M.R.O. 14—10,000—21-4-27

MADRAS RECORD OFFICE.

Government of Madras.

Revenue **DEPARTMENT.**

G.O. No. 346 Press ~~Mis.~~

42-43

Dated 5 — 3 — 1860.

Not to be folded or roughly handled

No. 42. Read the following Proceedings of the Board of Revenue, dated 25th November 1859, No. 4849.

Read again Extract Minutes Consultation, dated 29th July 1859, R. D., No. 1014, containing remarks in connection with those of the Board on three of the Revenue draft Acts prepared by Messrs. Parker and Mayne.

(In Con. 30th July 1859, No. 3829.)

Read again Extract Minutes Consultation, dated 13th May 1859, R. D., No. 656, referring the two remaining draft Acts for remark.

(In Con. 14th May 1859, No. 2185.)

Read also Extract Minutes Consultation, dated 1st July 1859, R. D., No. 869, regarding certain provisions to be made in the Act regulating the relations of Landlord and Tenant.

(In Con. 2nd July 1859, No. 3185.)

The five Acts referred to form the Land Revenue Code of this Presidency. They are as follow;—

An Act containing certain provisions generally applicable to the Madras Revenue Code.

An Act for regulating the powers and duties of the Revenue Authorities in the Madras Presidency.

An Act for the purpose of constituting a Court of Wards, and of defining the powers vested therein, and the rules under which they are to be exercised.

An Act for the settlement of the Land Assessment, and the Collection of the Public Revenues in the territories subject to the Presidency of Fort Saint George.

An Act for consolidating certain Regulations which govern the rights of Landholders and their Tenants, and for defining the process to be used in the recovery of rents.

2. The remarks of Government in the first of the orders above recorded, have reference to the first three Acts, and the Board are required to confer with Mr. Mayne in view to such alterations, chiefly verbal, being made as may be necessary. This has been done.

3. The first Act calls for no observation.

4. The following are the points to be noticed on the second Act.

RELATING TO "ENDOWMENTS."

Section XVIII.—Local Agents to be appointed.

Proposed amendment as to the number of local Agents.

5. The wording of this Section appeared to the Board defective, as not leaving it optional with Government to appoint one or more Agents. Mr. Mayne does not think any alteration called for, as he presumes that there will always be more than one local Agent, but, if necessary, the Section might, he says, be made to run thus—"One or more local Agents, of whom the Collector shall ex-officio be one, &c." The Board would adopt this alteration.

Section XXIV.—Who may sue, &c.
Section XXV.—Mode of proceeding where charge is laid before a local Agent.

6. The further discussion with Mr. Mayne shews that the provisions of these Sections had been well considered by Mr. Parker and himself, and the Board do not, therefore, propose any alterations.

RELATING TO 'ESCHEATS.'

Section XXXV.—Notices of intention to claim as escheat.

7. The simple word "Property" being used throughout the Sections on this subject, the Board were doubtful whether greater precision of language were not necessary. Such, however, Mr. Mayne says, is not required, as the Crown would equally take moveable or immoveable property by escheat, for want of next of kin, or persons otherwise entitled.

8. Section XXXV requires that "such notices as are described in Section XXX of this Act shall be issued, &c.;" but as Section XXX does not describe the character of the notices, Mr. Mayne suggests the following amendment of Section XXXV, which the Board beg to adopt.

Amendment of Section XXXV.

XXXV. Whenever it shall seem fit to the Board of Revenue, with the sanction of the local Government, to claim any property as an escheat to the Crown, notices shall be issued in which the situation and nature of the property, and the name of the last holder and the person now in possession, shall be stated, and all persons intending to contest the title of the Crown shall be called on to lay their claims before the Collector within six months from the date of the notice. Such notice shall be published in the manner described in Section XXX of the Act, and all claims shall be referred by the Collector to the Board of Revenue for consideration, and if rejected, the claimant, or his authorized Agent, shall, where it is practicable, be informed of the fact of such rejection, and of the Collector's intention to bring a suit on behalf of the Crown.

RELATING TO JUDICIAL POWERS OF COLLECTORS IN CIVIL CASES.

Section LIX.—Right to enter on waste lands.
Amendment of Section LIX.

9. Mr. Mayne proposes, with reference to the remarks of the Board on this subject, to alter the first lines of the Section. "Where any dispute may arise upon any claim, &c.," and to add to the end of the Section "or to dispose of unassessed land in any manner which may seem fit." The Board concur in this modification of the Section, but would add the term waste to the latter clause, thus "or to dispose of waste or unassessed land, &c."

Sections LXI, LXII and LXIV.

10. The Board were of opinon, that these Sections were rendered vague by the use of general terms as "by law" or "as the law directs" instead of stating where the particular law is to be found. Mr. Mayne explains that could he be sure that the series of drafts would become Acts, he would substitute for "law," "the present code." The Board will not, therefore, press for an alteration in the wording of these Sections.

CASES OF DISTRAINT, &c.

11. As it is intended that in cases of Distraint, &c. the decision of the Collector upon an appeal from the Tahsildar shall itself be open to appeal to the Civil Court, the following amendment of Section LXIX is considered necessary. "All decisions passed under the provisions of the said Sections or upon an appeal under Section LXXII shall be final, &c.

Amendment of Section LXIX.

Section LXXVIII.—Criminal jurisdiction of the Collector.
Modification of Clause 3d Section LXXVIII.

12. Mr. Mayne consents to the insertion of the words "who pretend to be, &c." Clause 3, Section LXXVIII will then run thus—"All private servants of &c., &c., and all persons pretending to be such, or assuming the character of Public Officers, or pretending to act on their behalf, or under their authority."

AN ACT FOR CONSTITUTING A COURT OF WARDS.

RELATING TO "MINORS' ESTATES."

Section VI.—False report by Collector.
Pro. 23d June 1859, No. 2408, paragraph 16.
Section VI to be omitted.

13. The Board have already proposed that this Section shall be omitted altogether.

Section XV.—Government Assessment, how to be paid.
Amendment of Section XV.

14. Mr. Mayne concurs in the amendment proposed by the Board. The Section will accordingly begin thus—"The assessment payable to Government upon the estates of disqualified proprietors shall be discharged by the Collector, out of the proceeds of the estates, after satisfying the charges mentioned in the preceding Section, and shall have priority over all other charges upon the estate."

Section XXI.—When Suits may be brought.

15. The Board were desirous that the prior right of Government to its assessment should be declared and protected in this Section, but they observe that this is sufficiently provided for in Section XX.

Section XXXI.—Enforcing Bond in case of embezzlement.
Amendment of Section XXXI.

16. The word "order" is to be substituted for "decision" in the proviso of this Section.

Pro. 23d June 1859, No. 2408, para. 20.

17. The Board have already expressed an opinion that the provisions of Act XXI of 1855 regarding the education and marriage of Minors, should be incorporated in this Act.

18. The Board have conferred personally with Mr. Mayne in regard to the fourth and fifth Acts enumerated, and would submit the following remarks as the result.

AN ACT FOR THE SETTLEMENT OF THE LAND ASSESSMENT, &c.

REGARDING ASSESSMENT OF LAND.

Section III.—Mode of making settlement.

19. Instead of saying "occupant," the Board suggested that it should be "registered occupant" as being clearer and as agreeing with Section XIII. Mr. Mayne, however, thinks that no change should be made, as the word "registered" cannot be used till its explanation is given, which is not done in Section VII.

20. It was further suggested that if "occupant" alone is used in Section III, the term "registered" was not required in Section XIII, but Mr. Mayne thinks that this word should be retained in Section XIII to mark the difference between an occupant who is substantially such, and who, though not really so, has allowed his name to continue on the registry. The object of Sections VIII and IX, he observes, is to secure that the person registered shall always be the bonâ fide holder of the land, and interested in it.

Both sections will stand as originally worded.

Section V.

21. The Board considered this Section to apply to lands held under the ráyatwár mode of settlement and objected to the term "not permanently settled" as conveying the idea that land thus settled, was held on a less sure foundation than that in what are termed "permanently settled" districts, and in regard to the proviso in the same Section which declares that "the right of Government to introduce such new rules, or principles of assessment as may seem fit" shall not be affected by the specific provisions enacted, the Board were of opinion that if it is necessary to proclaim that Government possesses an inherent right of raising the land assessment in cases of State necessity, the notification should be general and not apply to ráyatwár lands only.

22. On both points Mr. Mayne's views are as follow.—By the words "permanently settled" was meant merely *fixed already at an invariable rate.* Whatever lands are so fixed will not be affected by this Section. Possibly ráyatwár tenure may be now, or may be hereafter a permanent one. If so this Section will not apply to it, and does no harm. As to the concluding clause of the Section, Mr. Mayne thinks it is important to prevent any doubts as to the legality of new rules of assessment, arising from change of circumstances, roads, produce, irrigation, &c., or from new discoveries in the art of Government, and that it does not by any means involve a raising of the amount of assessment.

23. The Board are not altogether satisfied with Mr. Mayne's arguments on this point, though it is true, as he observes, that if lands under the ráyatwár tenure are held on an invariable assessment, Section V cannot be held as applicable to them. To meet the objection that has occurred to the Board, they would suggest the addition of the words "or other similar deed of a permanent character" in the previous Section which refers to lands permanently settled. Section IV would then run thus—"Where land is held under a Sunnud Milkut-i-Istimrar, or other similar deed of a permanent character, the conditions of the instrument," &c. With this addition to Section IV the following Section (V) will remain as it is.

Proposed addition to Section IV.
Amendment of Section IV.

Section VI.—Power to relinquish land.

24. This Section provides that every occupant of land shall be at liberty to relinquish his holding. It was suggested to Mr. Mayne that the words "or any portion of it which consists of one or more entire fields" might be added

after the word holding. Mr. Mayne observed that the point had already been the subject of much discussion, and that it was considered dangerous to give a tenant the right of choosing out the best parts of his holding and throwing up the others, which might be removed from a river or road or be very inferior in soil which no other person could occupy separately. The Board do not press the proposed change, as relinquishment of land is provided for generally, and any administrative details that may seem necessary, can be met by a bye-law.

25. In regard to the period when land may be relinquished, it is arranged to substitute the words "on or before the 30th April" for "two months before the commencement of the ensuing revenue year." This amendment is intended to accord with the recent order of Government on the subject and with any change that may seem desirable hereafter in regard to the date when the revenue year shall commence.

Proposed amendment as to the period of relinquishment.

Amendment of Section VI as to time.

Section XIII.—Change of Registry.

26. In cases of a change of Registry the parties aggrieved are authorised by this Section to bring a suit, within the ordinary period of limitation, against the party registered, &c. The period of limitation prescribed by law was till recently 12 years, which is obviously unnecessarily long in cases where the liability of Government Officers is concerned, but the Board observe that the law has been extensively modified by Act XIV of 1859.

Section XI.—Notification of Instalments.

Amendment as to the places where Notification shall be made.

Amendment of Section XI.

27. The words "and Táluq Kach'haris" are to be substituted for "and the Zillah and District Moonsiff's Courts."

Section VIII.—Liability for Assessment.

Amendment as to the occupant.

28. The words "in actual occupation of the land" are to be substituted for "holding the land under such occupant."

Section XV.—Notice, when and how to be served.

29. This Section has reference to the prohibition against reaping or removal of crops in cases of default in payment of the revenue, and a month's notice before the time of reaping is here required. In subsequent sections, Section XXXIX and following, detailed rules, including notice to the defaulter, are enacted, thus rendering the separate and specific provision of one month in the Section under notice, unnecessary and embarrassing. It has, therefore, been decided to omit it. It is further proposed to substitute "Táluq Kach'hari or Police Station" for "District Moonsiff's Court."

Amendment as to time.

Amendment as to place.

Amendment of marginal note.

In the marginal note the words "when and" will be omitted.

Section XVIII.—Security for Revenue, about to fall due.

30. It is here provided that it shall be lawful for the Collector in lieu of attaching crops to receive security, &c. It occurred to the Board that this might be made compulsory. Mr. Mayne considers it better to provide for this by an administrative rule, otherwise harassing questions might arise as to the adequacy of the security. The Section will remain as it is as regards this point.

Section XXVII.—Withdrawing attachment.

Proposed addition.

31. The words "per month" are to be introduced after "per cent."

Section XLVIII.—Punishment for unlawful entry.

Proposed addition.

32. The words "to a fine not exceeding Rupees 200 or" to be introduced before the words "to be imprisoned."

Section LXIV.—*Proposed addition.*

33. The words "and fees legally due to village servants" to be substituted for "and Karanams' fees."

34. The remaining Act to be noticed is that which governs the *rights of landholders and their tenants*, and defines *the process to be used in the recovery of rents* as well as revenue.

35. The draft Act as originally prepared by Mr. Mayne did not fully provide for these objects, and has, therefore, been re-modelled in communication with the Board. The omission in the original draft of any provisions for regulating the relations between landlord and tenant in ráyatwár districts was a serious defect as affecting the growth of landed properties and the investment of capital in the land.

36. The draft Act as remodelled will be submitted to Government with copy of these Proceedings, an addition has been made by the Board in the interpretation clause, to meet the requirements of Regulation IV of 1822, which provides that where land is held under a Sunnud Milkut-i-Istimrar, it was not intended to infring the actual rights of any description of landholders or tenants. The proposed additional clause embraces also all similar deeds by which revenue has been assigned to others.

Proposed addition to secure existing rights.

37. After defining a tenant, Mr. Mayne adds the following clause in illustration "whether Meerassidars, Poyacaries or others." A Meerassidar is in fact a landholder and the definition of landholder in Section I recognizes his status as such. The clause, the Board think is calculated to mislead, and as it is not required to guard any right, they propose to omit it.

Proposed omission.

38. Where a landholder occupies only the place of Government in the collection of the revenue, the Act views him in the light of a restricted landholder, and in that character requires him to enter into specific written engagements with the sub-holder, but these are not necessary where both parties may have agreed to dispense with them.

Section VII and following.

39. Landholders, where the proprietary right is complete, are at liberty to act as they please in the matter of Pattás and Muchilkas. The Act makes no provision whatever on this point.

40. One point remains to be noticed. By the present law in the case of arrears, land can only be sold *with* the sanction of the Board of Revenue. The Board are of opinion that the power to sell land without reference to them may be safely left with Collectors, who may be required simply to report cases of sale. Time will be gained by Collectors having authority to act thus promptly, and injustice may be prevented by allowing appeals against the acts of Collectors to the Board of Revenue. Should Government be pleased to concur in this alteration of the law, Section XXIX of the Act for the settlement of the land assessment must be modified accordingly.

41. A separate paper shewing the amendments of the several Acts as now proposed, accompany these Proceedings.

(A true Extract.)
(Signed) W. HUDLESTON, *Acting Secretary.*

No. 43. ORDER THEREON, 5th March 1860, No. 346.

Paragraph 1. In pursuance of the orders of Government of the dates noted in the margin, the Board of Revenue submit the drafts of five Acts designed to embody the revenue law of this Presidency. The first four drafts were prepared by Mr. Mayne and Mr. Parker; the fifth, that on the recovery of rent, was prepared by the Board, subsequently, in communication with Mr. Mayne under the orders of Government of 1st July 1859 No. 869.

5th April 1859, *No.* 469.
30th „ „ „ 591.
13th May „ „ 656.

2. The titles of the draft Acts are as follow;—

1. An Act containing certain provisions generally applicable to the Madras Revenue Code.
2. An Act for regulating the powers and duties of the revenue authorities in the Madras Presidency.
3. An Act for the purpose of constituting a Court of Wards, and of defining the powers vested therein, and the rules under which they are to be exercised.
4. An Act for the settlement of the land assessment, and the collection of the public revenues in the territories subject to the Presidency of Fort Saint George.

5. An Act for consolidating certain regulations which govern the rights of landholders and their tenants and for defining the process to be used in the recovery of rents.

All the above Acts were drawn up in pursuance of instructions, detailed on many points, issued by Government after careful and deliberate discussion during the years 1855 and 1856, and with some exceptions they call for little or no remark in their present shape.

3. On the first three Acts no remark is called for. The Government approve the few verbal alterations suggested by the Board, after conference with Mr. Mayne, and noticed in paragraphs 5, 8 and 9 of their Proceedings, and accordingly sanction their adoption. As regards the remaining two Acts the Government desire to record the following observations.

ACT IV.

4. Section VI of this Act provides for the relinquishment of land by ráyats, but it seems to need modification. The Section allows the relinqushment of entire holdings, whereas it appears to Government that a ráyat ought to be empowered to give up any part of his land not being less than a single revenue field, or so much of a revenue field as he may hold. In other respects also the Section needs some change, and the Government would substitute the following.

Sec. VI. "Every occupant of land shall be at liberty to relinquish his holding, or any "part thereof, being not less than a single revenue field or number, or than such occupants' "part of such field or number, and shall thereupon cease to be liable to pay the assessment "thereon; but written notice of such intention must be given to the Collector, or to the Tahsíldár, "on or before the 30th April of the revenue year, at the end of which he proposes to relinquish "it; and in default of such notice, he shall be liable to pay the assessment of the land for the succeeding year."

5. The design of this Act is to ensure the punctual collection of the revenue, and the means provided for that purpose are five.

First. To prohibit the reaping of the crop, and if necessary to have it reaped on behalf of Government. *Sections* 14 *to* 18.

Second. Attachment of the property, and recovery of the arrear from the tenants. *Sections* 21 *to* 28.

Third. Sale of the land. *Section* 29 *to* 37.

Fourth. Distraint and sale of personal property. *Sections* 38 *to* 56.

Fifth. Arrest and imprisonment. *Sections* 57 *&* 58.

6. The Government are of opinion that the formalities necessary to the distraint and sale of moveable property, and the attachment and sale of land should be made as few and simple, and brief as possible consistent with justice.

7. According to Section 29 of the draft, as it now stands, a Collector cannot sell land without the special permission of the Board of Revenue. This involves the delay of months and is often all that the defaulter desires. The Government therefore think with the Board that this power might be safely and very beneficially entrusted to the Collector both in ráyatwár cases as well as in those connected with zamíndáris and mutthás; and they request that this Section be modified accordingly. *Section* 29. *P.* 40.

8. The Government think likewise that Tahsíldárs should be empowered to distrain the personal property of a defaulter without a special order from the Collector. Section 39 would seem to be designed to enable Collectors to give this power to Tahsíldárs, but it seems doubtful whether Section 71 does not limit "any other officer empowered in that behalf" to Subordinate, Assistant and Deputy Collectors. It seems to the Government that the power to Tahsíldárs to distrain personal property for an arrear of revenue should be clearly set forth. *Section XIX.*

9. The same phrase "any other officer empowered in that behalf" occurs in Section 19 with respect to demanding payment, and the Government are of opinion that a Tahsíldár ought to be empowered to do this, and without any special delegation as regards payers of revenue within his jurisdiction.

10. In the definition of an arrear it is provided that revenue remaining "unpaid on the first day of the month following the "date at which it became due," shall be an arrear. This is indefinite, and would act unequally. Where the first day of a month is fixed for the kist, it gives a full month of law; where the kist is on the 25th it gives only 6 or 7 days. The Government think that the 20th of each month should be fixed for the payment of the kist, and that any arrear after that date should be liable to process; and that the time of notice for sale should be as proposed in Sections XXX and XLIX fourteen days for the sale of both land and moveable property. *Section* 12.

11. The Government do not find any provision for the payment of the expenses of the distraining and selling officers at the cost of the defaulter. This omission should be supplied. The former should be paid a certain liberal rate of batta, as he will be of a class superior to that of peons; and the latter should be paid by a per centage on the proceeds of the sale. The rate allowed by Section XXXII, Regulation XXVIII of 1802 for this purpose is 6¼ per cent., but Act VII of 1839 contemplates the employment of Tahsíldárs as venders of distrained property, and by Section V the fees are credited to Government.

12. No provision is also to be found for employing, and paying *batta peons* for the serving of notices, &c. This omission should be supplied. It will be quite necessary with the new revenue establishments, as the táluq peons will be much too few for this work.

13. It is quite fair and proper that all the expenses consequent on failure to pay punctually should fall on the defaulter; and it is moreover good policy also to enforce this right. Delay of payment must inevitably bring some advantages to the defaulter; and it is desirable to counterbalance these, by inconveniences, so as to make a man choose punctuality in payment as the least evil.

14. It appears from the draft Act that the Revenue officers, may proceed either against the land or the personalty of a defaulter. This is proper; but as this may be converted into an abuse as was the case recently in Chingleput the Government think that it will be proper to maintain the rule lately passed by the Board and approved by Government, viz. that the crops of under tenants are not to be seized for an arrear due by the landlord, but either the land or the moveable property of the landlord himself, leaving him to his remedy against his tenants under Act 5. *Proceedings of Board of Revenue 2nd September* 1859, *No.* 3465. *Order thereon, 10th September* 1859, *No.* 1221.

15. Section 64 provides for the recovery of karanam's fees in the same manner as arrears of land revenue. The Government think that not only the fees but also the inám assessment of other village officers in the Revenue and Police Departments should be made recoverable in the same manner.

ACT V.

16. This Act is designed to provide for the recovery of rent by landholders from their tenants. It consists of 15 clauses, but the whole of the provisions for its main object are contained in Section II. This Section seems too compendious. It gives to landholders all the powers possessed by a Collector (under Act IV) for the recovery of land revenue, and to be exercised in the same manner: but it is very evident that some of those powers are not applicable, for instance, the sale of the land; and the Government think also that the mode of exercising them is in some particulars inapplicable, because the same agents would not be employed. It is not quite clear however what the intention is on some points.

17. It is the intention of the draft that full landlords, i. e. ráyatwár landlords, should not be required to attend to the formalities as to pattás, rates of assessment, re-prescribed in the case of "restricted landlords;" but in the absence of anything positive on this point, the Government think that misunderstanding, and misconstructions would occur. A clearer declaration of the intention on this point seems desirable. The Government resolve therefore to refer back this draft to the Board for re-consideration on this point in communication with Mr. Mayne, and also further to instruct them to revise the draft of Act No. IV on the points noticed above.

(Signed) T. PYCROFT,
Chief Secretary.

An Act for regulatiny the settlement of the land Assessment, and the Collection of the Public Revenues in the Territories subject to the Presidency of Fort Saint George.

SETTLEMENT OF THE LAND ASSESSMENT.

Liability of land to Assessment.

Bombay XVII of 1827, *s.* 2.

I. All land, to whatever purpose it may be applied, shall be liable to the payment of Revenue to Government, unless specially exempted.

Unoccupied land.

Ibid, s. 7.

II. Unoccupied land not exempt from Assessment may be disposed of by the Collector, for the benefit of the revenue, or for such purposes as Government may sanction ; provided always, that such disposal shall not affect any rights to preference, occupation, or otherwise, which any persons may possess over such lands.

Mode of making settlement.

Ibid, s. 1.

Ibid, s. 3.

III. The settlement of the Assessment in each District shall be conducted by the Collector, under the orders of the Board of Revenue, and such settlement shall be made with the occupant of the land, or in his absence with his authorised agent, or with the person holding directly under him where no such agent can be found. For the purposes of this Act, the Cultivator is to be considered the occupant, when the land is held by him direct from Government, and when it is not so held, the person having the highest right or holding, recognised by the custom of the country, or resting on special grant, which intervenes, between the Government and the cultivator, is to be so considered.

Land permanently settled.

IV. Where land is held under a Sunnud Milkut i Istimrar, the conditions of the instrument shall be strictly observed, unless both parties agree to any deviation therefrom ; and in all cases in which such Sunnud shall have been lost or destroyed, it shall be assumed to have been in the form given in schedule A, of this Act, unless the contrary appears from any counterpart in the custody of the Revenue authorities, and the party entitled thereto shall on demand receive a new Sunnud in the same form.

Land not permanently settled.

Reg. II of 1803, *ss.* 38-40.

Bombay XVII of 1827, *s.* 4.

V. The Assessment on lands not permanently settled shall be fixed with due regard to all established rights, and to local usage, under such rules as are now, or may hereafter be legally in force, and rates once settled shall not be altered without the authority, general or special, of the Board of Revenue ; provided always, that nothing herein contained shall affect the right of Government to introduce such new

rules, or principles of assessment as may seem fit.

Power to relinquish land.

Bombay XVII of 1827. *s.* 6. *cl.* 1.

VI. Every occupant of land shall be at liberty to relinquish his holding, and shall thereupon cease to be liable to pay the assessment thereon; but notice of such intention must be given to the Collector two months before the commencement of the ensuing revenue year; and, in default of such notice, he shall be liable to make good all loss of revenue which may arise in that year in respect of the land so abandoned, and such loss shall be fixed and levied by the Collector as an ordinary Assessment.

Registry.

Regulation III of 1803. *ss.* 23. 24.

XXVI of 1802. *s.* 2.

VII. Every occupant of lands paying Assessment to Government shall be entered in a registry, which shall contain his name, the situation and extent of his holding, and the Assessment thereon, and such other particulars as the Board of Revenue may direct, and such registry shall be open to inspection at all reasonable hour, and all persons shall be entitled to copies of any part thereof, on payment of such fee as the Collector may fix, and a certified copy of such registry shall be *primâ facie* evidence of occupancy in all Courts of justice and against all parties, without proof of the death or official character of the person making the same.

Change of Registry.

VIII. It shall be the duty of the Collector to order the registry of the whole or part of such lands to be cancelled, or transferred into the name of any other person, who may establish a *primâ facie* title thereto, upon satisfactory proof of the death of the registered occupant, or of his having relinquished the land to Government, or of his having assigned it in a manner allowed by law, or of its having been sold, wholly or in part, for arrears of revenue, or by the decree of a Court of Judicature; provided always that no such cancelment or transfer shall take place, until one month after a written notice has been served upon the registered occupant, or upon his authorized agent, or legal representative, except in cases where the application shall have been made by him or them in person, and that all parties aggrieved by such cancelment or transfer, shall be at liberty to bring a suit, within the ordinary period of limitation, against the party registered in lieu of the former occupant, or against the Collector, when no new registry has taken place.

Where Collector refuses to alter registry.

IX. Wherever the registered occupant of land shall have applied in writing to the Collector to cancel the registry standing in his name, or to transfer the same to some other

person, and the Collector shall have refused so to do for three months after such application, it shall be lawful for the occupant to sue the Collector in the Civil Court, with a view to enforce such change in the registry, and to recover damages for any loss that may have been incurred, and such suit shall take precedence of all others then on the file; provided always, that where the Collector shall have acted under the order of the Board of Revenue, he shall be reimbursed all sums of money which he may be liable to pay under the judgment of the Court.

Apportionment of Assessment.

Reg. XXV. of 1802, *s.* 8.

X. Where only a part of the land held by any registered occupant, under a Sunnud Milkut i Istimrar shall have been transferred from his name, he shall still remain primarily liable to pay the whole Assessment, until it shall have been apportioned by the Collector in the manner provided by law; but when such apportionment shall have been fixed, he shall be entitled to recover all sums paid in respect of the section which he has ceased to hold, from the Collector, where such portion has been relinquished to Government, and from his assignee, where it was made over to some third party.

COLLECTION OF THE LAND ASSESSMENT.

Notification of instalments.

Bombay XVII. of 1827, *s.* 10.

XI. The Collector shall cause notice to be given of the respective periods at which the instalments of the Revenue become due, and of the person to whom, and the place at which payment is to be made, and such notice shall either be specially communicated to the occupant of the land, or affixed upon the doors of the Collector's Cutcherry, and the Zillah and District Moonsiff's Courts; provided always, that want of such notice shall be no excuse for non-payment of the Assessment.

How Assessment is to be paid.

Reg. XXVII. of 1802, *s.* 2.

Ibid. s. 8.

XII. It shall be the duty of the occupant of land assessed to Government to pay each instalment as it becomes due, to the person, and at the place named by the Collector, without waiting for a specific demand, and all Revenue which shall remain unpaid on the first day of the month following the date at which it became due, shall be deemed an arrear, and shall bear interest at the rate of one per cent. per month.

Liability for Assessment.

Bombay XVII. of 1827, *s.* 5.

XIII. The registered occupant shall be primarily liable, in person and property, for all Revenue due upon his land, but where any arrears shall remain undischarged, it shall be lawful for the Collector to make a written demand for the amount due upon any person holding the land under such occupant, and at the expiration of one month after such demand, to enforce the same by all such means as might have been

employed against the superior holder; and every person compelled to make such payment shall be entitled to deduct the amount from any sums, in which he may then, or afterwards, stand indebted to the occupant of the land; provided always, that so much of this clause as relates to inferior holders, shall not apply where the estate is held under a Sunnud Milkut i Istimrar.

Prohibition against reaping or removal of crops.

Ibid, s. 11, *cl.* 1, 2.

XIV. Where the Collector shall have reason to apprehend a default in payment of the revenue, assessed on lands held under Ryotwary tenure, it shall be lawful for him, by notice in writing, to forbid the reaping or removal of the crops growing upon the land, without his written sanction, and wherever the occupant, or person in possession of the land shall be proved before the Collector to have caused, or connived at such unauthorized reaping or removal, after notice given, he shall be liable to a fine not exceeding half the current value of the crops reaped or removed, to be fixed and levied as an ordinary assessment.

Notice, when and how to be served.

Ibid

XV. Every such notice shall be issued at least one month before the usual time of reaping, which shall be fixed for each District by an order of the Local Government, and the notice shall be served upon the occupant, and the person in actual possession, or their authorized agents, or affixed to the door of their last known place of residence, where they shall be absent without leaving any authorized agents, and also upon the doors of the District Moonsiff's Court and Police station nearest to such place of residence.

Power to place watcher.

Bombay, XVII. of 1827, *s,* 11, *cl.* 3.

XVI. It shall be lawful for the Collector to cause watchmen to be placed over the crops, to prevent the unlawful reaping or removal of the same, and to exact their pay from the occupant at the rate received by the peons on his own establishment, in the way provided for the realisation of the revenue.

Prohibition not to operate to the injury of the crops.

Ibid, cl. 4.

XVII. The Collector shall in no case defer the reaping or removal of the produce so as to cause any injury thereto, and within two months after the crop has been cut, it shall be his duty either to release it, and to realise the revenue according to the ordinary course of law, or to take such portion thereof, not exceeding one half, as he may deem equivalent to the revenue due, and 20 per cent on the same as a security against contingent expenses, and to relinquish the remainder to the rightful owner.

Security for revenue about to fall due.

Ibid. cl. 5. 6.

XVIII. It shall be lawful for the Collector in lieu of attaching the crops, to receive security from the occupant or person in possession of the land, for the payment of the revenue when

it shall come due, and all arrears thereof; provided always, that whenever the Collector shall see reason to doubt the adequacy of the security, it shall be lawful for him to impose or renew such prohibition as is above mentioned.

Demand of arrear of revenue.

Reg. XXVII of 1802. *ss.* 3, 4.

XIX. Whenever revenue may be in arrear, it shall be the duty of the Collector, or any other Officer empowered by the Collector in that behalf, to make a written demand upon the person primarily liable to pay the same, and such demand shall specify the amount due, and the holding in respect of which it is claimed, and the name of the party in arrear, and the time for payment, which shall be fixed with reference to the distance from the residence of the party to the place at which the money is to be paid; and the said demand shall be served by delivering a copy to the party, or to some adult male member of his family at his usual place of abode, or to his authorised agent, in the event of his absence, or by affixing a copy thereof on some conspicuous part of his last known residence, where service cannot be affected in any other way.

Neglect of demand.

Ibid. s. 5.

XX. Where the amount due shall not have been paid pursuant to the terms of the demand, and no arrangement for securing the same shall have been entered into to the satisfaction of the Collector, the person so in arrear shall be deemed a defaulter, and the Collector shall proceed to realise the arrear by attachment, sale, or distress, or by execution against the person of the defaulter, in manner hereinafter provided.

Appointment of Agent in case of attachment.

Ibid. s. 10. *cl.* 1.

Reg. II of 1803. *s.* 15.

Reg. XXVII of 1802, *s.* 10. *cl.* 1.

XXI. Where a Collector may proceed to attach the lands of a defaulter, he shall appoint an agent, with a proper establishment of officers, to manage the estate, and shall give the agent a Certificate of appointment, with written instructions under his seal and signature, and the expenses of management shall be defrayed out of the income of the estate; provided always, that where the property may be too inconsiderable to admit of its being charged with the salary of an agent, it shall be committed to the care of such revenue officer as the Collector may select, who shall be subject to all the provisions herein contained in reference to agents.

Notice of attachment.

XXII. Notice of the attachment of the estate, and of the appointment of an agent shall be given without delay by public proclamation, and by affixing such notices as are described in Section XV of the Act.

Duties of agent.

Ibid.

XXIII. It shall be the duty of the agent to collect the rents or revenues due, or accruing due upon the estate, according to the engagements subsisting between the defaulter and the parties holding under him, or according to established usage where no specific engage-

ments exist, and to keep accounts of all his receipts and disbursements, and to submit the same, and pay over the balance to the Collector monthly, or whenever required, and the defaulter shall be at liberty to inspect the accounts at all reasonable times, and to take copies of the same at his own expense, without further fee.

Liability of agent to suit or prosecution.

Reg. XXVII of 1802, *s.* 10. *cl.* 1.

XXIV. It shall be lawful for the defaulter to proceed by prosecution or suit against the agent, in respect of any criminal or illegal act done by him to the injury of the defaulter or his estate, and all tenants, or other persons holding by subordinate title, shall have the same remedies against him, by summary proceeding before the Collector or otherwise, as they would have had against the defaulter, if the act were done by him.

Effect of existing agreements.

Ibid cl. 2, 4.

XXV. All engagements entered into *bonâ fide*, and previous to default, between the occupant of an estate and his tenants in reference thereto, shall be binding upon the Collector during attachment, and all such engagements made subsequently to default, or made collusively with a view to defeat or delay the effect of the attachment, and all leases of land at a rate lower than the usual rates of assessment, and not made *bonâ fide* for the purpose of bringing waste land into cultivation, shall be null and void against the Collector, if he shall so declare; subject, however, to the right of the parties to such agreement to bring a suit against the Collector in the ordinary tribunals to establish the same; and all charges or incumbrances upon such land shall be postponed to the payment of the public revenue.

Payments by tenants.

Ibid. cl. 3, 5, 6.

XXVI. All payments of rent or revenue actually due, made before public notice of attachment, to any occupant by any person holding under him, shall be valid against the Collector, and all such payments made after public notice of attachment, or made before they were actually due, shall be null and void against the Collector, who shall be entitled to recover the full amount from the parties by whom it was paid, leaving them to sue the defaulter in the ordinary Courts of law.

Withdrawing Attachment.

Ibid. s. 13, *cl.* 5.

XXVII. All sums received from the property attached, after paying the expenses of management, shall be carried to the credit of the defaulter in discharge of the arrears due, and interest thereon at the rate of one per cent, and as soon as all arrears, interest, and expense of management shall have been liquidated, the attachment shall be withdrawn, and a full account rendered of all receipts and disbursements during it continuance.

Persons interested in the land may release it from attachment.

XXVIII. It shall be lawful for any person claiming an interest in land which has been, or is about to be attached, to obtain its release by paying the arrears, interest, and costs incurred; and all such sums, if paid by a tenant, may be deducted from any rent then, or afterwards due by him to the defaulter; and if paid by a *bonâ fide* mortgagee or incumbrances upon the estate, shall constitute a debt from the defaulter to him, and shall be a charge upon the land, but shall only take priority over other charges according to the date at which the payment was made.

Sale of Land.

Reg. XXV of 1802, *s.* 7.

Reg. XXVI of 1802, *s.* 1.

Reg. X of 1831, *s.* 2.

Reg. XXVI of 1802, *s.* 6.

XXIX. It shall be lawful for the Collector, with the sanction of the Board of Revenue, to sell the whole, or any portion of the land of a defaulter, in discharge of arrear of Revenue, subject to the provisions of Section XV of the Act for constituting a Court of Wards; provided always that, so far as may be practicable, no larger section of the land shall be sold than may be sufficient to discharge the arrears, and expenses of sale, and of attachment, where the land has previously been attached, and that where only a part of any land held under a Sunnud Milkut Istimrar may be sold, the Assessment upon such part shall be apportioned previous to sale in manner provided by law.

Notice of sale.

Ibid. s. 11.

Reg. II of 1803, *s.* 19.

XXX. Where the Collector may proceed to sell land for arrears of Revenue, he shall issue notices in English, and in the language of the District, which shall specify the name of the defaulter, the position and extent of the land, the amount of Revenue assessed thereon, or upon its different sections, all particular obligations which may attach to the purchaser, and the time and place of sale; these notices shall be served upon the defaulter in the manner specified in Section XIX, and shall be affixed upon the doors of the Collector's and Talook Cutcherries, and of the nearest District Moonsiff's Court, and in such other public places as the Collector may direct, for at least 14 days previous to the sale; provided always, that no sale shall be rendered void, merely on account of some defect in the notices issued, or for want of such personal service upon the defaulter as is herein directed.

Tender.

Reg. XXVII of 1802, *s.* 30.

XXXI. It shall be competent to the defaulter, or to any person acting on his behalf, or claiming an interest in the land, to tender the full amount of the arrears of revenue, with the interest thereon, and all charges which have been incurred in attaching the estate, or in taking the steps necessary for sale, and thereupon the sale shall be stayed; provided

E. Min. Con. Sept. 1856, *para* 17.

always, that such tender must be made at least five days previous to the time appointed for sale, and all sums so paid by any tenant, or *bonâ fide* mortgagee or incumbrancer, may be recovered in the manner provided in Section XXVIII.

Deposit at time of sale.

Reg. XXVI, of 1802, *s.* 12.

XXXII. Land shall be sold by public auction to the highest bidder, who shall be required to deposit 15 per cent. of the price, when the purchase is declared, and where the purchase is not completed according to the conditions of sale, the money so deposited shall be forfeited. Where the first purchaser may fail to make the said deposit, or to complete the purchase as stipulated in the conditions, the property shall be sold again at his risk, and all loss and expense arising out of the re-sale shall be recovered from him in the same manner as arrears of revenue. Any advance of price which may be obtained at a second sale, shall be carried to the account of the defaulter.

Ibid, s. 13.

Parties bidding to exhibit their authority.

XXXIII. All persons intending to bid at a sale, shall state before its commencement whether they are about to bid on their own behalf or as agents, and in the latter case shall deposit a written authority, signed by their principal, and every person falsely representing himself to be a principal, shall, on proof thereof before the Criminal Judge, be liable to a fine not exceeding Rs. , and every person knowingly producing a fabricated authority to bid, shall be liable to the penalties of forgery, and in each case, all monies paid in respect of such sale shall be forfeited, and the land shall be put up to auction again, at the risk of the fraudulent purchaser or his principal.

Defaulters not to become purchasers.

Reg. XXVI of 1802, *s.* 18.

XXXIV. It shall not be lawful for defaulters to purchase their own lands when sold for arrears of revenue, and all purchases so made, whether directly, or by some person as agent or trustee for the defaulter, shall on proof thereof before the Civil Court, be declared until and void, and all monies paid in respect of such sale shall be forfeited.

Purchaser to be registered.

Ibid, s. 17.

XXXV. Lands purchased at a public sale shall be registered in the name of the actual purchaser, who shall receive a certificate of sale, signed and sealed by the Collector, which shall be conclusive evidence of the fact of the purchase, in all Courts and tribunals where it may be material to establish the same, and no proof of the Collector's seal or signature shall be necessary, unless the authority before whom it is produced shall have reason to doubt its

genuineness, and public proclamation of the purchase shall be made in all the town and villages of the lands sold, and the purchaser shall be placed in possession to the extent, and in the manner provided by law.

Ibid, s. 15.

Ibid, s. 16.

Contracts, &c., binding on the purchaser.

XXXVI. All contracts entered into by the defaulter with his tenants, and all payments to him by them, shall be binding upon the purchaser to the same extent, and under the same conditions, as laid down in Sections XXV and XXVI of this Act; provided always, that when the land shall not have been attached previous to sale, all payments which would have been valid if made before notice of attachment, shall be valid if made before public notice of intention to sell.

Sale to be free of all incumbrances.

XXXVII. Every estate, or section of an estate, set up for sale on account of arrears of revenue, shall be sold free of all incumbrances, and whatever balance may remain after liquidating the arrears, and the expenses of attachment and sale, shall be paid over to the defaulter, to whom alone incumbrancers shall have recourse; provided always, that it shall be lawful for parties having claims upon the estate to lay them before the Collector, and that it shall be competent for him where such claims shall appear to be genuine, to pay the balance, or so much thereof as would satisfy the claims into the treasury of the Civil Court, to be retained until the parties have settled their rights by ordinary course of law.

Power to distrain and sell moveable property.

Act XXXIX of 1858, *s.* 2.

XXXVIII. The Collector shall have authority to proceed for the recovery of arrears of revenue by distress and sale of the moveable property of the defaulter, or, in case of lands held under Ryotwary tenure, of the person in actual possession of the land in respect of which revenue may be unpaid, wherever such property may be found; provided always, that bullocks necessary to the cultivation of a tenant's holding, ploughs and implements of husbandry, and the tools of artizans, shall not be subject to distress or sale.

Seizure and sale of moveable property to be made as follows.

Ibid, s. 3.

Collector to furnish person distraining with a demand in writing.

XXXIX. In the seizure and sale of moveable property for arrears of Revenue or rent, the following rules shall be observed—

First.—The Collector, or any other Officer empowered by the Collector in that behalf, shall furnish to the person employed to distrain the property of a defaulter, a demand in writing and signed with his name, specifying the amount of the arrear for which the distress may be issued, and the date on which the arrear fell due. The person so deputed shall produce the writing as authority for making the distress, and on the day on which the property may be

Defaulter to be served with a copy.

distrained, shall deliver a copy of such writing to the defaulter; endorsing thereon a list or inventory of the property distrained, and the name of the place where it may be lodged or kept.

Writing to state that the distrained property will be sold.

Second.—The writing shall further set forth that the distrained property will be immediately brought to public sale, unless the amount and the expense of the distress be previously discharged.

Mode of service when defaulter is absent.

Third.—When a defaulter may be absent, a copy of the writing, with the endorsement, shall be fixed or left at his usual place of residence before the expiration of the third day calculating from the day of the distress.

Consequence of defaulter neglecting to pay after notice, or absenting himself.

Ibid, s. 4.

XL. Where a defaulter on receiving notice may neglect to pay the amount due or to give satisfactory security for early payment, or where a defaulter may have absconded, or may be otherwise not forthcoming, so that the notice cannot be served upon him, the distrainer shall in either case transmit an inventory of the property distrained to the nearest public Officer empowered to sell distrained property, in order that it may be publicly sold for the discharge of the arrear due.

Distrained crops how to be dealt with.

Ibid, s. 6.

XLI. The distrainer attaching the crops or ungathered products of the lands belonging to a defaulter, may cause them to be sold when fit for reaping or gathering, or at his option may cause them to be reaped or gathered in due season and stored in proper places until sold. In the latter case the expense of reaping or gathering and storing such crops or products, shall be defrayed by the owner upon his redeeming the property, or from the proceeds of the sale in the event of its being sold.

Distrained cattle or goods not to be used.

Ibid, s. 7.

XLII. The distrainer shall not work the effects distrained; he shall provide the necessary food for the cattle or live-stock, the expense attending which shall be defrayed by the owner upon his redeeming the property, or from the proceeds of the sale in the event of its being sold.

Officer responsible for neglect in respect to distrained property.

Ibid, s. 8.

XLIII. Where property distrained may be stolen, or lost, or damaged by reason of the necessary precautions for its due preservation not having been taken, the loss or damage shall be made good by the Officer whose neglect occasioned the loss or damage.

Distress to be proportionate to the arrear.

Act XXX, of 1858, *s.* 9.

XLIV. The distress levied shall not be excessive, that is to say, the property distrained shall be as nearly as possible proportionate to the amount of the arrear.

Time for distress.

Ibid, s. 10.

XLV. Distress shall be made after sun-rise and before sun-set and not otherwise.

What places distrainer may force open.

Ibid. s. 14.

XLVI. The distrainer shall have power to force open any stable, cow-house, golah, granary, godown, out-house, or other building, as also to enter any dwelling-house, the outer door of which may be open (excepting the apartments in such dwelling-house appropriated for the Zenana or residence of women), and to break open the door of any room in such dwelling-house for the purpose of attaching property belonging to a defaulter and lodged therein.

Powers of distrainer to force open doors in the presence of a Police Officer.

Ibid. s. 15.

XLVII. Where a distrainer may have reason to suppose that the property of a defaulter is lodged within a dwelling-house the outer door of which may be shut, or within any apartments appropriated to women which by the usage of the country are considered private, such distrainer shall represent the same to the head Officer of Police (within whose jurisdiction the house may be situated), and on such representation, the head Officer of Police shall send a Police Officer to the spot, in the presence of whom the distrainer may force open the outer door of such dwelling-house, in like manner as they may break open the door of any room within the house, except the Zenana; the distrainer may also, in the presence of the Police Officer, after due notice given for the removal of women within a Zenana, and after furnishing means for their removal in a suitable manner (if they be women of rank who according to the customs of the country cannot appear in public), enter the Zenana apartments for the purpose of distraining the defaulter's property deposited therein; but such property, if found, shall be immediately removed from such apartments, after which they shall be left free to the former occupants; and nothing in this Act shall be understood to authorize a distrainer or his agent to force open the door of a dwelling-house, or to enter the apartments of women which by the usage of the country are considered private, in any other mode than is herein prescribed.

Punishment for unlawful entry.

Ibid, s. 16.

XLVIII. Persons entering the apartments of women, or forcing open the outer door of dwelling-houses, contrary to the provisions of this Act, shall, on conviction before a Magistrate, be liable to be imprisoned for any period not exceeding six months.

Proclamation to be made of the time of sale and of the property to be sold.

Ibid, s. 17.

XLIX. The public Officer empowered to sell distrained property shall cause to be affixed to the outer door of the defaulter's house a list of the property to be sold, with a notice specifying the place where, and the day and hour at which the distrained property will be sold, and shall cause proclamation of the

intended sale to be made by beat of drum in the village to which the lands on which the arrear has accrued may belong, and in such place or places as the Collector may consider necessary to give due publicity to t ale. No sale shall take place until after the expiration of a period of fourteen days from the date on which the notice may be so affixed.

Sale how to be conducted.

Ibid, s. 18.

L. At the appointed time, the property shall be put up in one or more lots as the distrainer may consider advisable, and shall be disposed of to the highest bidder. Where the property may sell for more than the amount of the arrear, the overplus, after deducting expences of process and interest, shall be paid to the defaulter.

Payment ~~not he~~ purchase of distrained property how to be made.

Ibid, s. 19.

LI. The property shall be paid for in ready money at the time of sale, or as soon after as the Officer holding the sale shall appoint, and the purchaser shall not be permitted to carry away any part of the property until he has paid for the same. Where the purchaser may fail in the payment of the purchase money, the property shall be re-sold, and the defaulting purchaser shall make good to the distrainer any loss arising, as well as the expences incurred on the re-sale, and any advance of price on the second sale shall be carried to the credit of the party on whose account the original sale was made.

Defaulter not to purchase good sold.

Reg. XXVIII. of 1802, *s.* 27.

LII. It shall not be lawful for defaulters, or persons acting as Agents, or Trustees on their behalf, to bid for, or purchase their property sold under distress, and every purchase by such persons shall be null and void, and the property shall be set up for sale again, and all money paid in respect thereof shall be forfeited.

On tender of arrear and expenses prior to the day of sale, distress to be withdrawn.

Act XXXIX, of 1858, *s.* 5.

LIII. Where a defaulter or any person whose goods are liable to be distrained for arrears of revenue, may tender payment of the arrear demanded after his property may ave been distrained, and not less than two day prior to the day fixed for sale, together payment of the necessary expenses attending e distress, the distrainer shall receive the amount of such arrear and expenses immediately upon the same being tendered, and shall forthwith release the property; and all monies so paid on account of the defaulter by any person liable to distress shall constitute a debt from the defaulter to him, and may be deducted from any sums in which he may then, or afterwards, stand indebted to the defaulter.

Penalty for fraudulent conveyance of property to prevent distress.

Ibid, s. 11.

LIV. Where a defaulter may make a fraudulent conveyance of property, to prevent the distress for arrears, the Zillah Court, upon proof thereof, shall summarily cause the property to be delivered up to the distrainer, and may impose on the parties to the fraud such fine, not exceeding one-half of the value of the property, as it may think proper.

Penalty for forcibly or clandestinely taking away distrained property.

Ibid, s. 13.

LV. Where it may be proved to the satisfaction of the Zillah Court that any person has forcibly or clandestinely taken away property once distrained, the Court may cause such person to be imprisoned for a period not exceeding six months, or until he shall restore the property or make good the value of it to the distrainer, and may also impose on him a fine not exceeding the value of such property.

Claims to property distrained and sold.

Ibid, s. 12.

LVI. Where a person, not being a defaulter or responsible for a defaulter, or the person in actual possession of Ryotwary land, in respect of which there is an arrear of revenue, may claim a right to the property distrained, and the distrainer may, notwithstanding, cause the same to be sold, the claimants, on proof of such right in the Zillah Court, and in the event of the distrainer being unable to prove the responsibility for the arrear of Revenue or rent on account of which the property may have been sold, shall recover from the distrainer the full value of such property, with costs and damages, according to the circumstances of the case. But claims to crops upon the ground, or to gathered products of the ground attached, in the possession of the defaulter, whether founded upon a previous sale, mortgage, or otherwise, shall not bar the prior claim of Revenue or rent due from the ground upon which such crop or product may have been grown.

Powers of arrest.

Ibid, s. 24.

LVII. When arrears of Revenue, with interest and other charges as aforesaid, cannot be liquidated by the sale of the property of the defaulter, and the Collector shall have reason to believe that the defaulter is wilfully withholding payment of the arrears, or has been guilty of any fraudulent conduct in order to evade payment, it shall be lawful for him to cause the arrest of the defaulter, as herein after mentioned; but no person shall be imprisoned on account of an arrear of Revenue for a longer period than two years, or for a longer period than six months if the arrear does not exceed Rupees 500, or for a longer period than three months if the arrear does not exceed Rupees 50.

Procedure in case of arrest.

Reg. XXVII, of 1802, *s.* 13, *cl.* 1.

LVIII. The Collector, or other Officer empowered in that behalf, shall issue his warrant for the arrest of the defaulter, which shall specify his name, the amount of revenue due, and the date on which it became payable, and the warrant shall be signed and sealed by the authority by whom it was issued. The

Officer charged with t[illegible] execution of the warrant shall thereupon a[illegible]e defaulter and convey him to the [illegible]ol, and deliver the warrant to th[illegible]h shall be a sufficient authority to [illegible]ceive the prisoner. A copy of such [illegible]t sh[illegible]l be retained by the gaoler, who shall forthwith despatch the original to the judicial officer in charge of the gaol.

Revenue may be let out on Farm.
Bombay XVII of 1827, *s.* 20.

LIX. It shall be lawful for the Collector with the sanction of the Board of Revenue, to farm the public revenue, or any portion thereof, to individuals, on specific a[illegible]reements to be passed in writing.

Notice to be given.
Ibid, s. 21.

LX. When land revenue is farmed, the Collector shall cause notice thereof to be given to the head of each village included in the farm, and a proclamation to the same effect to be fixed up at such public places as he shall direct.

Farmer not to raise assessment without permission.
Ibid, s. 22.

LXI. The farmer shall not have authority to increase in any respect the assessment paid in the preceding year; but, when he may consider himself entitled to a large amount than that assessment would award from any individual, he shall make a written application to the Collector, stating briefly the amount and grounds of his claim. The Collector shall forward a copy of the application to the individual affected thereby, with a notice, stating the time and place at which the matter will be heard, and such copy and notice shall be served in manner prescribed by section XIX of this Act, not less than 14 days before th[illegible]y of hearing, and the Collector's decision shall be final, unless an appeal be preferred to the Board of Revenue within three months.

Payment how enforced against Farmer.
Ibid, s. 28.

LXII. The farmer shall be responsible to the Collector for the amount which he has agreed to pay for the farm, and if he should fail to discharge any instalment on the day on which it becomes due he shall be deemed a defaulter, and it shall be competent to the Collector to proceed against him as prescribed by this Act, in case of arrears of revenue; the fact of the farmer being in default shall be announced by proclamation, and by affixing notices thereof in the most public places of the land held under farm; and no payments [illegible] revenue made to him in anticipation, or [illegible]r public notice as aforesaid, shall be valid against the Collector; provided always, that the party making such payments may recover them from the farmer.

Mode of enforcing payment by sureties.
Reg. XXVII, of 1802, *s.* 20.
„ *I of* 1826. *s.* 2.

LXIII. All the remedies prescribed by this Act in case of revenue defaulters, may be employed against their sureties, and it shall be lawful for the Collector to enforce the same simultaneously with, or previously to their enforcement against the principal; so nevertheless, that no more than the total sum in arrears with costs and charges, shall be realised from both.

Similar process in case of other species of Revenue.
Act XXXIX of 1858, *s.* 28.

LXIV. Arrears of revenue due to Government, other than Land revenue, and demands recoverable as arrears of revenue, advances made by Government for cultivation, and Carnums' fees, shall be recovered in the same manner as arrears of Land revenue under the provisions of this Act.

Reg. I, of 1826, *s.* 2.

LXV. Every person making a payment of revenue shall be entitled to a receipt for the same, signed by the Collector, or other Officer authorised in that behalf; such receipt shall state the name of the person making the payment, and the subject matter in respect of which it is paid, and in case of land revenue, shall describe the land on which the assessment is due, by its revenue number or otherwise, and shall state the name of the registered occupant and of the person actually in possession, and such receipt shall be *primâ facie* evidence of the facts stated therein in all Courts of Justice, and no proof of the signature or official character of the authority granting the receipt shall be required, unless the court shall see reason to doubt its genuineness.

Collectors to realise each others demand.
Bombay XVII, of 1827, *s.* 14.

LXVI. Collectors shall, on written application, realise each others demand for arrears of revenue in the same manner as if they were their own, whether the Districts be in the same or in different Presidencies. Every such application shall be signed and sealed by the Collector making the same, and shall be conclusive as to the amount due, and the party in arrear, in all proceedings against the Collector enforcing the same, or any person acting under his authority; and no proof of the seal, or signature or official character of the Collector making the application shall be required, unless the Court shall see reason to doubt its genuineness; provided always, that nothing herein contained shall affect the right of any parties to sue the Collector who made the application in his own District.

Summary application to Civil Judge.
Reg. XXVII of 1802, *ss.* 11, 12.

LXVII. Where any of the provisions of this Act are enforced, or are about to be enforced against any person who shall deny the existence, or amount of the arrears, or his liability to satisfy the same, it shall be lawful for him to apply to the Civil Judge by motion, who shall, upon due notice given to the Collector, proceed to investigate and decide the matter; and, where sufficient security is given for the payment of the claim, and of the costs occasioned by such application,

Not to bar remedy in other Courts.

the Civil Judge shall stay all further proceedings, pending Judgment; provided always, that it shall not be lawful for the defaulter to dispute any point which has already been decided by a Court of competent jurisdiction.

LXVIII. Nothing contained in the previous section shall be construed to debar any person from proceeding in the ordinary tribunals to recover money paid, or to obtain damages in respect of any thing professedly done under the authority of this Act.

Recovery of Fines.
Act XXXIX of 1858, *s.* 30.

LXIX. All fines imposed by this Act shall be recovered in the same way as arrears of revenue.

Subordinate Collectors, &c., to have the same powers as Collectors.
Regulation VII of 1828, *s.* 3, *cl.* 1.

LXX. Every Subordinate, Assistant, or Deputy Collector in charge of a particular division of a District, shall, *ex officio*, have authority to exercise with in the division under his charge all the powers herein granted to Collectors.

Authority of Collectors to delegate their power.
Ibid, cl. 2.

LXXI. It shall be lawful for Collectors to delegate at their discretion, in writing under their official signature, any of the powers existing in them, to any of their Subordinates, or Assistants, or Deputies, not in charge of a particular division of a District; or to any such officers in charge of a particular division, beyond the limit of such division.

Appeal and Review.
Ibid, cl. 3.

LXXII. All proceedings of such inferior authorities shall be open to the Collector on appeal, or by way of review; and it shall be lawful for him to direct, either generally or in any particular instance, that such proceedings shall be submitted to him before they are carried into execution.

Scope of the Act.

LXXIII. Nothing in this Act shall apply to the Collection of the land revenue within the limits of the Town of Madras, as defined by Section XII, Regulation II of 1802, of the Madras Code.

SCHEDULE A.

SUNNUD-I-MILKEUT ISTIMRAR, OR DEED OF PERMANENT SETTLEMENT GRANTED BY THE GOVERNOR IN COUNCIL OF FORT SAINT GEORGE, TO THE ZEMINDAR OF

Vide C. O. 10th Aug. 1826, Page 68. Para. 5. See also page 566, Clause 3rd of Rule XIII.

It is known to the Zemindars, Talookdars, Meerassidars, Ryots, and all Cultivators of land in the Territories subject to the Government of Fort St. George, that from the earliest until the present period of time, the public assessment of the land revenue has never been fixed; but that according to the established practice of Asiatic Governments, the assessment of the land revenue has fluctuated without any fixed principles for the determination of the amount; and without any security to the Zemindars, or other persons, for the continuance of a moderate land tax. On the contrary, frequent enquires have been instituted by the Ruling Power, whether Hindoo or Mahomedan, for the purpose of augmenting the assessment of the land revenue; and it has been customary to regulate such augmentations by the enquiries and opinions of the local Officers appointed by the Ruling Power for the time being. 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 account to the management of the Zemindars; thereby reserving to the Ruling Power the implied right, and the actual exercise, of the proprietary possession of all lands whatever. It is obvious that such a mode of administration must be injurious to the permanent prosperity of the country, by obstructing the progress of agriculture, population, and wealth; and destructive to the comfort of individual persons, by diminishing the security of personal freedom, and of private property.

2nd.—The British Government, impressed with a deep sense of the injuries arising to the State and to its subjects, from the operation of such principles, has resolved to remove from its administration so fruitful a source of uncertainty and disquietude; to grant to Zemindars, and other land-holders, their heirs, and successors, a permanent property in their land in all time to come; to fix for ever a moderate assessment of public revenue on such lands, which shall never be liable to change under any circumstances; to institute Courts of Judicature for the protection of these valuable rights; and to secure to every description of its Native Subjects, under the operation of fixed and defined laws, the free exercise of the religious institutions, and domestic usages, of their ancestors.

3rd.—In confirmity to these principles the assessment of your Zemindary has been fixed from the commencement of Fusly 1212, at the annual sum of Star Pagodas

which said sum of Star Pagodas shall be fixed, and is hereby accordingly declared by this Sunnud to be the permanent annual Jumma of your Zemindary, payable in the current coin of the Province, in fixed monthly instalments, agreeably to the separate Kistbundy signed by you.

4th.—This permanent assessment of the land tax on your Zemindary is exclusive of the revenue derived from the manufacture and sale of Salt, and Saltpetre; exclusive of the Sayer, or duties of every description, whether by Sea or Land, the entire administration of which the Government reserves to itself; exclusive of the Abkarry or tax on the sale of spirituous liquors, and intoxicating drugs; exclusive of the excise which is or may be levied on commodities or articles of consumption; exclusive of all taxes, personal and professional, as well as of those from Markets, Fairs, and Bazars; exclusive of Lakheraj lands, (lands exempt from the payment of public revenue,) and of all other alienated lands paying a small Quit Rent, (which Quit Rent unchangeable by you, is included in the assets of your Zemindary); and exclusive of all Lands and Roossooms heretofore appropriated to the support of Police Establishments. The Government reserves to itself the entire exercise of its discretion in continuing or abolishing, temporally or permanently, the articles of revenue included, according to the custom and practice of the Country, under the several heads above stated.

5th.—You shall regularly pay in all seasons the amount of the permanent assessment above fixed: the remissions which have occasionally been granted according to the custom of the Country on account of drought, inundation, or other calamity of the season, shall now cease,

and never be revived; and if, (which God forbid,) you should fail to discharge your engagements, your Zemindary and your personal property shall be answerable for the consequence of such failure.

6*th.*—In this event your personal property will be liable to attachment in the first instance; and your lands will ultimately be liable to be sold and transferred from you for ever, for the payment of the public revenue: but under the moderate terms of the assessment on your Zemindary, this event can never happen except in consequence of your own default; for the Court of Judicature will protect you against such an injury, unless warranted by your failure.

7*th.*—You shall be at free liberty to transfer, without the previous consent of Government, or of any other authority, to whomsoever you may think proper, either by sale, gift, or otherwise, your proprietary right in the whole, or in any part, of your Zemindary; such transfers of your land shall be valid, and recognised by the Courts and Officers of Government, provided they shall not be repugnant to the Mahomedan or the Hindoo laws, or to the Regulations of the British Government; but unless such sale, gift, or transfer, shall have been regularly registered at the office of the Collector; and unless the public assessment shall have been previously determined, and fixed on such separated portions of your Estate by the Collector; such sale, gift, or transfer shall be of no legal force or effect; nor shall such transaction exonerate you from the payment of any part of the public land tax assessed on your entire Zemindary previously to such transfer; but your whole Zemindary shall continue to be answerable for the total land tax, in the same manner as if no such transaction had occurred.

8*th.*—In the event of the sale of any part of your Zemindary for the liquidation of arrears of the assessment; or in satisfaction of the decree of a Court of Judicature; or in the event of the transfer of any part of yur Zemindary by gift, sale, or otherwise; you shall furnish the Collector with true and correct accounts of your entire Zemindary, and of the portion of your Zemindary to be so separated, for a period not less than the three years preceding such sale or transfer, in order that the due proportion of the public revenue may be fixed thereon. The assessment to be settled on the separated parts of your lands, shall always bear the same proportion to the actual produce of the separated portion, as the total permanent Jumma on your Zemindary bears to the actual produce of the whole Zemindary: so that, if the accounts to be furnished by you should be correct, no partial assessment can happen; nor any increase of the fixed Jumma be ever made, under whatever changes or improvements your interests or your pleasure may lead you to introduce into the Zemindary.

9*th.*—Although you shall have free right and liberty to transfer by sale, gift, or otherwise, any part of your Zemindary, not repugnant to the Regulations of Government; yet it shall not be competent for you, nor for any Zemindar, to form any part of your lands into a separate Estate paying its Jumma directly to Government, unless the public assessment on such separate Estate shall amount to the annual sum of five hundred Star Pagodas, (500,) and upwards.

10*th.*—In order that you may at all times be enabled to comply with the conditions of the 8th Article of this Sunnud, by which you are bound to furnish true and correct accounts of your Zemindary when required by the Collector, you shall support the regular and established number of Curnums in the several villages of your Zemindary. The Curnums shall be appointed from time to time by you, and shall obey all regular orders issued by your authority, but they shall not be liable to be removed from their offices, except by the sentence of a Court of Judicature. In the event of your having, or of your under-farmers, tenants, or ryots, having cause of complaint against the Curnum of any Village, for a breach of duty, you shall be at liberty to institute, at your own peril, a Suit in the Udalut of the Zillah, for the purpose of bringing such Curnum to trial and punishment; but in the event of your dispossessing a Curnum of his office without such previous regular process, you shall be liable to make such satisfaction for the injury as the Udalut of the Zillah may decree. Where a Curnum may be dismissed from his office by the sentence of a Court of Judicature, you shall, in the first instance, select a successor from the family of the last incumbent, provided any member of that family shall be capable of the duty of Curnum, but if no member of it shall be capable of discharging that duty, you shall exercise your discretion in the appointment of a proper person. The name of the person appointed to succeed shall be reported to the Collector.

11*th.*—The Government having charged itself with the maintenance of the Police of the Country, will defray the entire expense of that Establishment; you shall nevertheless aid and

assist its Officers in apprehending and securing offenders of all description; and you shall enquire and give notice to the Magistrates of all robbers or disturbers of the public peace, who may be found, or who may seek refuge, in your Zemindary.

12*th.*—You shall enter into engagements with your ryots either for a rent in money or in kind; and shall, within a reasonable time, grant to each ryot, a Puttah or Cowle, clearly defining the amount to be paid by him, and explaining every condition of the engagement: and you shall grant, or cause to be granted, regular receipts to the ryots for all discharges in money, or in kind, made by them to you, or for your account. If after the expiration of a reasonable period of time from the execution of your Cabooleut, (*a*) you shall neglect, or shall refuse to comply with the demand of your under-farmers, or ryots, for the Puttahs and receipts abovementioned, you shall be liable to be sued in the Udalut of the Zillah; and you shall also be liable to such damages as may be decreed by the Udalut to the Complainant.

13*th.*—The foregoing conditions contain an abstract of the obligations and duties which you shall incur, and of the rights which you have acquired under the new constitution erected for the security, protection, and prosperity of the subjects of the British Government: but for the enlargement of that Constitution, and for the improvement of the condition of the people, the Governor in Council will continue from time to time to enact such Regulations, as experience may suggest, or the progress of human affairs render necessary. Such Regulations will be administered by independent Judges, in constituted Courts of Judicature, governing their decisions by the Laws only. The decrees of those Courts will be founded on the Regulations of Government, printed, published, and translated, for the information and security of its subjects; and on the Institutes of the Hindoo or Mahomedan laws, which are also open to the enquiry of all persons; the proceedings of the Udalut will be held in open Courts accessible to persons of every description; all parties will be at liberty to attend to their own interest by their presence in the Courts during such proceedings; or to employ their Vakeels with such instructions regarding the mode of prosecution or defence, as may appear to be most eligible to themselves; the sentences of the Courts will be pronounced in the same public manner; and executed by Civil Authority, without the interposition of Military Force; the Collectors, and other public Servants of the Government, will be compelled to appeal to the Courts of Judicature for the adjudication of all cases, in which by virtue of their offices they may be parties; and finally, the greatest practicable degree of security has been extended to the Native Subjects of the British Government by the establishment of a gradation of Appeals from the Zillah Court to the Provincial Court;* and from the Provincial Court to the Court of Sudder Udalut at the Presidency; and in the last resort, from the Court of Sudder Udalut to the Governor General in Council of Bengal.†

* *Vide Act* VII *of* 1845.
† *Vide Reg.* VIII *of* 1818.

14*th.*—Being therefore sensible of the benefits conferred on you by these institutions, and confident of enjoying the fruits of your industry, you shall be punctual in your engagements with Government, you shall conduct yourself with good faith towards your ryots, whose prosperity is inseparably connected with your own; you shall treat them with tenderness, encourage them to improve and extend the cultivation of the land, and lay the foundations of your own happiness in the permanent prosperity of your Zemindary.

15*th.*—Continuing to perform the above stipulations, and to perform the duties of allegiance to the British Government, its Laws, and Regulations, you are hereby authorized and empowered to hold in perpetuity to your heirs, successors, and assigns, at the permanent assessment herein named, the Zemindary of

Given in Fort St. George this *day of* *by and in the name of the Right Honorable the Governor in Council.*

(Signed by the Members of the Government.)

Entered in the Secretary's Office

By order of the Right Hon'ble the Governor in Council.

(Signed by the Secretary to the Government.)

(*a*) *The Cabooleuts taken from the Zemindars, were exact Counterparts of their Sunnuds.*

SCHEDULE.

Laws Repealed.			
Regulation	XXIII	of 1802.	
"	XXV	"	
"	XXVI	"	
"	XXVII	"	
"	XXVIII	"	
"	XXX	"	
"	I	of 1803.	
"	II	"	
"	V	of 1804.	
"	II	of 1806.	Sections 1—6 inclusive.
"	XII	of 1816.	
"	VII	of 1817.	
"	II	of 1821.	
"	IV	of 1822.	
"	V	"	Sections 1, 11, and 15, 21, inclusive.
"	IX	"	
"	III	of 1823.	
"	I	of 1826.	
"	VII	of 1828.	
"	III	of 1830.	
"	III	of 1831.	Section 5.
"	X	of 1831.	
"	III	of 1832.	
"	IV	"	Sections 6 and 7.
"	VI	"	
"	XXXVI	of 1837.	
Act	VII	of 1839.	
"	XXX	of 1841.	
"	X	of 1849.	
"	XXXIX	of 1858.	
"			

30/6/98

Memo.

Code on this point, & with the majority of the Board, and am not in favour of re opening discussion on this question. Heads of Villages are often to quarrel as to the seats in the hands of the Curates & both they & the Curates have too many local interests & prejudices to safely trusted with the distribution of land as pointed out by Messrs Hall & Clarke & how that land is rising in value, the land registers are important documents & should not be altered in any opinion, without the authority of a superior servant. Elle

28 May.

Memo re Rev. No. 1084

This is an important administrative question. Before passing a final order on it, I presume the Govt will refer Mr Pelly's letter & the Rev. I know whether the majority with & make my further remarks, as their memos were not intended (it is to be supposed) as a full & formal discussion of the question. I wish to ask, however, whether the

The course proposed by Mr Bourdillon appears to be judicious. but the point is one upon which Mr Slatter is well able to advise us

W Hudson
26 Mar 1900

W.H.

Mr Pelly admits that his proposal is based on the course laid down in the Revenue Code which was well prepared after much consideration — I concur with the

V

for wd omit the Bd to state the opinion of some of the more experienced of the Collectors of Sub. Colls as well as of some of the more able & experienced of the Dep. Collectors - Those should be selected who have had most experience in field Operations

Secretaries - The following might be asked -

Collection - Sub. Coll.
Messrs - Thomas Hutchins
Wells - J. L. Morris.
Silver
Lewis

Dep. Coll.
Swedenborg - Ramaswamier
Dykes - D. Srinivasa Rau
Cadell - R. Rajakka -
MacDonnell - Sheshacha -

and the rules under which they are to be exercised.

4. An Act for the settlement of Land Assessment, and the Collection of the Public Revenues in the territories subject to the Presidency of Fort Saint George.

5. An Act for consolidating certain Regulations which govern the rights of Landholders and their Tenants, and for defining the process to be used in the recovery of rents.

All were drawn in pursuance of instructions, detailed on many points, issued by Government after careful and deliberate discussion in 1855 and 1856.

3. A perusal of the first three acts in the first three acts seems to me to Board after conference with Mr Maynes, suggest a few verbal amendments which should be made. On the other two acts I wish to offer a few observations.

Act IV.

1. Clause 6 provides for the relinquishment of land by Ryots, but it seems to need modification. It only

only allows the relinquishment of entire holdings; that a Ryot ought to be empowered to give up any part of his land not being less than a single revenue field, or some such of a Revenue field as he may hold. On other respects the clause needs some change; and a revised draft is given in the margin of it.

5. This Act is designed to ensure the punctual collection of the Revenue, and the means provided are fine-

Clauses 1 to 18

First. To prohibit the reaping of the crop, and if necessary to have it reaped on behalf of Government; this is in anticipation of an arrear, and is a precaution-

Part

-ary power. The Collector is also empowered to take security beforehand for the payment of the Revenue when due.

Clause 19

Second. Attachment of the property and recovery of the arrear from the tenants.

Clauses 21 to 28

Third. Sale of the land.

Clause 29 to 37

Fourth. Distraint and sale of personal property.

Clauses 38 to 56.

Clauses 57 to 58

Fifth. Arrest and imprisonment.

6. The provisions relating to the power over the crop are taken from the Bombay Code, with some little modification; a similar power Exists

exist to have, though unauthorized by any Regulation or act, and the practice as it thus exists is a far greater abuse than it would be as regulated by the act. It is practically exercised wholly by the Collector, and there is no limit as to time of detention or the proportion of the crop to be eventually taken. It seems doubtful to me whether even the now proposed power ought to be retained. This process is obviously directed against pauper Ryots only; but a strict application of the law of sale of land and moveables, will, some satisfied, soon clear off such unprofitable holders; and on the other hand this power may certainly be made the means of oppression and abuse. I think the means of recovery should be the sale of the land or the moveables, punctually and rigidly enforced. that all unnecessary impediments to promptitude in enforcing the law on these points should be removed; and that this irregular and anticipating process should be abolished. This course, as it seems to me, is that best calculated to establish the right of property in land, and to create a substantial body of Ryots.

7. The formalities necessary to the distraint and sale of moveable property and the attachment and sale of land should be made as few and simple and brief as possible, consistently with justice.

Gordon

Clause 29

8. Under the draft as it stands a Collector cannot sell land without the special permission of the Board of Revenue. This involves the delay of months which is often all that the defaulter desires; as soon as the order to sell comes, he pays. I think the power might safely and very beneficially be given to the Collector. Usually, in Ryotwar cases, the value of land sold is small; if thought necessary, the power might still be reserved to the Board either in the case of all Zamindaries and Muttahs, or in cases where the amount of the arrear was large, say above 200 Rupees. I don't see the necessity, however, for any limit, and I think the power of appeal would be a more effectual preventive

Clause 12

what is to be the nature of the appeal

preventive of wrong. In sending up these Draft acts the Board of Revenue strongly recommend that this power to sell land should be given to Collectors. See para 10.

9. For the same reason I think the Tahsildar ought to be empowered to distrain the personal property of a defaulter without a special order from the Collr. Clause 39 is perhaps designed to enable Collectors to give this power to Tahsildars but I am doubtful whether the clause as it does not limit any other officers empowered on that behalf to Subordinate, Assistant, and Deputy Collrs. I think that the power to distrain personal property for an arrear of Revenue should be clearly given to Tahsildars as such. We will exercise

exercise this power as he exercises all others, under a direct responsibility, and I see no more reason to fear its abuse than that of his other powers. It must be remembered, too, that there is reason to hope for a superior body of Tahsildars to what we have had hitherto.

9 (2) The same phrase occurs in Clause 19 with respect to demanding payment: certainly a Tahsildar ought to be empowered to do this, and without any special delegation, as regards payers of revenue within his jurisdiction.

10 (1) In the definition of an arrear, it is provided that revenue remaining unpaid on the first day of the month following the date on which it became due, shall be an arrear. This is indefinite, and would act unequally: where the first day of a month is fixed for the first, it gives a full month of

Clause 12

law

law; whereas the last is on 25th it gives only 60 days. Is it necessary or proper to give any latitude at all, which I rather doubt, it will be better perhaps to say that revenue remaining unpaid five days or ten days after the time fixed for payment, shall be an arrear.

12- The time of notice of sale is 14 days, in the case both of land and moveables. In the latter case this seems more than is required. I think seven days would be fully enough. The present law fixes the time at 15 days. (Clause 17)

13- I do not observe any means provided for paying the expenses of the distraining and selling officers at the cost of the defaulter; this however ought to be done. The former may be paid a certain liberal rate of batta, as he will be of a superior class to Peons; and the latter may be paid by a percentage on the proceeds of the sale. Under the existing law 6¼ per cent is allowed for this purpose, by Regulation XXVIII of 1802; but by sec V of act VII of 1839 this is now credited to Govt, and does not go to the seller, who is always a

Note- Under Bengal Act 23 of 1856, enacted for facilitating the recovery of Rent, an arrear gives no such extension of the time of payment. The demand may be enforced by sale of the moveable or immoveable property of the defaulter, any day after it falls due. The punctual enforcement of the demand is admitted to be right policy; & I think the Draft Act. would in this particular be retrospective.

enforcing punctuality ought not to be postponed when land is to be sold. It is admitted that punctuality is the right policy, & I admit we only then should be hesitating in enforcing it - at all events, the former might be declared from a [illegible] date.

a Government officer

11 Again I find no provision for employing and paying peons for the serving of the notices &c. It was considered by Government, that no such provision should be inserted, since no order was issued on the subject by the Board. It will be quite necessary, with the new Revenue Establishments, as the Taluq Peons will be much too few for this work.

15 It is quite fair and proper that all the expenses consequent on failure to pay punctually should fall on the defaulter, and it is good policy also to enforce this right. Delay of payment must inevitably bring some advantages to the defaulter, and it is desirable to counterbalance these by inconveniences, so as to make it more choose punctuality in payment as the least evil.

16 The Revenue Officers, as I read the Draft Act, may proceed either against the land or

Note- The present law charges interest at 12 per cent on arrears, but the Draft omits this-

or the personally of a defaulter.
This is proper; but this too may
be converted into an abuse, as
was seen lately in a case in
Chunglepat; and it will be
proper to maintain the rule re-
cently passed by the Board and
approved by Government, that
the crops of under tenants are
not to be seized for an arrear due
by the landlord, but either the
land or the moveable property of
the landlord himself, leaving
him to his remedy against his
tenants under act 5.

17 The other two means of
recovery, viz. by attachment and
arrest, may remain as in the
Draft. They will rarely be put in
force, but their existence will
do no harm.

18 Clause 6th provides for
the recovery of Karnamé fees in
the same manner as arrears of
land Revenue. I think both the
fees and also the increased pay-
ment

of other village Officers in the
Revenue and Police Departments
should be so recovered &c.

Act V

19 This act is designed to
provide for the recovery of Rent
by landholders from their tenants.
It consists of 15 Clauses, but the whole
of the provisions for its execution
object are continued in Clause 11.
This Clause seems to me too compendious.
It gives to landholders all the
powers possessed by a Collector
(under act IX) for the recovery of
land Revenue, and to be exercised
in the same manner: but it is
very evident that some of those
powers are not applicable, for
instance the sale of the land; &
I think also that the mode of
exercising them is in some particu-
lars inapplicable, because
the same agents would not be
employed. I am not quite clear
however what the intention is
on some points.

20 — It is the intention of the draft that full Landlords, L. E. Royal or Land Lords, should not be required to attend to the formalities as to pattahs, rates of assessment &c prescribed in the case of "restricted landlords" but in the absence of any thing positive on this point, (short of unnecessary understanding), and mis-~~construction~~ would occur. A ~~general~~ declaration ~~by way of explanation~~ of the intention on this point seems desirable. I would suggest that the draft &c — be referred back to the Board for re-consideration on this point, in communication with Mr. Magee.

The Board might also be instructed to revise the draft of Act No. 4, on the points noticed in this memo. so far as what is said may be agreed to by the Govt.

— I agree in the measures proposed in this Memo, except that in Pb. — To give up all hold on the Crop would be most dan-

cannot spent to it. — The power should be used as little as possible & the attention of Collectors can be called to this point, but I consider it absolutely important to retain the power. — The right of property which Govt has in the crop is universally felt & acknowledged —

I agree with the Secretary and would leave the Collectors discretion in the presence of the two provisions in Para 6 of the Memo — pd

R. D.

No 346

Proceedings of the Madras Government

Under date the 5th ~~February~~ March 1860.

Read the following Proceedings of the Board of Revenue -

Submitting with the Board's observations a Separate paper detailing the amendments proposed to be made in the several Acts forming the Land Revenue Code of this Presidency which were prepared by Messrs Porter and Moyne -

(Here enter 25th November 1859 No 4849)

D. In pursuance of the orders of Government of the dates noted in the margin, the Board of Revenue submit the drafts of five Acts designed to embody the Revenue Law of this Presidency - The first four drafts were prepared by Mr Moyne and Mr Porter, the fifth, that on the recovery of Rent, was prepared by the Board subsequently, in communication with Mr Moyne under the orders of Government of 5th July 1859 No 869.

5th April 1859 No 469
30th " " " 591
12th May " " 696.

2. The titles of the drafts Acts are as follow -

&c

1 An Act containing certain provisions = generally applicable to the Madras Revenue Code.

2 An Act for regulating the powers and duties of the Revenue authorities in the Madras Presidency.

3 An Act for the purpose of constituting a Court of Wards, and of defining the powers vested therein and the rules under which they are to be exercised.

4 An Act for the Settlement of the Land Assess = ment, and the Collection of the Public Revenues in the territories subject to the Presidency of Fort Saint George.

5 An Act for consolidating certain Regulations which govern the rights of Landholders and their Tenants and for defining the process to be used in the recovery of rents.

All the above Acts were drawn up in pursuance of instructions, detailed on many points, issued by Government after careful = and deliberate discussion during the years 1855 and 1856, and with some exceptions they call for little or no remark in their present shape.

3 On the first three Acts no remark is called for. The Government approve the few verbal alterations suggested by the Board, after Conference with Mr. Maltyne, and noticed in paras 5, 8 and 9 of their Proceed = ings, and accordingly sanction their adoption. As regards the remaining two Acts the Govern = ment desire to record the follow = ing observations.

Act IV

4 Section VI of this Act provides for the relinquishment of land by ryots, but it seems to need modification. The Sec = tion allows the relinquishment of entire holdings, whereas it appears to Government that a ryot ought to be empowered to give up any part of his land not being less than a single = revenue field, or so much of a revenue field as he may hold. In other respects also the Section needs some change, and the Govern = ment would substitute the following:

S VI "Every occupant of land shall

shall be at liberty to relinquish"
his holding, or any part thereof"
being not less than a single "
revenue field or number, or "
than such occupants part of "
such field or number, and "
shall thereupon cease to be liable"
to pay the assessment thereon;"
but written notice of such inten-"
tion must be given to the co- "
llector, or to the Tahsildar, on"
or before the 30th April of the "
revenue year, at the end of a "
which he proposes to relinquish"
it; and in default of such "
notice, he shall be liable to pay"
the assessment of the land for"
the succeeding year."

5. The design of this act is to ensure the punctual collection of the Revenue, and the means provided for that purpose are five.

First. To prohibit the reaping of the crop, and if necessary to have it reaped on behalf of Government. Sections 14 to 18.

Second. Attachment of the property, and recovery of the arrear from the tenants. Sections 21 to 28.

Third. Sale of the land. Sections 29 to 37.

Fourth. Distraint and sale of personal property. Sections 38 to 56.

Fifth. arrest and imprisonment. Sections 57 to 58.

6. The Government are of opinion that the formalities necessary to the distraint and sale of moveable property, and the attachment and sale of land should be made as few and simple, and brief as possible consistent with justice.

7 According to section 29 of the draft, as it now stands, a Collector cannot sell land without the special permission of the Board of Revenue. This involves the delay of months and is often all that the defaulter desires. The Government therefore think with the Board that this power might be safely and very beneficially entrusted to the Collector both in Ryetwary cases as well as in those connected with Zemindaries and Mutahs, and they request that

Sec: 29.

fo 40

that this section be modified accordingly.

8 The Government think likewise that Tahsildars should be empowered to distrain the personal property of a defaulter without a special order from the Collector. Section 39 would seem to be designed to enable Collectors to give this power to Tahsildars, but it seems doubtful whether Section 71 does not limit "any other officer empowered in that behalf" to Subordinate, Assistant and Deputy Collectors. It seems to the Government that the power to Tahsildars to distrain personal property for an arrear of revenue should be clearly set forth.

See XIX

"any other officer empowered in that behalf"

Same ?

9 The phrase ~~quoted above~~ occurs in Section 19 with respect to a demanding payment, and the Government are of opinion that a Tahsildar ought to be empowered to do this, and without any special delegation as regards payers of revenue

See: 12

revenue within his jurisdiction.

10 In the definition of an arrear it is provided that revenue "remaining" unpaid on the first "day of the month following the "date at which it became due," shall be an arrear. This is indefinite; and would act unequally. Where the first day of a month is fixed for the Kist, it gives a full month of law; where the Kist is on the 25th it gives only 6 or 7 days. The Government think that the 20th of each month should be fixed for the payment of the Kist, and that any arrear after that date should be liable to process; and that the time of notice for sale should be as proposed in Sections XXX and XLIX fourteen days for the sale of both land and moveable property.

XIX

11 The Government do not find any provision for the payment of the expences of the Distraining and Selling officers at the cost of the Defaulter. This omission

Commission should be supplied.
b. The former should be paid a
b certain liberal rate of batta, as
re the will be of a class superior to
that of Peons; and the latter should
be paid by a per centage on the
proceeds of the Sale. The rate as
to allowed by Section XXXII Reg: XXVIII
b of 1802 for this purpose is 6½ per
=cent, but sect VII of 1829 contem=
=plates the employment of Talub=
=dars as Venders of distrained
=property, and by Sec: V the fees are
credited to Government.

12 No provision is also to
be found for employing and
paying batta peons for the
serving of notices &c. This omis=
=sion should be supplied. It
will be quite necessary with
the new revenue Establishments,
as the Ealing peons will be much
too few for this work.

13. It is quite fair and
proper that all the expenses conse=
=quent on failure to pay punctu=
=ally should fall on the defaulter,

and

Rec: of Bd of Rev: 2 Sept 1889 No 3465.
Orde Section 10 — a 1221.

and it is moreover good policy
also to enforce this right. Delay
of payment must inevitably
bring some advantages to the
defaulter; and it is desirable to
counter balance these by inconveni=
=ences, so as to make a more choose
punctuality in payment as the
least evil.

14 It appears from the
Draft act that the Revenue officers
may proceed either against the
land or the personalty of a
defaulter. This is proper, but as
this may be converted into an
abuse, as was the case recent=
=ly in the Chingleput Govern=
=ment. I think that it will be proper
to maintain the rule lately passed
by the Board and approved by
Government Viz: that the crops of
under tenants are not to be seized
for an arrear due by the landlord,
but either the land or the moveable
property of the landlord himself,
leaving him to his remedy
against his tenants under

set

act 5.

15. Section 64 provides for the recovery of Karnam's fees in the same manner as arrears of Land Revenue. The Government think that not only the fees but also the income of assessment of other village officers in the Revenue and Police Departments should be made recoverable in the same manner.

Act V.

16. This act is designed to provide for the recovery of Rent by landholders from their tenants. It consists of 15 clauses, but the whole of the provisions for its main object are contained in Section II. This Section seems too compendious. It gives to landholders all the powers possessed by a Collector (under act IV) for the recovery of Land Revenue, and to be exercised in the same manner: but it is very evident that some of those powers are not applicable, for instance, the sale of the land; and the Government think it expedient

the mode of exercising them is in some particulars inapplicable, as because the same agents would not be employed. It is not quite clear however what the intention is on some points.

17. It is the intention of the draft that full landlords, i.e. Ryatwar landlords, should not be required to attend to the formalities of Pattahs, rates of assessments, as prescribed in the case of restricted landlords", but in the absence of any positive on this point, the Government think that misunderstanding, and misconstruction would occur. A clearer declaration of the intention on this point seems desirable. The Government resolve therefore to refer back this draft to the Board for reconsideration on this point in communication with Mr. Holloyne, and also further to instruct them to revise the draft of act Nº IV on the points noticed above.

Ryatwar

Pattahs

Copies to the Board of Rev.

Copy in a letter to C. of S. 5th March 1860 No. 19.

30/6/58

12/6/3

26-6-11

17-5-7

28-8 Ins 62-63

29-7-57

63-64

1-7-57

17-68

17-5-57

Revenue 1860 Depatt.

Ext of Govt. 10th March

No. 346

Ext of the Madras Govt

D/ 5th March 1860.

Extn. of the Bd. of Rev. Dy. No. thereto Cur. No. 95.-3

Transn. Ass Bills D/ 25 Feby /60

Cy No. 1054 in Cur.

Passing observations

the drafts of 5 Acts designed

embody the Revenue

of this Presidency.

Sent. Pro. 16 Aug/60. R.

No. 42743