(1) பக்கங்களின் எண்ணிக்கை 46

(2) புதுக்கித் திருப்பிய நாள் 22.8.89

(3) ஆதாரங்குறிப்பவர் சுருக்கொப்பம்

தமிழ்நாடு ஆவணக் காப்பகம்.

தமிழ்நாடு அரசு

P.W.D துறை

அரசாணை எண். மு. கோப்புத் தாள் எண்.	2003-W	அச்சகம் பலவகை

நாள் : 22.7.1890 1989.

மடிக்கவோ கண்டபடி கையாளவோ கூடாது

ஆவண/கு.ம-1—18,006—15-6-87.

1/2003

STANDING ORDERS TO REVISED DIGEST OF ORDERS, PUBLIC WORKS DEPARTMENT, NORTH-WESTERN PROVINCES AND OUDH, BUILDINGS AND ROADS BRANCH.

No. 53.

PARAGRAPHS 13, 14 and 15 of Chapter III, section i, pages 28 and 29, containing special rules for the management and maintenance of the Bundelkand Lakes, are hereby cancelled.

[31-1-'90.]

STANDING ORDER TO REVISED DIGEST OF ORDERS, PUBLIC WORKS DEPARTMENT, NORTH-WESTERN PROVINCES AND OUDH, BUILDINGS AND ROADS BRANCH.

No. 52.

Chapter III, section i, Public Works Department, Digest of Orders.

Special rules for the supervision of works of improvement in Government estates in the Kumaun Division.

ADD the following as paragraph 15A :—

15A. The Executive Engineer of the Kumaun Division will advise the Commissioner on all questions relating to works connected with the Government estates in Kamaun-Bhabar-Chilkia, Garhwal-Bhabar, and Tarai, and give professional assistance to district officers in the preparation of projects. He will also pay visits of inspection to such works in progress whenever requested by the District Officer to do so.

Completion reports of all original works under this head will be submitted to the Commissioner through the Executive Engineer, who will certify thereon the manner in which work has been carried out.

[14-12-89.]

STANDING ORDER TO REVISED DIGEST OF ORDERS, PUBLIC WORKS DEPARTMENT, NORTH-WESTERN PROVINCES AND OUDH (BUILDINGS AND ROADS BRANCH).

No. 51.

Rules for the conduct of civil suits to which Government is a party.

For Standing Order No. 28, Appendix XIII, pages 38 to 56, substitute the following.

Circular Order No. 2 of 1886. *Legal Remembrancer to Government, North-Western Provinces and Oudh, dated Allahabad, the 20th April,* 1886.

I AM directed to forward the enclosed circular which has received the sanction of Government, and to request that the procedure laid down in it may be followed in supersession of the orders quoted in the margin.

Circular No. 1 of 1886, which was issued from my office on the 26th March, 1886, may also be considered as superseded, being only an extract of the more important portions of the circular now issued.

* Circular Order No. 48A., dated 31st December, 1870.
Circular Order No. 798A., dated 13th May, 1871.
Circular Order No. 18A., dated 29th July, 1874.
Circular Order No. 106A., dated 6th November, 1878.
Resolution No. 143A., dated 8th February, 1878.
Resolution No. 282, dated 13th March, 1879.

† Circular Order No. 27A., dated 14th June, 1870.
Circular Order No. 4, dated 27th February, 1874.
Government Order No. 730A., dated 14th October, 1878.

‡ Oudh Man., G. O., Part VI.

* See Man., Govt. Orders, Part I, pp. 89—92.

† Ditto, Part II, p. 81.

‡ So much of Part III as is not covered by this circular is superseded by C. O. No. 3 of 1886 and C. O. No. 3 of 1885.

(3—1—90).

The Law Officers of Government.

1. The Law Officers of Government are—

(1) The Legal Remembrancer and Public Prosecutor for the North-Western Provinces and Oudh.

(2) The Public Prosecutor for all cases coming before the High Court, North-Western Provinces.

(3) The Government Pleader for the High Court, North-Western Provinces.

(4) The Government Pleader (who is also Public Prosecutor) for all cases coming before the Court of the Judicial Commissioner, Oudh.

(5) The District Government Pleaders.

(6) The Subordinate Government Pleaders.

Duties of the Legal Remembrancer to Government.

2. The Legal Remembrancer to Government is the chief law officer of Government, and his jurisdiction extends over the North-Western Provinces and Oudh.

3. The duties of the Legal Remembrancer are to superintend and advise on the conduct of all litigation, criminal or civil, to which Government may be a party or with which Government is in any way concerned.

4. The Legal Remembrancer is, *ex officio*, Public Prosecutor for the North-Western Provinces and Oudh in all cases save those which may come before the High Court at Allahabad or the Judicial Commissioner of Oudh.

5. He will appear personally only in those cases in which he deems it desirable he should himself prosecute, or which the Government from time to time direct him to prosecute personally.

4/2003

6. All cases of more than ordinary importance, involving questions of great public interest, and all cases in which it may appear expedient that the Crown should withdraw from the prosecution, should at once be reported by District Magistrates for the orders of the Legal Remembrancer, and it will be the duty of the Legal Remembrancer to keep Government informed of all such cases.

7. As chief law officer of the Government in criminal matters, it is his duty (1) to instruct the Public Prosecutor for the High Court on all cases coming before that Court for trial in the exercise of its original criminal jurisdiction, and to examine the records of any such cases before the trial, in order, if possible, to supply omissions and to cure defects and irregularities occurring in the preliminary stages of the case; (2) to instruct the Public Prosecutor for the High Court, when necessary, in relation to cases coming before the Court by way of appeal or revision; (3) in the District Courts to provide for the adequate prosecution of important cases, and for the proper representation of the Crown in appeals of special moment; (4) to advise the Government when appeals from acquittals are proposed, and generally to watch the interests of Government in the Criminal Courts.

8. In all matters connected with civil justice, the Legal Remembrancer is responsible for making all necessary arrangements for the conduct of cases entrusted to him from the time the papers are made over to his office until the case is finally heard and determined, and until all sums adjudged to Government have been recovered or completely disposed of as hereinafter prescribed.

9. The Legal Remembrancer is *ex officio* authorized to act for Government in respect of all judicial proceedings in any Civil Court within the North-Western Provinces and Oudh, and shall be deemed to be the recognised agent of Government in accordance with section 417 of the Civil Procedure Code.

10. The Legal Remembrancer has been appointed the officer authorized to exercise, within the limits of the North-Western Provinces and Oudh, the powers conferred by section 539 of the

Code of Civil Procedure on the Advocate-General in regard to suits relating to public charities.

11. It shall also be the duty of the Legal Remembrancer to prepare all deeds, and to draft all bills and rules which may be entrusted to him for the purpose by the Government, and to give his opinion in any matter the Government may think fit to consult him upon.

12. The Legal Remembrancer is bound to advise the Court of Wards in all civil litigation, to arrange for the conduct of all suits entrusted to him by the Court, and to direct and superintend all proceedings connected with the realization of all sums decreed in favour of, and to draft all deeds required by, the Court.

13. He will also advise on and direct the proceedings in cases entrusted to him by Municipalities, Local Boards, Cantonment Committees and State Railways, and prepare draft deeds and rules as required by the Government, subject to the payment of fees prescribed for the purpose.

14. The Government Pleader in the High Court and all Government Pleaders in the District Courts and all Public Prosecutors, except the Public Prosecutor for the High Court, North-Western Provinces, are under his direct control and supervision.

Criminal Litigation.

Duties of the Law Officers of Government in the High Court and in the Court of the Judicial Commissioner of Oudh.

15. In every case committed or transferred to the High Court, the Magistrate who held the preliminary inquiry or, in his absence, the Magistrate of the district (and in every case transferred by a Sessions Judge under section 449 of the Code of Criminal Procedure the Sessions Judge) shall, as soon as the order of committal or transfer has been passed, send a full transcript of the case to the Legal Remembrancer.

5/2003

16. The Legal Remembrancer shall carefully scrutinize the papers submitted to him and, when necessary, in consultation with the Public Prosecutor for the High Court, North-Western Provinces, take proper steps to have the record completed and to secure the attendance of all necessary witnesses.

17. When reference has been made to the High Court for the confirmation of a sentence of death, the Public Prosecutor for the High Court, North-Western Provinces, will appear in person on behalf of the Crown. All communications from the District Magistrate relating to such cases shall be made direct to him.

18. The Government Pleader attached to the High Court, North-Western Provinces, is appointed the person to whom, under section 422 of the same code, all notices of appeal shall be given when notice of appeal is made to the High Court.

19. The Public Prosecutor for Oudh is appointed the person to whom, under section 422, all notices of appeal made to the Court of the Judicial Commissioner of Oudh shall be given; and the rules hereinafter prescribed for the Government Pleader in cases of appeal, reference and revision, will govern the Public Prosecutor for Oudh in the conduct of all cases entrusted to him.

20. In cases referred to the High Court under section 374 of the Code of Criminal Procedure or coming before the Court by way of appeal or revision, the Public Prosecutor for the High Court shall arrange for the representation of the Crown. Whenever he thinks it necessary that the Crown should be represented in a case, he shall either assign it to the Government Pleader or take charge of it himself, and thereafter he or the Government Pleader, as the case may be, shall be responsible for the conduct of the case.

21. The Government Pleader shall, with respect to cases so assigned to him, be subject to the supervision and control of the Prosecutor for the High Court.

22. Upon receiving notice of an appeal under section 422, the Government Pleader shall forward to the Magistrate of the district

from which the appeal has been received a copy of the petition of appeal; and the Magistrate, as soon as possible after its receipt, shall inform the Government Pleader whether appearance on the part of the Crown is necessary, and, if so, shall furnish him with such materials as can be conveniently supplied and may be required for meeting the pleas of the appellant. He should at the same time furnish the Government Pleader with any instructions by which he may wish him to be guided in prosecuting the case.

23. When any case comes before the High Court for the exercise of its powers of revision, the Government Pleader shall forward to the Magistrate of the district concerned a copy of the grounds on which revision is sought; and the Magistrate, as soon as possible after its receipt, shall, if he desire an appearance to be made on the part of the Crown, take the same action as he would have done had such case been one of appeal.

24. In cases of special importance or interest, or where the action of the lower Court has been seriously irregular, he shall, after consulting the Public Prosecutor for the High Court, inform the Legal Remembrancer and take instructions from him as to the course which seems advisable under the circumstances of the case.

25. The services of the Government Pleader shall be at the disposal of the Public Prosecutor for the conduct of original criminal trials.

26. The Government Pleader shall submit to the Public Prosecutor for the High Court, Allahabad, in such form and at such times as the latter shall require, a list of all criminal appeals, references and revision cases, and shall, as regards the conduct of such cases, act under the directions of the Public Prosecutor.

27. As soon as possible after the close of each month, the Government Pleader shall submit to the Legal Remembrancer a return showing the number of cases in which the Public Prosecutor for the High Court or he himself has appeared on behalf of the Crown, and the result of each case of appeal, revision and reference disposed of by the High Court during that month, and where the finding or

6
2003

sentence of a lower Court has been reversed or modified, the reason of such reversal or modification. In the letter with which he forwards the return the Government Pleader should specially notice any flaws in legal enactments, or other points of general interest which may seem to require the attention of the Government.

Duties of District Government Pleaders in Sessions Trials and Criminal Appeals.

28. Government Pleaders are appointed Public Prosecutors in each district for the purpose of conducting appeals before the Court of Sessions. The Government Pleader is bound to appear in all appeals in the district to which he is attached in which counsel is engaged by the appellant. In all other appeals he will only appear when required to do so by the District Magistrate. The same rules apply to cases in criminal revision.

29. In all cases committed for trial by Sessions Courts the District Magistrate shall ordinarily, in the absence of the Public Prosecutor, North-Western Provinces and Oudh, appoint the District Government Pleader to be Public Prosecutor for the purposes of such case.

30. The District Government Pleader should not appear in any Criminal Court subordinate to the District Judge without permission first obtained from the Legal Remembrancer.

31. In cases falling under sections 198 and 199 of the Criminal Procedure Code the Government Pleader will not appear unless specially directed to do so by the District Magistrate.

32. The District Government Pleader will in no case appear on behalf of any person charged with an offence cognizable by Courts of Sessions or by Magistrates of the first or second class.

33. With the consent of the District Magistrate, the Government Pleader may employ any other pleader to act under his directions. The Government Pleader will remain responsible for the proper conduct of the case; he is entitled to make his own

arrangements for the remuneration of the pleader selected, but can only charge Government fees in the scale next below that prescribed for himself.

34. Whenever the Government Pleader may be unable to attend from sickness or other cause beyond his control, or the District Magistrate is satisfied that the prosecution in a case can be conducted without prejudice by another pleader, the Magistrate of the district may appoint another properly qualified pleader to be Public Prosecutor for the purpose of prosecuting such case. All such pleaders shall be entitled to charge and be allowed fees in the scale next below that prescribed for the Government Pleader of the district in which they may be called upon to act.

35. It is not intended that the Government Pleader should be superseded. The object of the above provisions is to set the Government Pleader free in petty and ordinary cases, when the District Magistrate is satisfied it can be done without prejudice to public interests, and also to provide for cases in which from physical inability the Government Pleader is unable to appear.

36. Whenever the District Magistrate considers the deputation of special counsel necessary for the conduct of any criminal case, or that it is expedient that one of the district staff should appear for the Crown, he shall furnish the Legal Remembrancer with the reasons for such assistance being required. If the Legal Remembrancer considers the case can be conducted by the deputation of a Government Pleader from another district, he may depute such Government Pleader and inform the Magistrate of the action taken by him. The services of Barristers-at-law must not be entertained for the conduct of criminal cases, either before the Sessions Courts or before Magistrates, until the assent of Government has been first obtained by the Legal Remembrancer.

37. From the 1st day of April, 1886, the Government Pleaders attached to District Courts shall, instead of receiving a fixed salary, be paid by fees according to the scale hereinafter set out.

7/2003

38. At the conclusion of each day on which the Government Pleader, or person acting under his directions, shall be engaged before the District Judge, he will prepare and submit for counter-signature by the Judge a register containing the following details fully set out :—

Date.	Name of case.	From what hour.	To what hour.	Name of person appearing for Crown.	Signature of Judge.

39. The Magistrate will keep a second register to be used by persons appointed to act for the Government Pleader under para. 34. All such pleaders shall be paid the fees for their services as soon as each case for which they have been engaged has come to an end.

40. In calculating the hours during which the Government or other pleader may be engaged, any time under six and over three hours shall be held to amount to one day, and any time over one hour and under three hours to half a day.

41. The Government Pleader in each district shall be entitled to the fees entered under the highest scale for such district, provided he be a pleader of the High Court. If the Government Pleader has not attained the rank of High Court Pleader, he shall be entitled only to the fees set out in the second column of the scale against such district.

42. Government Pleaders deputed to conduct a case in a district other than that to which they are appointed shall be entitled to special fees, which will be fixed in each case by the Legal Remembrancer under the sanction of Government.

43. At the close of the month the Government Pleader will present the register at the treasury of the district to which he is attached. The District Magistrate will inspect the book, and certify the sum due to the Government Pleader for his services. This certificate should be attached to the usual bill form provided for the purpose. The Treasury Officer will, after payment, note the sum paid upon the register of the Government Pleader.

SCHEDULE OF FEES PAYABLE TO GOVERNMENT PLEADERS FOR CRIMINAL WORK.

First Class Districts.

Name of district.	Maximum fees.	Alternative fees.	
	Rs.	Rs.	Rs.
Allahabad	25	16	10
Lucknow			

Second Class Districts.

Saháranpur					
Meerut					
Aligarh					
Bareilly	16	10	...		
Agra					
Cawnpore					
Benares					
Gházipur					
Bijnor					
Budaun*					
Sitapur					

Third Class Districts.

All other districts	10	8	5

CIVIL LITIGATION.

Duties of Government Pleaders in cases before the High Court, North-Western Provinces, and Judicial Commissioner for Oudh.

44. The Government retains the services of two pleaders, one of whom is attached to the High Court at Allahabad and another to the Court of the Judicial Commissioner for Oudh.

* No travelling allowances however to be drawn by this pleader.

45. These officers shall be appointed by the Legal Remembrancer, but in each case the appointment made shall be subject to confirmation by the Local Government. They will receive their deeds of appointment from the Legal Remembrancer.

46. The duties of these Government Pleaders are ordinarily restricted to the Court to which they are attached. They are further bound to furnish the Legal Remembrancer with written opinions in respect of all civil proceedings on which such opinion may be asked for by the Legal Remembrancer, and to perform in the High Court and Judicial Commissioner's Court the same duties as are hereinafter prescribed for District Government Pleaders in District Courts, with reference to cases entrusted to their care.

Duties of Government Pleaders attached to District Courts.

47. Unless released by written order from the Collector, the Government Pleader attached to each District Court is responsible for the conduct of all civil suits and proceedings within such district in which Government is interested.

48. The responsibility of the District Government Pleader does not extend to cases in Courts to which a Subordinate Government Pleader is appointed.

49. It is, further, the duty of District Government Pleaders to advise all local officers both in respect of civil and criminal proceedings, and also, to the best of their ability, on all legal matters which a local officer may refer to them concerning any Government business of any kind or in any department.

50. As a rule, the duties of District Government Pleaders are ordinarily restricted to the Courts at the headquarters of the district to which they are attached; but they may be required, whenever thought necessary, by the Collector or Magistrate of the district or the Legal Remembrancer, to appear in any case and in any Court, or to proceed to Allahabad to instruct counsel, and to assist at the hearing or trial of any case in the High Court.

51. Whenever a Government Pleader is deputed to serve for Government in a district other than that to which he is attached, he is entitled to nominate a Pleader to act for him in his absence. The name of the pleader selected must be submitted to the Collector and must be approved by him.

52. With the sanction of the Collector, the Government Pleader may, in any civil case, depute another pleader to conduct such case for him: provided always—

(1) that the Government Pleader will remain responsible for the conduct of the case, and the pleader deputed must act under his instructions; and

(2) that the Collector must first satisfy himself that the case is of such a kind that no harm will accrue to the Government from such pleader being appointed.

53. Whenever the Government Pleader is physically unable to attend, the Collector, if the Government Pleader's absence is likely to be only temporary, should endeavour to procure an adjournment until the Government Pleader is able to return to duty. Should the Court refuse to adjourn the case the Collector will appoint a pleader to take up the Government Pleader's duties for the time being.

54. If the absence of the Government Pleader is likely to extend over a fortnight, the fact must be reported to the Legal Remembrancer, and any arrangements for the conduct of Government suits, in the event of such prolonged absence, must receive the sanction of the Legal Remembrancer.

55. Whenever a pleader is appointed to act for the Government Pleader, all cases instituted by such pleader will, as a rule, be conducted by him until they have been finally heard and determined in the District Court, and he will be entitled to receive the fees allowed for such cases. It will be part of his duty to attend to all current work belonging to the Government Pleader's office which cannot be performed by the Government Pleader's clerk.

56. Whenever a vacancy occurs, the Collector shall report the fact of such vacancy to the Legal Remembrancer, who shall, as

9/2003

soon as may be, appoint a properly qualified pleader to fill the vacancy, and is authorized to sign and grant the deed requisite for the appointment.

57. Subordinate Government Pleaders are attached to Courts to which the District Government Pleader cannot attend.

58. The duties of the Subordinate Government Pleaders are limited to appearing on behalf of Government in the Courts for which they are respectively appointed in any suit or other civil matter entrusted to them.

59. Every Government Pleader shall receive his appointment for five years from the date upon which he receives his deed of appointment. At the end of each period of five years he shall be eligible for reappointment, but the Legal Remembrancer shall not be bound so to reappoint him.

60. The Judges of the Courts to which District and Subordinate Government Pleaders are attached are authorized to cause letters and packets prepared by such Government Pleaders to be franked as if they issued from their own offices, and also to pay any bearing charges on official covers which such pleaders may receive. The Government Pleaders shall be responsible that such letters, packets and covers are *bond fide* despatched or received on Her Majesty's Service only. The District and Subordinate Government Pleaders shall not incur any contingent expenses apart from the necessary charges connected with the cases which they have to conduct, and which they shall procure from the Collector as they arise.

61. The fees payable in cases in which the District or Subordinate Government Pleader appears alone shall be calculated as laid down by the High Courts in their circular orders.

62. In cases in which a reference is made under section 15, Act X of 1870, because the Collector is unable to agree with the parties interested as to the amount of compensation to be allowed for the land required, and compensation for such land is determined by the Civil Courts, the Government Pleader's fee shall

be calculated on the scale above prescribed for *ex parte* suits, and on the amount of compensation tendered by the Collector under section 11 of the Act; or if no claimant attended pursuant to the notice mentioned in section 9, on the amount of compensation which the Collector, under section 18, may have declared himself willing to give to the parties.

63. In an inquiry as to pauperism under Chapter XXVI of the Code of Civil Procedure, the fee payable to a Government Pleader who has opposed an application for leave to sue as a pauper, or has applied for the dispaupering of the plaintiff, shall be 10 per cent. on the amount of the court fee that would be payable on the plaint if the suit were not brought by a person alleging pauperism: provided that no fee in excess of Rs. 75 should be payable under this rule.

64. In miscellaneous cases to which no value can be assigned, the Government Pleader's fee shall not exceed Rs. 16 for each case, to be paid under the sanction of the Collector.

65. When the Collector considers that a Government Pleader shall receive a larger fee, application should be made to the Legal Remembrancer, who has power to sanction the payment of a fee not exceeding Rs. 32 for each case.

66. In exceptional cases, where the proposed fee exceeds Rs. 32, the Legal Remembrancer shall refer the case for the orders of the head of the department concerned.

67. The Legal Remembrancer should settle the amount of the fee to be paid before directing the Government Pleader to appear.

68. When any Government Pleader appears with any barrister or pleader specially appointed in the case, he shall be entitled to receive the full fee if that amount does not exceed Rs. 100, and to receive Rs. 100 if it exceeds that sum, but does not exceed Rs. 200; and if the amount so allowed exceeds Rs. 200, he shall be entitled to receive one-half of it.

69. Any barrister or pleader specially engaged shall receive the remuneration fixed by the Legal Remembrancer at the time his services were engaged.

10/2003

70. The Legal Remembrancer may direct, in any case in which it may appear to him that any Government Pleader has been guilty of any neglect or misbehaviour, that the whole or any portion of the fees otherwise payable to him shall be considered forfeited.

71. In cases decided against Government the fee due to the Government Pleader shall be paid on the 1st day of the month next after that in which the case has been decided.

72. In cases decided in favour of Government, half the fees due to the Government Pleader shall be paid as under the preceding rule, and the remainder as soon as the Collector is satisfied that proper steps have been taken by the Pleader to procure speedy and complete realization of the decree.

73. Any departure from this rule can only be made after report made to the Legal Remembrancer, and it being satisfactorily shown that because of an appeal having been filed, or some other cause beyond the pleader's control, immediate execution of the decree is impracticable.

74. A District Government Pleader leaving the headquarters of his district or division on duty is entitled to draw travelling allowance at the rates prescribed for an officer of the 2nd class in the Travelling Allowance Code.

GENERAL.

75. All correspondence and all orders of Government on the subject of suits or other civil proceedings are to be regarded by all officers and pleaders into whose hands they may come as strictly confidential.

76. No public officer shall grant copies of any such correspondence or Government orders during the pendency of the suit or civil proceeding to which they refer, or until after its final decision by the highest Court before which it is likely to be brought for any reason whatever, and no such copies shall be granted at any

time after such final decision without the previous sanction of the head of the department.

77. When the exhibits in an original suit or other proceeding are so numerous, or so important, as to necessitate a District Government Pleader's obtaining copies thereof for his own use or for that of special counsel, he shall take care to have them legibly written on one side only of the paper, with a quarter margin (the paper being of the ordinary foolscap size in use in official correspondence), so that they may be afterwards used by counsel and others in every subsequent stage of the case, and the expenses of procuring fresh copies from time to time may be thus avoided.

78. It should be borne in mind that correct uncertified copies (which need not bear any court fee stamp) are for all purposes, except for filing in Court, as good and as useful as certified stamped copies; and copies of the latter kind should, therefore, only be obtained when they are required for filing in Court, or when these rules expressly state that certified copies should be procured.

79. District Government Pleaders shall send a return to the Legal Remembrancer on the first of every month in the following form. When there are no cases to be entered in the return, it shall nevertheless be sent in blank.

Return of original suits, appeals and other civil proceedings instituted in the District of during the month of 18 , in which Government or any Government officer is concerned.

Court in which instituted.	Nature of case, (*i.e.*, whether original suit, appeal or other civil proceedings).	Number of cases.	Dates of institutions.	Parties.		Date fixed for the hearing.
				Plaintiff, appellant or petitioner.	Defendant or respondent or opponent.	

(Sd.) A. B.,
District Government Pleader.

80. Subordinate Government Pleaders shall submit, through District Pleaders, to the Legal Remembrancer, on the 1st of each month, a similar return.

81. District Government Pleaders shall send to the Legal Remembrancer, on the 1st January, 1st April, 1st July and 1st October, through the Collector, a quarterly return in the following form, showing the progress made in realizing amounts due under decrees to Government in the districts to which they are respectively appointed :—

Name of Court and No. and year of suit.	Parties.		Amount to be realized.			Amount realized.			Balance yet to be recovered.	Remarks.
	Plaintiff.	Defendant.	Amount of claim decreed.	Amount of costs decreed.	Total.	Previously.	During the quarter under report.	Total.		

82. In the column of remarks any reason for delay or for want of progress in the recovery of dues should be fully explained; and when any sums are considered to be absolutely irrecoverable, the Collector or other officer shall report the amount, through the head of his department, to the Legal Remembrancer, who shall submit the same to Government for orders. If Government direct any such sum to be written off as irrecoverable, it need no longer be shown by the Government Pleader in his quarterly return. Should the Legal Remembrancer consider the progress made in the recovery of moneys due to Government under decrees unsatisfactory, he shall bring the matter to the notice of Government.

83. Any sum due to Government under a decree may, if convenient, be recovered otherwise than through the agency of the Courts; but the Government Pleader should be instructed, under section 258 of the Civil Procedure Code, to certify every such recovery to the Court.

Circular No. 3 of 1886, Legal Remembrancer to Government, North-Western Provinces and Oudh, dated Allahabad, 22nd April, 1886.

I AM directed, in forwarding the enclosed circular, which contains the procedure to be followed in all cases to which Government* is a party, to remind you that, as a general rule, no suit should be instituted until all other means of obtaining satisfaction for Government claims have been tried and have failed.

The defendant should be given every opportunity of stating his reply to the claim, and any information elicited in this manner should be reported to this office.

Too much care and attention cannot be paid to the narrative of a case and the relief asked for in the plaint. It is impossible for this office to rectify any errors in either, and they will, in consequence, be adopted as they stand.

1. The suits in which the State may become involved should be classified under the following heads :—

I.—Suits arising out of relations created by contracts (written or implied) or out of relations resembling those created by contracts other than those specified in classes III and IV.

These should again be sub-divided as follows :—

(a) Suits to recover money or property due under a contract.

(b) Suits for damages arising from breach of contract.

(c) Suits to enforce specific performance of a contract.

II.—Suits to recover damages on account of torts.

III.—Suits for redemption or foreclosure, whether with or without claims for *mesne profits*.

* The procedure enjoined by this circular has been sanctioned for Court of Wards' cases in Oudh ; See Oudh Revenue Manual, Volume II, Part VI, Circular 2.

IV.—Suits for declaration of right to, or for possession of, real property with or without claim for *mesne profits*.

V.—Rent suits, *i.e.*, all suits falling under Act XII of 1881.

VI.—Suits to declare personal rights.

VII.—Suits to set aside sales by order of Court, or orders passed by Civil Courts in proceedings other than suits.

VIII.—Suits to set aside acts or orders passed by officers of Government in their official capacities.

IX.—Suits for compensation for land acquired for public purposes.

X.—Applications for the execution of decrees.

XI.—Miscellaneous applications.

XII.—Applications under Acts XL of 1858, XXVII of 1860, IX of 1861 and X of 1865.

XIII.—References under parts III and IV, Act X of 1870.

2. Litigation in which the Court of Wards, Municipal Boards, *(a)* Local Boards, Cantonment Committees and State Railways may from time to time be engaged should be classified in a similar manner, either by the department immediately interested in such litigation or by the Collector of the district in which the suit may have been contested.

3. The institution of all suits and the prosecution of all applications on behalf of the Secretary of State is entrusted to the Collector of the district within whose jurisdiction the suit can by law be laid or the application presented.

(a) Under G. O. No. 536A., dated 9th September, 1876, Municipal Department (page 321, Volume I, Manual of Government Orders), the Government, in surrendering to Municipalities the proceeds of *nazúl* land lying within municipal limits, reserves to itself the proprietary rights therein.

2. Any suit, therefore, affecting the *proprietary* rights to such lands in Municipalities will be against the Government and not the Municipality concerned, and the attention of district officers is called to this point.

4. The institution of all suits and the prosecution of all applications on behalf of a Municipal Board rests with the person to whom such Municipality may delegate the task of such institution or prosecution.

5. With the exception of officers of Municipal Boards any public servant other than the Collector who may consider the institution or defence of a suit on the part of Government desirable must obtain the sanction of the head of his department.

6. Rent suits, and such suits and applications or classes of the same as the Board of Revenue in their capacity of Court of Wards or the Military Department or the Director of State Railways, with the consent of the Local Government, may see fit to exempt from submission to the Legal Remembrancer, will be treated according to rules laid down by the department to which they refer.

7. This exception is not intended to prevent any particular case out of those mentioned above being submitted, whenever, on account of special causes, the department may consider it advisable to have the opinion of the Legal Remembrancer.

8. When the Collector proposes to institute a suit, he shall prepare a memorandum containing the following particulars :—

(1) a clear and detailed report of the circumstances which have rendered the suit necessary ;

(2) the relief sought for, and where such relief relates to land, an accurate description of the land, giving numbers where such land is numbered in a Government register, the precise amount of share sued for, or the boundaries, &c., as the case may require ;

(3) the cause of action and when it accrued ;

(4) a brief account of the steps taken to obtain satisfaction from the defendant otherwise than by institution of a suit, and the objections or excuses made by defendant to rendering such satisfaction ;

13/2003.

(5) copies, as far as possible, of all documents on which the claim is based or which are to be adduced in support of the claim. Where these are very voluminous or bulky, extracts may be furnished, but care must be taken to give such extracts accurately, as they stand, and to omit no portion which may explain or qualify such extracts. In every case the stamp engrossed on such documents and the fact whether they are registered or not must be clearly noted ;

(6) a certificate to the effect that the Collector has satisfied himself by inquiry that the person against whom the suit is to be laid is possessed of sufficient means to ensure the recovery of the amount, if any, which may be decreed against him, or a memorandum showing why the Collector considers that action should be taken irrespective of any hope of recovery of any amount sued for. *(b)*

9. The Collector will also prepare a plaint according to the prescribed rules quoted in the foot-note to this paragraph. *(c)*

(b) Para. 8 (6) has been overlooked in almost every case received since the issue of this C. O. Cases to which this certificate is not attached will invariably be returned. C.L.-1159, June 12th, 1886.

(c) These rules are as follows :—

1. The plaint should be strictly confined to the particulars set forth in section 50 of the Code of Civil Procedure.

2. The circumstances constituting the cause of action should be stated in concise and clear language. In most of the draft plaints forwarded to this office the cause of action is obscured by a narrative of facts more or less relating to it, but not immediately constituting it.

3. Where any one of the forms given in schedule IV (Code of Civil Procedure) can be used, the plaint must be prepared in the form given. The law allows no option in such cases (section 644, *ibid*).

4. Every draft plaint submitted to this office should contain—

(a) list of documents sued upon.

(b) list of documents relied on.

10. In preparing plaints and copies for the Legal Remembrancer's office, translations of vernacular papers should always be forwarded: all papers should be written on half margin and on one side only of the paper, and they should be numbered and fastened together in the ordinary form of a brief. The papers, when ready, will be forwarded by the Collector to the Commissioner.

11. When the suit is proposed by any departmental officer, it will be his duty, after receipt of sanction from the head of his department, to prepare the memorandum prescribed in para. 9, and forward it to the Collector, who, unless it is necessary to return the memorandum for further information, will prepare the plaint as directed above and submit the papers to the Commissioner.

12. The Commissioner will forward the papers received from the Collector to the Legal Remembrancer, after endorsing upon them his own opinion as to whether or not the suit should be instituted. Provided that, where the value of the claim does not exceed Rs. 500, and the suit has no further importance as directly affecting claims or interests other than those which form its immediate

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5. All officers forwarding plaints against Government should take care that the copy forwarded by them contains information as to—

(1) the stamp fee engrossed on the plaint;

(2) whether the plaint is signed both by the plaintiff and his pleader;

(3) if not signed by plaintiff, on what authority it is signed;

(4) whether the plaint is duly verified and the date on which it has been filed.

Where the copy given is silent on these points, the Government Pleader should inspect the original and supply the deficiency.

6. The above remarks, *mutatis mutandis*, apply to written replies and petitions of appeal.

7. In submitting draft plaints and written replies officers should attach to them, as far as they can, copies of all documents on which they intend to sue or to rely in the prosecution of their case, also copies of proposed interrogatories, and a note of any documents they know of which the opposite party should be called upon to produce; care should be taken to give as clear a description as possible of any such documents.

subject matter, the Commissioner shall be competent to veto its institution.

13. When the Collector or the head of the department concerned and the Commissioner are agreed that a suit should be instituted, the Commissioner will forward the plaint, together with the other papers and any further observations that may seem necessary, to the Legal Remembrancer.

14. If the Legal Remembrancer, owing to some legal defect or apparent insufficiency of proof, consider it questionable whether the suit should be prosecuted, he should return the papers with his opinion, through the Commissioner, to the head of the department to which the case may belong, for final orders.

15. If it be finally decided to proceed with the case the Legal Remembrancer will issue such orders as he considers necessary for the proper prosecution (or defence) *(d)* of the case. The further conduct of the case will then rest with the Collector, who is, how-

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These lists should be prepared in the following form:—

List of documents sued on.			List of documents relied on.		
Description.	Date.	In whose possession.	Description.	Date.	In whose possession or power.
1. Bond executed by A.B., defendant, in favour of C.D., plaintiff.	1st January, 1880.	Plaintiff's. Produced.	1. Receipt of moneys paid by C.D.	1st February, 1880.	Defendant's.
2. Registered letter of demand from C.D. to A.B.	1st January, 1880.	Defendant's possession.	2. Letter by C.D. to E.F., acknowledging liability to plaintiff.	1st February, 1880.	In possession of E.F.
			3. Letter to C.D., asking for time.	1st March, 1883.	Plaintiff's. Produced.

(d) For preliminaries where a suit is to be defended see para. 33, &c.

ever, bound to adhere as closely as possible to the directions received from the Legal Remembrancer, *(e)*

16. The brief with the Legal Remembrancer's opinion and any further instructions consistent with the Legal Remembrancer's directions, which the Collector may think proper to give, will be made over to the Government Pleader, who shall engross the plaint or answer as approved by the Legal Remembrancer on stamp paper and file it in Court. *(f)*

The moneys for fees and other necessary expenses should be advanced by the Collector and adjusted at the end of the trial (paras. 83, 84).

17. Whenever the Legal Remembrancer considers it expedient that special counsel be deputed to prosecute (or defend) a suit or that the Government Pleader act directly under his orders, he will

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(e) Alterations and additions should not be made in the body of the plaint, written reply, &c., after the same have been approved of by the Legal Remembrancer. The Collector or Deputy Commissioner is asked, on the receipt of a brief, to examine or have examined carefully all the facts set out in the paper, which are based upon local knowledge, and should any alterations be considered necessary either by them or the Government Pleader, the papers must be returned, or, if time will not admit of their return, immediate information of the addition or alteration must be given to the Legal Remembrancer. C.L.1159 of 12th June, 1886.

(f) It has been brought to the notice of the Legal Remembrancer that the brief supplied by him has not been in some instances made over to the Government Pleader, but that he has only been given extracts from the same. One of the reasons for this may have been that the Government Pleader is not acquainted with English, and it may be objected that to translate the whole brief entails much time and labour.

2. I have, however, the honour to point out that it is and has always been part of the duties of the Collector or the officer whom he may depute for the purpose to take care that the Government Pleader is properly instructed. It will not add to the Collector's work, but rather diminish it, if the brief is translated (where translations are not on the brief) to the Government Pleader, and there must be many cases in the present day where the Government Pleader is either acquainted with English or has some one whom he can trust and who is able to translate for him.

3. In every cause I would ask that the brief, as it stands, be made over to the Government Pleader without any letters or papers being removed from it; that he be made responsible for its safe keeping, and instructed to add to it from time to time as the case proceeds all papers connected with it, whether such papers be received from the Collector or Legal Remembrancer. C.L.1482 of 1886.

15/2003.

inform the Collector, and the responsibility will then rest entirely with the Legal Remembrancer. *(g)*

18. If the institution (or defence) of a suit be sanctioned, a *parwana*, recorded in Urdu and signed by the Collector, shall be sent to the Government Pleader, who should be furnished with full information of all the particulars of the case.

19. Except where the Legal Remembrancer undertakes the responsibility, it is the duty of the Collector (or of any subordinate whom he may appoint for the purpose under the further provisions of these rules) to ascertain that the Government Pleader has made himself thoroughly acquainted with the facts of the case and with the evidence to be adduced in support of the claim. *(h)*

20. The Government Pleader is directly responsible for the conduct of the case in Court, and it is his duty personally to attend when it comes on, and to make all necessary applications to the Court in connection with it. He is also bound to keep the Collector informed on all points in which his co-operation is required, and to report, with the least possible delay, if any further evidence or information is required, moving the Court, if necessary, to postpone the case. All evidence must be ready by the day fixed for hearing the case.

21. The Government Pleader is not exempted from the responsibility enjoined in paras. 20 and 21 by the fact that special counsel has been engaged in the particular case. It will be still his duty to keep the Collector informed of all steps taken or which

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(g) No case, criminal or civil, can be made over to any other legal practitioner but the Government Pleader without sanction first obtained from the Legal Remembrancer. The only exceptions are—

(1) cases in which there is not time to consult the Legal Remembrancer;

(2) cases which the Government Pleader asks may be entrusted to another;

(3) cases falling under paras. 53 and 55 of Circular Order No. 3 of 1886.

In all these cases the appointment of a special Pleader rests in the North-Western Provinces with the District Magistrate and Collector, and in Oudh with the Deputy Commissioner, and with these officers alone. C.L.1159 of 12th June, 1886.

(h) See note *(e)* on page. 24.

should be taken in the case, to present all interlocutory applications and to assist the special counsel engaged. His responsibility in any case will cease only when written orders to that effect have been given him.

22. In cases in which it may be considered desirable the Collector shall, on the requisition of the Legal Remembrancer, prepare and forward to him an extract copy of the brief.

23. When the issues in any case have been framed *(i)* and recorded by the Court, the Government Pleader shall, unless otherwise directed by the Legal Remembrancer, attach a copy of them to the brief and return it, through the Collector, for further directions. *(j)*

24. The Government Pleader shall transmit a second copy of the issues to the Collector, and shall state the documents to be proved and the facts to be established.

25. After the settlement of issues the Collector, if the evidence has not already been collected, shall depute a trustworthy officer to collect evidence. Where a suit involves a dispute of fact, the officer shall select the witnesses upon whom he thinks he may rely, and he shall reduce their statements shortly to writing, for the use of the Government Pleader at the trial. The officer entrusted with the preparation of the evidence will forward the statements of the witnesses, with any remarks which he may think proper, to the Collector, who will then consult the Government Pleader upon the sufficiency of the evidence, and whether any further evidence, documentary or oral, should be given in the case. If

(i) The attention of officers is drawn to the provisions of chapter X (Code of Civil Procedure). In almost every case a notice might with advantage be prepared for service on the defendant under section 128.

Wherever it is probable that the opposite party will admit certain of the facts in issue, interrogatories should be prepared for service on the defendant and submitted to this office.

By a judicious use of sections 121 and 128 much saving can be effected both in the matter of costs and time.

(j) See instructions contained in C.L.1600, dated 13th July, 1886, and reprinted at the end of this circular.

considered advisable, this record may be submitted for the opinion of the Legal Remembrancer.

26. When the day for the trial has been fixed, the Government Pleader shall take out subpœnas for the witnesses he purposes to call, and the Collector shall advance him a sum sufficient to defray the expenses of the witnesses and any other incidental expenses which it may be necessary to incur. At the end of the trial the Government Pleader shall submit an account of the expenditure, which will then be entered as costs in the suit.

27. When the opposite party files his list of witnesses, the Government Pleader shall send a copy of it to the Collector, and the officer entrusted with the preparation of the evidence shall make inquiries about these witnesses, and furnish the Government Pleader with materials for their cross-examination.

28. As soon as the case is decided, the Government Pleader or other counsel engaged shall report the result to the Collector, who will inform the Legal Remembrancer. The Government Pleader shall, in every case, whether conducted by him or special counsel, lose no time in procuring a copy of the judgment and of the decree. These papers after being translated in the Collector's office shall be sent, in the same way, as soon afterwards as possible.

Suits in which Government is a defendant.

29. Section 424 of the Civil Procedure Code enacts that "no suit shall be instituted against the said Secretary of State in Council, or against a public officer in respect of an act purporting to be done by him in his official capacity, until the expiration of two months next after notice in writing has been, in the case of the Secretary of State in Council, delivered to, or left at the office of, a Secretary to the Local Government or the Collector of the district, and, in the case of a public officer, delivered to him or left at his office, stating the cause of action and the name and place of abode of the intending plaintiff; and the plaint must contain a statement that such notice has been so delivered or left." It has been ruled

that this section does not apply when a Court of its own motion adds the Secretary of State or a public officer as a party to a suit, and further that, in the case of public officers, it refers only to cases in which such public officer is sued for damages on account of some wrong inadvertently committed by him in the discharge of his duty. In most cases public officers will get full two months' notice before a suit is filed against them. On receipt of notice, and within 14 days from its receipt, unless the public officer concerned is prepared to admit the claim, he shall, after obtaining sanction as laid down in para. 5, communicate with the Collector of the district, supplying him with as full a narrative as possible of the circumstances which have led up to the notice and of the line of defence which he would propose in the event of a suit being filed.

30. When notice is given to the Collector of the intended institution of a suit against the State in his own department, he shall collect all the information regarding the facts of the case which he can procure. If there are any intricate points of law in the case he should obtain the opinion of the Government Pleader on them. If it appears to the Collector that the plaintiff has a valid claim, he shall ascertain what terms the plaintiff is willing to accept. If any reasonable terms can be settled, or if the Collector considers it advisable to satisfy the claim in full, he shall report to this effect to the Commissioner, giving full information regarding the nature of the claim, and clearly stating the reasons why he considers that it should be satisfied. The Commissioner may sanction the Collector's proposal to compromise the case or to pay the claim in full, where the expenses involved will not exceed Rs. 500, provided that the case is one relating to a department under his immediate control, and is not one of extraordinary importance ; but he shall, on sanctioning a compromise, submit the papers received from the Collector, with the reasons for his own order clearly stated, to the Judicial Secretary to Government.

31. If the case is one that affects any other department and the Collector, after consulting the local officers of the department,

17/2003

is of opinion that the claim is valid or should be compromised, he shall forward his proposals, with their opinions, to the head of the department concerned, by whom final orders will be given. In cases affecting the Public Works Department the opinion of the Executive Engineer should be obtained.

32. If the Collector or the head of the other department concerned consider the case should be defended, the former officer will then proceed as laid down in Legal Remembrancer's Circular Order No. 1 of 1885, Section II *(a)* and *(b)*, *(k)* taking care that all the papers reach the Legal Remembrancer's office at least three weeks before the period of grace contained in the notice shall expire. The papers will be sent direct and not through the Commissioner, as it is of importance that time should be saved and a legal opinion procured before the suit is actually instituted.

33. If the Legal Remembrancer concur with the Collector, he shall intimate the fact of his concurrence to that officer. No further steps need be taken until the suit has been instituted.

34. If the Legal Remembrancer differ from the Collector, the procedure laid down in para. 14 shall be followed.

35. When the suit is instituted against the Secretary of State, or the Secretary of State is added as a party by order of Court, the summons will, under section 419, Act XIV of 1882, be served on the Government Pleader, who shall give immediate information to the Collector.

36. If the Secretary of State be not directly impleaded and the suit be brought against an officer in his public capacity, that officer

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(k) II.—To prevent such and similar mistakes, you are requested to note that—

(a) In future a copy of any notice received under section 424 should be forwarded to the Legal Remembrancer with a note stating the opinion of the officer receiving such notice as to whether it is probable or not that the suit foreshadowed in it will have to be defended.

(b) Where there is every probability that the case will eventually be brought or when attempts to compromise or settle the dispute out of court have failed, a narrative of the circumstances which have led up to the notice should be submitted along with it or as soon after as may be possible.

shall, as soon as the summons is received by him, give immediate notice to the Collector of the district, although departmental or other sanction may be necessary, before further steps are taken. The officer shall also proceed, if necessary, under section 423, Act XIV of 1882.

37. When a suit is instituted against Government in any department other than the Revenue, the Collector shall, in cases in which the proceedings have not been forwarded to him by the local officer in charge of that department, obtain from that officer full information regarding the subject of the suit, and his opinion on the course to be pursued in regard to the claim.

38. The Government Pleader, on receipt of the summons under section 419, Act XIV of 1882, shall examine the copy of the plaint given him to see whether it contains information on the points noted in Legal Remembrancer's Circular order No. 2 of 1885, *(l)* and if the copy is incomplete inspect the original and supply the deficiency. He shall also procure copies of all documents filed with the plaint, unless the same be very voluminous, in which case he shall be guided by the Collector as to the copies of the papers he shall procure.

39. The Collector, on receipt of the summons from the Government Pleader, shall lose no time in forwarding, through the Commissioner, to the Legal Remembrancer the following papers :—

(a) a full and detailed narrative of the circumstances which led to the suit, if not previously submitted ;

(l) All officers forwarding plaints against Government should take care that the copy forwarded by them contains information as—

(1) the stamp fee engrossed on the plaint ;

(2) whether the plaint is signed both by the plaintiff and his pleader ;

(3) if not signed by plaintiff, on what authority it is signed ;

(4) whether the plaint is duly verified and the date on which it has been filed.

Where the copy given is silent on these points, the Government Pleader should inspect the original and supply the deficiency, L. R. C. O. 1 of 1885, *(a)* and *(b)*.

(b) a copy of the plaint, with translation in half margin, and of the documents filed with the plaint ;

(c) a memorandum of the proposed defence, also in half margin, showing clearly and fully how each of the allegations in the plaint is to be met, and the evidence which he proposes to adduce to disprove it ;

(d) copies of the documents relied on by the defence. The purport of any other documents affecting the case shall be briefly stated, so that all the principal links in the evidence may be given.

40. In all cases the class of suit and the date fixed for its trial should be clearly recorded on the face of the Collector's covering docket.

41. In cases brought against Government in the Public Works Department for work done or materials supplied, if it is proposed to allege in defence that the plaintiff is not entitled to the sum claimed by him according to the terms of the contract, a statement shall be obtained from the Assistant or Executive Engineer, and submitted with the other papers, showing the amount of work done, the contract rates, the amount due, according to them, for it, the amount paid and the amount claimed as due by the plaintiff, with a brief account of the grounds on which he bases his suit.

42. The instructions contained in paras. 15 to 28, relating to suits brought by Government, apply with the necessary alterations to suits brought against it.

43. If on the day appointed for hearing, a written statement be filed by the plaintiff, which contains allegations not mentioned in the plaint, the Government Pleader shall submit a copy of it to the Collector.

General Rules.

44. If in any suit brought by or against Government, the Collector consider that the services of any Barrister or Pleader other

than the Government Pleader should be engaged, he shall refer to the Legal Remembrancer, who will make all necessary arrangements.

45. Collectors may sanction finally, on their own authority, all necessary law charges incurred in suits to which Government is a party, such as stamps, process fees, diet money and the like, charging the same in their contingent bills.

46. Final instructions from the Legal Remembrancer must be awaited in every suit in which Government is concerned, subject to the proviso contained in para. 6, and to the following, *viz.*, that in cases in which immediate action is necessary in order to prevent the lapse of the Government claim, or a decision being given against Government owing to no defence being filed on its behalf, it shall be competent to the Collector to direct the institution of a suit or filing of a defence by the Government Pleader; but in cases of this urgent nature the Collector must forward the papers required under these rules to the Legal Remembrancer, and must fully explain the circumstances which rendered his unusual procedure necessary.

47. If the Collector of his own accord or on application made by a public officer consider the interests of Government require that he should intervene in any suit to which Government has not been made a party, but which has been instituted in any of the Civil Courts having jurisdiction in his district, he shall, after obtaining all information possible under the circumstances of the case, apply to the Court for a postponement of the hearing of the case if necessary, and submit a full report through the Commissioner of his Division to the Legal Remembrancer, showing clearly his reasons for considering such intervention necessary, and the Legal Remembrancer shall pass such orders as may be called for by the circumstances of the case.

48. If the Commissioner be of opinion on executive grounds that the Government should not intervene, he shall refer the case direct to the department of Government concerned for final orders.

If the Commissioner consider intervention inexpedient on legal grounds, the reference shall be made after consulting the Legal Remembrancer.

49. If the Collector considers that there is not sufficient time to make the report required by para. 46, and if the Court refuses to postpone the case for a sufficient period to enable him to do so, he may, if he think it necessary, intervene without waiting for orders from the Legal Remembrancer. But he must in such cases report having done so and give full reasons for his action.

50. If time admits, the Legal Remembrancer shall deal with the proposed intervention of Government as though it were a proposal for the institution of a suit (para. 14), and shall give the earliest information to the department concerned of the course adopted by him.

51. Delay in submitting any of the papers required from Government Pleaders will, whenever, in the opinion of the Legal Remembrancer, the interests of Government have been imperilled by such dilatory action, lead to the fees in such case being withheld from the Pleader who is to blame.

52. Papers submitted by Government Pleaders for transmission to the Legal Remembrancer may be forwarded with or without comment as the officers receiving them think fit, but they should be sent on at once.

RULES REGARDING APPEALS BY OR AGAINST THE STATE.

53. Whenever a case is decided against Government, the Government Pleader shall, as soon as possible, obtain a copy of the judgment and of the decree, together with any written statement filed by the opposite party as plaintiff or defendant, and submit them to the Collector to be forwarded to the Legal Remembrancer with an opinion as to whether an appeal should or should not be preferred.

54. In cases affecting the Public Works Department, the Collector shall, if possible, consult the Executive Engineer and obtain

a copy of his opinion for transmission to the Legal Remembrancer with the other papers.

55. If he consider that an appeal should be preferred, he shall draw up a concise memorandum showing his reasons for thinking so; and a copy of this, in half maggin, shall be forwarded to the Legal Remembrancer with Government Pleader's brief *(m)* and the papers abovementioned at least twenty days before the time for appeal expires.

56. It should not ordinarily be necessary to submit any other papers or any copies of documents, as all the evidence should have been already noticed in the brief or the former correspondence, but if any fresh evidence has been adduced during the trial, or anything of importance has transpired which was not noticed before, a brief account of it shall be submitted.

57. If the Legal Remembrancer consider that no appeal should be lodged, he shall, if time admit, consult the head of the department concerned.

58. When the head of the department concerned is of opinion that the appeal should be prosecuted, the Legal Remembrancer shall return the brief with a draft petition of appeal and instructions for the conduct of the case to the Collector.

59. Whenever an appeal is preferred from a judgment given by any Court in favour of Government, the Collector shall forward the Government Pleader's brief after attaching to it copies, with translations, when necessary, of—

(1) judgment and decree appealed against,

(2) memorandum of appeal,

(3) the grounds on which it is proposed to defend the appeal on behalf of Government,

to the Legal Remembrancer, and shall at the same time draw attention to any fresh evidence or new point in the case which was not noticed when the case was originally submitted.

(m) 4. The whole brief, and not a portion, should invariably be returned to this office.

60. The Collector shall forward to the Legal Remembrancer a distinct opinion founded, as far as may be, upon careful inquiry as to whether or not it is necessary in the interests of Government that the appellant should be called upon to furnish security for the costs of the appeal and of the original suit.

61. As soon as possible after any appeal is decided, the Collector shall communicate the result to the Legal Remembrancer, and at the same time furnish a copy (in English) of the judgment and decree for record in his office.

62. When the decision in the Lower Court has been in favour of Government, and the period of appeal has passed without an appeal being filed from the decision, the result of the case shall be communicated by the Collector to the Legal Remembrancer and the head of the department concerned.

APPEALS TO THE HIGH COURT.

63. The sanction of the head of the department concerned is necessary before any appeal can be preferred to the High Court.

64. If the Collector consider that a *regular* appeal should be preferred he shall, within one month from the date of the decree against which it is proposed to appeal, submit the brief completed as directed in para. 71 together with copies of the Lower Court's decision and decree attested by those Courts, as without such attestation the appeal cannot be filed.

65. The Legal Remembrancer shall forward the brief to the head of the department concerned, with an expression of his opinion as to whether an appeal is or is not advisable, and await his orders.

66. If the Collector wish a *special* appeal to be preferred, he shall follow the procedure laid down in paras. 64 and 65, and forward with the brief the written opinion of the Government Pleader of the district and of any Barrister or Pleader, other than the Government Pleader, who may have been employed in the case, setting forth the points of law which he considers to have been erroneously interpreted or neglected by the Lower Court.

67. The further conduct of the appeal will then rest with the Legal Remembrancer, who will, if sanction for filing an appeal has been received, issue a *parwana* authorizing the Pleader or Barrister whom the Legal Remembrancer may select, to file and prosecute the appeal.

APPEALS TO THE HIGH COURT AGAINST GOVERNMENT.

68. When an appeal is filed in the High Court against Government, notice will be given to the Government Pleader, who shall immediately notify the fact to the Legal Remembrancer and furnish him with a copy of the memorandum of appeal within one month, if possible, before the date fixed for hearing it. The Legal Remembrancer will follow the procedure laid down in paras. 65 and 67.

69. The result of first appeals and of special appeals in the High Court will be certified by the Government Pleader or other counsel employed, to the Legal Remembrancer, who will, when the appeal is decided in favour of the State, or where a special appeal may lie, as soon as the period for filing such appeal has expired, and if no appeal has been filed, certify the result to the head of the department concerned.

70. As soon as the appeal has been decided in the High Court, the Government Pleader shall submit one copy of the judgment and decree to the Legal Remembrancer for transmission to the Collector of the district, to enable the latter to take immediate steps, where necessary, for the realization of costs.

REALIZATION OF SUMS DECREED IN FAVOUR OF GOVERNMENT.

71. Immediately on a decree being given in favour of Government the Collector shall take steps for the recovery of costs and of the amount decreed.

72. If an appeal is instituted and the execution of the decree is stayed by order of Court, he shall occupy the interval before the decision of the appeal in making inquiries as to the property of the judgment-debtor.

73. The provisions of section 545, Act XIV of 1882, are ordinarily sufficient to prevent any fraudulent disposal of property by the judgment-debtor during the time gained by an appeal, and the Collector should assure himself that sufficient security is given by the party applying for stay of execution, petitioning the Court if he considers that the security offered is insufficient to be allowed to execute the decree at once.

74. The Collector shall, at the expiration of the one month from the date of decision, report to the Legal Remembrancer what progress has been made in realizing the amount due to Government. Any sum which may have been realized shall first be credited to costs decreed, and after the full amount of these has been recovered, the balance shall be credited to the claim decreed.

75. If the execution of the decree has been suspended under the provisions of section 545, Act XIV of 1882, the progress report shall be submitted a month after the decision of the regular or special appeal preferred, or after the expiration of the term of appeal if none is brought; but the fact of such suspension of the decree must be communicated to the Legal Remembrancer at the date on which the report would otherwise have been submitted.

76. Should the Legal Remembrancer consider the progress made unsatisfactory, he shall issue such orders and directions to the Collector as he may consider necessary; and he shall from time to time call on the Collector for progress reports, and order such steps to be taken in any case as he may consider fit.

77. When any sums on account of claims decreed or costs adjudged in favour of Government are considered to be absolutely irrecoverable the Collector shall report the amount to the Legal Remembrancer.

78. If the Legal Remembrancer is satisfied that every available measure has been taken to have a decree satisfied, he shall direct that costs adjudged be written off as irrecoverable.

79. Sums on account of claims decreed in favour of Government and found to be irrecoverable can be written off only by the Local

Government or the Government of India; and the Legal Remembrancer, when making proposals for the writing off of such sums under Resolutions (Financial Department) Nos. 3537, dated 30th November, 1870, and 1886, dated 14th July, 1877, is required to submit concise statements of the circumstances under which the sums became due to Government; of the legal proceedings which resulted in the sums being decreed; of the steps taken for the satisfaction of the decrees; and of the causes which have rendered the satisfaction of the decrees impossible.

80. Commissioners shall in future furnish the Accountant-General monthly with a detailed statement of expenditure incurred by Government in instituting, defending or appearing in civil suits in which Government is concerned.

81. Advances for suits should be charged off finally against the department concerned and need not be debited to advances.

The charges should therefore be drawn on abstract contingent bills of the respective departments, and when the recoveries are made, they should similarly be credited to the *per contra* heads.

The transaction will still appear in the plus and minus memo. and in the annual statement of recoverable advances (Accountant-General's form No. 121T.) as heretofore.

82. Sums realized in satisfaction of a claim decreed should be credited to the department in favour of which the decree was passed and notice of the same be given by the Collector to the local departmental officer as soon as possible after the credit has been made and to the Legal Remembrancer in the next return of civil suits.

83. Sums disbursed in satisfaction of a decree, whether on account of claim or costs, should, as soon as possible, be recovered from the department against which the decree was passed.

84. Irrecoverable advances should be written off under the orders of the Legal Remembrancer by a debit in the plus and minus memorandum supported by the original order.

No entries regarding such adjustment need be made in the body of the treasury accounts.

Circular Letter No. $\frac{1609}{\text{F.-703}}$, *dated the 13th July, 1886 (see para. 23).*

Section 59 of the Code of Civil Procedure requires that the plaintiff shall produce in court, when the plaint is presented, any document in his possession and power upon which he sues; and further, that he shall enter all documents on which he relies in a list to be added or annexed to the plaint. If any of these documents are not in his possession or power, he shall state where they are to be found.

2. Special care should, therefore, be taken to forward to this office copies of all documents filed with the plaint, and a copy of the list added to the plaint. To make this easier, a form will be supplied to Government Pleaders, who will fill up and hand it in to the Collector with the copy of the plaint supplied to them by the court.

3. If a plaintiff in any subsequent stage of the proceedings should put in any document (except it be a document in answer to the case set up by the Government, or a document to refresh the memory of such witness), the Government Pleader must invariably object to such document being received, and if his objection is overruled and the document received, ask that notice be entered on the record of his protest—

(1) that the document should have been filed with the plaint, or noticed in the list, as the case may be;

(2) that as the answer to all Government suits is prepared by the Legal Remembrancer, the Government is placed at a most serious disadvantage by the reception of a document without notice;

(3) that the document not having been entered on the plaint or list, as required by law, the reply was framed on the assumption that no such document would be forthcoming.

4. The Government Pleader should in every case, whether he be prosecuting or defending under section 138, insist, at the first hearing, upon the production of all documentary evidence, note upon his brief that he did so, and that the other side produced or declined to produce their documents. After this he should protest against the reception of any document which was not produced when first called for.

5. If the Court does not record the protest made, the Government Pleader will, on the very first opportunity, file in Court a petition in Form A or Form B hereinafter given, and ask that it be placed upon the record.

6. Immediate notice must be given through the Collector to the Legal Remembrancer of all documents received by the Court after protest made, with a summary of their contents or an accurate copy (if the document is likely to damage the prosecution or defence) and a note showing that the Government Pleader protested and his protest was overruled.

(*Note.*—The forms referred to in the body of this Circular are not here printed.)

Govt. Press, N.-W. P. & O.—Sec. B.—500—9-1-90.

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No. 1827 E. of 1890.

GOVT. N.-W. P. AND OUDH.

Estabt (B&R) BRANCH.

PUBLIC WORKS DEPARTMENT.

Dated Allahabad, the 14 July 1890.

To,

The Secretary to Government

of Madras. I. W. D.

Sir,

In continuation of this office No. 2 Dated 17 January 1890, I am directed to forward copies each of Standing Orders Nos. 51, 52 and 53 printed in the Revised Digest of orders in the Public Works Department North Western Provinces and Oudh, Buildings and Roads Branch.

I have the honor to be,

Sir,

Your most obedient Servt

Superintendent

for Offg: Joint Secretary

Enclosures.

The S. Os quoted above.

P.W. Cir. 6809

GOVT., N.-W. P. & OUDH. } { PUBLIC WORKS DEPT.

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THE SECY. TO GOVT., N.-W. P. AND OUDH,
P. W. DEPARTMENT.

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