

# MADRAS RECORD OFFICE.

Government of Madras.

*Revenue* DEPARTMENT.

|                                      |                 |
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| G.O. No. 3218                        | Press           |
| 281-287                              | <del>Mis.</del> |
| Dated 21 <sup>st</sup> December 1869 |                 |

Not to be folded or roughly handled

*Proceedings of the Madras Government; Revenue Department,  
21st December 1869.*

No. 286. Read the following Proceedings of the Board of Revenue, dated 26th November 1869, No. 8,737:—

Read the following letter from the Acting Collector of the Madras District, to the Acting Secretary to the Board of Revenue, dated Sydapet, 21st October 1869, No. 365.

I HAVE the honour to forward, for the information of the Board, copy of the opinion of the Advocate-General, declaring that none of the provisions of the Revenue Recovery Act can be enforced within the local limits of the Town of Madras.

2. Under this opinion I have been obliged to return a Warrant issued by the Collector of Salem for the arrest of a revenue-defaulter, and I have been precluded from realizing certain arrears of land-revenue by distress of personal property due in the Madras District by land-holders resident in Madras.

3. It can hardly have been the intention of the Legislature to place the Town of Madras in the position of a city of refuge for revenue-defaulters, and I have therefore the honour to request the Board will take into consideration the propriety of bringing the matter before the Legislative Council, with a view to the amendment of Section 64.

ENCLOSURE No. 1.

*Opinion.*

I THINK that Section 64 of Madras Act II. of 1864 clearly bars the operation of the Act in any way within the local limits of the Town of Madras.

(Signed) JOHN BRUCE NORTON,  
*Advocate-General.*

4th October 1869.

THE Board resolve to submit this letter and enclosure for the consideration of Government.

2. It will be seen that the Advocate-General is of opinion that the Rent Recovery Act is inoperative within the local limits of the Town of Madras.

3. An amendment of the law seems very desirable.

No. 287. ORDER THEREON, 21st December 1869, No. 3,218.

Land Revenue.

THE Government concur with the Board of Revenue as to the advisability of extending the operation of Act II. of 1864 to the Town of Madras.

2. These Proceedings will be communicated to the Legislative Department, in view to the necessary steps being taken to bring the subject before the Legislative Council,

(True Extract.)

(Signed) R. A. DALYELL,  
*Acting Secretary to Government.*

To the Board of Revenue.  
,, the Legislative Department.

Exd. F. R. Bantleman.

# ARREARS OF REVENUE RECOVERY ACT.

## ARRANGEMENT OF SECTIONS

### Section

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- XVIII. Penalty for forcibly or clandestinely taking away distrained property.
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- XX. Powers of distrainer to force open, doors in the presence of a Police Officer.

### REVENUE.

#### THE BOARD OF REVENUE.

Sec. Sec. Sec.

Board December 1st.

Recd.

Recd.

G. O. 21st December 1861 No. 8218.

RECEIVED.

16th 1861-62.

*Revenue Recovery Act. — Proceeding Board of Revenue on the subject of enforcing its provisions within the local limits of the Town of Malwa, commencing to the Legislative Department.*

*Revenue Recovery Act. — Proceeding Board of Revenue on the subject of enforcing its provisions within the local limits of the Town of Malwa, commencing to the Legislative Department.*

*27-10-61  
15-10-61*

*G.O. 11869*

## Section

- XXI. Punishment for unlawful entry.
- XXII. Proclamation to be made of the time of sale, and of the property to be sold.
- XXIII. Sale how to be conducted.
- XXIV. Payment on the purchase of distrained property how to be made.  
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- XXV. Demand to be served prior to attachment of land.  
Mode of service
- XXVI. Consequence of defaulter neglecting to pay.
- XXVII. Mode of attachment.
- XXVIII. Appointment of Agent.  
In certain cases Revenue Officer to take charge.
- XXIX. Notice of assumption of management.
- XXX. Duties of Agent.
- XXXI. Liability of Agent to suit or prosecution.
- XXXII. Effect of existing agreements between landholder and tenants.
- XXXIII. Payments by tenants.
- XXXIV. Mode of settlement on withdrawal of attachment.
- XXXV. Persons interested in the land may release it from attachment.
- XXXVI. Rules to be observed in the sale of immoveable property.  
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Deposit and payment of balance.  
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- XXXVII. Tender of arrears up to sunset on day previous to sale.
- XXXVIII. Purchaser to be registered.  
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- XLI. Contracts with, and payments to defaulter, how far binding on the purchaser.
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- XLIII. Arrears of rent due to defaulter from his under-tenants on the day of sale, how to be recovered.
- XLIV. Sale of land.

## Section

- XLV. Apportionment of assessment on sub-division.  
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- XLVI. Confirmation of Board necessary to make apportionment valid.
- XLVII. Sale may be postponed on tender of security.
- XLVIII. Powers of arrest in case of wilful or fraudulent non-payment of arrears.  
Period of imprisonment.  
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- XLIX. Procedure in case of arrest.  
L. Mode of enforcing payment by sureties.
- LI. Removal of crops may be prevented where revenue is payable in kind.
- LII. Similar process in case of other species of revenue, advances, fees, and cesses.
- LIII. Process-servers to be paid batta.
- LIV. Interest and charges recoverable as arrears.
- LV. Expense of countermanded sales to be sustained by the defaulter.  
And recovered as an arrear.
- LVI. Receipts for payment of revenue.
- LVII. Procedure where defaulter or surety resides out of District.  
Effect of Collector's application.
- LVIII. Civil Court not to take cognizance of questions relating to rate of revenue.
- LIX. Suits by persons aggrieved by proceedings under this Act.  
Limitation of suits.
- LX. Suits against Collector to survive against his successor,  
Or to be originally maintainable against him.  
No personal liability for acts of predecessor.
- LXI. Regulation V of 1822, not to apply to sales under this Act.
- LXII. Regulations XXVIII of 1802, and I and II of 1803, not to apply to arrears recoverable under this Act.
- LXIII. Operation of Regulation V of 1804, and X of 1831 preserved.
- LXIV. Scope of Act.
- LXV. Repeal of certain enactments.
- LXVI. Commencement of Act.

MADRAS.

ACT No. II of 1864.

PASSED BY THE GOVERNOR OF FORT ST. GEORGE IN COUNCIL.

(Received the assent of the Governor on the 5th May 1864, and of the Governor General on the 20th June 1864.)

*An Act to consolidate the Laws for the recovery of Arrears of Revenue in the Madras Presidency.*

WHEREAS it is advisable that the laws relating to the collection of the public revenue should be consolidated and simplified; it is hereby enacted as follows:—

Interpretation Clause.  
Landholder.

I. The term "landholder" as used in this Act shall be taken to comprise the following persons:—

All persons holding under a Sunnud-i-Milkut Istimrar, all other Zemindars, Shrotriendars, Jaghiredars, Inamdars, and all persons farming the Land Revenue under Government.—All holders of land under Ryotwar Settlements, or in any way subject to the payment of revenue direct to Government.

Public revenue due on land shall, for the purposes of this Act, be taken to include cesses or other dues payable to Government on account of water supplied for irrigation.

Land, the security for the Revenue.

II. The land, the buildings upon it, and its products, shall be regarded as the security of the public revenue.

Landholder when and to whom to pay his Kist.

III. Every landholder shall pay to the Collector, or other Officer empowered by him to receive it, the revenue due upon his land on or before the day on which it falls due, according to the Kist-bundy or other engagement, and where no particular day is fixed, then within the time when the payment falls due according to local usage: provided that, except where property is held under a Sunnud-i-Milkut Istimrar or

Board of Revenue may alter amounts and dates of payment.

other similar instrument, it shall be lawful for the Board of Revenue by Notification published in the District Gazette to alter and fix from time to time the amount of the several Kists or instalments, and the dates at which they shall respectively become payable.

The whole or a portion of a Kist remaining unpaid shall be deemed to be an arrear of revenue.

IV. When the whole or a portion of a Kist shall not be so paid, the amount of the Kist or of its unpaid portion shall be deemed to be an arrear of revenue.

V. Whenever revenue may be in arrear, it shall be lawful for the Collector, or other Officer empowered by the Collector in that behalf, to proceed to recover the arrear, together with interest and costs of process, by the sale of the defaulter's moveable and immoveable property, or by execution against the person of the defaulter in manner hereinafter provided.

VI. If the defaulter hold under a Sunnud-i-Milkut Istimrar or other similar instrument, the mode of recovering the arrear shall be in accordance with the terms of such Sunnud. In the case of other defaulters, the Collector, or other Officer empowered by the Collector in that behalf, may, at his discretion, proceed to realize the arrear by the sale of either the moveable or immoveable property of the defaulter, or of both.

Arrears of revenue to bear interest.

VII. Arrears of revenue shall bear interest at the rate of six per cent. per annum.

Rules for seizure and sale of moveable property.

VIII. In the seizure and sale of moveable property for arrears of revenue, the following rules shall be observed:—

*First.* The Collector, or 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 name of the defaulter, the amount of the arrear for which the distress may be issued, and the date on which the arrear fell due. The person employed to distrain shall produce the writing which, if the arrear together with the batta due to him, under Section LIII, be not at once paid, shall be his authority for making the distress, and on the day on which the property may be 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.

Defaulter to be served with a copy.

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

Writing to state that the distrained property will be sold.

*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, or on the premises where the property may have been distrained, before the expiration of the third day, calculating from the day of the distress.

Mode of service when defaulter is absent.

IX. When 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 or other Officer empowered by the Collector in that behalf, the distrainer shall transmit an inventory of the property distrained to the nearest public Officer empowered to sell distrained property under Act VII of 1839, in order that it may be publicly sold for the discharge of the arrear due, with interest, batta, and cost of distraint.

Consequence of defaulter neglecting to pay after notice.

X. Where a defaulter may tender payment of the arrear demanded after his property may have been distrained, and prior to the day fixed for sale, together with payment of interest, batta, and all necessary expenses attending distress, the distrainer shall receive the amount immediately upon the same being tendered, and shall forthwith release the property.

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

XI. The distrainer attaching the crops or ungathered products of the land 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. When crops or products belonging to a tenant shall have been sold, it shall be lawful for such tenant to deduct the value of the crops or products so sold from any rent which may be due by him, then or afterwards, to the defaulter, in respect of the land on which such crops or products have been grown. It shall also be lawful for a tenant whose crops are attached for an arrear of revenue to pay the arrear and deduct the amount in the aforesaid manner from any rent due by him, then or afterwards.

Distrained crops how to be dealt with.

Tenant may pay arrears and terminate attachment.

XII. The distrainer shall not work the bullocks or cattle, or make use of the goods or 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.

Distrained cattle or goods not to be used.

**XIII.** Where property distrained may be stolen, or lost, or damaged by reason of the necessary precautions for its due preservation not having been taken, or from its having been improperly worked or made use of, the amount of such loss or damage shall be recoverable by summary process by the Collector from the Officer whose neglect or act occasioned the loss or damage, and the amount when recovered shall be paid to the person damnified.

Officer responsible on neglect in respect of distrained property.

Distress to be proportionate to the arrear.

Time of distress.

**XIV.** 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 arrears.

**XV.** Distress shall be made after sunrise and before sunset, and not otherwise.

**XVI.** Where a defaulter may make a fraudulent conveyance of property to prevent the distress of arrears, any Civil Court of competent jurisdiction upon proof thereof shall summarily cause the property to be delivered up to the distrainer. The defaulter will further be liable to the penalties prescribed by Section 424 of the Indian Penal Code.

Penalty for fraudulent conveyance of property to prevent distress.

**XVII.** Where any person, not being a defaulter or responsible for a defaulter, may claim a right to the property distrained, and the distrainer may notwithstanding cause the same to be sold, such claimant, on proof of such right in any Civil Court of competent jurisdiction, and in the event of the distrainer being unable to prove the responsibility for the arrear of revenue, on account of which the property may have been sold, shall recover from the distrainer the full value of such property, with interest, 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 due from the ground upon which such crop or product may have been grown.

Claims to property distrained and sold.

Revenue to be the first charge.

**XVIII.** Where it may be proved to the satisfaction of any Civil Court of competent jurisdiction that any person has forcibly or clandestinely taken away property once distrained, the Court may summarily cause such property to be restored to the distrainer. The offender will further be liable to the penalties prescribed by the Indian Penal Code.

Penalty for forcibly or clandestinely taking away distrained property.

**XIX.** It shall be lawful for the distrainer to force open any stable, cow-house, granary, godown, out-house, or other building, and he may also enter any dwelling house, the outer door of which may be open, and may break open the door of any room in such dwelling house for the purpose of attaching property belonging to a defaulter and lodged therein; provided always that it shall not be lawful for such distrainer to break open or enter any apartment in such dwelling house appropriated for the zenana or residence of women, except as hereinafter provided.

What places distrainer may force open.

**XX.** 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 Officer in charge of the nearest Police station. On such representation, the Officer in charge of the said station 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 he 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.

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

**XXI.** 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 a fine not exceeding Rupees 500, or to imprisonment of either description for any period not exceeding six months.

Punishment for unlawful entry.

**XXII.** The public Officer empowered under Act VII of 1839 to sell distrained property shall cause to be affixed to the outer door of the defaulter's house, or on the premises where the property may have been distrained, 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

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

as the Collector, or other Officer empowered by the Collector in that behalf, may consider necessary to give due publicity to the sale. No sale shall take place until after the expiration of a period of fifteen days from the date on which the notice may be so affixed.

XXIII. At the appointed time, the property shall be put up in one or more lots, as the said Officer 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 expenses of process and interest, shall be paid to the defaulter.

XXIV. 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 in full. Where the purchaser may fail in the payment of the purchase money, the property shall be re-sold, and the defaulting purchaser shall be liable for any loss arising, as well as the expenses incurred on the re-sale. Where the property may, on the second sale, sell for a higher price than at the first sale, the difference or increase shall be the property of him on whose account the said first sale was made.

XXV. Before a Collector, or other Officer empowered by the Collector in that behalf, proceeds to attach the land of a defaulter, or buildings thereon, he shall cause a written demand to be served upon the defaulter specifying the amount due, the estate or land in respect of which it is claimed, the name of the party in arrear, the batta due to the person who shall serve the demand, and the time allowed for payment, which shall be fixed with reference to the distance from the land on which the arrear is due to the place at which the money is to be paid. Such demand shall be served by delivering a copy to the defaulter, or to some adult male member of his family at his usual place of abode, or to his authorized Agent, or by affixing a copy thereof on some conspicuous part of his last known residence, or on some conspicuous part of the land about to be attached.

XXVI. When 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, or other Officer empowered by the Collector in that behalf, he shall proceed to recover the arrear by the attachment and sale of the defaulter's land in the following manner.

Sale how to be conducted.

Payment on the purchase of distressed property how to be made.

Re-sale to case of default.

Demand to be served prior to attachment of land.

Mode of service.

Consequence of defaulter neglecting to pay.

XXVII. The attachment shall be effected by affixing a notice thereof to some conspicuous part of the land. The notice shall set forth that unless the arrear, with interest and expenses, be paid within the date therein mentioned, the land will be brought to sale in due course of law. The attachment shall be notified by public proclamation on the land, and by publication of the notice in the District Gazette.

XXVIII. It shall be lawful for the Collector when attaching the land of a defaulter, or at any time during such attachment, to assume the management of the property attached. In such case he shall appoint an Agent with a proper establishment of Officers to manage the property, 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 property: 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.

XXIX. Notice of the assumption of management shall forthwith be served on the defaulter in the manner described in Section XXV, and shall be notified by public proclamation on the land, and by publication in the District Gazette.

XXX. It shall be the duty of the Agent, during the continuance of management under Section XXVIII, to collect the rents and profits 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 engagements exist. The Agent shall keep accounts of all his receipts and disbursements, and submit the same, and pay over the balance, to the Collector, or other Officer empowered by the Collector in that behalf, 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 fee.

XXXI. 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 as they would have had against the defaulter, if the act were done by the defaulter.

Mode of attachment.

Appointment of Agent.

In certain cases Revenue Officer to take charge.

Notice of assumption of management.

Duties of Agent.

Liability of Agent to suit or prosecution.

XXXII. All engagements entered into between the landholder and his tenants, except such as are hereinafter mentioned, shall be binding upon the Collector, during attachment, but all such engagements 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 *bona fide* for the purpose of erecting factories or buildings, or of bringing waste land into cultivation, and all engagements made subsequently to attachment, 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.

XXXIII. All payments on account of rent or profits actually due, made before public notice of assumption of management to or on behalf of any landholder by any person holding under him, shall be valid against the Collector, and all such payments made after public notice of such assumption, or made before they were actually due, shall be null and void against the Collector, who shall be entitled to recover as arrears of rent the full amount from the parties by whom it was paid, leaving them to sue the defaulter in the ordinary Courts of law.

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

XXXV. 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 *bona fide* mortgagee or other incumbrancer 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.

Effect of existing agreements between landholder and tenants.

Payments by tenants.

Mode of settlement on withdrawal of attachment.

Persons interested in the land may release it from attachment.

Rules to be observed in the sale of immoveable property.

XXXVI. In the sale of immoveable property under this Act, the following rules shall be observed:—

*First.* The sale shall be by public auction to the highest bidder. The time and place of sale shall be fixed by the Collector of the District in which the property is situated, or other Officer empowered by the Collector in that behalf. The time may be either previous to or after the expiration of the Fasli year.

*Second.* Previous to the sale the Collector, or other Officer empowered by the Collector in that behalf, shall issue a notice thereof in *English* and in the language of the District, specifying the name of the defaulter; the position and extent of land and of his buildings thereon; the amount of revenue assessed on the land, or upon its different sections; the proportion of the public revenue due during the remainder of the current Fasli; and the time, place, and conditions of sale. This notice shall be fixed up one month at least before the sale in the Collector's Office and in the Taluq Cutcherry, in the nearest Police Station-house, and on some conspicuous part of the land.

*Third.* A sum of money equal to fifteen per cent. of the price of the lands shall be deposited by the purchaser in the hands of the Collector, or other Officer empowered by the Collector in that behalf, at the time of the purchase, and where the remainder of the purchase-money may not be paid within thirty days, the money so deposited shall be liable to forfeiture.

*Fourth.* Where the purchaser may refuse or omit to deposit the said sum of money, or to complete the payment of the remaining purchase-money, the property shall be re-sold at the expense and hazard of such purchaser, and the amount of all loss or expense which may attend such refusal or omission shall be recoverable from such purchaser in the same manner as arrears of public revenue. Where the lands may, on the second sale, sell for a higher price than at the first sale, the difference or increase shall be the property of him on whose account the said first sale was made.

*Fifth.* All persons bidding at a sale may be required to state whether they are bidding on their own behalf or as Agents, and in the latter case to deposit a written authority signed by their principals. If such requisition be not complied with their bids may be rejected.

Public auction.

Notification one month before sale.

Deposit and payment of balance.

Re-sale in default of payment.

Agents to name their principals.

XXXVII. 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 demanding the arrears, or in attaching or managing the estate, or in taking the steps necessary for sale, and thereupon the sale shall be stayed: provided always that such tender must be made before sunset on the day previous to that appointed for the sale, and all sums so paid by any tenant, or *bond fide* mortgagee, or other incumbrancer, may be recovered in the manner provided in Section XXXV.

XXXVIII. 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.

XXXIX. When lands may be purchased at public sale the Collector, or other Officer empowered by the Collector in that behalf, shall publish in the villages in which the land sold may be situated, in the Cutcherry of the Taluk, in the head Cutcherry of the District, and in the District Gazette, the name of the purchaser and the date of purchase, together with a declaration of the lawful succession of such purchaser to all the rights and property of the former landholder in the said lands.

XL. Where, notwithstanding such publication, any lawful purchaser of land may be resisted and prevented from obtaining possession of his purchased land, any Court of competent jurisdiction, on application and production of certificate of sale provided for by Section XXXVIII, shall cause the proper process to be issued for the purpose of putting such purchaser in possession, in the same manner as if the purchased lands had been decreed to the purchaser by a decision of the Court.

XLI. 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 XXXII and XXXIII of this Act.

Tender of arrears up to sunset on day previous to sale.

Purchaser to be registered.

Effects of certificate.

Proclamation of sale.

Delivery of possession.

Contracts with, and payments to defaulter, how far binding on the purchaser.

XLII. All lands brought to sale on account of arrears of revenue shall be sold free of all incumbrances, and if any balance shall remain after liquidating the arrears with interest, and the expenses of attachment and sale, and other costs due in respect of such arrears, it shall be paid over to the defaulter, unless such payment be prohibited by the injunction of a Court of competent jurisdiction.

XLIII. Arrears of rent which on the day of sale may be due to the defaulter from his under-tenants shall, in the event of the sale, be recoverable by him after the sale by any process, except distraint, which might have been used by him for that purpose before the said sale.

XLIV. It shall be lawful for the Collector, or other Officer empowered by the Collector in that behalf, to sell the whole or any portion of the land of a defaulter in discharge of arrear of revenue: provided always that, so far as may be practicable, no larger section in the land shall be sold than may be sufficient to discharge the arrears with interest, and expenses of attachment, management and sale.

XLV. Where only a part of a landed estate held under a Sunnud-i-Milkut Istimrar, or otherwise subject to the payment of a lump assessment may be sold, the assessment upon such part shall be apportioned by the Collector previous to sale in manner following:—

The amount of revenue to be assessed on each division shall bear the same proportion to the actual value of such division as the total amount of the revenue of the whole estate may bear to the total actual value of the entire estate previous to such division.

To this end the Collector shall have power to demand from landholders and from the Curnums of villages accounts of the produce and of the charges attending the management of lands to be divided; such landholders and Curnums shall furnish the said accounts when required for a period of not less than three years next preceding the then current year; where the landholder may refuse or unreasonably delay to comply with such demand so as to prevent the assessment being fixed on such divided portions of land the Collector shall proceed to sell the entire estate.

Sale to be free of all incumbrances.

Disposal of surplus.

Arrears of rent due to defaulter from his under-tenants on the day of sale, how to be recovered.

Sale of land.

Apportionment of assessment on sub-division.

Production of accounts.

Effect of their non-production.

Confirmation of Board necessary to make apportionment valid.

XLVI. The amount of the permanent land revenue to be assessed by the Collector on portions of a divided estate held under a Sunnud-i-Milkut Istimrar, or otherwise subject to the payment of a lump assessment, shall not be valid until such amount may have been confirmed by the authority of the Board of Revenue signified in writing.

Sale may be postponed on tender of security.

XLVII. When a defaulter tenders security it shall be lawful for the Collector, or other Officer empowered by the Collector in that behalf, to accept it and postpone the sale of the defaulters's property upon such conditions, and until such time as he may appoint; in the event of default being made in the performance of such conditions, the Collector or such Officer may sell the property and proceed against the defaulter, or against his security, or both.

Powers of arrest in case of wilful or fraudulent non-payment of arrears.

XLVIII. When arrears of revenue, with interest and other charges as aforesaid, cannot be liquidated by the sale of the property of the defaulter, or of his surety, and the Collector shall have reason to believe that the defaulter or his surety is wilfully withholding payment of the arrears, or has been guilty of fraudulent conduct in order to evade payment, it shall be lawful for him to cause the arrest and imprisonment of the

Period of imprisonment.

Debt not extinguished.

defaulter, or his surety, not being a female, as hereinafter 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; provided that such imprisonment shall not extinguish the debt due to Government by the defaulter, or his surety.

Procedure in case of arrest.

XLIX. The Collector shall issue his warrant for the arrest of the defaulter, or his surety, or both, not being females, which shall specify his or their 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 the execution of the warrant shall thereupon arrest the defaulter, or his surety, or both, and convey him or them to the District Gaol, and deliver the warrant to the Gaoler, which shall be a sufficient authority to him to receive the prisoner or prisoners. A copy of such warrant shall be retained by the Gaoler, who shall forthwith despatch the original to the Officer in charge of the Gaol.

L. 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, or other Officer empowered by the Collector in that behalf, to enforce the same simultaneously with, or either previously or subsequently to their enforcement against the principal; so, nevertheless, that no more than the total sum in arrears, and interest with costs and charges shall be realized from both.

LI. When land revenue is payable in kind it shall be lawful for the Collector or other Officer empowered by the Collector in that behalf, to prevent the removal of the crop from the land until a division has been made, and the portion which belongs to Government has been set apart, unless the landholder furnishes such security as the Collector may deem satisfactory.

LII. All arrears of revenue other than Land Revenue due to Government, all advances made by Government for cultivation or other purposes connected with the Revenue, and all fees or other dues payable by any person to or on behalf of the village servants employed in Revenue or Police duties, and all cesses lawfully imposed upon land, may be recovered in the same manner as arrears of Land Revenue under the provisions of this Act, unless the recovery thereof shall have been or may hereafter be otherwise specially provided for.

LIII. Persons employed in serving notices or in other process under this Act, shall be entitled to batta at such rates as may from time to time be fixed by the Board of Revenue with the sanction of Government, and published in the District Gazette.

Interest and Charges recoverable as arrears.

LIV. The batta mentioned in the foregoing Section, as well as interest, and all costs and charges incurred under the authority of this Act, shall be recoverable from the defaulter and his sureties in the same manner as arrears of revenue.

Expense of countermanded sales to be sustained by the defaulter.

LV. Where property having been attached or distrained may be ordered to be put up for sale, and the sale may be countermanded, the proprietor shall nevertheless be responsible for the expenses incurred in consequence of the attachment or distraint, in the same manner as if the sale had taken place; and in the event of such proprietor omitting to discharge the amount, it shall be recoverable by the process under which the original demand would have been recoverable.

And recovered as an arrear.

**LVI.** Every person making a payment of revenue shall be entitled to a receipt for the same, signed by the Collector, or other Officer empowered by the Collector 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, and the names of the persons entered in respect thereof in the Settlement account.

**LVII.** Where a defaulter or his surety may reside or hold property out of the District, wherein default shall have been made, the Collector of the District in which such defaulter or surety resides or holds property shall, on the written application of the Collector in whose District such default has been made, proceed in all respects against the defaulter and his surety, and his or their property in the same manner as if the default had been made in his own District. Every such application shall be signed and sealed by the Collector making it, and shall be conclusive as to the amount due, and the party in arrear, in all proceedings against the Collector acting upon such application 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 party to sue in his own District the Collector who made the application.

**LVIII.** No Court of Civil Judicature shall have authority to take into consideration or decide any question as to rate of Land Revenue payable to Government, or as to the amount of assessment fixed, or to be hereafter fixed on the portions of a divided estate.

**LIX.** Nothing contained in this Act shall be held to prevent parties deeming themselves aggrieved by any proceedings under this Act, except as hereinbefore provided from applying to the Civil Courts for redress: provided that Civil Courts shall not take cognizance of any suit instituted by such parties for any such cause of action, unless such suit shall be instituted within six months from the time at which the cause of action arose.

**LX.** No suit brought against any Collector by any person deeming himself, aggrieved by any thing done or purporting to be done under this Act, shall abate by reason of the departure from his District of the Collector against whom such suit shall have

Receipts for payment of revenue.

Procedure where defaulter or surety resides out of District.

Effect of Collector's application.

Civil Court not to take cognizance of questions relating to rate of revenue.

Suits by persons aggrieved by proceedings under this Act.

Limitation of suits.

Suits against Collector to survive against his successor.

been brought; but the suit shall be continued against the successor of such Collector in all respects as though it had been instituted against himself. A suit may be brought against any Collector in his official capacity on account of any thing done or purporting to have been done under this Act by his predecessor subject to the limitation prescribed in the preceding Section: provided that no Collector shall be personally liable for any official act of his predecessor.

Or to be originally maintainable against him.

No personal liability for acts of predecessor.

Regulation V of 1822 not to apply to sales under this Act.

Regulations XXVIII of 1802, and I and II of 1803, not to apply to arrears recoverable under this Act.

**LXI.** Regulation V of 1822 shall not be applicable to sales of property under this Act.

**LXII.** Regulation XXVIII of 1802, and Regulations I and II of 1803, shall be inoperative as respects arrears of revenue recoverable under this Act.

**LXIII.** Nothing in this Act shall be held to bar the operation of the provisions of Regulation V of 1804, and of Regulation X of 1831, in respect to the sale of lands of Minors and other disqualified landholders.

**LXIV.** Nothing in this Act shall apply to the collection of Land Revenue within the limits of the Town of Madras, as defined by Section 12, Regulation II of 1802 of the Madras Code.

**LXV.** The following enactments [are hereby repealed, except in so far as they rescind other Acts and Regulations, or parts of Acts and Regulations, and except as to any proceedings, or matters which shall have taken place before this Act comes into force:—

Regulation 26 of 1802.—All except the Preamble, and Sections 2 and 3.

Regulation 27 of 1802.

Regulation 3 of 1830.

Regulation 6 of 1832.

Act XXXIX of 1858.

**LXVI.** This Act shall take effect from such date as the Local Government shall fix by an order to be published in the Official Gazette.

Scope of Act.

Repeal of certain enactments.

Commencement of Act.

No. 4066.

From *Pro. B. of Revenue*

Dated *26<sup>th</sup> November 1869.*

FOR ORDERS.

*opening the correctness of the  
opinion given by the A. Genl. the  
defect in the act passed & hence,  
corrected by a new enactment.*

*W. J.*

*A. J.*

*Re-Rev. Mr. Clerk 1/19  
d. Dec 28/69*

Revenue Department.

No 3218.

Proceedings of the Madras Court  
under date the 21<sup>st</sup> Decr 1869

Read the fol-  
-lowing Res: of the Board  
of Revenue.

Submitting letter  
from the Colly of Madras  
forwarding copy of opi-  
-nion of the Advocate  
General declaring that  
none of the provisions of  
the Rent Recovery Act II  
of 1864 can be enforced  
within the local limits  
of the Town of Madras &  
marking that such a  
-ment of law seems de-  
-sirable.

(H.E: 26<sup>th</sup> Nov<sup>r</sup>  
1869 No 8737)

The Court con-  
-curs with the Board of  
Revenue as to the ad-  
-visability of extending the  
operation of Act II of  
1864 to the town of Madras

2. These proceed-  
-ings will be commu-  
-nicated to the Legislative  
Department

Department, in view  
to the necessary steps  
being taken to bring the  
subject before the Le-  
gislative Council. -

OK

*[Faint, illegible handwritten notes]*

14. Letter to Dept. 200  
2-5-3, Legation Dept. 19 Jan'y  
2-5-3, 1003 1/2

*[Faint, illegible handwritten notes]*

Ed. Hall