years cannot be prepared without delay and considerable difficulty, and the present establishment is busily engaged in the preparation of Jamabundy accounts.

This Regulation is not in much use, the disputes being settled as stated in reply to query 4.

Bellary.—The Section XXXVIII. Regulation XXVIII. of 1802 has never been applied in this District.

The claims and disputes for the trial and settlement by Panchayet of which Regulation XII. of 1816 was passed have generally been disposed of by the Collector and Revenue authorities without special reference to the Regulation in question. There is no return of cases disposed of under the said Regulation.

Regulation V. of 1822 is not acted on in this District generally, as there are no land owners and farmers of land of the class alluded to in Regulation XXVIII. of 1802.

North Arcot.—By the term Khas Collections is meant the amount collected from lands which have reverted to Government but which were formerly held on grants or were of the nature of Lakiraj lands paying no rent, attached to the permanently settled estates.

No regulation XII. of 1815 exists, I presume therefore that Regulation XII. of 1816 must be meant. This regulation has always been acted on in cases to which it applies. It is not possible to furnish a return for the last 20 years.

Regulation V. of 1822 has usually been acted on to its full extent.

Madras.—If the construction placed upon the sale regulations by the legal adviser of the Government be correct, that the land must be first attached and sold for arrears, every Revenue Officer will, I think, see the necessity of modifying the law, and of giving the Revenue Authorities power to attach real or personal property at pleasure on the occasion of an arrear.

Upon the efficacy of Regulation V. of 1822 I hold an opinion, opposed, as far as I can learn, to the sentiments of many other Revenue Officers.

This regulation is apparently almost a dead letter in many Districts, but with what reason I cannot comprehend.

Chingleput.—This section has been construed in this District to apply to the collection of arrears in the undermentioned estates.

1st. In Zemindaries under the Collector's attachment.

2nd. In Amauny villages, that is villages under the Collector's management where the Revenue is not fixed as in Ryotwary villages, but paid in kind and varies with the produce of each year.

3d. In estates of minors or other disqualified proprietors under the superintendence of the Court of Wards.

This regulation has almost been a dead letter in this District, partly from the want of confidence of the ryots in the decision of the village Panchayets, and partly from the little interest evinced by the unpaid village Moonsiffs in undertaking the duties. In order to realize the benefits contemplated by this regulation, it appears desirable to authorize the Collectors to dispose of the cases themselves, rather than submit them to the village Panchayet as now required.

The provisions of this regulation are made use of for the adjustment of all disputes between Zemindars, Shotriumdars and Merassidars and their tenants, regarding the issue of Puttahs, the realization of rents and other fees due by the latter to the former, the distraint of property for the same, and the issue of Cowles for waste lands, and generally all disputes referred to in Regulation XXVIII. and XXX. of 1802. This Regulation (V. of 1822) is found to operate well towards securing to the ryots their just rights and privileges.

South Arcot.—The wording of that part of Section XXXVIII. Regulation XXVIII. of 1802 to which you specially refer is rather obscure, but it is, I imagine, generally believed that the object of the provision was to give the same powers of distraint to Managers and Public Officers in charge of certain estates as were conferred upon the actual Proprietors themselves by the preceding sections of the Regulation. The term "Khas Collection" seems to me to mean a direct realization of the rents and revenue of the estate whether on account of the disqualified pro-

prietor or of Government without any previous settlement having taken place between the Collector and the owner of the estate.

It is of importance that the power to recover arrears of Revenue in such cases should be explicitly defined, as it must occasionally happen that Collectors are called upon to act in the way contemplated in the section alluded to, where estates are either under attachment or the Proprietors become disqualified from attending to the business themselves.

Regulation XII. of 1816 has been but little acted upon in this District, still it would be difficult to give a return of the number of cases disposed of under its provisions during the last 20 years.

I think it is an excellent principle that disputes like those contemplated in the preamble of this regulation should be referred for disposal to Panchayets, but unfortunately, partly through the apathy and dilatoriness of the Natives, and partly from the difficulty of following the procedure laid down for such trials, I have never known the system fairly carried out. It would, I think, be much better if a Collector was empowered to try cases of the kind by means of Panchayets assembled either in his own presence or wherever he might consider it most desirable, and that without its being necessary for him to obtain the consent of the litigant parties.

By Clause II. Section XV. Regulation V. of 1822, Collectors are authorized to exercise the same powers that Moonsiffs can under Regulations V. and VII. of 1816; but I scarcely ever remember a case in which a Collector has done so, and the procedure must, I think, be rendered more clear and simple than it is now laid down, before he can be expected to exercise frequently such powers.

Regulation V. of 1822 has never been in force in this district; but I have recently thought it advisable to make an endeavour to bring it into operation in regard to disputes about crops and lands, in which I hope to succeed.

Owing to the reduction of assessment, land has much increased in value in this district, and disputes regarding the right of occupancy and enjoyment are becoming consequently exceedingly numerous, so that the application of the provisions of Regulation V. of 1822 is likely to prove of much utility.

Salem.—In the Salem district the term "Khas collection" is applicable when rents are collected on settlements made direct with the Ryots. There are but two modes of settlement, the one direct with the Ryot without the intervention of a middle man, the other a settlement either temporary or permanent with a middle man who may be either "a proprietor" or "a farmer." If the Collector be required to act as the manager of a middle man's estate, he exercises the same powers under Section XXXVIII. as either a proprietor or a farmer, or the Collector who makes a direct settlement with the Ryot.

Reg. XII. of 1816. I believe this Regulation has been acted upon in the Salem district from the time it was passed. It would take a long time to prepare a return of cases for the last 20 years.

Nearly 1-4th of the revenue of the Salem district is collected under permanent settlement, and it has been the constant practice to enforce the provisions of Regulation V. of 1822.

Coimbatore.—The construction particularly given to this section can only be clearly explained in a settled district. In Coimbatore where a field assessment obtains, every land owner, be the extent of the farm what it may whether large or small, is a direct land holder under Government, his position is just the same as the Zemindar in a settled district—he pays the revenue direct to Government and without the intervention of a middle man, and when he fails he becomes a defaulter and is amenable to Regulation XXVII. of 1802. I can only suppose that by the words making a "Khas collection" are meant the recoveries to be made from a cultivator of land with whom no permanent settlement has been entered into previously—the cultivator standing in the position of an under-tenant temporarily occupying the land and liable to be removed at pleasure, or in other words as a warfum Ryot—and the position of Government being that of a Landlord.

I conclude that the enactment intended is Regulation XII. of 1816, not 1815. It is acted upon to a very limited extent, although its operation and larger scale would be of public benefit. It has not been usual to keep a return of suits disposed of under this Regulation, and the preparation of one at present would involve considerable labor and delay.

The number of cases disposed of under this Regulation, Section XI, has been comparatively greater than those settled under Regulation XII. of 1816, the average number would not however exceed ten or twelve in the year, but from circumstances above explained, I am unable at present to furnish a return for any number of years.

Tanjore.—The words, “making a Khas collection on the part of Government, where no settlement may have been made with any proprietor or farmer,” quoted from Section XXXVIII. Regulation XXVIII. of 1802, are understood in Tanjore to apply to what are here termed Amaunee lands—those namely the crop on which is annually divided between the Circar and the land owner, the Government share of the produce being made over to the Meerassdars at the current price, if he pleases to take it, otherwise being sold to the best advantage to others. No settlement therefore has in these cases been made with the proprietor whose payment depends, first upon his accepting the Government share of the produce, second upon its quantity, and third upon what may be the current price of grain, and the collection of the value of the grain is made khas, on the part of the Government.

I find no such Regulation as XII. of 1815 on the statute book, nor can I learn that any such law was ever passed. On the supposition that the figures are errors of the press for Regulation XII. of 1816, I take leave to say that it is in entire disuse in Tanjore. There is on record but one case of a matter decided by a punchayet, and that ended unfortunately and was the cause of almost endless litigation. With a comparatively simple people, like those in the Ceded Districts, a reference to a punchayet is the means of settling very many claims; and when I was Collector of Cuddapah, I found that at the Jummabundy, disputants would retire perfectly satisfied with an opinion given at the time by two or three substantial ryots, but here the people are very different, a great proportion are Brahmins, all are intelligent, most of them are clever, sharp, and litigious, thoroughly acquainted with all revenue matters, keenly alive to their own interests, and by no means scrupulous as to the means they may adopt to attain them—they utterly distrust one another, and it would be as impossible to obtain the consent of rival claimants to abide by the decision of a punchayet, as it would be to prevail on any one to sit as arbitrator.

Regulation V. of 1822 is very frequently resorted to in Tanjore—particularly the provisions of Section XI.

Trichinopoly.—I am not aware that the question here propounded has ever been mooted in this District. During my service I have never heard it questioned.

The Court of Sudr Udalt in their Proceedings of the 12th March 1829 embodied in Circular Order of the 20th July of the same year, have explained what is meant by a Collector “making a Khas Collection on the part of Government;” and that exposition I presume is to be received as the correct meaning of the phrase.

The word Khas signifies “ownership.” Having charge then of an “own” Collection on the part of Government; every Collector in a Ryotwar Province makes a Khas Collection direct from the Ryot without the intervention of a proprietor or farmer with whom a “settlement” may have been made. I am of opinion that arrears of revenue in all Ryotwar Zillahs are recoverable under provisions of both the Regulations 27 and 28 of 1802.

The operation of this Regulation has been very limited indeed, so limited that I question any Collector having availed himself of the powers granted for referring claims regarding lands or crops to a Punchayet.

I am not in a position to furnish a return for the last twenty years.

The provisions of this law have but seldom been put in force. I have acted on it on two or three occasions in disputes between the Mootahdar of Cattooputtoo and his ryots, as well as between the Zemindar of Torriore and his villagers, where the ejectment of the under-tenant had been required. In disputes such as are enumerated in Section XI. this Law has not been formally put in force by the parties being called up before the Collector though the spirit of the Regulation has guided the procedure and decision.

Madura.—I cannot find any paper in my office in which the question is discussed; but practically, as arrears have been recovered by the sale of personal property, it has been held that a regular Ryotwar settlement is the Khas Collection intended by Section XXXVIII. Regulation XXVIII. of 1802; and notwithstanding the construction of the Sudr Udalt given in a Note to

Campbell's Edition of the Regulations, I cannot myself doubt that this view is correct. Whether justly or otherwise, the Bengal Government from whom the original Regulation emanated, considered at the time of its enactment that Government was the owner of the land and able to transfer the proprietary right to a Zemindar.

Returns of cases decided under Regulation IX. of 1816 and V. of 1822, for 20 years, would take a long time in preparation, as no periodical statements were kept till very recently; but it will be perhaps sufficient to state that these Regulations have been little acted on in this District.

Tinnevely.—It is not remembered that the construction of Section XXXVIII. Regulation XXVIII. of 1802 was ever debated. Had the question arisen, it would have been governed by the decision contained in para. 7 of Proceedings Sudr Udalt appended to Circular from Board of Revenue dated 27th July 1829, Page 92, C. O. Board of Revenue.

Regulation XII. of 1816 has been sparingly acted upon in this district. It would take too long to collect information as to the exact number of instances. Only a few have occurred during the 6 years I have been Collector. One such case was referred to the District Moonsiff 5 years ago or more, and is not decided yet.

Abstract of causes filed and disposed of from the 1st January 1853 to 30th June 1855 before the Collector and his subordinates in the Zillah of Tinnevely, and the number remaining on the file on the latter date.

Original Suits.

Remaining on the 1st January 1853.	Instituted.	Total remaining and filed.	Disposed of on merits.	Dismissed for default.	Settled by Razamah.	Total disposed of.	Remaining on the 1st July 1855.
38	354	392					
Deduct number referred to Punchayet, - - - }		6					
Do. struck off the file. - - }		7					
		13					
		379	141	95	79	315	64

All complaints preferred under Regulation V. of 1822 are entertained. It would cause delay to discover the number of such received and decided prior to 1853, when returns began to be sent in to the Civil Court. The numbers since that time are shown in the margin

Malabar.—The Court of Sudr Udalt having under date the 12th March 1829 decided that “the arrears recoverable under Regulation XXVIII. are first arrears of rent, or the private revenue of Proprietors or Farmers, payable immediately to them, or for their behoof to the Collector or other public Officer, or to a Manager; or secondly, arrears of public Revenue, payable to the Collector or other public officer, but not under a settlement with a proprietor or farmer;” the enactment in question appears to have been viewed in this light ever since. Adverting to the nature of the settlement of this district, it does not appear that any collection was ever made under the designation of “Khas Collection.”

If the Regulation here quoted be intended for XII. of 1816, I have to reply that it does not appear to have been acted on in this district.

This Regulation appears to have been very partially acted on in Malabar.

Canara.—It does not appear that this Section has been considered in the working of the Revenue system of this district. The words making a Khas Collection on the part of Government where no settlement may have been made with a proprietor or Farmer, would apply to such items as appear in our Sevoy Jummah Collections made according to discretion from parties who have taken up land and cultivate it prior to a survey, or any information being obtained as to its capabilities. In such cases, arrears would be levied here as on lands, the beriz of which had been already settled.

Except in cases where water is the subject of dispute, this Regulation is not made much use of perhaps in this district. The process being invariably slow, disputes regarding water which are not apparently provided for in Regulation V. of 1822 would be better settled as others regarding land &c. under that Regulation—no return, such as that asked for, can be furnished.

This Regulation has been in full force in this district.

Query 6.—When acted on under Sections II. and XI. has it been usual to proceed according to the forms of the Courts with plaint and pleadings, or according to the less formal way in which miscellaneous Petitions are investigated and disposed of by Collectors?

Ganjam.—The practice which obtains in this Collectorate has been always to dispose of the cases contemplated in these Sections in the same manner as Miscellaneous petitions. There have been no regular pleadings, although care is taken to have the evidence in support of the right of the complainant recorded, and to give the defendant an opportunity of putting in a defence, and bringing evidence in support of it. No costs have been adjudged by the Collector in this district to any of the litigant parties.

Vizagapatam.—Regulation V. of 1822 is in constant use. The complaint, answer, copies of accounts filed or extracted, and the summary judgment passed are filed in a record. No pleadings are admitted, nor is the case tried in the formal manner that it would undergo in a Civil Court. The Regulation I consider eminently valuable, Clauses eleven and twelve seem to me unobjectionable.

Rajahmundry.—It has not been usual in investigations under the enactment referred to, to proceed according to the forms of the Court with plaint and pleadings, but the statement of the two contending parties is taken down at the dictation of the parties themselves in the ordinary manner.

Masulipatam.—The pleadings are conducted (though not strictly) according to the forms of Courts. Some cases however have been disposed of in a less formal way on miscellaneous petitions.

Nellore.—The investigations referred to under Section XI. have not, I believe, been conducted according to the forms of the Courts with plaint and pleadings, but in the less formal way in which miscellaneous Petitions are disposed of. Section II. is hardly intelligible under the construction of the Sudder Court dated 20th December 1824. Vide note to Campbell's code, and I doubt if it has ever been acted on here.

Acting Sub-Collector Do.—The usual course in acting on Sections II. and XI. of the above Regulation has been to conduct the examination according to the ordinary method of enquiring into Miscellaneous Petitions. I have myself in settling two cases, under these Sections, caused the parties to draw up a Plaint and answer, and then in the usual course examined the witnesses called by them to prove the various points at issue. I did this as a matter of personal convenience, and am of opinion that the adoption of such a course would always be found to simplify the investigation by enabling the Collector, acting in his judicial capacity, to avoid all enquiry into the irrelevant matters with which the Plaintiff's original Petition is certain to be filled. In the cases to which I allude, the Pleadings were drawn up by the writer in my office who is acquainted with the practice of the Civil Courts, on the oral instructions of the litigants; but if such a mode of procedure were enforced, which in my opinion would be very advisable, there would be no hardship in requiring the parties to have their plaint and answer drawn up by a Vakeel from some neighbouring Moonsiff's Court. I think myself that all proceedings of Revenue Officers in their Judicial capacity should be conducted regularly, though the time allowed for each step should be as brief as possible, to ensure the advantages of a speedy decision. No greater delay need exist under such a method, than by the present summary process.

Cuddapah.—When this Regulation is made use of, no forms such as those used in the Courts with plaint and pleadings are observed. The mediators appointed, hear the statements of both parties, enter into with the necessary enquiries and give their decision in writing, the evidence being entirely viva voce and not taken down in writing; any accounts which may require to be produced are laid before them and meet with due consideration.

Bellary.—Section II. is not therefore applied in this District. Section XI. is sometimes acted on; but quite in the less formal way contemplated in the question.

North Arcot.—Cases herein alluded to are disposed of under Sections XX. and XXI. of Regulation V. of 1822.

Madras.—The Sudder Udalut in declaring that its provisions could be applied by the Covenanted Officer alone, have materially circumscribed its utility; but the strictures contained in their letter to Government of the 24th December 1824 (published in Campbell's Code) have

made it still more inoperative, by creating a belief in the minds of many, of the insufficiency if not illegality of the enactment.

The framers of Regulation V. (Messrs. Munro and Stratton) were evidently practiced men, and well informed on the wants which it was their desire to supply.

Their interference as legislators with the functions of the Sudder Udalut would find them no favour with that Court, and it is evident from the tone of the remarks of the Court and Commission as brought to light in the letters of the latter published in Vol. II. of the Selections that the Court were somewhat jealous of the powers entrusted to the Commission. Hence originated, as I conceive, the letter of the 24th December, describing the technical defects of the Regulation, but not, in my opinion, lessening its effects as a practical remedy, in the several disputes arising out of the relations between Landlord and Tenant.

I am at a loss to conceive any differences of this nature which cannot be decided by the Collector under this Regulation.

Chingleput.—In the Proceedings held by Collectors in these cases, the forms of the Civil Courts are adhered to under constructive orders from the Sudr Udalut, which is much to be regretted, no forms being possibly worse, and the miscellaneous summary method would be infinitely preferable, speedier and less troublesome.

South Arcot.—

Salem.—Up to a recent period it was usual for the Collector to employ the Tahsildars to investigate appeals preferred under Clause 4, Section IV. and to pass his decision on their reports. The present practice is to employ the Tahsildars on most occasions to make a preliminary enquiry; but before the European Officer passes his decision, he calls for the parties and witnesses, and requires them to confirm their previous statements in his presence. In cases disposed of under Sections II. and XI., the forms of the Courts in respect to plaints and pleadings have never been observed. Whether the investigation be conducted by the European Officers or by the Tahsildars, there is no difference as to the mode of investigation between such cases and miscellaneous petitions.

** To the Civil Judge dated 8th Aug. 1853. Extract from the Proceedings of the Court of Sudr Udalut, dated 15th Sept. 1853.* I submit a copy of the correspondence noted in the margin,* relative to the orders passed by the Court of Sudr Udalut in 1853, requiring a quarterly return of suits disposed of under Regulation V. of 1822. In consequence of the remarks made by the Court in para 4 of their Proceedings dated the 15th September 1853, the present practice was adopted of requiring parties and witnesses to confirm their depositions. I am of opinion that the plan suggested by the Court of Sudr Udalut in para. 5 for obviating the inconvenience which parties and witnesses suffer from having to repair to the European Officer for the settlement of their claims, is a very imperfect one. The delay must still be very inconvenient in many cases, both to the proprietor whose dues are in arrears, and to the Ryot whose property must continue under attachment till the claim can be disposed of.

Coimbatore.—It does not appear that the power vested in the Collector under Section II. has ever been exercised, at least I do not find instances of this nature upon record. In cases in which the provisions of Section XI. have been carried out, a summary mode of procedure was adopted, it being always impracticable, under the heavy press of business usual in a Ryotwar Collector's office in a large district, to go through all the formalities of plaint, answer, reply, rejoinder, &c. &c., nor do I think that the intricacies of this formality are required, all that the Collector has to do being to uphold actual occupancy, referring the party supposed to be possessed of proprietary right, to the Courts.

Tanjore.—It is by no means usual to proceed in the forms of the Courts, with plaint and pleading, and the less formal way in which miscellaneous petitions are investigated and disposed of by the Collectors is very generally followed.

Trichinopoly.—When such cases have been enquired into and decided here, the procedure has always been in the least formal way either by a preliminary investigation before the Cutcherry Sheristadar or the Tahsildars of the Talook. The less the simple agricultural classes are habituated to forms and law, the happier they will be.

Madura.—The cases to which they would be applicable having been customarily brought

with some allegation of violence before the Police and Magistracy, who have decided the point of present possession, which has generally satisfied the parties. Sometimes, where crops have been removed, an after suit under Regulation V. of 1822 has been brought for recovery of the value; but such suits have been unfrequent. There have been a few cases also of appeal against distraint. The paucity of these latter in a district, of which a large portion is Zemindary, is owing to the prevalence of the system of a division of crops.

Plaints and pleadings constituted the mode of proceeding usually adopted. It has been ruled by the Sudr Udalut that there must be a personal examination by the Collector or a Covenanted Subordinate. I do not, however, consider that the Regulation requires pleadings; and have recently adopted the course of summoning the defendant on receipt of a clear plaint, and on his denial, the witnesses also, and proceeding at once to examine them and dispose of the case. The Sudr Udalut declined very recently to answer my question whether, with reference to Para XI. of Regulation V. of 1822, recorded depositions could be dispensed with, according to the letter of the law. It appears to me that they can, but are expedient for the ends of justice.

Tinnevely.—Till lately, suits under this Regulation were always or nearly always referred to the Tahsildars for enquiry and report. More recently under orders of the Sudr Udalut they are heard by the Collector and his Assistants in a miscellaneous way, and not according to the forms of the Courts with plaint and pleadings.

Malabar.—Cases coming within the description of those contemplated in Section XI. only appear to have been inquired into and disposed of in a summary way. The late Collector's views of Regulation V. will be found detailed in his letter to the Board of Revenue dated 9th June 1855, and the previous correspondence therein adverted to.

Canara.—But the decisions of the Collector and their Assistants have usually been passed on proceedings held in the Talooks, and but few cases were decided on personal enquiry until the late orders of the Sudr appeared, these cases have usually been disposed of much as other miscellaneous work, the decisions are passed in the shape of an order to the Tahsildar, as Executive Officer, the Regulation under which it was passed being quoted therein.

Query 7.—Is it your opinion that the cases contemplated in Sections XII. to XIV. are not sufficiently provided for by Section LI., Regulation XI. of 1816, and the General Criminal Law?

Ganjam.—As far as the affairs of this district are concerned, I should say that the cases contemplated in Sections XII. to XIV. of Regulation V. of 1822 seems to be sufficiently provided, by Section XLI. of 1816 and the General Criminal Law. I observed a draft of an Act under consideration, which will, I feel assured, greatly strengthen the hands of the authorities if passed; and if not, a clause making Zemindars and Proprietors, and parties making advances on crops, answerable and amenable to punishment for offences committed by their servants, would have a most beneficial effect.

Vizagapatam.—As regards the consolidation of the general Revenue Regulations, the work I think is greatly needed. I do not consider that stricter rules are required to ensure the more punctual realization of the Government Revenue from the ryots. The Jumma-bundy Hookumnamahs should be burned, and Kistbundy Hookumnamahs abolished. The rent of the land should be realized from the produce, the license accorded to labourers to carry away their crops without settlement should be withheld. Wherever a Collector is constantly sequestering property, there must be bad management. Whenever summary process is being frequently had recourse to in a Zemindary, the affairs of that estate are being mismanaged. I should dismiss an Amuldar who could not collect his settlement without distraint, and I should recommend the removal of a Collector who was always selling and distraining.

Rajahmundry.—I am of opinion that the cases contemplated in Sections XII., XIII. and XIV., Regulation V. of 1822 are sufficiently provided for in the enactment referred to in this query and by the general criminal law. The taking violent possession of crops is, I apprehend, as much an offence as the taking violent possession of any other description of property, and would be punishable as such, whether the sections referred to are continued as a part of the law, or the reverse. The only point of doubt is whether those, not being themselves present under whose orders, knowledge or connivance the parties actually present may have acted, would come within the law.

Masulipatam.—In my opinion they are sufficiently provided for.

Guntoor.—

Nellore.—Cases of this description are generally punishable under the Regulations, and so far are sufficiently provided for by Section LI., Regulation XI. of 1816, and the General Criminal Law; but there is one point which I am not quite sure is so, viz. the power of awarding the fines to the injured party given by Clause II., Section XII., Regulation V. of 1822.

Acting Sub-Collector do.—In my opinion the cases contemplated in Sections XII. and XIV. are perfectly provided for by the General Criminal Law, and no special enactment on account of them appears necessary. Before closing my observations on this Regulation, which makes the European Revenue Officers the authorities for settling disputes between landlords and tenants, having noticed somewhere a proposition to extend its provisions to Tahsildars, I cannot but state my own conviction that they are not yet, I fear, competent for such a trust without restriction.

In a case between a powerful Zemindar and one of his ryots, I fear that very few natives would be found with the courage required to annul improper measures taken by the farmer, or his servants for the collection of his revenue. Their whole sympathies also are with the collectors of kists; they know the difficulty of extracting even what is just, from obstinate defaulters, and they cannot be expected to hold the scales of justice evenly in such cases. These must always be referred to a European tribunal.

On the other hand, there is no reason why Tahsildars should not be entrusted with the first settlement of cases between the owners of Enams and their cowle tenants; their decision in such cases being always open to appeal.

Cuddapah.—In my opinion the Provisions of Section LI., Regulation XI. of 1816 sufficiently provide for Sections XI. to XIV., Regulation V. of 1822. There are very few cases of attempts at forcible dispossession of crops and lands, probably owing to the care which is taken at the time of the annual settlement of enquiring who the heirs of the deceased persons are, and having the puttahs made out in their names. After which, should any disputes arise with reference to the right of distant relatives, the person in whose name the puttah is granted is kept in possession of the land, and the other claimants are referred for redress to the Civil tribunals. Should they demur against this decision and attempt to take forcible possession of crops or land, or prevent the puttadar from cultivating it, the Magistrate interposes with his authority, and the case is dealt with according to its merits.

Bellary.—It seems to me that Section LI. Regulation XI. of 1816, and the General Criminal Law do sufficiently provide for the cases contemplated in Sections XII. to XIV. of Regulation V. of 1822.

North Arcot.—The cases contemplated in Sections XII. to XIV. being sufficiently provided in these sections, no further provision seems necessary in Section LI. Regulation XI. of 1816.

Madras.—The cases contemplated in Sections XII. to XIV. may be, and I think are, sufficiently provided for by Section LI. Regulation XI. of 1816 and the General Criminal Law.

Having a strong conviction of its value, I should be glad to see a more frequent reference to Punchayet, and therefore would advocate the removal of the restriction that both parties (or one under Clause 7, Section V. Regulation XII. of 1816 in certain cases) "should agree to that mode of settlement," the Collector being authorized to refer the dispute to such tribunal whenever he thought fit.

To allow of the Regulation being largely and beneficially exercised, the Talook Officers should be empowered to make the preliminary enquiry, reporting the same, together with their opinion, for the decision of the Covenanted Officer.

Chingleput.—Section LI. Regulation XI. of 1816 and the General Criminal Law sufficiently provide in my opinion for all the cases contemplated in Sections XII. to XIV. of Regulation V. of 1822. The Magistrate or Tahsildar being authorized to restore the property in dispute to the party in whose possession it had been prior to its forcible occupation, and to keep him in possession by taking security for the preservation of the Peace if necessary. It is true it does not possess the power of awarding damages, but these I think are better left with the Collector as they depend upon a Revenue enquiry, and it would tend to mix the two separate jurisdictions and create confusion of authority and mode of redress if they were also vested in

him. I think the preservation of the Peace should alone be entrusted to him, the consequences of its breach being left to the Collector and the Courts.

South Arcot.—I am of opinion that the cases contemplated in Sections XII. to XIV. of Regulation V. of 1822 are sufficiently provided for by the general Regulations for punishing assaults and affrays without requiring a distinct enactment.

Section LI. Regulation XI. of 1816 does not however provide any penalty for the forcible occupation of Land, but merely authorizes Magistrates to prevent the violent seizure of it, and to determine, in the case of waste Lands in the occupation of neither party, who shall plough them till the dispute is settled.

Salem.—I am of opinion that the cases here contemplated are sufficiently provided for by the General Criminal Law.

Coimbatore.—It occurs to me that under Section LI. Regulation XI. of 1816, the Magistrates and under his orders, the Tahsildars and Heads of villages have authority to prevent offences of the nature adverted to in Sections XII. to XIV. Regulation V. 1822, and it therefore follows, as a matter of course, that they are authorized to dispose of cases arising out of the forcible occupation of lands either by punishing the offending parties themselves, transmitting them to the Magistracy, or committing them for trial before the Criminal Court, with reference to the nature of the offences perpetrated, for which the general Criminal Law amply provides; but if it is intended to place more power in the hands of the Police and Magistracy, it will no doubt be an additional advantage.

Tanjore.—I am of opinion that the cases contemplated in Sections XII. to XIV. are sufficiently provided for by Section LI., Regulation XI. of 1816 and the general criminal law.

Trichinopoly.—The cases recognized in these Sections are unquestionably fully provided against by the General Criminal Law of the land. By these Sections the Magistrate is empowered to proceed against offenders according to the degree of offence or act committed. If of less degree, he can pass sentence under Regulation IX. of 1816. If more serious, under Act No. 7 of 1843, and Regulation X. of 1816. And if violent and attended with murder or wounding, he may commit to the Criminal Judge.

Section LI., Regulation XI. of 1816 gives authority to the Magistrate to prevent the forcible occupation of land or crops, and likewise adjudication in respect of the occupation of waste or uncultivated lands. But no proviso is here made for punishing riotous assemblages.

I am of opinion Section LI. of Regulation XI. of 1816 provides no remedy against the offences contemplated in Sections XII. to XIV. of Regulation V. of 1822, while the Criminal Law has ample provision.

Madura.—I consider Sections XII. to XIV. altogether superfluous.

Tinnevely.—In my opinion it is of advantage that there should be an express law to provide for the cases contemplated in Sections XII. to XIV., Regulation V. of 1822.

Malabar.—When offences of the serious nature contemplated in Sections XII. to XIV. have occurred, I am not aware of any difficulty having been found in adequately punishing the offenders under the present Criminal law.

Canara.—Cases of extreme violence, such as those contemplated in the Sections quoted, are very rare in this district. Indeed during the seven years I have known Canara, I cannot call to mind a single instance in which any serious affray has occurred. Those that I am cognizant of, have taken place on the Dharwar frontier, and then no violent assaults were committed.

Query 8.—Mention any parts of the Enactments above cited which you have found inconvenient, or which you think obsolete, contradictory or superfluous.

Ganjam.—

Vizagapatam.—

Rajahmundry.—There cannot, I apprehend, be a doubt that the existing Regulations for the recovery of arrears of Revenue require revision, and that a single comprehensive sale law should be passed in lieu of the various enactments which are at present in force, and in which the course to be followed by the Collector of Revenue both in enforcing the payments of the Government dues, whether from Proprietors or Ryots holding their lands under an annual Puttah, and in de-

termining questions between Zemindars and Proprietors and their tenants. Renters of any branch of Revenue and their Sub-Renters should be distinctly laid down.

Masulipatam.—Regulation XXVII. of 1802, Section IV. seems superfluous, and contradictory of Section II. The Proprietor knows the time on which his kists fall due and their amount, and where they are payable. It is therefore his bounden duty to see that the money is in its proper place by the day fixed. In this case where non-payment to date constitutes arrear and the proprietor knows this, why should further grace be granted to tell him what he knows quite well, i. e. that an arrear is due, and that he must pay it. The demand is actually made in anticipation by fixing the several dates of payments and their amount.

Regulation XXXVIII. of 1802.—Proprietors and farmers should have the power under proper restrictions of distraining the real as well as personal property of their under-farmers. They should for instance have power to sell their interest in the lease of a village or in a Puttah just as in other personal property. I can see no objection to this under proper restrictions.

GENERAL SUGGESTIONS.

I. Some limit of time should be fixed for receiving summary suits under Regulation V. of 1822, i. e., it should be enacted that after the expiry of one month for instance, from the cause of action having arisen, summary suits under Section XI. shall not be received, unless the suitor can show good cause to the Collector's satisfaction for not bringing the suit within that time, and that he shall have one month's grace during which time he may petition the Collector to allow him to show cause. The Collector on rejecting his petition may be directed to reconsider his judgment; but his second judgment as to admission of such petition to be final without appeal in regard to the filing of a summary suit, he being at liberty to bring a regular one in the Civil Courts, if he please. The same rule should be laid down in summary suits for arrears of revenue, brought by Proprietors, Arrack renters, &c. They should be preferred within one month from the close of the current Fusly or date of the close of the lease.

In the Abkarry renter's cove there is a proviso that they shall not sell, or permit to be sold, liquor below a certain retail rate fixed by Government, under pain of the penalties specified in the Regulations. There are no penalties either general or special provided in the Regulations for such an offence.

Under Section XV. Regulation I. of 1820, fine commutable to imprisonment is the penalty for the crimes therein named. By ruling of the Foujdaree Udalt such imprisonment must be without labour or irons, because these are not specially named—and because all Criminal Regulations must be construed strictly. I think for the class of people, who generally smuggle liquor, the addition of labour and irons should be optional with the Judge, and the Section altered accordingly.

I think considering how profitable smuggling salt is, and how easy it is to defraud the revenue in this branch without discovery, that Magistrates should be allowed to exercise the extended powers granted them by Section LIV. Act VII. of 1813 in regard to cases contemplated by Act XVII. of 1840, i. e. that they should be allowed to fine or imprison, or both, to the extent provided by Section VII. Regulation X. of 1816. The penalties at present are too light.

Guntoor.—

Nellore.—I beg to refer again to the opinion expressed by the Sudder Court under date 20th December 1824, regarding Regulation V. of 1822, and to state that I consider Sections 8 and 9 of the Regulation especially objectionable, by preventing a Landholder from suing for arrears in the Civil Courts when, as is frequently the case, Puttahs have not been given; and by throwing a difficulty in the way of his ejecting under-tenants who will neither pay the arrears due by them, nor give up the lands they hold. I also think that if Regulation 27 of 1802, renders it imperative on a Collector to attach and sell the land in Ryotwar Districts before the personal property of the defaulter, it should be modified, so as to admit of the latter course being pursued where it may be deemed advisable.

Acting Sub Collector do.—I beg to propose the following brief suggestions, which have been chiefly brought to my notice by Chenchalrow, the writer in my Office, whose knowledge of the details of the Regulations far exceeds my own, and which may perhaps not be quite undeserving the notice of Mr. Stokes.

Section VIII. Regulation V. of 1822 would, if acted on, prove most inconvenient to every owner of land in the country. Most of the owners of enam lands, and even village servants with their service enams, rent them out to Tenants on cowle and generally for a term of years. The terms of a cowle should always be strictly enforced; but where it has expired, there can be no necessity to obtain the leave of the Revenue authorities to permit the landlord to accept a new Tenant who is willing to offer better terms. This provision is certainly not in force, and if it were so, would be a great hardship to all owners of land. Section X. Regulation XXX. of 1802 unfettered by Section VIII. Regulation V. of 1822, seems to offer quite sufficient security for the rights of the occupying tenant.

Sections XVII. and XVIII. of Regulation XXVIII. of 1802, certainly do not appear to me to afford sufficient protection to the rights of a distraining landlord against a dishonest tenant. After property has been attached for an arrear, it should no longer be considered the property of the defaulter to the extent that his abstracting it clandestinely is not to be considered a criminal offence. The forcible or clandestine removal of property under attachment whether by the owner or other parties should, I think, be treated as theft. It is no remedy for such cases to leave the aggrieved party the resource of a Civil Court, and a possible repetition of his losses. Under the present construction of the Law, this Regulation does not authorize distraint for Government arrears, but does not therefore less require notice.

I cannot either agree with the principle which dictated Section XXVI. of the same Regulation. The one object of distraint is the recovery of the arrears without at the same time an unjust sacrifice of the property of the defaulter. The distrainer and the defaulter are consequently the two parties most interested in effecting a good sale, and it seems an unwise policy for both to prevent the former bidding for distrained property at a public auction, in order to prevent a sacrifice. Section XXVII. declaring that the defaulter shall not be competent to purchase, is apparently intended as a punishment; but here also I doubt the policy of the restriction. If he is possessed of means to purchase, he is certainly not an object for consideration; but the costs and inconveniences of the process will always be punishment sufficient to such a class. Competition on the part of the distrainer would prevent the defaulter benefiting by a collusive sale.

Clause 3, Section VII. Regulation II. of 1806 must be certainly considered as obsolete. The power to remove Curnums has since been granted to the local authorities by Section VII. Regulation VI. of 1831; but the previous restriction of that authority to the Board of Revenue has never apparently been repealed.

Section XI., Regulation XXV. of 1802 is also, I believe, practically obsolete. There is no doubt that Zemindars at the present day do dismiss their Curnums; and the fact of any Zemindar bringing a suit before a Civil Court for the removal of an obnoxious village servant is quite unheard of.

I am unaware why the Legislature should be so tender towards the interests of these officers who are generally the greatest rogues in the village community.

I fear I have run to inconvenient length in the above cursory remarks on the whole subject of Revenue law, as proposed for criticism by Mr. Stokes. They are not offered with a presumptive confidence in their soundness, but simply for the consideration of one, whose whole time being devoted to the subject may be able to turn some of these suggestions to his own use; and believing that delay in forwarding them would defeat its own purpose, I must excuse their prolixity by the old explanation, that I have not had time sufficient to be brief.

Cuddapah.—The principal objection to the present enactments is not allowing the personal property to be attached in satisfaction of the Government revenue, which has hitherto been acted up to since the time of the settlement in 1801, and the practice has been found unobjectionable. Since the promulgation of the decision of the Sudr Udalut, and the Board's Circular letter under date 30th April 1855, No. 1049, permission has been requested to sell more land within the last few months than within the last three years. The lands throughout this district are in general very saleable, and, as far as I can ascertain, few lands which have been attached in satisfaction of decrees of Courts, have remained unsold after they have been put up to public auction. Should it be deemed inexpedient to allow the personal property to be made answerable for the Government revenue in order to save time, I think the Collector might be authorized at once to sell the land of defaulters, and quarterly or annual reports might be forwarded to the Board as may be

deemed by them most convenient; but this I consider hardly necessary, as this information is ordered to be included in the annual Jumma-bund Report.

Bellary.—I proceed to note a few general remarks on each of the enactments quoted in the paper.

XXV. } of 1802. These Regulations are applicable to Zemindaree districts, not to Bellary.
XXVI. }

XXVII. of 1802, II. These Regulations are practically a dead letter in the Bellary District. They may be proper Regulations for Zemindary or other large estates; but are not suited to a District where the Revenue is collected direct from about a hundred thousand ryots; half of whom pay individually less than ten Rupees each, and in the whole body of tenants there are not three who pay so much as 1,000 Rupees.

In a Ryotwary system such as prevails in this district a few very simple rules only should be established. For instance when a Kist becomes due the Potail of the village, or other authorized person, should have power to call the defaulter before him and detain him for a short limited period, say one day, at the village Choultry, in order to adjust the arrear; if not paid or a satisfactory arrangement made, he should (serve him with a *written note) immediately attach his property—send the defaulter to the Tahsildar under a peon and await the Tahsildar's orders for distraining and selling the property of the defaulter. The Tahsildar should have power to detain the defaulter under charge of a peon at the Cutcherry for a period not exceeding 3 clear days, exclusive of the day he is brought and the day he is permitted to depart, in which time if the arrear is not paid or good security given for payment, the Tahsildar should pass orders for distraint and sale of his property, either through the village authorities or other person duly authorized—and at the village, or cusbah or other most convenient station, and within 3 days after arrival of the Tahsildar's orders at the village, unless specially ordered otherwise.

The crop in all cases should be in the first instance regarded as the security for the whole revenue of the year—and no ryot should be at liberty to remove his crop until he has paid or given due security for the discharge of all his kists. This has always been the practice and must be retained. If the crop has been made away with, or given or sold to any other person, power should nevertheless be given to seize it or to recover the value of it from the party who has received it. It should always be held as the Government first security; where the crop has been made away with, or is not sufficient to meet the demand, any personal property should be seized and sold at once by order of Tahsildar. Lastly, the land held by the ryot may be sold; but not without the order of the Collector.

All charges for summonses, batta to peons, notices and batta to defaulters, (if incurred) should be charged against the defaulter, who should be liable to confinement in the Talook Cutcherry or other place (to be defined) until the whole demand is satisfied.

When it has been found necessary to attach personal property for an arrear of Rent, and there is good reason to believe that the future kists of the year will be fraudulently evaded and not be paid without similar process, it should be lawful for property to be attached and sold to an extent that will satisfy the whole Government demand remaining unpaid for that year. When a Ryot absconds, the Revenue Authorities village, or Talook, should have power to apprehend him and seize and attach his property wherever found for arrears.

The above observations refer to cases of actual arrears, and should extend also to cases of Dast Baky—embezzling—misappropriating or withholding the public revenue. When the arrear is disputed, the Tahsildar should first decide that point, leaving the ryot to appeal to the Collector—pending whose decision, the sale should not take place.

Reg. XXVIII. of 1802. In distraining for arrears, the Officer charged with the process
Act VII. of 1839. should be furnished with written instructions drawn up in a printed form for his guidance. He should be liable to punishment for misconduct or oppressive acts by order of the Collector, or in petty cases by the Tahsildar, but not for mere informality. The defaulter should not escape payment of arrears in consequence of any illegal act of the Government Officer entrusted with the Warrant of Distraint. All complaints of misconduct &c. that the defaulter may have to make should be made to the Tahsildar or Collector and be dealt with in the same summary manner as any other complaint.

* NOTE.—The serving the ryot with a notice by the Potail is perhaps unnecessary.

Collectors should have full power in dealing with arrears as in all other revenue matters, to summon before him parties and witnesses, to refer cases to village or other Panchayet for decision, or opinion only, and decide on the merits of the case without any formal proceedings; but should give his final orders in writing.

Parties should have the option of nominating referees when cases are referred to a Panchayet; but in case of their refusing to nominate, the Collector should nevertheless nominate if he thinks proper. He should also have power to punish by fine (or imprisonment if fine is not paid, and distraint and sale of property) disobedience to his orders. The Collectors of Ryotwary Districts should not be hampered by legal forms, and long regulations—which only retard business without giving any real security against apprehended oppression.

Reg. XXX. of 1802. All that is necessary for prescribing Puttahs to be used between the Government (as Landlord) and the farmers, in Ryotwary, is to state, (in any Regulation) that a puttah shall be given to every ryot holding a farm from Government, renewable yearly or at such other periods as may be agreed upon. The amount entered in the Puttah will define the ryot's liability, but in the case of annual Puttahs, it will be necessary to provide that until the Puttah is issued, the ryot's caboolaty determines the demand against him: for it generally happens that many kists are due and paid before the Jummabundy is made and Puttahs are issued.

Reg. IV. of 1822. This provision is unobjectionable in any Regulation that may be made respecting the Collection of arrears of rent.

Reg. V. of 1822. This Regulation has been noticed in the foregoing remarks as far as it respects a Ryotwary District.

Section XV. District and village Panchayets as established by the Regulations are not resorted to at all in this district. The custom has ever been for ryots to lay their grievances and complaints before the Collector, who investigates them in person, generally at the Jummabundy, when all parties are assembled and disposes of them at once; or else he refers them to the Tahsildar for enquiry and report or disposal, or he orders a Panchayet of persons (agreed to by the parties) to sit and settle any matter. There are no formal rules. The Panchayet hear witnesses and settle the matter and their decision is generally acquiesced in. Collectors invested with the full powers contemplated in Clause second of this Section for carrying into effect all necessary orders, summons, decisions &c. should have power to delegate the same to the Panchayet, and Section XVI. will provide a remedy to ryots who may wish to appeal.

Reg. I. of 1826. These Regulations, as far as they establish Rules for recovery of arrears of Revenue other than the Land Revenue, are open to the modifications suggested for the Rules for the collection of Land Revenue.

Reg. V. of 1832. The sale of Lands for arrears of Revenue has never been had recourse to in this district. But should it be necessary to have recourse to that measure for the recovery of many small arrears, it would hardly seem necessary that a reference be made to the Board of Revenue in each case. The Collector might be instructed by the Board generally on the subject and with reference to the peculiarities of each district; but a Regulation similar to this seems unnecessary.

Reg. X. of 1831. The Regulations of Court of Wards are not applied in this District.

Regulation VI. of 1832. This requires no alteration.

Regulation XII. of 1851. Refers exclusively to the town of Madras.

There is one point not noticed above, viz., the liability of co-sharers in a Puttah Land. The Puttah is issued in the name of a single person generally; but there are very often one or more sharers, they may be brothers or members of the family, or they may be strangers, and they each cultivate his own portion and in many instances pay their share of the Revenue to the village Potail. This is quite unobjectionable as long as no dispute arises. But should a dispute arise as is sometimes the case as to who is to pay the revenue, it seems necessary to settle that at once and summarily, and I would propose that all sharers in a Puttah or actual farmers of the land (without reference to what may be their respective rights) should be held jointly responsible for the arrear. That the village or Talook authorities should have power to settle at once by Panchayet

et or otherwise, who and to what extent each should make good the arrear. But that this should not in any way affect the rights of the Puttadar or his shareholder to the land which should be determined by the Revenue authorities. The Collector should have original and appellate jurisdiction in all claims of this kind, subject, as in any other matter, to appeal to the Revenue Board. But in the meantime the revenue must not be neglected, and when a dispute between a Puttadar and his sharers arises, the village Panchayet would readily settle who in equity should pay the arrear for the time being, and therefore it should be provided. That shareholders or actual farmers of the land, though not the Puttadars, will be held jointly responsible for arrears in the same manner as the actual holder of the Puttah, and the extent of their liability or dispute will be settled by the Revenue Officers.

North Arcot.—

Madras.—

Chingleput.—1802 Reg. XXV. Sec. XI.—By this Section, Zemindars are empowered to nominate persons to fill vacancies in the Office of Curnums; but when the Curnums are once formally installed, the Zemindars must resort to the tedious and expensive process of a Civil suit to obtain their dismissal for offences however flagrant. Thus on the one hand they are vested with too great a latitude of power which results in their appointment of perhaps incompetent persons, and on the other are left without any checks for ensuring the due discharge of the Curnum's duties; for the provision of resorting to a regular suit for obtaining their suspension or dismissal practically amounts to their absolute exemption from punishment. I am therefore of opinion that the power of nominating and dismissing Curnums after a summary investigation might be advantageously vested in the Collectors as is at present the case with the other classes of servants in Zemindary villages.

Again Section XIII. of the above quoted Regulation prohibits a Collector from demanding accounts from Zemindary Curnums, except for purposes of subdivision of estates, and thereby places it out of his power to prepare accurately many important statistical returns, such as population, &c. The above Section should be cancelled and Collectors authorized to demand from these Curnums whatever accounts they might consider necessary and useful.

Regulation VI. of 1831 is silent as to the means of recovering the fees &c. payable by the Ryots to the hereditary village and Revenue Officers which constitute material portions of their income, although the Collectors have in practice interfered in recovering the same for them. An enactment rendering these fees recoverable by the Collector as arrears of revenue appears to be desirable and should embrace the fees of the Zemindar's Curnums as well as of other servants.

1802 Reg. XXVI. Sec. XVI. This Section requires that parties purchasing lands at Public sales must obtain possession of them in cases of resistance through the Civil Court. It requires modification so far as concerns the sale of lands by

a Collector for arrears of Revenue, which ought to convey an unquestionable right to the occupation of the lands. In such instances, the mere production of the Collector's certificate of sale should be considered sufficient for the police authorities to prevent any resistance to the purchasers taking possession of the property; at present when the two Offices of Magistrate and Collector are held by the same individual, the inconvenience is not felt, as the Magistrate would of course enforce any sale he may have made as Collector; but should they be separated, it would be necessary to remedy the defect and establish the sufficiency of the certificate for all requisite purposes.

1802 Reg. XXVIII. Sec. II. By this Section, proprietors, farmers and under-farmers are empowered to distrain the crops and products of the land with the cattle and other personal property belonging to their under-renters and ryots for arrears of rent or revenue. Under the provisions of the same Section, the Merassidars of this District generally recover their dues from their under-tenants, with whom they may enter into engagements for the cultivation of their lands when they cannot conveniently cultivate them themselves, either on verbal or written agreements of paying them Swamybhogum &c., but no express provision to that effect is laid down in the Regulations. When Mr. E. Maltby was Acting Collector of this District, the *To Board 24th March 1846.* correspondence marginally noted passed between him and the Board of Revenue on this subject, when the Board after a lengthened discussion acquiesced in the expediency of the Collectors continuing to

take cognizance of these cases under the provisions of Regulation V. of 1822 under certain restrictions. As the cases of this description are of frequent occurrence in consequence of the considerable extent to which cultivation by under-tenants to Merassidars is carried on, it appears desirable that an express provision should be made, extending the Regulations now in force between Zemindars and their under-tenants in matters of rent to Merassidars and their under-tenants also.

Same Reg. XXV. of 1802, Section III. Under this Section, proprietors and farmers of land are prohibited from distraining the real property of their under-farmers, tenants, and ryots; but as the powers vested in them under Section II. of this Regulation for distraining the personal property of their under-farmers are now considerably modified and limited by Section IV., Regulation V. of 1822, by which they are required to obtain the Collector's permission to sell the personal property so attached, I see no objection to their being authorized to distrain the real property of their tenants on the same terms. An amendment of this sort would therefore seem to be very desirable.

Same Reg. XXVIII. of 1802, Section XXVII. Defaulters and persons in their behalf are not considered competent to bid for or purchase their distrained property. But in cases wherein the provisions of this Section may happen to be violated, the course to be pursued is not laid down.

1802, Reg. XXX., Section XV. By this Section, proprietors are empowered to grant Puttahs for any term of years or in perpetuity for the cultivation of waste lands. In many cases, however, the Puttahs issued by former proprietors are taken exception to by substantive proprietors, on the plea that the lands for which the Puttahs were so issued were not waste as required by the Regulations, and endless litigations are the consequences for which the disorderly state the Zemindar's accounts are usually kept in affords great facilities. This is one important reason why it is desirable that the Zemindar's Curnums should, as already stated, be placed under the supervision of the Collector and be required to conform to such general rules and forms as he may lay down for the preparation of their accounts.

1816, Reg. XII. Secs. V. and VI. The provisions of these Sections remain a dead letter, partly from the want of confidence on the part of the people in the decisions of the village Moonsiffs, and partly from the little interest which the latter take in such matters from being unpaid servants as well as their complicated mode of procedure. The Collector is the most natural authority to dispose of the cases referred to by summary enquiry and decision, leaving after-proceedings to the Zillah Courts. Punchayets may answer very well in Canara and districts where they are understood; but they are too intricate and methodical for the pauper population of Chingleput or a district settled ryotwar.

1802, Reg. XXVIII. It is held that under this Regulation, Zemindars and other proprietors cannot recover arrears of revenue after the expiration of the year for which they may be due by the summary process of attachment and sale of moveable property. There is no such limitation as regards arrears of revenue due to Government. I am of opinion that the practice should be assimilated in both cases, especially as the sale of property by Zemindars is subject to the sanction of the Collector. Moreover the limitation of the year operates inconveniently, as a considerable portion of the revenue has to be realized by Government, as well as by the Zemindars, after the expiration of the Fusly year.

South Arcot.—It would be of infinite advantage if the process to be adopted hereafter for the recovery of arrears of public revenue could be condensed and defined in one enactment instead of being, as now, scattered here and there through so many Regulations.

The responsibility of recovering balances should, I think, rest entirely with the Collectors, and they should be vested, in my opinion, with full summary powers to sell personal and real property or to place the defaulter in confinement without previously referring to any authority at Madras.

After the demand for the payment of an arrear has been duly made as prescribed in Section IV., Regulation XXVII. of 1802, a Collector should be able at once to distrain and sell either personal property or land as he may consider best; and I should say it would be sufficient if the Notification regarding the sale of the latter (except in cases where a Zemindar paying an annual fixed Peshcush to Government, is the defaulter) was published in the district for 15 days by pro-

clamation issued by the Collector himself without the previous sanction of the Board of Revenue. In the event of personal property not being immediately forthcoming, or of there being any obstacle to prevent the sale of the land, the defaulter should be liable to be placed in confinement by a Warrant under the Collector's own hand and seal till such time as he can point out sufficient property to meet the demand upon him.

Salem.—I am of opinion that all the laws relating to the land revenue require revision, 1st, with the view of defining terms which are considered doubtful in their signification; 2dly, of introducing new provisions; and 3dly, of annulling some provisions that are obsolete and unsuited to the present system.

The main error which runs through the Revenue Regulations of 1802 has been clearly explained by Mr. A. D. Campbell, in his paper* on the land revenue of India. He explains† how the land revenue is confounded with the land itself, and the hereditary holder of a revenue contract is transformed into the "actual proprietor" of all the land throughout the limits of his Zemindary. The ryots and the real owners of the land are protected from the natural consequences of this error by Regulation IV. of 1822; but the proper signification of the term "proprietor" is still a question of practical importance. Many parties are interested in knowing whether this term shall bear the signification given to it in the Revenue Regulations of 1802, or shall receive a far wider signification, such as no Regulation has as yet ascribed to it.

* *Appendix. Revenue, to the Report of the Select Committee of the House of Commons, 16th August 1832, page 9, quarto edition.*
† *Page 16.*
‡ *Sec. XIX. Reg. II. of 1802.*
§ *Progs. Sudr. Udalut 12th March 1829 Cir. Order Board of Revenue 22d July 1829 page 90.*

The true meaning of the term, as it was originally used, can be ascertained if one part of the Regulations be construed by another, "so that the whole may stand."‡ It is also expressly defined in Clause 1st, Section II., Regulation XXVII., of 1802; but in consequence of the construction put by the Court of Sudr Udalut§ on Sections III., IV. and VI., Regulation II. of 1806, it is now applied to classes of land owners, to whom the earlier Regulations had no reference, and some of the most important portions of those enactments have received a forced construction which creates great confusion.

Thus the Court of Sudr Udalut, advertent to the term "settlement" in Section XXXVIII., Regulation XXVIII. of 1802, has remarked,|| "it is very possible that the settlement originally intended was the permanent settlement to be formed under the provisions of Regulation XXV. of 1802, and a Khas collection on the part of Government might perhaps mean a collection of revenue from lands not permanently assessed in contradistinction to the collection from lands, the assessment upon which might be settled in perpetuity. But unless the settlement here mentioned is now construed without reference to the principles on which it is formed, it is plain Regulation II. of 1806 would be totally inoperative and nugatory, so far as it respects the application of Regulation XXVII. of 1802 to unsettled districts."

The Court is of opinion that Regulation II. of 1806 has had the effect of making "arrears of public revenue due on lands not permanently assessed recoverable under the same rules as arrears due on lands, the assessment upon which is permanently fixed;" that the process to be observed by a Collector for enforcing the payment for arrears is determinable, not by the nature and principles of the assessment on the land, but with reference to the persons by whom the arrears are due; and that in extending "the provisions of Regulation XXVII. of 1802 to unsettled districts," it was the object of the Legislature to establish one uniform process for enforcing the payment of arrears due by proprietors of land, whether the public Revenue payable thereon should be permanently settled, or whether it should be subject to annual or other temporary adjustment."

This view of the law is open to several objections, 1st the preamble to Regulation II. of 1806 does not explain that the Legislature intended to modify Regulations XXVII. and XXVIII. of 1802, so as to give them a construction and an application different from what was originally contemplated. If it was intended to modify those Regulations, the fact and the reasons ought to have been stated in the preamble in conformity with Clause 2nd, Section V., Regulation I. of 1802.

2ndly. The Court's reasoning by which Regulation XXVII. receives a new construction, excludes all application of Regulation XXVIII. of 1802 in unsettled districts, for if the object of the Legislature was to extend the provisions of Regulation XXVII. of 1802 to unsettled districts for the purpose of establishing "one uniform process for enforcing the payment of arrears due from proprietors of land," as proprietors are now defined, viz., "all persons who are liable to pay revenue to Government for their lands,"* it is clear that there is no room for exercising the provisions of Regulation XXVIII. of 1802.

† *Reg. II. of 1806.* However inconsistent this may seem with Section VI.† which extends both Regulations to unsettled districts, it is consistent with the orders‡ recently issued by the Board of Revenue, explaining on the authority of the Court of Sudr Udalt, that "arrears of Land Revenue due on annual as well as on permanent settlements are recoverable only under Regulation XXVII of 1802."

The same order states on the same authority, that Regulation XXVII. of 1802 directs that the lands shall be sold before the personal property of the defaulter. This will prove a very inconvenient rule when applied to small holdings under the Ryotwar system; and when applied to estates held on Zemindary tenure, it is inconsistent with Section VII., Regulation XXV. of 1802, though in such cases it is by no means inconvenient in practice.

3rdly. The Court's argument that Regulation XXVII. of 1802 would be inoperative and nugatory under any other view than the one stated in the Court's Proceedings, is inconsistent with the fact that Zemindars and farmers are referred to, both in Section IV. and Section VI., as existing in the unsettled districts to which Zillah Courts were to be appointed. If Zemindars and farmers did so exist, it is sufficiently obvious that opportunities would not be wanting for applying Regulation XXVII. to cases of the kind originally contemplated.

There is nothing inconsistent in the Regulation thus supposing the existence of Zemindars and farmers in unsettled districts—only *permanently settled* districts are alluded to in the preamble. In the first few years of our Government, temporary settlements on the Zemindary tenure and settlements on the Ryotwar system were both adopted in what were termed the unsettled districts. For instance in the Talook from which I am now writing the Polegar of Bogalore has no permanent sunnud, and his tenure is in consequence viewed as temporary and liable to any alteration in its terms that the Government may think fit.

The rule prescribed in Section IV. of the same Regulation is in strict keeping with this view of the case. There is no mention there of permanent sunnuds which were always granted directly by Government; but "Collectors," it is said "shall enter into written engagements with Zemindars, landholders, and farmers on such terms as may be deemed reasonable by the Board of Revenue." The same Clause continues, "and in cases where the engagements may be contracted with the Ryots or individual occupiers of the soil, they shall be regulated by the Regulations of A. D. 1802." It seems therefore open to the Revenue Officers to adopt either mode of collecting the Revenue, an indirect settlement through the farmer, or a direct settlement with the Ryots, an option which could not have existed in a permanently settled District.

5thly. There is an apparent contradiction in terms in saying that a defaulter can come "within the description of a proprietor of land contained in Clause 1st, Section II. Regulation XXVII. of 1802, without any reference to the principles on which his land is assessed." The term "proprietor" was used in a technical sense, the meaning of which is defined by law. Zemindar and Proprietor were considered equivalent terms, Zemindars and Talookdars were terms, the meaning of which had long been understood. The term "proprietor" was newly applied to the persons in whom was vested a proprietary right by the deed of permanent property conferred under Regulation XXV. of 1802. Such persons might be either ancient hereditary holders of a Revenue contract, or new men with whom this mode of settlement was made for the first time; but in respect to all three denominations "Zemindars," "Talookdars" and "actual proprietors," it is essential that each should possess a contract for the collection of the Revenue to constitute him a "Proprietor" within the meaning of the law.

Finally, exception may be taken to the Court's remark that "the process to be observed by a Collector for enforcing the payment of arrears is determinable not by the nature and prin-

"ciples of the assessment on the land, but with reference to the person from whom the arrears are due."

The defaulter may stand in the relation of a proprietor who contracts for the collection of the Revenue from the Ryots, or he may be a Ryot who engages to pay the Government share of the produce direct to a Government Officer. In either case the process to be issued against the defaulter must be determined, not by the nature and principles of the assessment on the land, but by the terms of the engagement between the defaulter and the Government. *The nature and principles of an assessment on the land* are entirely distinct things from the contract to pay the public Revenue, whether that contract be made by a middle-man or by each individual Ryot. If by the former, the Government, in the event of default, takes the collections into its own hands; if by the latter, the Government secures its dues by distraining the produce.

If, therefore, the Collector is to regulate his process for enforcing payment, not by the terms which are mutually agreed upon between the Government and the defaulter, but by so novel a principle as something incident to the defaulter personally, it would seem very necessary to declare more clearly than has yet been done, how such a principle should

be applied. The explanation given by the Court in the concluding part of para * 8 is superseded by the order lately passed, † that "arrears of land Revenue due on annual as well as on permanent settlements are recoverable only under Regulation XXVII. of 1802."

* *C. O. Book, Page 93.*

† *C. O. Board of Revenue, 30th April 1855, No. 1049.*

The Court in conformity with their views has declared that every description of Enamdar, who pays any portion of the full Assessment on his lands to Government has a right to exercise the summary powers originally conferred by Regulation XXVIII. of 1802 on entirely different classes; and in the first of the two decisions entered above in the margin, the Court has declared that the definition given in Clause 1st Section II. Regulation XXVII. of 1802, embraces "all persons who are liable to pay revenue to Government for their lands."‡ This construction would seem to include every cultivator of the soil who under the Ryotwar system holds a puttah for his land; for he is as much a proprietor in the non-revenue sense of the term, in whose favor a portion of the Government share in the produce has been alienated; but in this District though the practice of under-renting land is common enough, neither the Enamdars, nor any other persons, enjoying lands on puttahs, have hitherto exercised the powers of distraint.

The uncertain state of the law on points of such general interest would seem to afford ample ground for a new enactment. The Collector's powers of distraint should be clearly defined, and full powers should be conferred on all persons who possess a property in land to maintain their rights by summary distraint.

Another ambiguity exists in regard to the term "landed estate," in Clause 1st, Section VI. Regulation XVII. of 1802. By this term was originally intended nothing more than the Revenue contract; but it has since been frequently construed as conferring on the Government the right to sell lands held under the Ryotwar tenure, and very recently the Government has applied the term to separate fields comprized in a Ryot's puttah, as if such fields formed a landed estate of the kind contemplated in Section VI. In the case in question, the Government is supposed to have a prior lien on one of the fields included in the puttah, though that field had been mortgaged before the defaulter fell into arrears, and the Mortgagee had regularly discharged the rent assessed on that field.

I do not entertain the opinion that the Government cannot sell the lands of defaulters under a Ryotwar settlement; but this power is conferred, I believe, under Clause 7, Section XXXIV. Regulation XXVIII. of 1802. Section XXXIV. requires that a defaulter shall be placed in confinement before his farm or other tenure is attached or sold. In the settled portions of this District, Proprietors are required to conform to this course of procedure; but the Collector who ought to be bound by the same rules, is permitted to follow a different practice. This is another point which calls for notice in a new enactment. I am also of opinion that Collectors

should be permitted to sell the lands of defaulting Ryots without previous application to the Board.

The whole of the Section XXXIV. requires revision. Proprietors, as well as Collectors, making a Khas collection, ought to have the powers of selling a defaulter's lands without applying as Clause 7 now requires, to the Court of Udalt for permission to effect such sales.

In regard to Section XV. Regulation XXX. of 1802, I would suggest that the description of waste lands which a proprietor is at liberty under that Section to grant in perpetuity should be defined. It is clear that under Section XIII of the same Regulation, a proprietor has no power to alienate lands assessed to the revenue at the time his permanent jumma was formed. I believe the waste referred to in Section XV. is identical with the waste in Hills, jungles or rocks referred to in Clause 1st, Section XI., Regulation XXIX. of 1802. I would therefore declare that such was the waste a proprietor was authorized to grant in perpetuity, provided it was not included in the register which village Curnums keep under Clause 2d, Section XI., exhibiting the extent and description of the lands purposely exempted from paying revenue to Government at the time when the permanent assessment was fixed.

In regard to Regulation V. of 1822, I fully subscribe to all the views expressed in the note appended to that Regulation at page 410, Campbell's edition. I recommend that the Tahsildars should be permitted to investigate and dispose of cases referred to them by the Collectors under Regulation V. of 1822, and that the appeal in such cases should lie to the Judge by regular suit, in the same manner as appeals from decisions passed by the Collector under the same Regulations.

I would also restrict proprietors to summary suits before Collectors and the Tahsildars, instead of allowing them at their option to bring their claims before either the Collector, or the Court.

Coimbatore.—Sec. XI. Reg. XXV. of 1802.—The want of power on the part of Collector to dismiss a Curnum in a Zemindary has proved a public inconvenience, at least so far as some of the Poliputs of this district are concerned, a Revenue Officer is a better Judge of what a Curnum is required to do than a Judicial functionary—the former is personally acquainted with the party and can well ascertain on the spot what are his defects or irregularities, whereas the latter is not possessed of such advantages—should it be deemed objectionable to vest full authority in the Collector in connexion with the dismissal of Curnums, it appears to me very desirable that he should at least have the summary power of suspending or dismissing the Curnum, leaving him to seek redress in the Established Courts of Udalt.

Sec. XVIII. Reg. XXVI. 1802. I am not aware why the interference of a Court in cases provided for by this Section is at all necessary. It may be advantageous in instances in which lands are sold in satisfaction of a decree of Court; but with reference to lands disposed of for arrears of revenue, I should think that a Collector is as competent as a Judge to determine whether the purchase was consistent with, or contrary to the Law, the same remark applies to Section XVII. also.

Sec. XX. Reg. XXVI. 1802. I consider the provisions contained in this Section to be too stringent, and that some latitude should be allowed in favor of minor public servants, restricting the prohibition only to responsible public officials, such as Seristadars, Tahsildars &c., &c. I have strong grounds for believing that these provisions are widely departed from, although it is not possible to procure proof.

Section XXI. of the above enactment is more rigorous than is necessary—the forfeiture of land purchased and dismissal from Office for the same offence appear quite enough to prevent others from adopting a similar course.

Sec. X. Clause 3d Reg. XXVII. 1802. The payment of rents or revenues by anticipation to the defaulting proprietor or farmer should, in my opinion, hold good so long as it is supported by authenticated receipts of such defaulting proprietor or farmer—the existing law to the contrary appears to me unjust as regard under-tenants.

Regulation XII, 1816. It appears to me that the Collector should be empowered to convene a District Punchayet through a Tahsildar instead of a Moonsiff. There is a Tahsildar in every Talook whose influence and intimate acquaintance with the people are far more advantageous than that of a Moonsiff in the settlement of disputes

arising from family dissensions and other causes. Regulation XII of 1816 authorizes the Collector to settle by Punchayet claims to lands or crops in Districts permanently settled or otherwise, the validity of which claims may depend upon the determination of an uncertain and disputed boundary or land mark, and also in cases of disputes respecting the occupying, cultivating and irrigating of land which may arise between the proprietors or renters and their Ryots in those Districts only where the land Revenue is fixed either permanently or for a term of years, and this provision is extended by Section XVIII. Regulation V. 1822 to all disputes between Ryot and Ryot—all other claims and disputes not contemplated in the above sections, such as the division of property between the several members of a family, adjustment of old accounts and so forth are now unavoidably permitted to find their way to Courts of judicature, although the parties concerned are perfectly willing to have the matter decided by arbitration. In those instances in which they are either too poor or too ignorant to go to Law, an understood settlement before "Mediators" is made and Razeenamahs obtained from the parties acquiescing in such settlement are recorded in the Office—a proceeding open to question in a local point of view when subsequent disputes occur—such instances are very frequent, especially during the tour of the Collector for revenue settlement, and an enactment empowering Collectors to dispose of cases of the above nature by a Village Punchayet where either parties agree to a settlement by arbitration, and by a District Punchayet through the Tahsildar, or by one in his own Office or in that of the Hoozoor Serishtadar's where only one party agrees, will be a very desirable improvement; the Collector should have full power to order the execution of such decrees in default of appeal.

Regulation V. of 1822 requires revision, and the particulars of which are fully given in a letter from the Sudr Udalt to Government. The term "Actual previous possession" requires some definition of time. It is also desirable

Sec. XI. that the Collector should have power to enquire into the legality or otherwise of such previous "actual possession," without which the authority vested in the Collector by the above section is nearly negatived. For instance the owner of a certain land dies in a particular village, leaving his heirs and successors in a different or distant place. Before their arrival, the parties who were employed by the deceased either as Warrum Ryots or otherwise and had the enjoyment of the land nominally, retain possession of it and decline making over to the real heir: in such cases any settlement to be made by the Collector on grounds of "actual previous possession" without enquiring into the legality or otherwise of that possession and upholding the wrong party in occupancy, is quite at variance with justice—the same remark is applicable to cases where Warrum Ryots or Sub-renters refuse making over the land to the owner—the general opinion being that "previous possession" means in its strict literal sense *actual previous occupancy* no matter whether it is right or wrong. In such cases the party wronged, that is the real owner, is of course at liberty to seek redress in the Udalt Courts; but it is not fair that he should go to the expense of doing so, whilst the Collector and his subordinates are at hand.

It is desirable that the authority vested in the Collector under Section XXXVII., Regulation II. of 1803 for fining revenue servants for disobedience of orders, should be extended to the cases of Ryots also, fixing the maximum amount of fine at 10 Rupees or some standard of that kind, the absence of such authority causes much inconvenience, and disobedience of orders cannot fall within the scope of the provisions of Regulation III. 1831, or of Act No. XXX. of 1841.

It is a matter of consideration, whether it would not be advisable to modify Clauses 2d and 3d, Section III. Regulation IX. of 1822, removing the interference of the Court and granting full power to Collector in obtaining the attendance of witnesses, such an arrangement is very desirable.

Tanjore.—The prevalence of the Wooloongoo system of Revenue over a large part of Tanjore, creates difficulties in the realization of the revenue, which are not felt elsewhere. A recent order of the Board directed that when the revenue fell in arrears, the best land of the defaulters should be at once attached and sold, without waiting until the Fusly had expired. Now if it be wished that the Act you are about to draft shall be so definite, that the ingenuity of a native lawyer shall not discover in it any flaw, it must first be declared what shall be held to constitute an arrear of revenue in a Woloongoo rented village and in an Amann'e village, and in one gross rented, or rented for one year whenever a division of the crop having been resorted to, the revenue is to be collected according to current price. The amount of revenue due by each landholder depends upon the average current price of grain from November to the 20th of May, and it is not until the beginning of June that the *actual* demand is known, up to that time the collections are regulated according to what the circumstances of the year lead the

Collector to suppose the demand will ultimately be, and it will be for you to consider whether the Board's order which I have referred to can be legally acted on here, in the rented and Amannie villages, and a sum assumed to be an arrear in March be collected by distraint, when the calculations subsequently made in June may possibly shew that, at all events a part of the arrear was not really due.

The point is one of considerable importance as connected with a punctual realization of the revenue, for if the case be now as I suppose, and no balance of revenue can be said to have accrued in a rented or Amannie village, until the actual demand is known subsequent to the 20th of May, the provisions of any new act which you may draft, so far as it may provide for the balance of each Kist being collected by distraint will be inoperative throughout the half of Tanjore, and we must still wait till the close of the Fusly before any coercive measures are resorted to. I take leave to submit for your consideration the following draft of a Section to meet the case I have referred to.

"And be it further enacted that in every village in which the amount of the Government demand may depend in any way upon the current price of grain in the year, for any part of which the demand may at any time be made, an arrear of revenue shall be considered to have accrued against any meerassdar or ryot, who shall not have paid to some revenue Officers of Government, a sum equal to the standard demand against him for the month on account of which the demand may be made, with the addition of such sum as under the conditions of the settlement, it may be lawful to add on account of the increased price of grain above the standard price up to the end of the month for which the demand may be made."

But there is a greater hinderance than this to the execution of the Board's orders. In the Woloongoo rented, the standard grain demand, and in the gross rented and one year rented villages, the beriz has been fixed on the total village, and not on individual fields; and the good and bad lands being apportioned among all the meerassdars, each is able to pay his rent according to the village average; but if, in accordance with the Board's orders, on any arrear accruing, the good land of a meerassdar were to be sold, it is obvious that he could not pay the village average on his bad land alone, and that his whole estate must at no distant time inevitably come to the hammer, for a balance which perhaps, a fourth part of it would have been amply sufficient to meet. In the rented and Amannie villages of Tanjore good and bad land must be sold together, and we do not recognize the private sale of either one or the other exclusively.

Further, to all nunjah (and the great proportion of the land is nunjah) is always attached a proportionate share of poonjah, bagayet, tope, and waste land; and as it is the nunjah land that is most remunerative, to sell part of that alone, without its proportion of dry, garden, tope, and waste, would leave the portion that was not sold burthened with an undue share of what is least profitable.

The necessity which in the rented villages we are thus under, of selling all kinds and sorts of land in due proportion, when a balance of revenue has accrued, not only causes very great delay in preparing a sale advertisement but makes it almost impossible, and certainly very inexpedient to realize small balances by the sale of land. However many kinds of land, and however many sorts in each kind there may be in the village in which a revenue defaulter holds land, he has a share in each, and of that share in each, a due proportion must be selected for sale. All the questions of sale, possession, claim, and right, which are certain to be made to each, must be investigated before the sale is held, and it usually takes two or three months to prepare an advertisement on which reliance can be safely placed if the balance due be small, to divide it on perhaps a dozen different pieces of land, and to sell a few square feet of each, is obviously practically impossible.

From what I have said above, it appears to me, that for the punctual realization of the revenue in Tanjore, two changes in the law are required, one that it shall be optional with the Collector to distraint and sell personal or real property, and the other that he shall have authority to confine the persons of the defaulter in the Huzzoor or Talook Cutcher, or in the zillah jail, from the time that a balance has accrued, until it be discharged, either by the defaulter's own act, or the distraint or sale of his property.

The first of these provisions is necessary to meet the case of small balances which cannot, in the rented villages of Tanjore, be realized by the sale of land, and the second, to put an end to a system which is now only too prevalent among the Meerassdars, of allowing a balance to accumulate which they are perfectly prepared to pay, (and which they do pay when the day of sale comes,

on) because they find that they can make more by the use of the money they withhold, than the interest charged to them by Government would amount to.

Both provisions are wanted from the peculiar nature of the settlement—the first from the necessity of selling equal proportions of all kinds and sorts of land, so as to leave the land unsold not unduly burthened—and the second to prevent the Meerassdars taking an unfair advantage of the delay which they know will attend the tedious process of preparing a sale advertisement.

It will not of course be imperative on the Collector to resort in all cases to the power of personal confinement which I propose shall be conferred upon him—it will be at his discretion to exercise the power or not, and none should be trusted with the revenue administration of a Province, who may not be entrusted with such a discretionary power. You will find that in a Circular letter from the Board of Revenue to Collectors dated the 8th of February 1836, it was proposed to grant this power; and to Mr. Kindersley's reply to that Circular, dated the 10th of March, I take leave to request that you will refer.

In Tanjore, land is very frequently held by the same individual in many different villages, and knowing the difficulties the revenue authorities experience in selling small portions of land, a man intending to be 200 Rupees in arrears, will not unfrequently contrive to leave 20 Rupees unpaid in each of 10 villages—and by this means will escape the process of distraint. To obviate the difficulties thus arising, I am of opinion that arrears of revenue should be considered Isumwar, and not village-war, and that it should be made lawful for the Collector to realize the total balance due by any individual from any part of his real property, without reference to the particular village on which the balance has accrued.

The only other point on which I shall now trouble you is to suggest that power be given to Collectors to annul any sale held by their own orders, if subsequent information should shew them that the sale has been held improperly. At present this power is not vested even in the Board of Revenue—and aggrieved parties can find their remedy only in a tedious and expensive action at law. I think that the party who has done a wrong should have power to rectify his error.

Trichinopoly.—The only inconvenience in the enactments for the recovery of arrears of Revenue that occurs to me, is the obtaining the authority of the Board of Revenue and the publishing an advertisement in their Office prior to sale of land as required by Sections V. and XI. Regulation XXVI. of 1802—and which provisions of the law the Board of Revenue have by many Circular orders made applicable to all sales of land under every system of settlement for arrears of revenue.

The Collector who is entrusted with the realization of the Revenue and held responsible for its collection, should be allowed to act on his own responsibility, as much in the sale of land, as in its attachment.

I am convinced that a knowledge of this prompt power existing with the Collector would facilitate the collections of the revenue, and prevent parties risking an attachment of their lands—and which they often do now merely to obtain time, and shove off payment until the day of sale.

Madura.—My letter of the 3d August 1855 has been already furnished to you by the Board of Revenue. In it I pointed out an apparent contradiction between Section VII. Regulation XXV. of 1802, and Section VI. Regulation XXVII. of 1802, in regard to the sale of personal property or land for arrears of rent due by Zemindars. It appears to me expedient both with respect to Zemindars and ordinary Ryots, that the personal property should be first sold—as the matter can be accomplished quicker—and there is less room for collusion than in the sale of land. I think that when the proceeds of the sale of personal property may be insufficient to cover the arrear, Zemindars as well as Government should be allowed to sell the lands of defaulters. I have already stated an opinion in answer to the 3d question, that the application of Regulation XXVII. of 1802 to arrears due to Government under Ryotwary, is a mistake. The Legislature must, it appears to me, have intended Regulation XXVIII., Zemindars being in loco Government.

Collectors passing decisions under Regulation V. of 1822 have not unfrequently been made defendants in suits on account of them. This seems to me plainly irregular. They act under special judicial powers, and to the extent of such powers, are as much judges as those of the higher ranks, and if no other judge can be sued for his decisions, why should they? It is expedient, I think, that this should be expressly declared, and power given to plead the fact in bar, the Plaintiff being also rendered liable to fine for the irregular inclusion of the Collector as a Defendant.

Section XVI. Regulation V. of 1822, seems to me to need modification. Decisions of Collectors under Section XI. of that enactment are for present possession only to prevent breaches of the peace. I think it undesirable therefore to allow an appeal from them, and quite incongruous to prescribe that such appeal should be by regular suit. If permitted, the appeal should be summary for the sake of the public tranquility. The *right* to the land might be left to be decided by regular suit. At present it would be matter of doubt, what the Judge would decide under Section XVI., whether the "right" or only "present possession."

For all decisions by Collectors under Regulation V. of 1822, a summary appeal appears to me preferable to an appeal by regular suit.

The Regulations for recovery of arrears by Zemindars do not at all grapple with the difficulties of the system of "Warum" which obtains in this Presidency. The Collectors have no enactments to guide them in the disposal of complaints which are made by Ryots, that the Zemindars distress and injure them by delaying to allow "Wobadee" or cutting and thrashing corn. The Zemindars on the other hand suffer frequently by Ryots carrying away the crop before it has been divided. When this is done, how is the value of the Zemindar's share to be estimated for the purpose of recovering his dues by distraint? Consequent on the Warum system is a delay in the Jumabundy, which is not commenced till after the expiration of the Fusly. I think provisions should be inserted in any new Act to compel the Zemindar to divide the crop promptly, for the punishment of Ryots taking away produce before division, and for estimating the amount to be paid when they do so; also for rendering Puttahs, given more than 4 months after the termination of a Fusly, of no avail to legalize a distraint.

I would also give power to the Ryots to demand a corn rent instead of a yearly division of produce when they wish for the change.

Ryots further require protection in regard to tanks. By neglect of these by the Zemindar, they may be impoverished without any fault of their own. The Zemindar should be compellable, on the requisition of the Collector founded on a report by the Civil Engineer, to put his tank in repair. This is necessary also for the conservation of public roads lying under their bunds.

I would extend the powers of distraint to the possessors of Mulgozaree land and Enamdars who may let their lands to others. The necessity of seeing their under-tenants in a Court of Law operates as a great hardship. Bitter complaints are constantly brought to me by Curnums, and other village officers, who, after working for the Government a whole year, are often defrauded of the remuneration of their labour by their tenant refusing to give them the melwarum share, or the rent agreed upon. Reference to a Civil Court is a mockery to a poor Talia.

Regulation XXIX. of 1802 requires your notice. The ruling of the Sudr Udalut that suits for the dismissal of Curnums shall be regular, secures them impunity for their faults. I would empower the Judge to dispose of complaints of Zemindars against Curnums in a summary manner, and to suspend them pending a decision.

There is another question of such vital importance to a large class in this District, and so little suspected, that I scarcely like to moot it. Is Regulation XXVIII. of 1802 applicable to Zemindaries not held on a permanent sunnud, of which there are many in this District? It has been acted upon in them; and, if you doubt the correctness of the practice, I would propose a clause legalizing what has been already done, and declaring the Regulation applicable for the future. The word "permanently settled" not occurring in the Preamble, I conceive that Regulation XXVIII. already applies to the estates in question.

Tinnevely.—

Malabar.—It is though probably well known that the question of landlords in Malabar recovering their dues under Regulation V. 1822 and the regulations connected with it has been very fully discussed during the last 3 years. The late Collector had a strong opinion against the introduction of these Regulations into Malabar, and I can only add here my humble opinion that the Regulations in question are wholly unadapted to the state of property in this province and would serve only to make confusion worse confounded. The settlement of questions between landlord and tenant is a subject of much importance for Malabar. The subject has though been fully discussed of late, and most important papers can be readily procured from the Government records at Madras.

Canara.—

H. STOKES.

SKETCH of General Provisions to form a preliminary Act, or the prefatory Sections of the first new Act.

1. Whereas it is expedient to amend and consolidate certain parts of the Revenue law in the Presidency of Fort Saint George, relating to the powers and duties of the Revenue Officers, the settlement of the Land Assessment, the collection of the Revenues and of Rent, and to exempted lands, grants, pensions and hereditary service endowments, the following enactments are rescinded.

XXIII. of 1802.	III. of 1823.
XXV. " "	I. " 1826.
XXVI. " "	III. " 1828.
XXVII. " "	III. " 1830.
XXVIII. " "	III. " 1831.
XXIX. " "	IV. " "
XXX. " "	VI. " "
XXXI. " "	X. of do. Clause I. Sec.
I. " 1803.	II. " "
II. " "	III. of 1832.
II. " 1806.	Secs. VI. & VII. of
XII. " 1816.	IV. of 1832.
VII. " 1817.	VI. of 1832.
I. " 1819.	Act IV. " 1837.
II. " 1821.	XXXVI. " "
IV. " 1822.	III. " 1839.
V. " "	VII. " "
VII. " "	XXX. " 1841.
IX. " "	X. " 1849.

2. No past act or proceeding of any Officer of Government done in good faith under the Laws thus superseded which may not have been already contested in a Court of law, shall be deemed invalid by reason of want of conformity to their provisions.

3. It shall be competent to the Governor in Council to cause to be framed from time to time such bye-laws or subsidiary rules and forms of procedure, as may be found expedient for carrying out the provisions of the new Acts now substituted for those rescinded, or to limit the powers conferred by them on the Revenue Officers, or* to suspend the exercise of the power of distraint by others than Revenue Officers, in districts where their exercise may be deemed injurious.

* This has reference to Malabar where landlords have not hitherto been allowed to distraint.

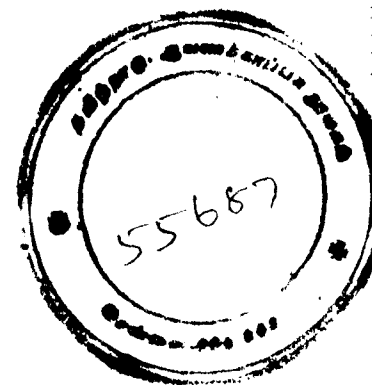
The restriction against borrowing money as regards Collectors is new, but seems needed.

4. Covenanted Servants of the Company in the Revenue Department, shall not be engaged in trade or commerce, or in transactions for borrowing or lending money with parties under their official control.

5. Revenue Officers are amenable to the Civil Courts for any abuse of authority, or injury done in their official capacity, and may be proceeded against in the manner prescribed in Reg. I. of 1823.

6. Members of the Board of Revenue, Commissioners of Revenue, and Collectors shall previously to entering on the functions of their Office, take the Oath prescribed by Act of Parliament, in the forms appended to this Act.

H. STOKES.



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SKETCH OF AN ACT to be substituted for the present Laws relating to the Settlement of the Land Assessment, and the Collection of the Revenues and of Rents in the Territories of the East India Company subject to the Government of Fort Saint George.

NOTES AND EXPLANATIONS.

This is taken from Sec. II. of XVII. of 1827 Bombay.

Compare preambles XXV. and XXXI. of 1802 and Sec. I. of XII. of 1851.

Intended to embody and generalize the substance of Sec. II. to VI. of XVI. of 1802, and Secs. XVI. to XXIII. of II. of 1803.

See Clause first Sec. V. of XVII. of Bombay Code.

Taken from Sec. VII. of XVII. of the Bombay Code.

Compare

I. of 1803 Sec. XXXVI. to XXXVIII.

II. of 1803 Sec. XXVI & XXXVIII. to XL.

II. of 1806 Sec. VI.

This Section is not intended in this and the next Section. But it may be still better to know the corresponding Sections from Reg. XVII. of 1827 of Bombay, to alter the present practice; but merely to adapt the law more easily to it.

This Section is intended to retain so much of the substance of the present law affecting settlements as is practically in operation with respect to Puttahs &c. and an addition is borrowed from Bombay, Sec. III. Reg. XVII.

The engagements here meant are Puttahs and Moolchikas, but it is a question whether it may not be better as in Bombay to omit this provision from the Law.

Sec. XII. Reg. XXX. of 1802 modified.

This is intended to have the effect of retaining XXV. of 1802 so far as existing arrangements under it are concerned. However the present law as regards Kurnums in XXV. requires alteration.

SETTLEMENT OF THE LAND ASSESSMENT.

Sec. I. All land under occupation whether for Agricultural or other purposes is liable to the payment of Assessment; except while under exemption by law or order of Government.

II. The Settlement of the Land Assessment is conducted by the Collectors of the several districts under the orders of the Board of Revenue. The occupants of assessed lands shall be registered in the Revenue accounts under the rules at present in force, or that may hereafter be prescribed with the sanction of Government, and every registered occupant is primarily liable for the Assessment, until he shall have duly notified at such time and in such manner as may be prescribed by the Revenue Officers, the transfer of the land to another party, or its relinquishment to Government. If the Assessment on the land transferred has not been separately determined and recorded in the Revenue accounts, the Collector shall cause it to be equitably apportioned. Meantime the whole land remains liable to the whole Assessment.

III. Unoccupied land not exempt from Assessment is at the disposal of Government, provided that such disposal shall not in any way affect the claim to preference, the right of occupation, or any other rights which individuals may have over such land, as the same may, when contested be established in a court of justice.

IV. The rates of Assessment on land whether leviable in money or kind, shall continue to be settled as heretofore, with due regard to all established rights, and to the recognized principles and local usage of each district under the rules already in force, or that may hereafter be framed with the sanction of Government, and rates once settled shall not be altered without authority general or special from Government.

V. The rates and terms of settlement shall be specified in written engagements between the Revenue Officers and the occupant of the land. The Cultivator, when the land is held direct by him from Government is to be considered the occupant, and when it is not so held, the person having the highest right or holding recognized by the custom of the country, or resting on special grant, which intervenes between the Government and the cultivator, is to be so considered. In the absence of the superior holder, or his authorized Agent, the settlement may be made with the person holding directly under him. These engagements shall be in force till renewed.

VI. When land is held under a Deed of Permanent settlement, the conditions of this instrument shall be observed, unless both parties agree to any deviation therefrom. A copy of such a deed is appended to this Act.

See Bombay Chap. VI.

* These are left open to admit of adaptation to local peculiarities of tenure.

See Bombay Sec. V. of XVII.

See Bombay, Clause Five Sec. IX. and Clause First Sec. XVII.

This I think will be found useful. I cannot find any corresponding provision in the present law, though securities are often spoken of. I refer chiefly to the taking of security before allowing land to be occupied, or when the Dittum is signed.

See Bombay, Reg. XVII. Sec. X.

Modified from Sec. VIII. of XXVII. of 1802.

This and following Sections are intended to condense the provisions of Reg. XXVII. and XXVIII. and make them generally applicable. Notwithstanding the brevity of these provisions I think they will be found as full as Chap. III. of the Bombay Reg. XVII. and the corresponding part of Act. XII. of 1851. The details which I have omitted, may, if found necessary, be given in the subsidiary rules.

With respect to allowing a period to intervene between serving a demand and distraining property, it seems required by Sec. IV. of XXVII. not by V. of XXVIII. Not in Bombay.

* Bombay—Clause Second Sec. V. of XVII.

† Clause Fourth Sec. V. of XXVIII. of 1802.

Reg. XXVII. Sec. X. see Bombay Section XXVIII.

VII. When the Revenue Officers under the Sanction of Government may conclude engagements with parties to farm the collection of the land Assessment, they shall prescribe the terms* to be observed between the farmers and payers, so that no rights enjoyed by the latter when paying direct to Government shall be infringed upon by the Farmers collecting on behalf of Government.

Farmers of the land Assessment are to be dealt with as occupants of assessed land in respect of arrears.

COLLECTION OF THE LAND ASSESSMENT.

VIII. The occupant of assessed land shall be liable in his property and person for the Assessment of such land.

When the land itself is not saleable, or other sufficient reason exists, it shall be competent to the Revenue Officers to require security from the occupant, and where such security be not given, to transfer the land to another party.

IX. The Revenue Officers shall, under the orders of Government fix the periods and proportions of the instalments, by which the Assessment of each year is payable. And the instalments so fixed shall be made publicly known. Any portion of instalment not paid at the period specified, shall be deemed an arrear.

X. It shall be competent to the Revenue Officers to levy interest on arrears of Assessment, at a rate not exceeding one per cent. per month.

XI. When an arrear of Assessment may not be paid on written demand, the Revenue Officers may issue an order for its enforcement in any of the four modes specified below.* If the defaulter, being a superior holder, shall not discharge the arrear, it may be realized from an inferior holder by similar process.† Where security has been given, it shall be optional with the Revenue Officers to proceed against the defaulter, or his surety, or both. The four modes, any of which may be had recourse to by the Revenue Officers at their discretion are 1st. Attachment of defaulter's lands—2d. Sale of his real property—3d. Distrain and sale of his personal property—4th. His confinement: When any of these modes may be resorted to, the expenses incurred shall be added to the arrear, and recovered in the same manner. [Forms of demand, and of orders for attachment of lands or distrain and sale of property, and for confinement of defaulter, to be given in Appendix.]

XII. When the land of a defaulting proprietor shall be attached, the engagements subsisting between him and his tenants shall be observed, provided they be not collusive or fraudulently contrived, so as to defeat the purpose of attachment, and provided they do not grant land for less than the assessment upon it. Neither shall tenants receive credit for pay-

The remaining Rules for attaching Estates may come under Subsidiary Rules.

Modified from Reg. XXVI. of 1802 as subsequently altered, so as to become of general application. See Sec. XIX. of II. of 1803.

Clause fourth Sec. XIV. Act IV. Reg. V. of 1804.

Clause first Sec. II. of X. of 1831.

ments made collusively, or in anticipation of the ordinary period for payment.

XIII. When the Revenue Officers may proceed to sell the land of a defaulter, the following rules shall be observed.

The sale of land held under a deed of permanent settlement, shall be conducted so as not to violate any of the conditions of such deed. The lands of incapacitated proprietors under charge of the Court of Wards are not considered to be answerable for arrears and the lands inherited by a minor and not under charge of the Court, shall not, during his minority, be sold for arrears accruing subsequently to his accession to the land.

A notification in English and in the language of the district shall be published in the village, and fixed up in some conspicuous place there, in the Talook and Collector's Cutcherries, and in the Zillah Court for thirty days before the sale. The notification shall be in the form appended to this Act, and shall specify the time and place of sale, the extent, and Assessment of each lot or parcel of land to be sold. Where no such separate Assessment shall have been previously registered in the Revenue accounts, the Collector shall cause the apportionment to be made according to the rules prescribed by the Revenue Board, or the established usage of the district. Where practicable, a plan of the land to be sold, shall be prepared and exhibited together with the conditions of sale. Land shall be sold by public auction to the highest bidder, who shall be required to deposit 15 per cent. of the purchase money at the time of sale, and the remainder at the time specified in the conditions of sale, failing which, the land shall be resold, and the deposit forfeited. If the deposit be not made, the land may be immediately resold at the risk of the first purchaser, and the loss of any recovered from him in the same manner as an arrear of Revenue.

XIV. Distraint shall only be made in the day time between sun rise and sun set. Buildings shall not be forced open, except in the presence of the Police. The distraint shall not be excessive. Live stock shall be kept at the distrainer's cost, but distrained cattle, implements, or utensils or goods shall not be used. Property under distraint shall be at the risk of the distrainer, and its unauthorised removal by others shall be dealt with as if it were the distrainer's property. An inventory shall be taken of the property, and an appraisal made by at least two competent parties, copy of this inventory is to be delivered to the defaulter. The sale of such property shall take place publicly at such day as may be appointed by the Collector not less than five days from the date of attachment. The property shall be sold to the highest bidder, and shall not be removed until paid for and if not paid for within five days, shall be resold at the risk of the first purchaser.

XV. When a Collector may see fit to confine a defaulter, he may do so for a period not exceeding thirty days in his own Cutcherry, or may forward him to the Zillah Judge for imprisonment in the debtors' jail. The Collector's

Taken chiefly from Bombay Section XII. Clauses Sixth, Eighth and Ninth. See Sections XI. to XIII. of XXVII. of 1802.

Clause Fourth Section VII. is omitted, as the Board may require periodical returns.

warrant for committal of a defaulter to jail shall be in the form appended to this Act. The defaulter shall be dealt with according to the rules for the imprisonment of debtors under decrees of Court, his subsistence money being furnished by the Collector. The defaulter shall be released on payment of the demand against him, or on giving security for it, or for other causes that may satisfy the Collector; or under an order of the Court if he shall have brought an action to try the demand.

XVI. Process for the attachment or sale of land or personal property shall at any time before such sale, be staid on tender of the arrear in full with interest due thereon and cost of attachment; or on the production of a receipt from a Revenue Officer competent to give the same for payment of the amount. If the fact of occupation be denied by the defaulter, process may be staid on proof that the notice required by Section II. had been given by him.

Taken from Section IX. of XII. of 1851.

This is somewhat sweeping; but since it has been adopted in Madras, I see no reason why it should not be general. It will obviate many collusive counter claims.

Taken from Section XIII. of Bombay. Section XXXII. of Regulation XXVII. of 1802 VI. of IX. 1822.

This is intended to give the gist of the law as it now stands in a condensed form XXVIII. of 1802 modified by V. of 1822. Holders of land exempt from Assessment cannot distrain at present. I see no reason to alter the law.

I have endeavoured to give the force of Sec. XXXVI. of XXVIII. of 1802, modified by V. of 1822; but I am not sure that I have succeeded, or that the provision is necessary.

XVII. The claim of the State for an arrear of land Assessment, shall have priority over all other claims on the land, or property of the defaulter distrained upon the land.

XVIII. Advances for cultivation, and for public works in the Revenue Department, and defalcations shall be recoverable in the same way as arrears of the land Assessment.

COLLECTION OF RENTS.

XIX. Occupants of land holding under a deed of permanent settlement, or persons farming the collection of the land Assessment or other occupants of assessed lands, may distrain the personal property of their tenants, or occupants paying through them, for arrears of Assessment, or of rent, provided they give immediate notice of such distraint either direct or through the Tahsildar or head of Police, to the proper Revenue Officers; should no appeal be made within thirty days from the date on which such notice reach the Tahsildar, the sale may take place. Should an appeal reach the Collector within thirty days, he shall cause the requisite enquiry to be made, and issue such orders as may be just. If the distrainer shall fail within fifteen days to give notice as above, his claim to the arrear shall be forfeited.

XX. When occupants of land, or Farmers of the Assessment have reason to apprehend immediate elopement of a defaulting tenant or payer of Assessment, they may petition the Tahsildar setting forth the arrear due, and praying that he may be taken into custody, and the Tahsildar shall, unless payment be made, arrest the defaulter, and forward him within 24 hours to the Collector, to whom the creditor must apply for further process. Should the Collector find the claim to be just and on sufficient cause, he may forward the defaulter to the Judge in the same manner as a direct defaulter.

COLLECTION OF EXTRA SOURCES OF REVENUE.

XXI. All other branches of Revenue com.

Intended to have the force of Reg. I. of 1826.

monly called Extra Sources, shall be recoverable in the same manner as the land Assessment.

XXII. All farmers of Public Revenue are authorized to proceed against their Sub-renters, or payers of Revenue, for the recovery of arrears in the same manner as is prescribed for the recovery by occupants of land of rent from their tenants.

XXIII. It is competent to occupants of assessed land or Farmers of Revenue to sue those indebted to them for rent or revenue in the Court, in preference to exercising the power of distraint given by this Act.

XXIV. The power of selling property distrained for arrears of rent or revenue is vested in Tahsildars or Heads of Police, who have authority under the Collector to delegate such powers to any public servants placed under them.

XXV. Revenue Officers, occupants of land and farmers of Revenue, are liable to be sued in the Zillah Court for any illegal exactions, unlawful distraint, or other injury or trespass done under colour of this Act.

XXVI. Collectors shall on application, realize each others demands for arrears of Revenue in the same way as if they were their own, whether the districts may be in the same or in different presidencies.

XXVII. Nothing in this Act shall apply to the Collection of the Land Revenue within the Town of Madras.

H. STOKES.

FROM H. STOKES, Esq.,

On Special Duty.

TO T. PYCROFT, Esq.,

Chief Secretary to Government.

SIR,

Having since the dispatch of my Report on the Law for the settlement and Collection of the Revenue been favoured by Mr. Cunliffe with the perusal of the papers relative to the Bill now before the Legislative Council for empowering the Collector of Madras to sell land for arrears of revenue, it occurs to me to suggest that, in accordance with the principles I have advocated of making our enactments as comprehensive as possible, one form may answer for such sales whether in the Provinces or in the Presidency Town, and that therefore should the Bill pass, the terms of Section XII. in my Sketch Act should be assimilated to it. But a still preferable course, in my opinion, would be to defer the further progress of the special Bill and supersede its necessity by inserting a few words in the general Act when settled declaring the process for the sale of land applicable to Madras with the addition of the proposed advertisement in the Newspapers.

I have the honor to be; &c.,

H. STOKES,

On Special Duty.

Madras,

23d November 1855.

FROM H. STOKES, Esq.,

On Special Duty,

TO T. PYCROFT, Esq.,

Chief Secretary to Government.

SIR,

In continuation of the correspondence noted in the margin, I have the honor to submit my Report on the Laws that regulate the Powers and duties of the Revenue Officers under this Government, with a Sketch of the provisions proposed to be substituted for them. I also send a Circular addressed by me to the Collectors, asking their opinion on this part of the Law with the replies from eight of them, being all that have yet reached me.

2. I have conferred with the Board of Revenue on the subject of this Report, and have their concurrence as regards their own General Powers and duties and those of Collectors. But with respect to Endowments and the law to be substituted for Regulations V. and IX. of 1822, further consultation may be desirable in settling the Draft, meantime I hope to receive replies from the rest of the Collectors.

3. In these papers I solicit the attention of Government more particularly to the parts which relate to the Civil jurisdiction of the Revenue Officers and the punishment of malversation, as it is on these that the chief difference of opinion exists. It would only clog the consideration of the points at issue to rehearse the protracted correspondence which has taken place on the subject of Regulation V. of 1822, but to facilitate reference if desired, I now send an abstract of it prepared in the Revenue Board's Office.

I have the honor to be, &c.

H. STOKES,

On Special Duty.

Madras, }
1st December 1855. }

THIRD REPORT.

ON THE LAWS REGULATING THE POWERS AND DUTIES OF THE REVENUE OFFICERS IN THE MADRAS PRESIDENCY.

XXIII. of 1802.	IX. of 1822.	1. Adhering to the plan already laid down, I have in this Report to review the Laws that now prescribe the Powers and Duties of Revenue Officers under this Government, and to sketch out the Act proposed to be substituted in their stead. The law in question is found in the twenty-one Enactments enumerated in the margin in chronological order.
XXIX. of "	III. of 1823.	
I. of 1803.	VII. of 1828.	
II. of "	III. of 1831.	
V. of 1804.	X. of "	
II. of 1806.	III. of 1832.	
XII. of 1816.	Act XXXVI. of 1837.	
VII. of 1817.	XXX. of 1841.	
II. of 1821.	X. of 1849.	
V. of 1822.	XXXII. of 1852.	
VII. of "		

2. For the purpose of review, it will be convenient to group them under the several subjects which the new Act is to comprise, that is to say, the General Powers and Duties of Government Revenue Officers, the Superintendence of Endowments, Public Works and Escheats, the control of the Native establishments, the Judicial Powers of Revenue Officers as a Court of Wards, in Revenue Suits, and in cases of malversation or contumacy.

3. Under the first of the above Heads I class I. and II. of 1803 Section VI. of II. of 1821. Section III. of VII. of 1828 and Act X. of 1849.

4. Regulation I. of 1803 defines the powers and duties of the Board of Revenue. It contains with the preamble fifty-eight Sections. The second and third set forth the oath of office

required by Act of Parliament, and the penalty for its violation. The fourth declares the duties of the Board to be the general Superintendence of the Revenues, and the recommendation to Government of such propositions as they may judge calculated to augment them. The fifth declares them to have and to have had authority to superintend and control all persons employed in the Revenue administration—all Zemindars or Proprietors of land paying revenue, and all Farmers, Ryots and other persons concerned in any part of the Revenue, so far as the said superintendence and control may relate to the executive administration of the Revenue under the Regulations. Then follow up to Section thirty, rules of procedure which for the most part

Sections VI. and VII.

VIII.

IX.

X.

XI.

XII.

complete, and transmit to Government with the whole set of their proceedings a list of all records and papers not entered in them. Members not to have copies of any part of the records, nor to remove them from the Office, but to consult them in the Meeting room of the Board. Government records to be referred to on application to the Governor in Council. Vernacular papers are to be sent to Government with translations. Propositions by Members are to be submitted through the President. New propositions not to be discussed until the previous question has been disposed of

with various other details of a similar kind, of which the twenty-fourth to the thirty-second Sections prescribe the powers of the President or Acting President. The thirty-third Section declares the Board to be responsible that the executive Officers employed under them, discharge their duties with assiduity. By the next Section they had power to summon and to fine Collectors, but this was rescinded by Regulation V. of 1828. Their duties are then declared to be to secure the early settlement of the Revenue in each year—to submit such settlement for the confirmation of Government—to investigate the grounds of the temporary settlements made by Collectors in unsettled Districts, and to prevent on the one hand impairment of the revenue, and on the other encroachments on the rights of the people; and they are to look after the punctual realization of the revenue. The

Section XL.

farmers, or landholders, (the original terms of this Section have been superseded by Regulation IV. of 1832 and Act IV. of 1837.) By Sections forty-two and forty-three, the Board are pre-

The intervening Sections

XLIV. to XLVII.

were rescinded in 1806.

cluded from making or confirming grants, or continuing pensions without the authority of Government. The forty-eighth section provides for the making over of the public money and records by Collectors on their removal to their successors, and says that Collectors are not when resign-

ing or removed, to depart until notification of their having delivered over charge, shall be received. The Board may recommend the deputation of a Member, or of any other person connected with the administration of the Revenue. And they may of their own authority depute Assistant Collectors when they deem it expedient within

LI. to LIII.

their own districts. They are to recommend disbursements for Tuccavy repairs, or improvements. And they are to require from all Executive Officers economy of the

public money, and vouchers for all disbursements, also satisfactory reasons for any increase of expense applied for. They are annually to revise the Collector's establishments, but may not confirm them without

authority from Government. They may recommend to the Government a remission of balances, or suspend the collections for a period not beyond the current Fusly, and they shall also in permanently settled districts direct the Collectors to attach and eventually sell the lands of defaulting proprietors for the recovery of arrears. The last Section, fifty-eight, has already been rescinded by III. of 1830.

5. By Act X. of 1849, the Governor of Fort Saint George in Council is empowered to depute a Member of the Board of Revenue by a special Commission, to be published in the Fort St. George Gazette, to perform in any of the districts of that Presidency all the duties which by the general Regulations belongs to the Board of Revenue collectively.

6. The next Regulation II. of 1803, which like the preceding one is taken from the Bengal Code (Regulation II. of 1793) is drawn up in a similar manner, and in Sixty-nine Sections defines the authority and procedure of Collectors. After the preamble, the second Section declares that the collection of the public revenue shall be entrusted to Covenanted Servants of the

Sections III. and IV.

Company, who are to take an oath as required by the Act of Parliament, violation thereof, subjecting them to the penalties of the Criminal Law. By Section five, they are under the immediate control of the Board of Revenue, to whom and to the Accountant General, or other authorized Officer, they are to furnish required papers or accounts. All their acts and proceedings are to be done in open Cutcherry accessible to all persons, and they are to administer the public revenues to the advantage of the State, the happiness of the people, and the prosperity of the country. The ninth Section

declares their authority under the Board of Revenue to superintend all persons employed in the Revenue executive, or others concerned in the Revenue, as far as the said superintendence and control may relate to the administration of the Revenue, under the Regulations now enacted, or to be hereafter enacted. They are to use an official seal one inch and

Section X.

XI.

XII.

XIII.

XIV.

XV.

half in diameter—to keep English diaries of their proceedings to be forwarded monthly to the Board—to keep the public money under two

locks—to submit within one month after the expiration of each Fusly a

Jummabundy and Kistbundy for each permanently settled state. They

are to insist on the punctual payment of kists, and recover arrears in

the manner prescribed by Regulation, and they are to furnish persons

deputed to attach estates with Sunnuds of appointment. Sections sixteen

to eighteen prescribe the mode of apportioning the Revenue and Subdivisions of estates. And

nineteen to twenty-three contain further rules for such sale or Subdivision. By Section twenty-

four, Collectors are to keep Registers of all alienated lands. By twenty five, they are to

manage the estates of disqualified landholders; and by twenty six, they are to collect

the revenue arising from lands held 'Khas,' in such manner as may be directed by the

Board of Revenue. They are to report to the Board lands held under invalid titles, and

under their Orders prosecute the holders; receiving as compensation twenty-five per cent. on the

annual Jumma which may be assessed on such lands as may be recovered by a decree of Court,

provided that they receive it only on prosecuting to a final decision. By Section thirty, they are

to secure lands for Native pensioners, by thirty-one they are to collect the Assessments

levied for the Police—by thirty-two that arising from sayer, salt, spirituous liquors or

other sources in the manner prescribed by the Regulations, or by the Board. By Sec-

tion thirty-three, they are to grant receipts for all payments of revenue into their Treas-

ury, transmitting monthly a Register for the same. They are to compel the Tahsildars

employed under them to do the same, and to transmit monthly Registers,—by Section thirty-

six, they are to employ none but the public Registered servants in the conduct of public

business—by Section thirty-seven, they are empowered to levy a fine on public servants for

disobedience or neglect, not exceeding one month's pay—Sections thirty-eight to forty two lay

down the duties of Collectors in Districts not permanently settled. They are to be guided by the

Rules which have immemorially prevailed in fixing the Assessment which shall be done under

the Orders of the Board of Revenue without whose permission the rates of share or Quit Rent

shall not be changed; nor alienated lands resumed, nor cowls granted, or lands alienated. Sections

forty-five to fifty-eight inclusive, have been rescinded by Regulation II. of 1806. These related

to judicial powers. Section fifty-nine prohibits Collectors from disbursing public money without

previous authority from Government through the Board of Revenue. Section sixty prohibits

Collectors or their subordinates from being concerned in any Revenue farm; and the next Section

prohibits the former from lending money to parties responsible for the Revenue, or in any way

concerned in it. Section sixty-two which prohibited Collectors from granting lands in farm to

Europeans or their descendants, has been superseded by Regulation IV. of 1832 and Act IV. of

1837. By the remaining Sections, Collectors and their Assistants are prohibited from occupying ground without the sanction of the Board of Revenue, from engaging in trade, and from publishing any orders affecting foreign states without the express order of Government. They are not to quit their stations without the permission of the Board of Revenue, unless compelled to do so by severe illness. In the Collector's absence, the Senior Assistant on the spot is to take charge. On giving over charge, they are to deliver a certified list of all accounts and records, one copy to be sent to the Board, one to be given to their successors. A similar form is to be observed with respect to the balance of cash—one receipt being retained by the person delivering charge, the other transmitted to the Board of Revenue.

7. By Section III. Regulation VII. of 1828, a subordinate or Assistant Collector in charge of a particular division of a District has ex-officio authority within his charge to exercise all the powers of the Collector subject to his control and revision, and the Collector may likewise delegate any of his powers to a subordinate not in charge of a particular division. But in such cases the proceedings of the subordinate and Assistant Collectors are to be subject in all cases, and in the fullest manner to the revision of the Collector.

8. Under Section VI. of II. of 1821, Collectors and their subordinates are to make preliminary enquiry into alleged acts of malversation committed by District Moonsiffs, and if grounds appear for a more formal investigation, to forward a statement of the case with a list of witnesses to the Zillah Judge.

9. The next in order for notice is Regulation VII. of 1817, which purports to have been framed on Regulation XIX. of 1810 of the Bengal Code. With the preamble it contains sixteen Sections, the object of which is to vest in the Board of Revenue the general superintendence of Endowments and all public buildings, and to establish rules for the custody and disposal of Escheats. The Board are to ensure the appropriation of Endowments to the purpose for which they were made, and to provide for the due repair and maintenance of all public edifices conducive to the convenience of the community, such as cannot be rendered so conducive, are to be reported to Government. For carrying into effect these duties, the Board are to appoint the Collector to be ex-officio a local Agent; and the Governor in Council may name any other public Officer or Officers to act with him. These local Agents are to obtain full information from the public records and by personal enquiries, respecting all endowments or buildings of the nature described, and respecting escheats, and are to bring the same to the notice of the Board. By Section X. they are to report the names of the Trustees of such institutions with other particulars respecting them; as also all vacancies and casualties which may occur with all procurable information as to the right of succession and nomination. And when the nomination may rest with Government, the local Agents are to recommend, and the Board to appoint, or make such further provision for the trust that may appear requisite. The fourteenth section explains that parties aggrieved by any orders passed by the authorities, may sue them in a Court of law; and the fifteenth, that the object of the Regulation is solely to provide for the due appropriation of endowments, and not for their resumption. The last Section extends all legislative provisions for the punishment of malversation in the Revenue department, to malversation in respect of the property of the public institutions referred to in this Regulation.

10. The laws for the control of the inferior Revenue Servants are Regulations XXIII. and XXIX. of 1802, Section II. of IV. of 1806, and VII. of 1822.

Regulation XXIII. of 1802 framed upon Regulation XXI. of 1793 of the Bengal Code, containing eight sections, requires that all accounts and papers regarding the Assessment, the allotment of the Revenue on the shares of divided Estates, as well as other documents relating to the public demand upon the lands, shall be carefully preserved in an Office of record in each Zillah superintended by two record keepers on the Collector's Establishment, who are to keep a register in Persian and in the language of the District of all such documents in a book, each leaf of which shall be attested by the Zillah Judge, who is to insert in his own hand, on the last leaf of each book the number of its pages. The record keeper is to endorse on every such registered document the page where it is entered. They are to be careful that the records are not destroyed or removed from the Collector's Office without his permission, default in these respects subjecting them to dismissal, and they are to attend to all Orders or Regulations of Government, and to the directions of the Collector in matters concerning the custody of the records. By the third section,

Record keepers were to be appointed by the Governor in Council, and only removeable for misconduct proved to his satisfaction.

II. Regulation VII. of 1822, however, rescinded this part of the law with several other Regulations, and made the appointment and removal of the Native public servants in the Revenue as well as other departments, excepting only those mentioned in XXIX. of 1802, subject to such rules and Orders as the Government may from time to time see fit to issue.

12. Regulation XXIX. of 1802 in nineteen Sections regulates the Office of Curnum or village Accountant in permanently settled Districts. In substance its provisions are that there should be a Curnum's Office in every village of such District where the gross revenues amount to four hundred Pagodas annually—but that one Curnum may discharge the duties of two or more smaller villages. The nomination being in the proprietors, incumbents being continued in their Offices; but vacancies to be filled up within six months after the permanent settlement. They are not to be dismissed except by the sentence of a Court. Nominations are to be made within thirty days after the occurrence of a vacancy which is to be reported by the Collector. The heir of the last incumbent is to be named, except in case of incapacity proved before the Zillah Judge, in which case the land holders may nominate at discretion. Proprietors are to deposit authentic nominal lists of the Curnums in their Estates in the Zillah Court, the Collector's Cutcherry, and the Cutcherry of the Estate. The number of Curnums may be reduced with the permission of the Board of Revenue. Proprietors may be fined at the discretion of the Zillah Court for neglecting to appoint Curnums. The Eleventh Section enumerates thirteen forms of account to be kept by Curnums; and Section Twelve requires that they shall produce their accounts when demanded by the proprietor, by the Collector, or by the Court. But Collectors are only to demand them when it may be necessary to divide an Estate, or for the management of lands escheated to Government, or under attachment. Under the fourteenth Section, the Zillah Courts can prohibit Collectors, and fine them for neglect of such prohibition, from demanding the attendance or accounts of Curnums for purposes not specified in this Regulation.

13. The fifteenth and sixteenth Sections lay down the process for enforcing the attendance of a Curnum; the seventeenth, for taking his evidence on oath before a Court of judicature; and the eighteenth and nineteenth Sections declare the delivery of false accounts after being sworn to, to be perjury and complicity in their falsification, to be subornation of perjury, and as such committable to the Criminal Court.

14. I cannot see the necessity for these three Sections, as they appear to convey no other powers than are exercised by the Courts generally, when taking evidence.

15. This Regulation was modified by Section VII. of II. of 1806. Five Sections XI. XII. and XVII. to XIX. were alone declared applicable to unsettled Districts, and in them Curnums were made subject to the Revenue Officers, dismissable by the Board of Revenue, and to be appointed by them on the recommendation of Collectors.

16. I now come to the Judicial powers of the Revenue Officers.

17. As the functions of the Court of Wards as defined in Regulation IV. of 1805, X. of 1831, Acts XIX. of 1841 and XXI. of 1855 do not so far as I understand call for attention, I shall not recapitulate them here.

18. The Civil jurisdiction of the Revenue Officers is provided for in Regulations XII. of 1816, and V. of 1822, both of which have been the subject of frequent references and much discussion. The preamble of XII. of 1816 explains it to have been passed to remedy the inconvenience found to attend the determination of claims to disputed lands or crops under Section II. Regulation XXXII. of 1802, and the settling in the Zillah Court suits respecting the occupying, cultivating and irrigating of land; and the twelve following Sections prescribe rules for their determination by district or village Punchayets when referred to them for that purpose by the Collector. The second Section constitutes the village and district Moonsiffs as the channel of reference from the Collector. Section three authorizes the employment by the parties of a relative or dependant as vakel. The fourth defines the class of suits referrible to be those which depend on boundary disputes, or which may arise between landlord and tenant respecting the occupying, cultivating or irrigation of land. It also states what the plaint is to contain in each case. Section XVIII. of V. of 1822 extends the scope of this provision to all disputes of the nature described be-

tween ryot and ryot. The fifth Section in eight Clauses prescribes the process for procuring the attendance of parties, for punishing contempt, for recording the plaint and answer, for assembling the Punchayet. In case both parties agree to this mode, the trial is to be by a village Punchayet; if only one shall agree, by a district Punchayet; and in case both object, the plaintiff is to be referred to the Zillah Court, or any competent jurisdiction. The sixth Section in four Clauses contains the procedure for the Punchayets according to the general rules in Regulations V. and VII. of 1816, and for sending their decision in a sealed packet through the Moonsiff to the Collector who is to detain it for twenty days, and if during that time no charge of gross partiality be preferred, he is to confirm it. By the Eighth, the Moonsiff is to deliver the decree to the parties, and should either of them refuse his copy, he is to deposit it endorsed to that effect, in the records of the district Moonsiff or Curnum, as the case may be. The ninth Section provides for setting aside the decision on proof of gross partiality, the parties having the option of resorting to another Punchayet, or any competent jurisdiction, provided that should the decision of a second agree with that of the first Punchayet, it shall be final. If the charge of partiality be not proved, the Collector shall levy a fine on the party who made it. The tenth Section empowers the Collector or principal Native Revenue Officer to carry decrees into execution. By the three last Sections, these suits are only to be subject to the charges leviable under Regulations V. and VII. of 1816, that is to say, the institution fees and batta to witnesses. They are to be included in the Moonsiff's monthly returns, and a copy of this Regulation is to be lodged with each Moonsiff. An Act recently passed No. XX. of the present year for the establishment and maintenance of boundary marks in Section VI. requires the Revenue Officer to whom a complaint may be referred, objecting to a boundary proposed to be fixed to dispose of the same, under Regulation XII. of 1816.

19. Regulation V. of 1822 has given rise to more questions and discussions than perhaps any other part of our law or practice. The design and principles of this enactment have for the most part fully commended themselves to the Revenue branch of our service. But from the unsuccessful wording of parts of it pointed out by the Sudder Adawlut in 1829, and from the impediments which I have already referred to as generally incidental to Revenue judicial procedure, it has to a great extent been a dead letter. A most voluminous correspondence regarding the amendment of this law which commenced in 1829, and has not yet ended, inasmuch as the Minutes of Consultation dated 5th January 1845 have not yet been answered by the Board of Revenue, is on the records both of that Office and of the Sudder Adawlut. But I will not take up the time of Government by going further into it.

20. Those parts of the Regulation which refer to the settlement and collection of the Revenue, that is to say, Sections III. to VI. and VIII. have already been noticed in connexion with that subject. The Regulation was passed to give Collectors the primary cognizance by summary process of all suits except those referred to in Sections XXXV. and XL. of Regulation XXVIII. of 1802, which under that Regulation and XXX. of 1802 were summarily cognizable by the Zillah Court. Section VII. modifies VII. of XXX. of 1802, and requires that when the penalties there enacted are levied, the amount of exaction should be returned to the ~~part~~ with such further proportion of the penalty as may seem a fair compensation. The tenth Section repeals XXXII. of 1802, and the four that follow provide for the reinstatement by the Collector of parties who may have been forcibly dispossessed of lands or crops, the restoration of the property taken, and the award of equitable costs and damages against the offender, as also for the punishment by the Criminal Courts of parties guilty of violence whether the actual claimants or their dependents. Section fourteen declares that the Criminal Judge shall in certain cases adjudge the lands and crops in dispute to be forfeited to Government. By Section fifteen, the Collector has authority to refer all disputes which may be brought before him under this Regulation respecting arrears of rent, rates of Assessment in money or kind, or of division in kind, or right of occupancy or possession of lands or crops, to a district or village Punchayet for decision if both parties agree, and in this case he may exercise the powers of a Moonsiff under V. and VII. of 1816. An appeal is open to the Zillah Judge within thirty days from the Collector's decisions which are only to be set aside on their merits. When suits are before a Punchayet, the Collector may, on application, put one party in possession pending the decree. Parties may employ in their behalf a relative or dependent. No stamp duties or fees are to be levied under this Regulation; proceedings are to be summary, and it is

only necessary for a Collector to keep in the language of the district an abstract register of the parties, the plaint, decision, and date of delivery.

21. The powers of Collectors in cases of malversation in Revenue affairs and of contumacy, are contained in Regulation IX. of 1822, III. of 1823, VII. of 1828, XXXVI. of 1837, XXXII. of 1852, Section V. of III. of 1831 and Act XXX. of 1841.

22. The first of the series passed in supersession of XXXIII. of 1802, contains with the preamble 19 Sections—the second of which specifies the Acts cognizable, and the persons subject under it to the Collector's jurisdiction. By Act XXXVI. of 1837, the third and fifth class of offences are extended to embrace any public property as well as money. The third Section prescribes the mode of procuring evidence, and the fourth the manner of investigation, which is to be summary. Witnesses are to be examined as subsequently prescribed by Act V. of 1840 on a solemn declaration. All documents produced are to be endorsed with the date of production and Collector's initials, and a summary of defence, the decision and the grounds of it are to be recorded. By clause second Section II. Regulation III. of 1823, Collectors are required to transmit such occasional or periodical reports of these judgments as the Board of Revenue may direct, and the Board whenever they see fit may stay their execution, or pass such further order as may seem just.

23. The fifth Section in four clauses prescribes the nature and extent of punishment awardable by Collectors, and the mode of its enforcement. A convicted person may be sentenced to pay any sum not exceeding twice the amount unlawfully obtained in either of the modes specified in the three first classes of offence. The Collector's judgment is to be satisfied in the same manner as a decree of Court by a warrant under the Collector's seal and signature, the party sentenced being mean time kept in custody, first in the Collector's Cutcherry, afterwards if necessary, in the Zillah jail. Parties convicted of the fourth or fifth class of offences, fraudulent falsification, or destruction of public accounts, may be sentenced to a fine not exceeding five hundred Rupees, or in default of payment, to imprisonment not exceeding twelve months.

24. Section VI. empowers Collectors to recover the amount of defalcations clearly ascertained without examination of witnesses in the same mode as arrears of Revenue are recoverable.

25. These two Sections V. and VI. have been modified by Section VI. of Regulation VII. of 1828 which allow the parties sentenced at any time within three months of such judgment or Order, to forward through the Collector an appeal to the Board of Revenue, who may either dispose of it themselves, or refer it for the orders of Government who, if it shall appear that further investigation is necessary, will appoint one or more Commissioners, to make it.

26. The seventh Section authorizes the Collector to require security from an accused or suspected person, and in default thereof to attach his property; and by Section VIII. where such security has not been given, or where a judgment for a sum of money has not been satisfied, he may by proclamation call upon all parties holding property belonging to the defaulter, to surrender the same. And parties who have fraudulently disobeyed such proclamation are liable to be sentenced in the Criminal Court to three times the amount of the property so withheld.

27. By Section IX. the Collector can on information upon oath issue Search Warrants, for revenue papers or accounts, observing certain forms therein laid down.

28. Section X. contains rules for the sale of property by the Tahsildar or other public servant whom the Collector may employ in satisfaction of an order or judgment under this Regulation, and renders applicable to such sales the rules for the sale of property under Regulation XXVIII. of 1802.

29. The eleventh Section prohibited execution of judgment until confirmed by the Board of Revenue, but this has been rescinded by Regulation III. of 1823.

30. The twelfth Section vests the Collector with discretionary authority subject to the Board's approval, to make restitution of money unlawfully exacted or received, provided that persons shall in all cases be entitled to receive back the sum so unlawfully obtained from them, if they shall have given notice of the fact within two months afterwards.

31. Under Section XIII. Collectors are authorized to keep under restraint any person against whom they may have instituted an inquiry, and further to forward to the Zillah Judge for confinement in the Jail any person against whom a judgment may have been passed, which it has not been practicable to satisfy by the sale of his property.

32. The fourteenth and fifteenth Sections provided for appeals from the Collector's judgments to the Governor in Council, and for the appointment by him of a Commission to revise the Collector's proceedings. But Regulation VII. of 1828 already noticed, has substituted a previous appeal to the Board of Revenue giving them the power of disposing of the same, unless they may see fit to refer them to Government. Clauses second to seventh of Section XV. regulate the procedure of Commissions so appointed. Their decisions are to be final, but Government, when the Commission may have adjudged compensation to the party charged, shall decide whether it shall be paid from the public Treasury, or by the Collector who conducted the primary enquiry. Should an appeal be presented while any part of the property is still unsold the sale shall be staid, and where sufficient property may be under attachment or security, may be given to satisfy judgment, the party appealing is to be released from confinement, pending the Commission.

33. Section XVI. precludes the Civil Court from admitting any suit grounded on the summary proceedings of a Collector under this Regulation, unless the plaint be accompanied by the order of the Revenue Board referring the complaint to the Civil Court under Clause second Section VI. Regulation VII. of 1828. And the Courts are further limited by Regulation III. of 1832 to the admission of such suits, only in case the Revenue Board's order be produced within three months from the date of its delivery, as certified by endorsement on the petition in which the order is written.

34. Section XVII. in two Clauses authorizes Criminal Judges to take cognizance of all cases of the nature described in Section II. which Collectors may bring before them; as also of all cases where any persons shall be charged with having given a bribe to a public servant. In the former case they may sentence to one year's imprisonment, and in the latter to a fine not exceeding twice the amount proved to have been paid as a bribe. Or in default of payment, to imprisonment until the fine be paid, not however to exceed one year.

35. By the last Section, a Criminal Judge may commit to the Circuit Court aggravated cases which may be deemed to require a greater punishment than he is empowered to inflict—and the Circuit Court may sentence to five years' imprisonment with hard labor or any less severe punishment beyond twelve months.

36. It only remains to notice the four first Sections of the supplemental Regulation VII. of 1828, of which the three last have already been mentioned in their proper place. The second Section rescinded the third of III. of 1823, and the third gives a Subordinate or Assistant Collector in charge of a particular division of a district, all the powers granted by Regulations to Collectors, unless where the contrary is declared, and also allows Collectors to delegate in writing any such powers to a Subordinate or Assistant, not in charge of a particular division, or beyond the limits of such charge, provided however that the proceedings of the inferior Officers be subject to the Collector's revision and control. The provisions of this Section being general, will be fittingly introduced in that part of the Act which is to be substituted for Regulation II. of 1803.

37. Section IV. effected a very important and useful extension of the Law by empowering Collectors at their discretion to refer all petty cases under it for investigation to their Sheristadars and Deputy Sheristadars when detached from the Hoozoor Cutcherry, and to Tahsildars, and to pass sentence on their proceedings, provided that no judgment so passed should be for a sum exceeding fifty Rupees.

38. Act XXXII. of 1852 contains five Sections to facilitate the prosecution in any Criminal Court of Ministerial or Police Officers for malversation committed at any time during tenure of office; and the last section declares that this Act does not in any way repeal or affect the Law of the Madras Code with respect to the malversation and offences to which they are applicable.

39. Such is the law as it now stands for the cognizance by Collectors of cases of malversation in the Revenue department. They are sufficiently clear and practical, and seem only objectionable as containing somewhat too much detail in regard to the execution of judgment, and as protracting indefinitely the final decision by the rules for appeal.

40. In this as in other parts of our Law, I think we may take useful hints from the Bombay Code.

41. There are two other enactments which invest the Collector with the power of fining. Section V. of Regulation III. of 1831 declares that any Ryot refusing to attend the annual settlement when summoned by the Collector or the Tahsildar, shall be liable to a fine not exceeding fifty Rupees, or one month's imprisonment. For the second offence a fine not exceeding two hundred Rupees, or three months' imprisonment, and for any subsequent repetition to imprisonment for a period not exceeding one year.

42. This is an anomalous provision which was passed under a special emergency (the Coots in Canara in 1831) and does not harmonize with the general spirit either of the revenue or the magisterial Law.

43. And Act XXX. of 1841 Section two, gives power to the Revenue Officers to punish by a fine not exceeding two hundred Rupees, commutable to imprisonment not exceeding one month, obstructions to justice by using menacing gestures or expressions or otherwise, the sentence to be carried into effect by the Magistrate on application.

44. Section VII. of the Boundary Act, passed since I entered on this enquiry,—XX. of the present year, also empowers the Collectors to fine for non attendance at the measurement of fields, to the extent of fifty Rupees to be recovered as an arrear of land Revenue.

45. I had nearly overlooked two other Acts XII. and XIII. of 1850 which, though of general application, seem to require notice here, as having an important bearing on the branch of law under review. The first Act requires that every public accountant shall give security for the due discharge of the trusts of his Office, and shall be liable to be proceeded against for any loss or defalcation in his accounts as if the amount thereof were an arrear of land Revenue. And the second provides for the criminal punishment of breaches of trust. It appears to me that the Trustees of religious endowments are comprehended among the persons amenable to both these Acts, and that if acted on, they sufficiently provide for the protection of such endowments.

46. My remarks on the first subdivision of the laws recapitulated above, may be few and simple. The alterations proposed chiefly consist in the omission of a few provisions which have become unsuitable, the transfer of others from the region of law to that of administration, and the consolidation of the remainder. Thus in the Regulation for the Board of Revenue, I propose to cancel Sections XII. and part of XLVIII., LI, LII., LIII. and LVI. as there seems no reason now why the security of Europeans should not be accepted, or why Collectors should wait after giving over

** As the law now stands, the Board of Revenue seem to be vested with control under Sections IV., LI. and LII. of I. of 1803, of Public Works connected with agriculture. And by Sections II. to IV. of Regulation VII. of 1817, of other public buildings; and it will be for the Government to consider how the recent arrangements in the Public Works department and the law are to be harmonized.*

charge of their office for the Board's permission to leave it, or why the Board should continue to be the legal channel for recommending disbursements in Public Works, seeing that another office has been constituted for this purpose, or why the power of suspending the collections within the Fusly, may not be left with Collectors who practically exercise it. The new Act may embody the substance of the Sections which prescribe the official oath, the Board's general authority, the use of the seal, the determination of questions, the general duties of the Board, the prohibition of commercial transactions on the part of members, the mode of deputation, and the control of expenditure; and the remaining details of procedure may be left to be regulated by the Board's own standing orders under the authority of Government. This would both accord with the principle advocated in my preliminary report, and with the practice in Bombay where the powers and duties of the Revenue Commissioners only occupy a single Section of the Code in Regulation V. of 1830.

47. In like manner in the Collector's Regulation, Sections XI., XXVIII., XXIX., XXX., LI. and LXVIII. might be dispensed with or modified, and the remaining provisions may either be retained in a condensed form, or left to be regulated by standing orders. Indeed the greater part of this Regulation is, and seems always to have been, a dead letter. The provisions relating to the settlement of the Land Assessment are retained so far as seemed necessary in the Sketch Act for that purpose. The supplemental laws have simply to be incorporated in their proper place.

48. The protection of endowments, the care of public works, and the custody of escheats, involve an important part of the public trust, for which I conceive some legal rules necessary.

The existing Regulation appears simple of application, and well adapted for the purpose intended ; but subsequent changes in the policy of Government, render modification necessary at least in two respects. The supervision of public edifices &c. seems now rather to belong to the new office of public works ; and the orders of the Court of Directors on the subject of official countenance by their servants of Hindoo and Mohamedan religious observances, require that the superintendence of the religious endowments of those persuasions should be limited to the nomination of Trustees, with whom and the community interested, further responsibility may be left. As already noticed Acts XII. and XIII. of 1850 provide protection against misappropriation. I do not find in the Bombay Code any law analogous to VII. of 1817, and hence infer that the provisions of the latter however convenient, are not indispensable. I think it would be desirable to introduce in the new Act a recognition of the reasonableness of departing from the original appropriation of an endowment when the parties for whose benefit it was originally designed, or a large majority of them should desire such a change, and Government shall approve of it. The Board of Revenue are scarcely prepared to enter on these questions, and would prefer to omit this Regulation from the present revision. But as I included it in my first report, and in the absence of any intimation to the contrary, I conceive Government would wish it to be now disposed of. I confess I do not see that it involves any great difficulty. It is also thought that some further provisions are necessary to define the right of voting for Trustees or Durmakartas of Pagodas, and to enforce the annual publication of their Accounts. My own view is that Government has no more right or rather infinitely less to interfere in regulating such a matter than between the Congregation and Vestry of one of our own Churches. In this country we do not legislate for our own religion, and surely are not called to do so for others.

49. I see no sufficient reason for retaining the law for the custody of Revenue Records, as it has become obsolete, and the end in view, however important, falls fully within the province of administration. I would also take the opportunity of transferring the control over the appointment of Curnums in permanently settled Districts from the Courts to the Revenue Officers, recourse to the former being often found highly inconvenient. The hereditary emoluments of Curnums will come under consideration in connexion with Regulation VI. of 1831.

50. The change I would propose as regards the Civil jurisdiction of Revenue Officers may appear startling, but I believe that on consideration, it will commend itself to those who have experimental acquaintance with the present practice, of which in fact it would be little more than a legal recognition, and reduction to system. I would leave all properly judicial work to the judicial tribunals, that is to say, village and District Moonsiffs, Sudder Ameens and Judges' Courts, and where they exist, Courts of Small Causes, and I would declare the order of the Revenue Officers passed on summary investigation in the manner now customary upon miscellaneous petitions, that is either before the Collector, or by the Tahsildars, to be binding until set aside by a competent tribunal on a suit instituted within say, one month from the delivery of the Collector's order. The class of causes thus cognizable by Revenue Officers would be defined as in the Bombay Code. Provision will be made for the employment of arbitration under a simpler form of procedure than the present one. Regulation XII. of 1816 has proved practically useless from the preciseness and complexity of its forms. To make use of the Tahsildars in the primary investigation of such causes is strictly in keeping with the principle sanctioned by Section IV. Regulation VII. of 1828. By Regulation VI. of 1830 of Bombay, the Collector's subordinates not only investigate, but pass decisions in petty Revenue suits. In fact if Collectors are required to do judicial work in a judicial way, they will neither do it so well, nor so quickly as the Courts themselves, and few will do it at all.

51. Somewhat similar are my views as regards the criminal jurisdiction of Revenue Officers, that is to say, within a certain limit, I would maintain their summary powers as at present restrict appeals, and hand over graver cases which are of rare occurrence, and in which summary powers are mistrusted, to the ordinary Criminal Courts.

52. For further explanations, I refer to the sketch of the proposed Act.

II. STOKES,

On Special Duty.

Madras, 1st December 1855.

SKETCH OF AN ACT to be substituted for the present Laws for regulating the Powers and Duties of the Revenue Officers in the Territories of the East India Company, subject to the Government of Fort Saint George.

NOTES AND EXPLANATIONS.
Compare

BOARD OF REVENUE.

Section I. of Regulation V. of 1830. Bombay. Intended to embody Sections IV., XXXVI., XXXVII., XXXVIII., XLVIII. and LI. to LIV. of I. of 1803.

It will be for consideration how this may apply to the present arrangement for Public Works.

See Sections V. and XXXV. to XXXVIII.

* Section L.

† Sec. XXXIII. says punish neglect at discretion, according to the powers vested in them.

This may be convenient though not found in the present Regulation.

See Sec. VIII. Reg. I. of 1803.

Secs. XVIII. to XX.

Section XXXII.

Section XLIX.

From Act X. of 1849.

I. The Board of Revenue are vested under Government with the general superintendence of the revenues from every source, and the supervision of expenditure in the revenue department ; also with the recommendation to Government of measures for the improvement of the revenue, or when necessary of remissions.

II. The Board of Revenue have a general control over all persons employed under them in the executive administration of the revenue, with the general responsibility for its efficient discharge ; and so far as authorized by the laws now in force, or hereafter to be enacted, over all other persons concerned therein.* The Board may assign the duties or local charge of Subordinate or Assistant Collectors, and may order† the dismissal of any servant not being a Covenanted servant, for disobedience or neglect of duty.

III. The number of Members of the Board may be fixed by Government from time to time.

IV. The Board of Revenue shall use an Official Circular Seal two inches in diameter, bearing in English this inscription, the Seal of the Board of Revenue.

V. Questions before the Board of Revenue are to be determined by a majority, the opinion of the Junior Member being first recorded, and the President having a casting vote, when votes may be equally divided. The proceedings on any question shall on the motion of any Member be referred to the Governor in Council. In the absence of the President, the Senior Member present, exercises the same power as the President.

All further details of procedure shall be regulated by standing orders from time to time framed by the Board, and approved by Government.

MEMBER OF THE BOARD ON DEPUTATION
AND COMMISSIONERS OF REVENUE.

VI. A Member of the Board may, with the sanction of Government, proceed on deputation to the provinces when considered expedient for purposes connected with the administration of the Revenue, and may within such limits as the Government may appoint, exercise all or any part of the authority of the Board, as the Governor in Council may direct for the time being.

VII. The Governor in Council may also from time to time whenever he shall see fit, appoint a Member of the Board of Revenue, or other Covenanted Servant, to be a Commissioner of Revenue to perform alone in any of the districts of the Madras Presidency, all or any of the duties which by law belong to the Board of Revenue collectively ; and in this case, the Board shall cease to exercise such powers as are assigned to the Commissioner, within the same

In case a Commissioner is appointed in succession to another, he could not without embarrassment exercise his powers until he took charge from his predecessor.

Sections II., III., V., VI., VII., VIII., and IX. of VII. of 1817.

This may perhaps be left out.

* This may have to be altered as regards buildings.

limits. Every such Commission shall be published in the *Port Saint George Gazette*, and the Commissioner shall enter on the duties of his office from the date of such publication, unless otherwise directed.

COURT OF WARDS.

VIII. The Board of Revenue is a Court of Wards, and exercises in that capacity the powers defined in Regulation V. of 1804, X. of 1831, and Acts XIX. of 1841 and XXI. of 1855.

ENDOWMENTS AND ESCHEATS.

IX. The general superintendence of endowments in land or money granted by Government, or individuals for the support of [religious establishments, or] public edifices, or objects of public utility, is vested in the Board of Revenue, who shall take such measures as may be necessary to ensure that such endowments are not misappropriated, or * public buildings allowed to fall to decay. And for this purpose they shall have local Agents in each District, one of whom shall be the Collector *ex-officio*.

X. It is the duty of the Board of Revenue to see that where necessary, trustees, managers or superintendents of the institutions or establishments in question be duly nominated, and vacancies filled up according to local usage.

XI. In the case of endowments for the maintenance of religious edifices or observances belonging to the Hindoo or Mahomedan persuasion respectively, when trustees shall have been duly nominated, the responsibility of the Officers of the Government shall cease, excepting so far as to see that vacancies in the trust be duly filled up, when they may be applied to for that purpose.

XII. Cases of malversation connected with endowments, may be dealt with as malversation connected with Revenue. Trustees and other persons employed in the administration of endowment funds, may be sued for damages in the Civil tribunals, or prosecuted criminally under Act XIII. of 1850 for breach of trust, or before the Collector by a party interested. The Revenue Officers however shall not interfere further than by taking summary cognizance of such charges of malversation, as may be preferred to them.

XIII. When the parties for whose benefit an endowment may have been originally designed, or a majority of them shall desire to alter its mode of appropriation, and the Government shall approve of such alteration, nothing in this Act shall be construed to make such alteration illegal, and it shall be competent to the Board of Revenue to cause it to be carried into effect.

XIV. The General Superintendence of all escheats is vested in the Board of Revenue, who will through the local Agents, obtain full information of all property of that description, and advise the Government as to its disposal.

POWERS AND DUTIES OF COLLECTORS.

XV. The number of Collectors, and of Collectorates with their limits, shall be fixed from time to time by Government.

XVI. The collection of the revenues from

whatever source under such laws as are or may be enacted, and in cases not provided for by law, under such instructions as may be issued by the Board of Revenue with the sanction of Government, or by Government is vested in the Collectors. They are to enforce the * punctual collection of the revenue, to cause † receipts to be duly given for all payments, and to administer their districts to the advantage of the ‡ State, and the happiness of the people. They may not exempt lands from Assessment, § or make disbursements || for public works, or as loans for cultivation, without the previous sanction of higher authority.

XVII. Collectors may not without express authority from Government, do any act which may affect the intercourse of the British nation with foreign States.

XVIII. Collectors are under the immediate control of the Board of Revenue, or Officer exercising the functions of the Board, whose orders they are to obey.

XIX. Collectors shall use in the transaction of official business, a Circular Seal one inch and half in diameter, bearing in English and the language* of the district this inscription, The seal of the Collector of the Zillah of

XX. The acts and proceedings of Collectors generally shall be public; that is to say, they shall transact business in an office accessible to all parties, but this is not intended to restrict them from conducting their correspondence wherever may be most convenient.

XXI. Collectors may not employ public servants in private affairs, nor private servants in public affairs. This is not intended to prohibit the employment of authorised volunteers.

XXII. Collectors have authority to superintend and control all persons employed under them, and to punish public servants on their establishment under the rank of an Assistant, for disobedience or neglect of duty by dismissal or by a fine not exceeding one month's pay subject to revision* by the Board of Revenue.

COVENANTED SUBORDINATES.

XXIII. A Subordinate or Assistant Collector in charge of a particular division of a district, has *ex-officio* within that charge all the legal powers of a Collector, unless the contrary be expressly declared in any enactment.

Collectors may delegate in writing under their official signature any of their legal powers to a Subordinate or Assistant not having a local charge, or to be exercised beyond the limits of such charge which they may hold.

But the proceedings of the Subordinate and Assistant Collectors, are subject to the control and revision of the Collector, to be exercised in such manner as he may determine.

XXIV. In the absence of the Collector, the senior Covenanted Servant under him, shall take charge of the public business.

* Sec. XIV.
† Secs XXXIII. to XXXV.

‡ Sec. VIII.

§ XLIII.
|| LIX.

Sec. LXV.

Sec. V.

Section X.

* Persian is useless now.

Section VII. seems wise and liberal in intention, but too stringent in letter, and is not observed.

Modified from Section XXXVI.

Sections IX. and XXXVII. of II. of 1803. Section IX. not appearing to give any specific power over persons not being in the employ of Government beyond what are given by other parts of the law, I omit it. At present a Collector's order to attend is complied with as a matter of course, though the law gives no power to punish refusal.

* This is not specified in present law, but is implied, and is the practice.

Taken from Section III. Regulation VII. of 1828.

Sec. LXVII.

Reg. II. of 1803, Compare Bombay Act of 1827, Chap. I.

Secs. II. and XXXII.

Sec. XLIX. Sec. XLVIII. is obsolete, and seems unnecessary, as the Record keepers or Sheristadars should be responsible for the integrity of the records.

Sec. XXV.

I am not aware of any Law applying to disqualified landholders, except the Law of the Court of Wards.

This is intended to embody the substance of Secs. XV. and XVI. of V. of 1822, and to supersede XII. of 1816. But it does not contemplate the award of costs or damages by Collector.

The Bombay Code says 500 Rupees.

My first impression was simply to retain Sections II. to VI. IX. XII. and XVII. and XVIII. with the modifications as to appeal, and sending all grave cases to the Courts. It afterwards

XXV. On assuming charge of the office of Collector, the Officer shall pass a receipt in duplicate for the balance of cash delivered to him, one to be sent to the Board of Revenue, the other to be kept by his predecessor.

XXVI. Collectors are to manage the estates of disqualified landholders as prescribed by Law, or under the orders of the Court of Wards.

SUMMARY POWERS OF COLLECTORS IN CERTAIN CIVIL CAUSES.

XXVII. It shall be competent to Collectors on summary investigation either before themselves, or made under their orders by Tahsildars, to pass orders in cases which may be brought before them personally or by Petition of disputed claims to rent or revenue—disputes regarding rates of share or of rent in money, or in kind—complaints, if preferred within a month after the fact, of dispossession from the occupation of lands, premises, trees and crops—disputes concerning the use of water, or regarding the right to enter upon or cultivate unoccupied land, and the Collector shall have power in cases of disputed possession, to instate the party in whose favor the order is passed. Collectors and their subordinates may exercise the powers of the Civil Courts for procuring attendance of parties for these investigations.

XXVIII. In all such cases the Collector's order shall be binding, until set aside by a competent tribunal on a suit instituted within one month from the delivery of the Collector's order, unless when the Courts may see sufficient grounds for the sake of equity in any particular case to admit a suit after that time.

XXIX. Tahsildars may exercise similar authority in such cases where the value in dispute may not exceed Rupees. Appeals shall lie, within fourteen days from the delivery of the Tahsildar's decision, to the Collector.

XXX. When Collectors may consider it advisable, they may refer complaints of the above nature to the decision of village or District Panchayets under Regulations V. and VII. of 1816, or of Arbitrators under the forms prescribed in Act XX. of 1852.

XXXI. An appeal by regular suit in the Court shall be from the award of Arbitrators in the same manner as from the order of the Collector, unless both parties shall have bound themselves to accept such award as final. In this case or when the time for appeal may have expired, the Collector may give effect to the award of Arbitrators. When defaulters respecting possession of lands or crops may be referred to a Panchayet or to Arbitrators, the Collector may place one party in possession pending the decision.

CRIMINAL POWERS OF COLLECTORS IN CASES OF MALVERSATION.

XXXII. Collectors are authorized to take primary cognizance of all cases in which any Uncovenanted servant on their establishment, village officers, or persons acting as such, or

appeared to me that there was room for simplification; but this sketch is probably not sufficiently precise, for a judicial procedure.

pretending to act by authority in matters connected with the revenue, may be charged with malversation. By malversation is meant, 1st, unlawfully extorting, exacting, or corruptly receiving money or other valuable consideration; 2d, levying extra and unauthorized collections; 3d, embezzling or fraudulently misappropriating public property; 4th, making false or fraudulent entries in the revenue accounts or records in regard to receipt or expenditure of public money or property under the Collector's superintendence, or 5th, wilfully falsifying, destroying or concealing documents relating to the receipt or expenditure of public property.

XXXIII. In procuring attendance of parties, and issuing search warrants for accounts or papers necessary to the investigation, Collectors may exercise the powers of Magistrates.

XXXIV. When any person may be convicted under this Act, of any of the 3 first kinds of malversation, they may be sentenced to a sum not exceeding twice the amount proved, to be recovered by a warrant under the Collector's signature, in the same manner as an arrear of revenue, and the person against whom such judgment is passed, shall be kept in custody, first in the Collector's Cutcherry, afterwards if necessary, in the Zillah jail, until the judgment be satisfied.

When any persons shall be convicted of either of the two last classes of malversation, the Collector shall impose such fine as may appear reasonable, commutable to imprisonment.

XXXV. In all cases of the three first classes of offence where the sum corruptly received or embezzled, may exceed [100] Rupees, or of the two last where the offence charged may seem to call for a severer punishment than a fine of [two] months' pay, or [two] months' imprisonment, the Collector shall commit the case to the Criminal Court, who have power to sentence to a fine of twice the amount proved, or to imprisonment for a period not less than five years.

XXXVI. The Criminal Courts have also power to take cognizance of all cases where any person shall be charged with having given a bribe to a servant on the Collector's establishment or to a village Officer, and to sentence to a fine not exceeding twice the amount proved to have been corruptly paid, commutable to imprisonment, not exceeding one year.

XXXVII. Collectors may proceed at once to recover the amount of all clearly ascertained defalcations or embezzlements from the responsible party, in the same manner as arrears of revenue.

XXXVIII. An appeal lies to the Board of Revenue from the Collector's decision within one month from its delivery, and that Board's decision shall be final.

XXXIX. Collectors may refer petty cases of malversation for investigation to their Sheristadars and Deputy Sheristadars when absent from the Collector's Office; and to Tahsildars within their respective Talooks, and may pass sentence on their proceedings, provided that the fine or sum adjudged to be paid, shall not exceed fifty Rupees.

XI. All persons from whom money has been exacted or unduly received, shall be entitled to receive back such portion of it as may be recovered under this Act by the Collector, provided they have given information of the fact to the Revenue Officers within two months after its occurrence, and in other cases according to the Collector's discretion subject to the Board of Revenue.

Section V. Reg. III. of 1831.

Act. XX. of 1855.
Section VII.
Act XXX. of 1841.
Section II.

XLI. The Revenue Officers have power to sentence occupants of land who may refuse to attend when summoned at the annual settlement of the Revenue, or for the measurement or demarcation of fields, to a fine not exceeding 50 Rupees, which may be recovered as an arrear of Revenue. Also to sentence parties who may obstruct their proceedings to a fine not exceeding two hundred Rupees, commutable to imprisonment not exceeding one month in the Civil Jail, the sentences to be carried into effect by the Magistrate on application, and to be subject to revision by the higher authorities.

Regulation II. of 1821.
Section VI.

XLII. Collectors are to make primary enquiry into alleged acts of malversation committed by District Moonsiffs, and if grounds appear for a more formal investigation, to forward a statement of the case with a list of witnesses to the Zillah Judge.

NOTE.—Subsidiary rules for the conduct of summary investigations, the assembling of Arbitrators, the registry of Collectors' decisions, forms of award &c. as also the general rules of procedure for the Board of Revenue and Collectors so far as necessary in addition to the Act, may be framed as provided for in the third of the prefatory Section.

II. STOKES, On Special Duty.

FROM THE ACTING SECRETARY.

No. 1246.

Transmitting copy of a letter from the Sudr and Foujdaree Udawlut and calling upon the Board to state whether in their opinion the draft of the Regulation prepared by the Sudr Court for rescinding Regulation V. of 1822, provides sufficiently for the several objects in contemplation which are enacting rules for the prevention of abuse of the powers vested in Proprietors and farmers of land by Regulations XXVIII. and XXX. of 1802; for enabling Magistrates to take cognizance of cases of forcible dispossession from, or disturbance in the possession of land, or other property, for explaining and extending the provisions of Regulation XII. of 1816; and lastly, for supplying certain defects in the existing Regulations respecting Punchayets.

Stating that it is very inexpedient to confirm the provisions of Regulation XXX. 1802 in respect to Puttahs and the attempt to enforce the use of them universally as intended in the Draft Act of Regulation prepared by the Sudr Udawlut. That by Regulation V. 1822, it was provided that when property might be attached for arrears the distrainer should without delay give notice to the Collector, and if he failed to give such notice within 30 days, the defaulter should be discharged from the arrear and the distrainer should be subject to certain penalties. By the Draft, the distrainer is required to give notice within 5 days and on failure the defaulter is to be discharged from the arrear for which the distraint shall have been made, and observing that the period within which notice of attachment must be given should not fall short of 15 days, the Board concur in the Proposition that Tahsildars should be made Commissioners for the sale of distrained property; but the object of Clause 8 Section VIII. of the Draft where it is declared that

the summary inquiry of process authorized by that Section shall not be applicable to any arrear of rent which may have been due more than a complete year before the delivery of the petition of arrest, on the score that the law as it now stands has produced no practical evil, and that the limitation might be injurious to the Ryots by inducing the Zemindars to proceed to attachment and arrest when they would otherwise have forborne.

From the Chief Secretary No. 1627 in Consultation, 11th August 1831.

Stating that Government concur generally in the statements expressed in the foregoing letter and calling upon the Board to forward the Draft of a Regulation for rescinding Regulation V. 1822 modified according to their view.

From the Chief Secretary No. 2546, 11th in Consultation 24th Novr. 1834.

Transmitting copy of a letter from the Sudr Udawlut calling attention to their Proceedings for proposing an Enactment in lieu of Regulation V. 1822.

To the Chief Secretary No. 2069, 26th October 1837.

Stating, with reference to an Extract Minutes of Consultation dated 7th Instant, on the subject of a proposed Act for vesting the Office of Commissioners for the sale of distrained property in Tahsildars, that they are fit persons to be Commissioners provided they are empowered to delegate the duty of conducting sales to any other respectable servant.

From the Chief Secretary No. 1415, 11th July in Consultation 1st Aug. 1839.

Transmitting copy of letter from the Sudr Udawlut having reference to the proposed revision of Regulation V. 1822, and desiring the Board to forward the Draft called for by Government at their earliest convenience.

To Government No. 324, 20th Feby. 1840.

Transmitting the Draft of a Regulation for rescinding Regulation V. 1822 modified. The material changes being in respect to the observance of the provisions of Regulation XXX. 1802—the restriction of Rents of the current year, and disputes between Zemindars and other Tenants being cognizable by the Collectors or referrible by them to Village and District Punchayets, stating that the modified Regulation is made applicable to all Districts and so worded that all disputes in matters connected with land whether held under the permanent Assessment or any other description of Settlement may be decided in the first instance by the Collectors and their European Subordinates on a summary inquiry—that by the modified Draft, Police Ameens are required to perform the duties of Tahsildars where the latter Officer of Government does not exist as in the large Zemindaries in preference to the District Moonsiffs, who are not subject to the control of the Collectors.

From the Chief Secretary No. 2639, 19th Novr. in Consultation 10th Decr. 1840.

Transmitting for the observations that the Board may have to offer, a letter from the Supreme Government on the subject of the new Draft Regulation. The proposed law, the letter states, consists of two distinct parts, 1st, relating to the recovery of arrears of rent, the 2d, to the decision of disputes regarding boundaries and possession of lands &c., and these it is stated should form the subjects of separate Acts. Regarding the 1st Act, the Governor General inquires whether summary suits concerning rent can be best disposed of by the Collectors and calls for a statement shewing for the last 10 years in each Zillah how many suits of this kind have been filed and disposed of in each year and other particulars respecting it and requiring the opinion of the Sudr Court and the Board of Revenue as to the expediency of giving to Moonsiffs with or without the assistance of Punchayets original jurisdiction in all cases of rent and distraint to be tried by them regularly in preference to the summary suit before the Collector. In respect to the Act for decision of boundary disputes and the like it is required whether with suitable alterations a mere extension to this Presidency of Act IV. 1840 of the Bengal Code would not provide all that is wanted.

From the Chief Secretary No. 82, 11th January in Consultation 4th February 1841.

Transmitting copy of a letter from the Sudr Udawlut requesting the Board to expedite the submission of the Report called for in the foregoing letter.

From the Board No. 516 to Govt. 15th March 1841.

Stating that there appears to be no objection to keeping the two subjects, referred to in the letter from the Supreme Government, separate—that the Board are satisfied from past experience that summary suits concerning rent can be best disposed of by the Collector and that they concur with the Sudr Court in opinion that Collectors should be allowed to exercise jurisdiction in these cases and that it would be highly inexpedient to transfer that jurisdiction to District Moonsiffs, and stating that the extension to this Presidency of Act IV. 1840, will provide all that is required for the decision of boundary disputes.

From the Chief Secretary No. 1424, 8th June in Consultation 29th July 1841.

Transmitting copy of a letter from the Secretary to the Government of India, and requesting the Board to submit their opinion on the provisions of the Draft Act therewith forwarded for preventing affrays concerning the possession of land and for providing relief in cases of forcible dispossession. Also desiring the Board to furnish the Statements called for in their preceding letter.

To the Chief Secretary No. 1432 12th August 1841.

Stating that the Collectors have been called upon to submit their opinion on the Draft of the proposed Act and to furnish the Statements required at as an early date as may be practicable.

From the Collector of Chingleput No. 2371, 29th October in Consultation 23d November 1841.

Stating that the provisions of the proposed Act appear to be generally well adapted to the end in view, but that a few points might be extended with advantage viz., that Sections II. and IV. of the proposed Act, which enjoin the Magistrate to all the parties concerned in every charge of forcible dispossession a course in many instances extremely inconvenient might be so extended as to authorize the Magistrate to commission the Tahsildars or head Native Police to investigate the matter in dispute and to submit his proceedings with the depositions for the final order of the Magistrate and that the magistrate should be distinctly empowered to restore to the complainant the value of the crops forcibly taken away and which may be damaged, and to award against the offender such damages and costs as may be equitable. That to the latter part of Section IV. of the draft, which provides that no complaint of the forcible dispossession of land shall be admitted unless it be preferred in one month from the time of such dispossession an exception should be made in cases where good and sufficient cause is shown for the delay. Suggesting with reference to Section IX. whether references to arbitrators of either party instead of both agree to that mode of settlement, might not be insisted upon. Submits also the statement called for from which it will be seen that the number of suits filed regarding the recovery of arrears of Revenue for the last 10 years is only 14. The smallness of this number is accounted for partly by the prevailing system of taking the proprietor's share in kind, and partly by the control of the proprietor's proceedings by the existing Regulations.

Coincides with the opinion expressed by the Collector of Chingleput in regard to Section II. of the draft, and observes that the power vested in the Magistrate to punish resistance to any of his orders by the provisions of Section VII. is insufficient, that on the whole Regulation V. of 1822, with a few additions and modifications is preferable to the Act which it is now proposed to substitute as it provides for the punishment criminally of the party guilty of disturbing the peace which the proposed Act does not provide, but that it merely restores what was unlawfully taken. The draft of an Act which the Collector thinks might be substituted with advantage for Regulation V. of 1822 is transmitted, as also the statement called for from which it will be seen that the number of suits filed for the last 10 years amounts to 42 of which all with the exception of 6 have been disposed of.

Guntoor No. 2123, 27th Sept. in Cons. 4th Oct. 1841. Expresses a similar opinion as the Collectors of Chingleput and Nellore with regard to Section II. of the Draft and states that the provisions of Section III. appear to be questionable as empowering the Magistrate to attach in cases in which he is unable to satisfy himself as to what party was in possession of the subject of dispute, and suggesting that the Law should provide for witnesses being tried by the Tahsildars instead of by the Collectors. From the accompanying statement it will be seen that the number of Suits is 46 of which 11 were disposed of during the year; the rest remaining at the end of the year.

Rajahmundry No. 2057, 21st in Consultation 30th Sept. 1841. Stating that Act No. 4 of 1840, appears to contain the provisions necessary for providing relief in cases of affrays and of the forcible dispossession of lands. From the accompanying statement it will be perceived that the number of suits filed during the last 10 years comes to 237 and with regard to the time that elapses between the filing of a suit and its decision it is stated that suits of an ordinary nature are generally decided within 3 months and that there are occasionally suits of a particular description which involve difficulties which extend the period occupied in the suit to a year.

Tinnevelly No. 2615, 17th in Consultation 25th Nov. 1841. Stating that no Register has been kept of summary suits that the proposed Act seems fully sufficient to enable the Magistrate to maintain persons who, previous to the dispute are satisfactorily proved to have been in possession of the disputed property, but that it does not provide for cases of crops forcibly carried away and not forthcoming or when they may have been damaged or destroyed—and that with reference to Section XI. Regulation V. 1822 some powers should be placed in the hands of the Magistrate to enable him to award damages in such cases as to carry his decree in execution.

Madura No. 2012, 17th in Consultation 23d September 1841. Objecting to the substitution of the Bengal Act for the Madras Code on the grounds that the former does not provide punishment for breach of the peace in the act of possession that it does not allow a fair and reasonable time for preferring the complaint that in leaving recovery of actual lapses to the Civil Courts alone it does not afford a sufficiently prompt justice to the aggrieved—that it does not name the authority by whom disputes arising on boundaries dividing the Company's lands and that of Native Princes in alliance are cognizable and lastly that the Bengal Code seems to confine to the European all power of maintaining such complaints which the latter does not. From the subjoined statement it will be seen that the No. of suits filed in the 10 years from 1831 to 1840 is 94 of which 91 were disposed of—the rest remaining unsettled.

From Govt. No. 365, 5th January in Consultation 5th May 1845. Transmitting a letter from the Supreme Government with Extracts of the Despatch from the Honorable Court of Directors and desiring the Board to submit without further delay the required Draft Act for the proposed extension of Act IV. 1840, to this Presidency and also calling upon the Board to explain their omission to attend to the former instructions of Government.

MADRAS,
18th December 1855.

FROM H. STOKES, Esq.,

On Special Duty,

TO T. PYCROFT, Esq.,

Chief Secretary to Government.

SIR,

With reference to my letter of 1st Instant, I have the honor to forward herewith for submission to the Right Honorable the Governor in Council my fourth Report, on the Laws relating to exempted Lands and Pensions in this Presidency, with the Sketch of an Act to be substituted for them.

C. J. Bird, Esq. 2. I take this opportunity of also forwarding the replies of three
E. B. Thomas, Esq. Collectors named in the margin, to my questions circulated under date
W. Fisher, Esq. the 22d Ultimo.

3. I have further to acknowledge the receipt of the orders of Government under date the 3d and 14th Instant respectively. The alteration I have already suggested in the law for punishing malversation appears to me calculated to effect the object which the Honorable the Court of Directors have in view in their Dispatch of the 5th of September.

I have the honor to be, &c.

H. STOKES,

On Special Duty.

SKETCH OF AN ACT to be substituted for the Laws which have hitherto governed exempted lands, Grants and Pensions in the Territories of the East India Company subject to the Government of Fort Saint George.

NOTE.—This is taken from Clause second, Section II. Regulation XVII. of 1827 of Bombay.

1. Nothing contained in this Act may be understood to affect the right of Government to assess to the public revenue all lands under whatever title they may be held whenever and so long as the exigencies of the State may render such assessment necessary.

2. It shall be competent to the Governor in Council to vest in the Collector of any district within his district, or in any [other] Covenanted Civil Servant within such local limits as may be prescribed, by commission, to be published in the official Gazette, authority to adjudicate all titles to entire or partial exemption from assessment on land, or to grants of land, or land revenue, and to assign to him so many Assistants and such establishment as may be necessary. Assistant Commissioners shall in regard of their powers stand in the same position to the Commissioner as Assistant Collectors to their Collector.

3. Every Officer so commissioned, may exercise the powers of the Civil Courts for procuring attendance, or taking of evidence, or punishment of false testimony, or of contempt.

4. In adjudicating titles, the Commissioner shall be guided by the following principles.

1st. All grants or exemptions made or confirmed by competent authority in writing under the British Government and not revoked, are valid according to their terms.

2nd. Grants or exemptions made by competent authority in writing and actually enjoyed by the grantee prior to the British acquisition of the province are valid, unless vitiated by some one of the causes specified below.

3rd. Exemptions from assessment without such written authority though possessing no legal validity, will be dealt with according to their apparent claims to indulgence under rules to be framed by the Board of Revenue with sanction of the Governor in Council.

5. The competency of any authority to issue, confirm or revoke grants or orders for exemption from Assessment, is determinable by the Governor in Council.

6. A grant for exemption becomes legally invalid.

1st. By escheat.

2d. By expiry of its term.

3d. If the land shall have paid revenue for twelve years prior to the exemption being claimed.

4th. By any unauthorized alteration of the grant.

5th. By omission to register when registration may have been enjoined under Regulation XXXI. of 1802.

6th. By the non-production of the grant when called for after prescribed notice.

7th. By violation of the terms of the grant.

7. Endowments, and Emoluments for service can in no case be alienated from the objects to which they are annexed.

8. No charitable grant may pass out of the family, for which it was designed.

9. No charitable grant or pension can be sold or made subject to any process of the Courts.

10. In every case investigated by the Commissioner, he shall pass a written decision under his official seal and signature, and if an exemption be confirmed, such decision shall specify the family name and father's name of the incumbent; the exact extent and boundaries of the land to be enjoyed by him, or the exact interest in money or grain, as the case may be, with all conditions as to future succession, right of transfer &c.

11. An appeal shall lie from a decision of the Commissioner to the Board* of Revenue within thirty days from its delivery, but the period may be extended on just cause being shown.

12. All orders and decisions of the Commissioner shall be carried into effect through the Collector of the District.

13. All Enams resumed under the orders of the Commissioner shall be assessed according to the local rules or usage by the Collector under the orders of the Board of Revenue.

14. When no investigation of the Tenure of an exemption may yet have been made by authority of the British Government, such Tenure shall be held to be in the same position in respect of investigation as it was at the acquisition of the province, and its subsequent continuance or entry in the Village Accounts shall not be held to cure any flaw of title, or to bar the liability for any fraud.

* The Bombay Law says "Governor in Council"—but there is no Board of Revenue there.

15. The Commissioner's Proceedings are to be conducted according to Subsidiary rules, to be framed under orders of the Governor in Council.

16. No decision or order passed under the Act, shall be questioned or avoided in any Court of Law, nor shall any person acting under it be sued for any act bona fide done under its provisions.

17th December 1855.

H. STOKES.

FOURTH REPORT.

ON THE LAWS THAT GOVERN EXEMPTED LANDS, GRANTS AND PENSIONS, IN THE MADRAS PRESIDENCY.

Regulation XXXVI. of 1802.

Do. II. of 1803 Sections XXVII. to XXIX. and XLI.

Do. IV. of 1831.

Do. VI. of do.

Act XXXI. of 1836.

Do. XXIII. of 1838.

Do. XII. of 1851 Section II.

1. The Law now to be reported on as found in the enactments noted in the margin, seems simple and compact as compared with those which have hitherto occupied my attention. Nevertheless, it will be found on examination to involve questions of equal difficulty and importance.

2. The first of these Regulations passed on the 13th of July 1802, contains with the preamble twenty Sections, for trying the validity of titles to exempted lands under Grants not being royal Grants, and for determining the Annual Assessment to be imposed on such lands as may be adjudged liable thereto. The preamble sets out with the following remarkable passage to which I have had occasion to refer. "Whereas the ruling power of the provinces now subject to the Government of Fort Saint George has, in conformity to the ancient usages of the country, reserved to itself and has exercised the actual proprietary right of lands of every description; and whereas, consistently with that principle, all alienations of land, except by the consent and authority of the ruling power, are violations of that right; but whereas considerable portions of land have been alienated by the unauthorized encroachments of the present possessors, by the clandestine collusion of local Officers, and by other fraudulent means, &c.

3. The second Section defines the conditions, under which Grants for holding Land exempt from the payment of public revenue shall be deemed valid, to be that they have been made, and the lands actually possessed by the Grantee in each province previously to its acquisition by the British Government, and provided they had not escheated, or been resumed.

4. The third Section reserves exclusively to the Governor in Council the decision in cases to be tried under this Regulation with respect to the competence of an Officer to issue Grants for exempted lands, or to resume and assess them, and the Courts are to be guided by such decision when produced before them. The fourth bars all claims to exemption for land under whatever title which may have paid revenue for twelve years before such claims may have been preferred. The fifth declares Grants held under life tenures to be resumable from and after the death of such life tenants. The sixth declares lands held under expired or resumed Grants liable to be assessed, in the same manner as if they had expired or been resumed before the other lands in the same Zillah had been permanently assessed. The seventh declares that after the permanent assessment, parties holding exempted lands may only be ejected by decree of Court. The eighth declares that length of possession under invalid titles, cannot bar the right of Government. The next Section gives the Collectors power to require the production of sunnuds or deeds under which persons hold exempted lands, under pain of fine for the first offence, and fine with imprisonment if repeated. The tenth Section restricts Collectors from instituting suits without the written permission of the Board of Revenue, but when so authorized, they may under the eleventh, attach the lands of claimants who refuse to produce their Grants, or deny that they have them; and they may proceed against them as for arrears of revenue. The twelfth declares

Grants to be invalidated if forged or counterfeited; or a name substituted for the original, or a new name inserted, or the denomination of the tenure altered, or date changed. And under the thirteenth, persons practising frauds for the purpose of obtaining exemption, are to be prosecuted criminally. Under the fourteenth Section, lands recovered by the Officers of Government, are to be charged with a full assessment.

5. The fifteenth Section prescribes the keeping of a Register in each Zillah of lands held exempt from revenue, and these Registers are to be corrected and renewed once in every five years. And under Section sixteen all Grants of land actually held under exemption, are to be registered whether they have been confirmed or not by competent authority. Under the seventeenth, the Collectors are to require by public notice the registration of all exempted lands; and by the eighteenth, the omission to comply with such notice during one whole year from its publication, renders the lands liable to full assessment under sanction of the Board of Revenue. The next Section states how the Registers are to be authenticated, and that Sunnuds not registered, shall not be deemed valid. And the last Section declares that native servants, public or private, may be punished on proof before a Court of Justice for receiving any valuable consideration for procuring the registry of unlawful Grants surreptitiously or otherwise, by forfeit to Government of the money received, a fine of three times the amount with charges of Suit, and by one year's imprisonment in addition, besides being incapacitated for re-employment.

Third Report 1st December, para 6. 6. I have already noted the provisions of Regulation II. of 1803 affecting Enams. The twenty-seventh and the two next Sections of this Regulation require Collectors to report to the Board of Revenue whenever it comes to their knowledge that lands are held under invalid titles, and on receiving their order, to prosecute the holders in the manner prescribed by the Regulations, receiving after the final decision a Commission equal to 25 per cent. of the annual Assessment recovered.

7. The forty-first Section seems to imply that the above is limited to settled districts, for it says, "In Districts where the land-tax may not have been permanently fixed, Collectors shall report to the Board of Revenue all unauthorized alienations of land, with every circumstance relating to such land; but Collectors shall not resume alienated lands without authority from the Board of Revenue." I shall afterwards notice the somewhat intricate discussions that have taken place as to the construction of this Section in connection with Regulation XXXI. of 1802.

8. It would appear however that whether in settled or unsettled Districts the law remained equally in abeyance. Some attempts were made to carry out the Registration Clause in the Northern Circars, but I believe they will be found to have proved abortive. Had there been any systematic effort to act on the intention of the Legislature, the difficulties in the way must have attracted earlier attention.

9. The Regulations of 1831 being the next in order of time that relate to Enams, seem intended to refer not so much to the validity of tenure, as to the disposal of Claims to succession, although both may be comprehended in the letter of their provisions. Regulation Four of that year in four short Sections preserves to the Governor in Council the exclusive power to decide after due investigation by such persons and in such manner as he may deem fit on claims to hereditary or personal Grants of money, or of Land Revenue conferred by the Governor in Council, or as subsequently extended by Act XXXI. of 1836, by any Native Government and confirmed or continued by the British Government, in consideration of Services rendered to the State, or in lieu of resumed Offices or privileges, or of Zemindaries, or Pollams forfeited, under attachment, or management, or as a Yeomiah or Charitable allowance, or as a Pension, unless the claim be accompanied by an order from the Secretary to Government referring the party to the Courts of Adawlut.

10. The third Section as modified by Act XXIII. of 1838 declares such Grants not to be liable to attachment or sequestration in satisfaction of any process of Court. And the fourth saves decrees of Court previously passed from being affected by this Regulation.

11. By Regulation VI. of the same year, claims to all service enams and emoluments were removed from the jurisdiction of the Courts, and reserved exclusively to the Revenue department, while at the same time these tenures were declared to be inalienable by mortgage, sale, gift or

12. The Second Section declares that the emoluments from land, from fees, or other sources which have been annexed by the State to hereditary offices in the Revenue and Police departments, are inalienable and not liable to the process of Courts. The third directs all claims to them pending in the Civil Courts to be struck off the files, charges incurred being refunded. And the next in five clauses makes them adjudicable by the Collectors with the assistance, if thought necessary, of Native assessors, to whom they may at their discretion refer these claims, and for enforcing the attendance of witnesses, they may exercise the powers of Zillah Judges under Section VII. Regulation III. of 1802, the general provisions of which so far as applicable must be observed, and witnesses in these investigations are liable to the penalties for perjury, in the same way as if committed before the ordinary Courts. The fifth Section in two clauses provides for an appeal to the Revenue Board from decisions passed, or fines imposed by the Collectors if preferred within three months, to be extended if the Board see fit. The Board's decisions under the next Section are declared final, power only being reserved to the Governor in Council to revise and modify them when he may deem it necessary for the ends of justice. The seventh rescinds nineteen and twenty of Regulation XI. of 1816, and places village watchers as well as all other persons holding hereditary and village offices in the Revenue and Police departments to which emoluments have been annexed under the immediate authority and control of Collectors; and liable for just cause to suspension or removal by them, subject to the approval of the Board of Revenue, and the sanction of the Governor in Council, when he may see fit to interfere. The last Section explains that the foregoing provisions are not applicable to the office of Curnum as established by XXIX. of 1802; or to the public institutions referred to in Regulation VII. of 1817, or to their Trustees and Superintendents.

13. Such as it now stands is the whole law affecting exempted lands, grants and pensions in the Provinces; but by Section II. of Act XII. of 1851, a new principle is laid down as regards exempted lands under the Collectorate of Madras. It declares that Lakingaj tenures of land of which uninterrupted possession has been held under alleged Grants exempt, or partially exempt from Assessment for sixty years, shall be valid and no others, except under an unexpired Grant from the British Government prior to this enactment, exempted lands, as far as I can see, in Madras were subject to Regulation XXXI. of 1802, and as such not entitled to acquire validity simply by possession of any duration whatever.

14. The full import of Regulation IV. of 1831 as extended by Act XXXI. of 1836, appears to have been for the most part overlooked, when passed, and for long afterwards. The question seems to have been first raised by the Collector of Cuddapah in 1846, and again, by the Judge of Nellore in 1843. Both these Officers pointed out that Bhutta Virde Enams for the support of Brahmans or other persons, the most numerous class next to those annexed to Service, came under the terms "charitable allowance," and were therefore removed from the cognizance or process of the Courts by the extended law.

15. The question under another aspect was afterwards fully discussed between the Collector and Judge in Guntoor, and by them brought before the Sudder whose final decision only recently announced, is to the effect that, as the law now stands, the two classes of Enams, charitable and Service, defined in Regulations IV. and VI. of 1831, and Act XXXI. of 1836 comprehend together all Enams whatever. Thus therefore all seem now removed from the jurisdiction of the Courts with the exception of those attached to the Office of Curnum in permanently settled Estates, or such cases as under Regulation IV. of 1831, may be referred to them by the Secretary to Government. I cannot say whether such was the intention of the Legislature; or whether under Section VIII. of VI. of 1831, religious endowments are not still subject to the jurisdiction of the Courts.

16. I have now to point out what appear to be the defects in the law thus reviewed. They have been prominently brought out in the correspondence which has taken place since the Enam question has attracted the attention of Government.

Minutes of Consultation..... 23d August 1836.
Board of Revenue to Sadr
Udabul 31st July 1837.
Sudder to Board..... 25th Sept. do.

17. The papers noted in the margin originated in an opinion expressed by the Collector of one of the Ceded Districts, that the investigation of Enams could not be carried out

<i>Board's Proceedings</i>	5th Feb.	1842.	there without a new Regulation. Government
<i>Government to Board</i>	18th March	do.	desired the Board to obtain the opinion of the
<i>Board to Government</i>	26th do.	do.	Sudder Judges on this point. This was given
<i>Government to Board</i>	12th May	do.	in 1837, but it is not apparent how
<i>Do. do.</i>	17th Aug.	do.	the Board did not proceed with the matter till

1843, when they recorded their views as differing to some extent from those of the Judges who themselves had not been unanimous; and Government having refused to back the Board's paper to the Sudder, that Court as constituted in 1843, dissented from their proceedings of 1837. The Board were again called upon with reference to the sentiments of the Judges in 1843, and to a full minute on the Enam question by the Honorable Mr. Chamber to lay before Government the written instructions they proposed to issue for the investigation of Enams. Here the matter seems to have ended, possibly in consequence of the views subsequently communicated by the Court of Directors, which I shall notice by and by.

18. Instead of recapitulating further the somewhat intricate correspondence above cited, I shall endeavour to extract the chief questions mooted in it, and the conclusions come to upon them. They are,

1. Whether under Section XLII. of II. of 1803, Enams in unsettled Districts are excepted from the operation of Section VII. Regulation XXXI. of 1802.

The Sudder Judges in 1837 were of opinion that the latter Regulation was meant to apply to permanently settled Districts.

2d. As to the power of the Revenue authorities to resume unauthorized alienations of land, the jurisdiction of the Courts being excluded, in unsettled Districts.

The Judges were of opinion that although the Collector with the authority of the Board is competent to assess lands unlawfully alienated in unsettled Districts, a landholder can only be ejected by a decree of Court so long as he pays the Assessment to which the land may be liable, and there is nothing to prevent his seeking redress in the Courts if aggrieved by the Collector's act. On this construction it occurs to me to remark that the ejection of an Enamdar contemplated in Section VII. of Regulation XXXI. seems much the same as the resumption of his Enam by assessing it, and enforcing payment of such assessment.

3d. As to the position of persons whether in settled or unsettled districts who had succeeded in the possession of Enams those who were incumbents in 1802.

The reply of the Judges is to the effect that such successors as regards liability to the investigation of their tenures would be in the same position as the incumbents of 1802. (This part of the Court's reply seems to miss the point as to the necessity of succession by lineal descent, which the Regulation seems to imply by using the words incumbents or their ancestors.)

4th. The power of Government to question the competency of a Granter, supposing the Grant to be anterior to the British acquisition of the Province.

The Sudder Judges in 1837 held the negative, and those of 1843 the affirmative view of this question.

5th. Whether the law recognised the validity of any Enam not held under Sunnud.

See para. 10 25th September 1837. At the earlier period, the Sudder Judges seem to have held the possibility of a title being founded on the mere fact of possession although the necessity of a Sunnud seems recognized by them in para. 8th of the same paper. The Court at the later period were decided that the existence of a genuine grant is indispensable to the validity of an Enam.

Lastly, admitting the competency of the Revenue authority to assess invalid Enams in unsettled Districts, how far they are bound by the provisions of Regulation XXXI. in other respects. In 1837 the Judges seem to have considered the general principles of this Regulation ap-

Para. 6. plicable to unsettled Districts. In 1843 they thought it competent to a Collector in settled as well as unsettled Districts to assess Enams held under Sunnuds not genuine, or by authority not competent. I cannot understand however how if Sunnuds are shown when called for, they can do this without a Civil Suit, in settled Districts.

<i>Cir. Order</i> 22d May 1843.	19. The important correspondence on the mode of dealing
" " 29th Sept. "	with lapsed Enams printed among the Revenue Board's Circular
" " 27th July "	Orders, though professedly not touching the law upon this sub-
<i>See page 450 and references.</i>	ject, calls next for notice.

20. In April 1845 the Government appear for the first time to have prohibited the continuance of the Enams of deceased incumbents to their successors without special authority, requiring all lapses to be reported. Proceedings taken in consequence of this Order led them three years later to record their views more fully, having in the meantime been reminded by the Honorable the Court of Directors "that long undisturbed possession not only affords evidence of the existence of the right, but moreover, with respect especially to landed property, and to tenures affecting whole classes of persons, creates, on considerations equally of policy and justice, a powerful motive with Government for not wishing the possession to be disturbed." And the Court desired these instructions to be applied to Enams throughout the Presidency. Rules framed in accordance with these directions were circulated by the Board on the 27th of July 1848, and continue to be the guide for Collectors on the occasion of lapses. Rules VI. to IX. inclusive, relate to Enams held without Grant, and declare that if for service they are to be continued so long as the Service is performed and may be transferred, provided the transfer carries with it the obligation of Service; but such Enams for the personal benefit of the holder are pronounced inalienable. From this I gather that the alienation of a personal or charitable Enam held under a Grant valid according to the requirements of Regulation XXXI. of 1802 is not disallowed.

21. The indulgence to Enamdars was carried further under the Board's Circular Orders of 21st December 1848, which allow entry in the Survey Accounts to be considered evidence of possession sufficient to constitute a valid title, and succession to be allowed in default of a lineal male heir, to a brother or cousin, of an undivided family. In the note at Page 486, the Board explain that the continuance of Enams under the above rules in Kurnool, is to be no bar to the adoption of any measures which may be determined on in the general inquiry to be hereafter held there. This reservation seems equally proper wherever no general inquiry has been made.

22. More recently, the Collectors have been called upon for their opinions on a still more laxly indulgent principle for the disposal of Enams, according to which all, under a certain extent as one or two cawnies, were to be continued without inquiry.

23. It thus appears that of late years, the views of the ruling authorities have undergone a vast change as regards the treatment of Enams. The latest Bombay Law Act XI. of 1852, to which the Government point in their Minutes of the 5th October last, as likely to afford useful assistance in settling the law for this Presidency, will be found to embody the later and more lenient theory. But before noticing it, it will be well to glance at the previous state of the law on this subject in the Bombay Presidency.

24. It appears from the forty-second Section of Regulation XVII. of 1827 of that Code, that by Regulation III. of 1814, the principle of validity laid down by Regulation XXXI. of 1802 for Madras was applied to the Grants in the territories then under the Bombay Government, that is to say, that they should have been made by competent authority, and actually held prior to the Company's acquisition of the Province, and had not subsequently escheated, or been resumed, and that the Sunnuds had been registered within one year from the Collector's public injunction so to register them. But there seems to have been a difference with respect to Enams held without Grants which as already seen, were ignored by the Madras law. At least Section XXXV. of Regulation XVII. of 1827 expressly provides that in such cases enjoyment of sixty years in succession, provided it has been under some tenure recognized by local custom, shall be considered a sufficient title to exemption. And that twelve years' enjoyment antecedent to British acquisition, shall be considered equivalent to sixty years. These periods were subsequently reduced by one half.

25. The ninth Chapter of the above Regulation contained in five Sections the principles of exemption; and the tenth Chapter in twelve Sections, the rules by which these principles were to be applied in the examination of titles, which duty was vested in the Collector.

26. The recent Act XI. of 1852 is intended to apply to the Deccan, Kandeish, Southern Mahratta Country and other Districts more recently annexed, and to which the Rules in Chapters IX. and X. Regulation XVII. of 1827 and Clause I. of VI. of 1833, do not apply. It consists of seven Sections with two Schedules. The first Section declares that orders previously passed in Districts which were not brought under the Regulations of Bombay by Regulation XXVIII. of 1827 of that Code are not to be affected by this Act; and the second empowers the Government in any of those Districts to appoint an Enam Commissioner with the requisite Assistants and establishment to discharge the duty defined in Schedule A, and adjudicate claims to exempted lands under the Rules contained in Schedule B. The fifth Section vests the Commissioner and his Assistants with the ordinary powers of the Civil Courts for the enforcing of attendance, evidence, &c.; but reserves all appeals, from the acts of the Assistants to the Commissioner, and from those of the Commissioner to the Governor in Council. The sixth makes Officers on the establishment of the Commissioner punishable for malversation by a fine, or imprisonment without labour not exceeding five years. And the seventh declares that no decision or order under this Act shall be questioned in any Court of Law; and that no person acting under its provisions, is liable to be sued in any Civil Court, for any act bona fide done under it.

27. The mode of procedure of the Enam Commissioner, is contained in fourteen rules in Schedule A.

- Rule 1.* 28. The Commissioner and his Assistants are to investigate the titles of persons to the possession of Enams or exemption from the payment of land revenue and in all matters not specifically provided for in this enactment, to act according to the instructions of Government. The orders of the Assistants are applicable to the Commissioner, and those of the latter to Government.
- Rule 2.* They are to receive and record the statement and evidence of Claimants in support of their titles, either directly or through the Talook authority without any previous procedure, except a general invitation. But should this not be sufficiently attended to, notice should be issued to any claimant to appear at a specified place, and within a specified period not less than two months to prove his title. The notice is to state that non-compliance will render the land liable to attachment. The notice is to be served upon the claimant, or if his residence be unknown, on the person acting for him, or in charge of the land; and if such person cannot be found, it is to be posted in the Office of the Native Revenue Officer of the District, or most public place of the village, and is to allow six months for the appearance of the claimant, failing which the land is liable to attachment. The attachment thus provided for is to be enforced by the Collector at the written requisition of the Commissioner. As soon as possible after the receipt of the statements in each District, and the evidence recorded, they are to be tested by the accounts and records of Government, and decisions given. Where no Claimant has appeared under the notice in Rules V. and VII. the decision is to be exparte and attachment enforced under Rule 8, to be removed on receipt of a communication from the Commissioner the collections made in the mean time, however, only to be given to the claimant, under instructions from Government.
- Rule 10.* Certified decisions are to be given when passed to the claimants, or if made exparte sent to the Talook Officer for the parties concerned.
- Rule 11.* Decisions are to be carried into effect by the Collector, at the requisition of the Commissioner, and appeals may be preferred within one hundred days, or later on proof of necessary delay. Decisions cannot be set aside for want of form.
- Rule 12.*
- Rule 13.*
- Rule 14.*

29. Schedule B contains eleven rules, some of them with several provisions, for the adjudication of titles. The first rule with one provision admits Enams already declared permanent by competent authority under the British Government, the competency where doubtful being pronounced upon by the Governor in Council. The second those held under Sunnuds declaring them to be hereditary, provided—1st, that

they were made by competent authority—2d, that the tenure involves no breach of the laws or the land, or rules of public decency—3d, that the Grant has not been revoked or disallowed, or an alteration of its terms ordered or recognized by competent authority. The 3d and 4th rules modified by three provisions are somewhat complicated, but as I understand them to refer to Enams held without Sunnuds, and of these they declare that if uninterruptedly held for sixty years prior to British acquisition and then in the authorized possession of a grandson in male descent, or his male heir, they are to be continued so long as there shall be any male heir of the person who was incumbent when the British Government was introduced, but if the Enam had been so held for forty years and was then in the authorized possession of a son or male heir of the body of a son of the grantee, it may be continued until the death of the last surviving son of the person who was incumbent at the British assumption. The provisions are that an entry in the genuine accounts of the District is sufficient to establish uninterrupted and authorized possession, provided there be no entry to the opposite effect. In the absence of proof to the contrary, the Claimant's assertion is to be sufficient as evidence of the number of years and descents required to fulfil the conditions of Rules three and four. Rule five is wanting in the Schedule; by Rule six Enams not continuable under those preceding are to be resumed on the demise of the incumbent. But those held under a recent fraud are to be resumed at once. By rule seven Enams for the support of Mosques, temples, or similar institutions are to be continued permanently even though such permanence may not have been provided for in the Grant, with the exceptions specified under Rule two, as are also by provision 4th those undisputably enjoyed as shown by entry in the genuine accounts of the District Officers for forty years, before the introduction of the present Government. But the advantages of the rule are not to apply to the holdings of individuals in their own names for the performance of ceremonies, and claims under it unsupported by title or prescriptive enjoyment are to be adjudged under Rule 6. Under the eighth rule which has seven provisions, Official Enams of any hereditary Office such as Kazees, Village Joyshees, &c., are to be continued permanently with or without Sunnud subject to the exceptions under the second rule, and exclusive of emoluments for service to the State, which are to be discontinued under the Regulations established for such holdings. The ninth rule allows of provision being reserved for the widows of the last incumbents during their lives; but it is explained that the widow of a proprietor who leaves no male issue or other heirs is to be considered heir, and entitled during her life to hold the Enam undiminished. By the tenth, tenures of a political nature are reserved to be determined by Government; and the last, declares the power of the Government to relax any of the previous rules in particular cases, or to interpret them when questions may arise.

30. Having thus passed in review the Madras Law of Enams, the discussions that have grown out of it and the Bombay law at its earlier and later stages, I have now to state for the consideration of Government, my own views on the general question and the outline of a proposed enactment.

31. For that a new enactment is called for will scarcely be questioned. Even were it not included as a necessary part of a consolidated Revenue code as desired by Government, its necessity has sufficiently been shown in the preceding remarks. It is true the highest Court has acknowledged the power of the Revenue authorities to resume or assess invalid Enams in all districts. At the same time it may be doubted whether in a settled district a Collector acting on this view when a Sunnud of former Governments might be forthcoming, could sustain his acts if contested in the Courts. Moreover the application of Regulation XXXI. of 1802 to unsettled districts can only be forced and partial. Besides it seems consonant with the principles avowed by Government in legislating for this subject in all the Presidencies that the determination of claims to exemption and the proprietary interests involved in them should be conducted under legal provisions, and to some extent, with judicial formality. These objects cannot be secured in Madras without a new law applicable to all districts.

Note.—I would quote here para. 7 of a letter addressed by me to the Commissioner in Northern Circars on the 26th December 1853.

"7. I would here observe that the urgency for the proposed investigation does not rest solely or

32. I think it equally clear as a matter not only of policy and interest as regards the recovery of public revenue, but still more perhaps as a matter of abstract justice and for the

chiefly on the importance of recovering the misappropriated revenue of the State, but on the public duty of defining the real value of the tenures of about one-sixth of the arable land of the whole district [Guntoor]. By leaving these tenures in their present state of uncertainty and abeyance, the Government and individuals are alike losers, and the improvement of the country greatly retarded."

that the inquiry and decision will be made on fixed and uniform principles at different times and by different Officers.

33. Next, as to the adjudicating tribunal, I see no alternative but to follow the example set in Bombay of constituting by commission a special authority for the duty. It would have been a physical impossibility to have disposed of any considerable number of Enam questions in the manner contemplated by the law of 1802 under the ordinary duration of a Civil Suit from its institution to the last appeal.

34. I cannot suppose that this Government any more than that of Bombay, would sanction a principle so anomalous and difficult to reconcile with even-handed justice as that of exempting small Enams from inquiry; it would be scarcely less strange to exempt small fields from Assessment. The Bombay Act will serve as a model as regards the general constitution and procedure of an Enam commission, although I think the complicated nicety of the rules as regards prescriptive tenures must greatly retard proceedings, and encourage trickery without securing more real justice—and I also think that the mode in which the indulgence of Government may be extended to Enams not good at law, should not form any part of the legal provision. The scope of the Act in other respects ought, I think, to embody in a simpler and consolidated form, the substance of our present law with an addition providing in accordance with the expressed sentiments of the Home Government, and as has been done in Bombay, for the recognition of prescriptive titles as a matter of grace. I cannot think however, that the Court's remarks were intended to apply to fraudulent alienations. I conceive that the framers of our own Regulation disallowed all Enams without Sunnuds from believing them in almost all cases to have originated in fraud or collusion. It is notorious that the village servants have at all times been in the habit of effecting surreptitious exemptions from assessment, and on a favorable opportunity such as a change of Government, foisting them into the village accounts. Even the latest and most considerate view of prescriptive title does not profess to sustain Enams on that ground, unless they have been "fairly and legitimately obtained." [See Para. 12 Board's Proceedings 19th of June 1848.] Instead of conceding so much authority as has been done in the Bombay Act to these most treacherous records, I would prefer leaving such claims for the most part to the absolute indulgence of Government.

35. A very important point in the investigation of Enams I consider to be the exact and final definition of the Enamdar's interest whether by determining the precise extent of land to be enjoyed by him, or the amount of assessment to be remitted. All Officers of Revenue experience know how studiously the genuine boundaries or measurements of maniums are kept out of sight, and how successfully encroachments are maintained.

36. It would of course fall under the Commissioner's duty to determine in each case whether or not an Enam can be rightfully transferred; and to leave such as can, to the general jurisdiction of the Courts.

37. The Government have in this Presidency asserted and exercised the right of resuming partially assessed lands, on failure of the holder to pay such partial assessment punctually. It may be well to recognize this liability in the Law.

38. As I have done in the case of the two branches of the Revenue law already reported on, I submit a Sketch of a new Act on this subject, but without drafting subsidiary rules, which so far as regards the treatment of invalid Enams, I am not in a position to do, till favored with the present views of Government. My own opinion is substantially the same as recorded in my letter to the Commissioner of the Northern Circars dated 30th December 1850 which I presume is to be found in the Government Office. Of the invalid titles I would recommend for immediate resumption all that are found to have originated without competent authority since the British

interests of the people themselves, that the general investigation of Enams should no longer be postponed, or abandoned under the notion that they can be disposed of in the manner recently introduced, on the occurrence of lapses. It is to be feared that a very small proportion even of lapses will come under notice; and under this practice it is scarcely to be expected

acquisition. 2d, all those in regard to which there is evidence of fraud either by fabrication of documents, alteration, mutilation or obstruction of accounts, or Sunnuds. 3d, all which have escheated. 4th, or been unlawfully alienated from service annexed, or 5th, transferred subsequent to 1831 in violation of the law then promulgated. 6th, all such as have been diverted from their original intention.

All other invalid Enams may be treated with more or less indulgence. I think however that in all cases their eventual extinction should be provided for. The strongest claim to consideration will belong I conceive to the endowments for village offices not being strictly for services to the State, or public benefits conferred such as construction of tanks &c. and the least entitled to continuance beyond the present lives will be Batta vridty or exemptions allowed to Brahman's simply as such without any special cause assigned. Those that profess to be held as emoluments for services to Government such as Head of the village, accountant, watcher &c. would be liable to curtailment if found to be excessive.

H. STOKES.

MADRAS, 17th December 1855.

