A 7/92

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THE

Land Revenue Rules (192[illegible]
Bombay Presidency

WITH

Commentaries and Supplements

COMPILED BY

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Settlement Commissioner and Director of Land Records, Poona

(Issued under Government Resolution, Revenue Department, No. 55, dated 7th January 1921)

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PREFACE.

THIS work was first published in 1918 as a provisional edition. Upon those rules a number of criticisms were submitted to Government, and also the defects noticed in my former preface: the Commissioners in conference also kindly examined all the notes and pointed out certain misprints and enabled me to make many corrections and improvements, which with the Rules as finally approved by Government constitute the present edition.

The Commissioners took exception to some of my notes as criticising the policy or orders of Government—but in their Resolution (Revenue Department) 55 dated 7th January 1921 Government have consented to their retention, and have observed :—

"Mr. Anderson has written a very valuable collection of commentaries on these rules, which contains much information as to the past history of many subjects, and serves as a useful index to the many hundreds of orders of Government and decided cases which fill the district record rooms. The boundary line between comment and criticism is sometimes difficult to draw and Mr. Anderson should make a final revision of all these notes with due regard to the criticisms which the Commissioners have furnished. The notes may then be included in the official edition of the Rules and Orders: but they will be carefully distinguished from the text: and it must be clearly understood that Government do not endorse the commentator's views or accept responsibility for the accuracy of all the matter in the commentaries. The commentaries in Rao Bahadur H. V. Sathe's 'Land Revenue Code and Rules' were long in daily use by all officers and by the public on a similar understanding. Government see no reason why the book should not be sold to the general public, as it contains much information with which it is desirable that everybody interested in landed property should be acquainted."

Like all commentators I have allowed myself the liberty of airing personal views, not in order to thrust them upon any unwilling to accept them, but solely to stimulate reflection and to suggest the possibility of other views. After the large part I have been privileged to take in constructing the present fabric of our Land Revenue Administration I should have been less than human had I had no divergent views as to its weakness and strength.

Every Revenue Officer has in his library an unindexed mass of Government Orders and Resolutions which he cannot study, and which might as well not exist for any use he can ever make

of them without a guide. My object has been to make my notes an index to the Revenue Department files. I have often given only the number and year of the Resolution, without quoting its words or text. This method has been criticized: but it enables any officer to go deeper into any point which comes before him when new difficulties arise and he wishes to know the origin of the text and my commentaries. Had I given the text of all these Orders, both relevant and irrelevant matter, as some of my predecessors have done, the bulk of the notes would have easily been quadrupled at the cost of some paste and scissors' work.

Orders differ from Rules in that they do not bind or affect the public, but the Revenue Officer only. So they do not require the formality of prior publication.

The Code itself has been separately edited, with a valuable body of commentaries necessarily overlapping my work at some points, by my old friend and sometimes my helper Rao Bahadur Ramchandra N. Joglekar, I.S.O.

F. G. H. ANDERSON.

MARSEILLES, 30*th October* 1921.

VALEDICTORY.

No administration—not even of the Bombay Land Revenue—can long stand completely motionless. Indeed since my first edition in 1918 and second in 1921 many changes of greater or less moment have penetrated and remained. Of these the chief are the rules embodying Mr. R. M. Maxwell's suggestions for the Record of Rights; and the revised rules for regulating the conversion of agricultural land to more profitable uses, which are now step by step approaching the ideals long ago set forth on Supplement A, part II.

I have to thank many for helping with criticisms and for pointing out inaccuracies. This will be the last time I shall pilot an edition of these rules. My labors will probably be best appreciated by him who undertakes the next; and their imperfect fruit I now bequeath to all the officers of the Bombay Land Revenue administration.

F. G. H. ANDERSON.

MONTE CARLO, 25*th April* 1929.

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ABBREVIATIONS.

(1) All Government Resolutions and Orders are quoted thus:—One (or two) letter(s) indicating the Department: the Serial Number of the year: the last two figures of the year; *e.g.* R. 55-21 means Revenue Department Resolution No. 55 of (25th January) 1921. Since the Secretariat has adopted the new case system, the full date (and not the year only) is given.

(2) Some others are explained in the Preamble on page 1.

A. G.	.. Accountant General.
B. G. G.	.. Bombay Government Gazette.
D. I. L. R.	.. District Inspector of Land Records.
H. C.	.. High Court.
I. L. R.	.. Indian Law Reports.
L. F.	.. Local Fund (Cess).
N. A.	.. Non-agricultural.
R. A. M.	.. Revenue Accounts Manual (1931 edition).
R. L. A.	.. Remembrancer of Legal Affairs.
S. N.	.. Survey Number.
T. F.	.. Taluka Form.
V. F.	.. Village Form.

(3) Abbreviations in common use—such as p. or pp. for pages, *e.g.*, etc., *sci* : (for scilicet) and so on—are not tabulated.

MO-1 Bk Ca 15—5

The Administrative Orders are interspersed among the Rules in the logical sequence of their subject-matter. They will be found thus—

Order I to XVI follow Rule	..	..	2
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THE LAND REVENUE RULES, 1921.

[*Drawn up and Annotated by F. G. Hartnell Anderson, M.A. (Oxon.), I.C.S., Settlement Commissioner and Director of Land Records.*]

Secretariat, Fort, Bombay, 26th January 1921.

No. *B.*-205.—In exercise of the powers conferred by sections 213 and 214 of the Bombay Land Revenue Code, 1879 (Bombay V of 1879), and of all other powers enabling him in this behalf, and in supersession of Government Notifications in the Revenue Department No. 7368 dated the 6th December 1881, No. 8356 dated the 27th November 1903, No. 5223 dated the 28th June 1905, and No. 5641 dated the 5th June 1907, and all notifications [1] amending the same, the Governor in Council is pleased to make the following rules—

1. Eight copies of all such notifications are to be sent to the Government of India, Department of Revenue and Agriculture (see Home Department letter 2891—8-9-05), and four copies to the India Office. Earlier rules were in Notification R. 7368—6-12-81 and under the Act of 1865 in pp. 669 *et seq.*, *B.G.G.* of 31-10-78.

The rules (without commentaries) were ordered to be translated into the 3 vernacular languages in R. 313/B on 20-8-23.

[The figures in square brackets at the end of each rule and order are the numbers of the more or less corresponding old rules. "A" signifies the rules for alienated villages in Notification 5641 dated 5th June 1907; "C" signifies the rules for copies in Notification 7368 dated 6th December 1881; "R": the orders for remissions, etc., in R. 650 and 2702—07, 5269—08; "N" signifies a new rule.]

The Rules are in large type: quote thus: L. R. R. 14.

Administrative orders are in smaller type; serially numbered with Roman numerals: they can most conveniently be quoted thus: L. R. O. XIV (meaning Land Revenue Administrative Order No. 14).

Notes (as to which see R. 55-21) are in small type, numbered serially, and appended to the Rules or Orders to which they belong. Quote thus: L. R. N. 14.

CHAPTER I.

INTRODUCTORY.

Short title and extent of application.

1. These rules may be called the Land Revenue Rules (1921). Rules 7 to 10 inclusive, 21 clause (2), 23, 25 to 27 inclusive, 38 and 70 shall not apply [2] to Sind. [1]

2. These Rules and Orders do not all apply in Khoti and Talukdari villages.

A.—Khoti.

(*i*) To the khoti lands in *Ratnagiri*, to which Act I of 1880 (the Khoti Settlement Act) applies, "no Rule or Order hereafter made shall be applicable, unless it is expressly directed in such Rule or Order, or in some subsequent Rule or Order, that it shall be applicable." [see 40 (*d*)]. Of the present Rules those which are not applicable are 15-16; 20-23; 30-38; 41-53; 73-74; 84; 92-98; 103-117; 119-127; 134-135. All the rest of the Rules are applied. Rules 72 (*b*) and 133 apply with the modifications in the notes (174, 175, 300) thereunder (Notification R. 6794—11-9-79 and R. 3451-08, 12022-12). But rules 31-57 must be applied to Government lands, which do not include gaothan in which pardi lands are to be assessed (R. 983-96, 7968-13), within the Khoti village limits.

In R. 3330-10 and R. 2180F—29-3-22 Government notified that Rules 80-87, 85-91 and 99-102 (present edition) apply to Dhara and quasi-dhara lands and the Khot should have his faida on the N-A assessments. But to Khoti lands these rules should not be applied till development progressed and the need arose. But up to 1910 the rules were abortive since no classing of Khoti villages under Rule 81 had been notified.

The revised notification 2180F—29-3-22 is here incorporated. But it excludes Rules 84 and 92-98 (which never would have applied to Khoti villages) and Rules 134 to 141 and 143 (copies, etc.), G.R., R.D., No. 9179/28 of 29-11-34.

(*ii*) In Ratnagiri, the Khot is not the owner of any waste land. But he has a right of cultivating—

(*a*) all assessed waste lands (R. 6086-03),

(*b*) unassessed unoccupied lands (I. L. R. 31 Bom. 456) (R. 7968-13),

which are *in his village*. Care must be taken to determine whether Khájan and seaside lands are "in his village" or not. Land covered by the high tide and tidal and navigable creeks are probably not within his village: but the dry bed of a river probably is. This right of cultivation probably includes all other benefits other than trees: but practice and prescription is an important factor in any decision (R. 3789—10). When hitherto unoccupied land is occupied for cultivation or for N-A use, it is not Dhara but must be khoti land, and therefore liable to pay faida to the Khot. If such land yields additional revenue to the Khot during the currency of a settlement period, it is the practice for the Khot to pay to Government the assessment as an addition to his jama, but to keep the faida (see R. 7968-13). Whether this is contemplated by section 24 is under discussion. At any rate, the practice seems beneficial to the Khot: since if he objected to it, the Collector could decline to give out land for N-A uses, or to assess and permit occupation of the unassessed land till the settlement expired.

(*iii*) The right to levy assessment on gaothan holdings (pardi lands) was omitted to be reserved in the Khot's jama settlement notice (as had been directed in R. 983-96) at last settlement: and is therefore foregone till next revision (R. 4869-14). But no notice guaranteeing the jama was issued at all; the whole position needs regularising.

(*iv*) In *Kolaba* and Thana under the Kabulayat and Leasehold systems all these Rules and Orders are applicable except when the rights of the Khot clearly bar the operation of the Rule. The terms of the tenure differ in different talukas and villages, so that no compendious statement of their applicability is possible. Perhaps we may say that in Khoti Khasgi and Dhara land the Rules and Orders apply as though the Khot and Dharekari were ordinary occupants, except that the Khot cannot relinquish single survey numbers: while in Khot Nisbat land the Rules apply as though the Khot were a superior holder. Certain rights of occupants to trees are safeguarded, while the Khot also has certain rights more fully detailed in the R. A. M. (1915 Edn.), p. 286. In unassessed land the Rules fully apply (except in Settlement Leaseholds). Waste but assessed cultivable land is disposed of by the Khot, if it was originally in the Khot Nisbat Padit Khata, or is resigned by Dharekaris.

(*v*) It was ruled in Tajubai *vs.* Sub-Collector of Kolaba that the Khot is entitled to bring waste lands under cultivation and pay no more to Government on that account [? for the rest of the settlement period; this *obiter dictum* is of doubtful validity] and this is part of his remuneration as Khot [Bom. H. C. R. (A. C. J.) 131 of 1866].

(*vi*) The rules for imposing N-A assessments all apply but the Khot does not in practice levy faida on such assessments, though in respect of Nisbat lands he seems entitled.

B.—Talukdari.

(*vi*) Under sections 1 and 33 of the Gujarat Talukdars Act VI of 1888 certain sections of the Code do not apply to Talukdari villages. Consequently the Rules arising from those sections can have no application. These Chapters of the Rules are :—

Those relating to City Survey (in Chap. III—19); alluvion (X); the disposal of land (VII) and assignments for public purposes (XI); grazing (IX); fines for unauthorized uses and occupations (XIV); rights to trees (VIII); the Record of Rights (XV); permissions and altered assessments for N-A uses (XIII and XIV); and all the special leases, agreements, and sanads, which are in use where land is disposed of by Government; the new inalienable tenure and the law as to collections through village officers are also inapplicable.

But Talukdari Wantas (chiefly in Broach and Kaira) summarily settled as Personal Inams under Act VII of 1863 are no longer treated as Talukdari estates at all. R. 3189 (411 Conf.)—20.

(*vii*) The Code has been applied in certain Native States, presumably in virtue of a decree of the Ruler, *e.g.*, in Akalkot (P. 5728-79), Jath (P. 5730-79). When a new set of rules is finally confirmed, it is desirable that any State adopting them should notify the fact and republish the rules with the modifications approved by the State administration.

(*ix*) Bombay City and Island has a Land Revenue Act of its own : see Selection DXXIV, p. 20 ; and see R. 965-20 for the areas under different tenures.

(*x*) It is doubtful whether the L. R. C. (or rules thereunder) could be applied to villages permanently leased from Kolhapur (R.—406-B 24-3-22).

2. In these rules, unless there is anything repugnant in the subject or context,[3]

Interpretation.

(*a*) "Chapter" and "Section" mean a chapter and a section of that Code.

(*b*) "Mamlatdar" includes Mahalkari and (in Sind) "Mukhtyarkar". [2]

(*c*) "Public Document" has the same meaning as in section 74 of the Indian Evidence Act I of 1872. [C. 16].

(*d*) "Chavdi" in Sind includes a Tapedar's Dera. [N]

3. Under the General Clauses Act I of 1904, any words or expressions defined in the main Act have the same meaning in these Rules. It is not necessary therefore to repeat this.

CHAPTER II.

(Administrative Orders only.)

Powers and Duties of Officers.

1. The general superintendence of all the administration of the Code is entrusted to the Divisional Commissioner. Except for the powers expressly reserved by the Code to Government, the Commissioner can exercise all the other powers. He sanctions the grant of revised or renewed Sanads for land or Cash allowances [R. 4941 (10)-02] and sanctions alterations in Sanads for alluvion or diluvion [R. 8885 (13)-10]. He

can revise the limits of sub-divisions of districts (R. 2591-81). When Government have approved the surrounding Khalsa settlements he used to sanction settlements and revisions of Inam villages (R. 3691-02) but Government withdrew this power in R. 5248-17. The functions of Commissioner of Survey (sec. 18, etc.) are vested in the Settlement Commissioner and Director of Land Records (R. 5370-01); and those of Superintendent of Survey and (Assistant) Settlement Officer are conferred on officers from time to time, as required, by notification (see paragraph 12, Government Selections, CCXXVII, new series).

Remissions.

II. Power to reduce the sanctioned assessment either on account of deterioration of the soil or misjudgment in the classification (R. 1788-04, 8046-08) or on account of the sub-division of survey numbers (R. 1698-10) is reserved by Government, subject to the delegations to the Director of Land Records in R. 524, 4972-14 and 787-16, which cover all reductions due to clerical and arithmetical mistakes without limit of amount, and the general delegation to the Divisional Commissioner in G. 7569-07, R. 6490-10 and 4164-16, which extends to an annual assessment of Rs. 20 (20 × 25 years = 500) (R. 4495-16). Commissioner, N. D., is delegated the power to reduce Himayat assessment up to limit of Rs. 50 (R. 9718-28—23-2-33) in the case of each individual khatedar. The Collector of Ratnagiri is given power to reduce assessment in Salt lands (R. 106/24—14-4-24). No officer has been empowered to reduce non-agricultural rates once fixed or imposed (R. 476-03); but Rules 81 (2) and (with the Commissioner's sanction) 81 (3) and 82 (*iv*) give the Collector discretion in first fixing the rates. Collectors of Kaira and Thana are given power to remit assessment on account of damage to land by water-logging [R. 9608/28—2-5-33]

The Commissioner in Sind and the Commissioners of Divisions are delegated the power to sanction a reduction of assessment consequent upon the reclassification of agricultural land up to Rs. 100 per annum when reclassification operations are confined to a single village and to Rs. 500 per annum when they extend to more than one village in a taluka. Subject to the condition that when the reclassification extends not to individual Survey Numbers but to considerable parts of a village, the orders of Government should be obtained. (R. 8798/28—2-5-32 and 13-3-33.)

The Code confers no power expressly to remit land revenue, but the power to impose implies also the power to remit, and is reserved to Government, except in so far as they formally delegate it. The orders empowering the Collector to remit and suspend ordinary agricultural land revenue are given in Chapter XVI, but non-agricultural or miscellaneous revenue and judi on inam land exceeding Rs. 100 (R. 6862-83) can be remitted only by the Commissioner. The Collector can remit quarry fees when stone, etc., is wanted for religious or charitable purposes (R. 5295 (115)-11). He also can remit the assessment on land assigned or acquired for a public purpose (R. 9193-11), but this is only a natural

consequence from the assignment or acquisition. He can also remit sale expenses under section 183 [R. 6575-00 and 5295 (81)-11]. But grazing fees under the pass system can be remitted only by the Commissioner (R. 9084-06) who also makes grants of timber for certain prescribed objects from non-forest waste land up to Rs. 250 (R. 8811-07): the Collector up to Rs. 50 (R. 3736-09). For grants from forests, see Joglekar, pp. 95-96. [N]

The Collector may remit fines under section 61 [R. 4347 (21)-02] and the imposing officer (Collector, Assistant or even Mamlatdar) may remit fines under section 148 (chauthai) (R. 2485-83). [N]

III. While the Code gives almost all executive powers in the first place to the Collector (who *signs* sanads for most alienations, H. 7119-II of 27-9-29), it reserves a few to the Commissioner. The Collector fixes irrigation rates under section 55 within the maximum sanctioned by Government [R. 4347 (5)-02]. The Collector hears appeals from Survey Officers below grade of Superintendent of Survey under section 37 (2) (R. 6884-15), and read with section 203, this also gives him appellate power in respect of section 50A, District Municipal Act. The Collector can make reductions for diluvion (R. 1369-16), and may postpone instalments under R. 8046 (7)-08 but only with the Commissioner's sanction. He may transfer Government land to other Departments [R. 4347 (19)-02] and make all assignments under section 38 (Act IV of 1905).

For signing deeds, see also order VI.

IV. While the Collector cannot sanction the employment of permanent establishment (section 21) he can make [3a] all appointments to sanctioned posts on the district staff, except Mamlatdars and Head Accountants: and he may in certain cases create and fill temporary appointments. The most important of these cases is in respect of the staff of Circle Inspectors, peons and labourers for partition and subdivision measurement work, and for repairing boundary marks when the cost is recoverable from the parties (R. 737-00, 6067-07, 6557-11, 9545-11). [N]

3a. The Commissioner had power to sanction employment of unqualified men, but it was taken away by R. 3235-13 and 11081-16: and not restored by R. 1114-20. Discretion to appoint unqualified men of backward class is given in F. 2610 of 17-9-23.

V. The Collector can write off [4] amounts of irrecoverable revenue of all kinds not exceeding Rs. 100 in each case without reference to higher authority [R. 6862-83, 1714-04 and 11221 (27)-12], and the Commissioner provided no defect of system or procedure requiring Government orders is disclosed and there has been no serious negligence which might require disciplinary action [F. 4653 (8)-08] can write off without limit irrecoverable dues for boundary mark repairs (section 122-3; R. 11289-10) and all kinds of revenue and tagai without limit (R. 1704-04); and irrecoverable value of stores or public money up to a limit of Rs. 500 (F. 3977-11) and unserviceable dead stock to any amount, sending an annual

statement to the Accountant General (R. 3116-61). This last power was extended to the Collector by R. 5941-02. For delegation of his powers as to boundary marks, see R. 5295 (60, 61)-11.

Irrigation arrears (though not land revenue) can be written off with the consent of the Executive Engineer (P.W.A.-I. 39-04).

4. When revenue is irrecoverable its retention in the accounts is idle. This is quite a different matter from remission, which implies a concession of revenue which *could* be collected if insisted upon. There is really no *power* exercised in writing off irrecoverable revenue which cannot be realized. See note 288.

VI. Generally speaking all powers of the Collector under the Land Revenue Code or any other law are also exercised under section 10 by the Assistant or Deputy Collector in respect of the talukas in his charge [5] (R. 5941-02). But the Collector may always reserve any power he thinks fit. In particular, Government have directed that powers under Rule 82 (we should now understand 81 and 82) should not ordinarily be delegated (R. 3459-08). There should be no "unnecessary" reservations (R. 7048-03). The power of arrest is to be exercised only when specially delegated (R. 1743-83). The Assistant or Deputy has certain powers of executing contracts and leases under Home Deptt. Resolution 7119-II of 27-9-29 and sanads for tree planting in open sites in villages. He may fine watani village revenue officers (R. 10431-12); and (in Ahmedabad) appoints, punishes, and dismisses mukhis and police patels (subject to control of the District Magistrate) in talukdari villages (R. 1276-21). [N]

The Collector will delegate by name the power to write off irrecoverable revenue up to Rs. 25 (R. 6042—3-4-23).

5. To a Supernumerary or Personal Assistant, powers must be specifically delegated (R. 5941-02). For the general relation of a Collector to his Assistants and Deputies, see R. 7018-03. Powers of a Collector under sec. 135 (F) are conferred on S. L. Rs. (R. 1457 of 26-5-21).

This does not cover the Land Acquisition Act because that Act specially defines the "Collector" as either the Collector of the District or an officer nominated (*i.e.*, specially delegated) by Government to perform his duty under the L. A. Act.

VII. Finally the Code provides that the Mamlatdar should exercise such powers as the Collector may delegate to him. But these delegations must be made "under the general or special orders of Government"; and also they must be made in all cases by name and not merely in virtue of the office held (R. 7773-13, 239-14). These ex-officio powers are given in order XI. Therefore it is desirable that a printed form should be used by every Collector as follows :—

"To Mr. A. B.

"Whereas you have been appointed to be (or to do duty temporarily as) Mamlatdar (Mahalkari) of——you are hereby authorized during the tenure of that office to exercise the following powers :—

(Here print the powers below detailed.)

(The Collector should strike out whatever powers he elects to reserve.)

Collector of————." [N]

VIII. The powers which may be delegated are these :—

Section.	Extent of power.	Authority.
25, 26 ..	All	R. 5295 (9)-11.
32 and Watan Act ..	To fine hereditary or stipendiary village revenue officers.	R. 2116 and 4100-8 1953-93, 5891-0 5595-08.
42, 43, 70 ..	All	R. 4347 (17)-02.
48 (4), 61 (6), 79A and 202.	To sign eviction notices approved by the Assistant or Deputy.	R. 5295 (85)-11.
80, 86 ..	All. [Mukhtyarkars in Sind included. R. 8048 (1)-08].	R. 2598 and 6024-8 9901-06.
90 ..	To sanction sale of movables in alienated villages.	R. 5295 (47)-11.
91 ..	To accept security from defaulting inferior holders.	Under this order.
117-B ..	All	Under this order.
135F ..	Up to a limit of Rs. 15	R. 7623—9-4-24 a 13-4-24.
135H (3) ..	All	Under this order.
141-143, 145 ..	All	R. 8046-08, 7773-13.
148 ..	All	R. 7176-12.
149 ..	To issue certificates direct to other Mamlatdars (apparently in the same or other districts of the Presidency).	R. 5295 (71)-11.
152 ..	To issue notices and remit notice fees levied by mistake.	R. 5295 (73)-11.
153 proviso (a) ..	To issue notices threatening forfeiture.	R. 5295 (74)-11.
154 ..	To distrain and sell movables	R. 5054 of

No. 45

Page 7, Administrative Order No. VIII, column 2, line 25—

Delete the words "in unalienated villages" occurring after the word "moveables".

(G.R., R.D., No. 5953/33, dated 12th June 1937.)

L. R. Rules— Rule 41 (and sec. 68)	All (eksali sales)	R. 5295 (36)-11.
Rule 58 ..	Permit tree cutting in watan land ...	R. 5295 (22)-11.
80 (and sec. 65) ..	To specially selected Mamlatdars ..	R. 3459-08, 52 (32)-11.

Section.	Extent of power.	Authority.
37, 42, 64, 65, 66 (and sec. 170).	To confirm sale at any auction when the Collector has previously fixed (Rule 128) an upset price which is realized. (For powers as to auctions, see Chapter XVIII.)	R. 3520-12.
Revised Rule 81 (and sec. 65).	To All Mamlatdars and Mahalkaris. To grant permission to use land for N. A. purposes in Class II villages subject to the conditions laid down by the Collector.	R. No. 6406/28 of 11-11-31.
18, 19, 133, 61 and 202.	To Huzur Mamlatdar of Surat and Broach.	G.R., R.D., No. 8557/28, dated 14-4-32.
	Ahmedabad	G.R., R.D., No. 8557/28, dated 5-7-32.
	Dhulia, Jalgaon, Nasik and Bijapur ..	G.R., R.D., No. 8557/28, dated 30-8-32.
L. R. Rule 51 (2) ..	To Huzur Mamlatdar of Ahmedabad ..	G.R., R.D., No. 8557/28, dated 5-7-32.
	Bijapur	G.R., R.D., No. 8557/28, dated 30-8-32.
	Surat and Broach	G.R., R.D., No. 8557/

No. 1

Page 8, Order No. VIII—

Add the following at the end :—

Rule 64 (1) ..	To Mamlatdars and Mahalkaris in the Presidency proper (To fix upset price at an auction for sale of Government produce, and to dispose of it by auction provided the estimated value does not exceed Rs. 50).	G. R., R. D., No. 1277/33, dated 22nd December 1934.
Rule 66 (1) ..	To Mamlatdars and Mahalkaris in the Presidency proper (Power to dispose of earth, stones, etc., from forest land in charge of Revenue Department at the rates sanctioned by the Collector).	G. R., R. D., No. 1277/33, dated 22nd December 1934.
Rule 70 ..	To Mamlatdars and Mahalkaris in the Presidency proper (Permission to make use of water for the purpose of irrigation by a budki, provided the Collector has fixed the rate for the particular source of supply under Rule 70-B).	G. R., R. D., No. 1277/33, dated 22nd December 1934.

IX. In issuing his delegation order to the Mamlatdar the Collector can reserve any power he thinks fit, which will then be exercised only by the Prant Officer. In delegating to a Mahalkari, he will probably reserve more powers, and he will also specify whether the Mahalkari is to be considered the immediate subordinate of the Mamlatdar or of the Assistant Collector for the purposes of section 203 (appeals, etc.). The Collector can also appoint a Mahalkari and assign certain powers to him without specifying the local limits of his mahal (R. 6824-14), but the necessity of such appointment shall be reported to Government (sec. 13). In such a case he will be practically a Deputy Mamlatdar within the taluka, exercising such power as may be given to him; and he will not be "below the rank of an Aval Karkun" for the purposes of the Record of Rights. [6]

Survey Mamlatdars are appointed by the Commissioner of Survey (R. 113-16); but their powers are those of revenue officers under Chapter XA (Record of Rights), not of survey officers under sec. 18. [N]

The D. I. L. R. is a revenue officer (R. 1327-02) and can issue summonses for evidence or documents, but the Superintendent is a survey officer: supervising Tapedars in Sind are survey officers (R. 6415-08): but Circle Inspectors are not. The D. I. L. R. has power to order measurement on the application of parties and to levy fees for it (R. 1318-20). Both S. L. R. and D. I. L. R. can levy fees under sec. 135-F (R. 1457-21).

6. A Mahalkari may perform the clerical work of preparing the Irrigation Record of Rights, but cannot be appointed a Canal Officer under sec. 76 (1), Act VII of 1879. (R. 7418-18).

X. An Extra Aval Karkun is frequently treated as such a Mahalkari. He has power to try Assistance (sec. 86) (R. 8616-91) and Possessory suits (under sec. 3 of the Mamlatdars' Courts Act) (R. 72-00, 8269-06). Power of Collector under sec. 154, Land Revenue Code, can be delegated to an Extra Aval Karkun either by name or by designation. An Extra Aval Karkun is not a Mamlatdar or a Mahalkari within the meaning of sec. 12 or sec. 13 of the Land Revenue Code. The powers of a Collector under sec. 156 cannot be delegated to him. [N] (R. 6315/28—17-11-30).

XI. The powers of a Mamlatdar's First or Aval Karkun are regulated by sec. 14. He has been specially given power to sign notices of demand under sec. 152 and may remit the fees if wrongly charged [R. 5295 (72) and (73)-11] and to receive rajinamas under sec. 74 (R. 1743-89, 7428-05). He can also levy fees up to a maximum of Rs. 15 in each case under sec. 135 (F) (R. 7623—9-4-24 and 13-4-24). An Aval Karkun can exercise *in the absence of the Mamlatdar* any powers specifically given by the rules [7] to Mamlatdars [see Rules 54, 67-69, 74 (2), 96, 108 and 138]. A substitute appointed under sec. 15 can now exercise powers under the Mamlatdars' Courts Act by sec. 3 as amended by Act II of 1906 (I.L.R. 25 Bom. 318, 36 Bom. 277). R. 8507-07 gave the Aval Karkun power to try rent suits up to a limit of Rs. 50:

which is now raised to Rs. 100 by Rs. 208-21. [N] The Collector may also delegate the power to selected *Treasury* Head Karkuns R. (L. C.) 541—22-9-23.

7. *Query*: Could he exercise any of the powers delegated by the Collector by name to his Mamlatdar? Apparently not. See I.L.R. 32 Bom. 279.

XII. The revenue officers hereinbelow mentioned shall, previously to entering upon their office, furnish security (sec. 23) to the following amounts:—

		Rs.
1.	Head Accountants .. .. .. }	5,000
2.	Mamlatdars .. .. }	
3.	First Karkuns to Mamlatdars (G. N. 733—2-3-20).	3,000
4.	Special Head Karkuns for payment of Military pensions (R. 8436-14)	1,000
5.	Treasury Nagdi Karkuns (to Mamlatdars and Mahalkaris) (F. 520-21)	500
6.	Mahalkari with treasury (F. 520—31-8-21) ..	3,000
7.	Forest Karkun to Mahalkari with treasury (F. 38-21)	1,000
*8.	Shroff Karkuns to Mahalkari of Kohisthan and Keti Bandar (R. 3608-06)	1,000
9.	Mahalkari without treasury	500
10.	Treasurer at Poona	80,000
11.	Treasurer at Kanara, Kolaba (R. 10466-06) and Ratnagiri	20,000
12.	All other Treasurers	40,000
13.	First Karkuns to Treasurers of Kanara, Kolaba and Ratnagiri	1,000
14.	All other First Karkuns to Treasurers ..	2,000
15.	Second Karkun to Poona Treasurer	2,000
16.	Karkuns other than any of the foregoing employed in Huzur Mamlatdars' or Mahalkaris' (R. 3608-06) offices on Shroff's work	1,000
17.	Karkuns for payment of Military pensions (R. 8436-14)	500
18.	Supervising Tapedars in Sind (R. 7568-12) ..	1,000
19.	Tapedars in Sind	1,000
20.	Stipendiary [8] Patels or Village Accountants appointed under sec. 16, and Japtidars appointed by the Collector to manage attached Khoti villages (R. 3451-08, 8811-16)	200

*He is to hold permanent custody of the Sub-Treasury: subject to verification by Mahalkari as in R. 38-21.

		Rs.
21.	Karkuns or Clerks who write the registers of copying, comparing, search and inspection fees and of bhatta and permanent advances and take charge of moneys deposited for those purposes in Revenue Courts	200
22.	Head Quarter Assistants in Survey Offices (R. 2245-99)	200
23.	Accountant in the office of the Commissioner in Sind (R. 7978-15)	1,000
24.	City Maintenance Surveyors (R. 4737 of 5-5-22) ..	200

Provided that in the case of the officers specified in Nos. 3 and 16 the amount of security to be furnished may be raised by the Commissioner to such amount not exceeding five thousand rupees as he thinks fit: and in No, 20, he may exempt in special cases, e.g., Khoti villages (R. 39-17).

After the issue of R. 4418-16 all powers of Government under sec. 23 are delegated to the Commissioner in Sind under Act V of 1868 (3).

"A Government servant serving in one Department of the Presidency proper should be permitted to stand surety for a Government servant serving in another Department provided, in the case of Hindus, that they are not members of the same joint family (R. 6064/28 dated 26-11-34)."

In Sind a Government servant serving in one department should be permitted to stand surety for Government servant serving in another department, provided, in the case of Hindus, that they are not members of the same joint family.

2. Retired Government servants and servants of local bodies should not be debarred from standing sureties for Government servants. (R. 6064/28—2-12-31).

8. Watandar village officers are not Revenue officers under sec. 3 (1) (R. 2083-90). If a watan *lapses*, then Government succeed to the watan, and the officer appointed by them would be a watandar for purpose of secs. 85 and 94-A (R. 7591-07). But when a watan is commuted, it has not been yet decided that the analogy holds. Talatis are executive and not ministerial officers for the purpose of C. S. R. 459 (*a*). (R. 7268-18).

Security to be furnished before entering on appointment.

XIII. When any person is appointed[9] to any office specified in Order XII, whatever may be the probable duration of his tenure thereof, he shall, before entering thereon, furnish security to the amount specified or to such smaller[10] amount as the Collector may, in the particular case, deem reasonable and sufficient. [4, 5]

9. (*i*) Rules as to admission and promotion in the Subordinate Revenue Service have been framed by Government and published for the Presidency proper in R. 6970-10, and for Sind in R. 4378-13, subject to amendments from time to time. These rules have not been specifically brought under this Code, since they apply also to many officers who are not "Revenue Officers" [secs. 3 (1) and 21]. A further important amendment is in R. 576-18.

(*ii*) Rules for the qualification of Kulkarnis and Talatis are finally summed up in Rs. 5217-18.

(*iii*) Rules for fining, suspending, reducing or dismissing Revenue Officers (under sec. 32) have not been framed *under sec. 214*. They are to be found in G. 2749-05, 4493-07. Apparently (see Note 6) it has been considered more expedient to lay down a procedure applicable to all Departments and not to Revenue Officers. Fining stipendiaries is not considered necessary, but fines have to be employed on occasion against Watani officers. (R. 2116-83, 5891-93, 10431-12). For dismissals, notifications are published by Govt. (J. 5989-10).

(*iv*) They do, however, meet the obligation implied in sec. 214 (2) (*a*) to frame *some* rules and not leave the matter undefined; though the use of the word "*may*" does not make it obligatory to frame the Rules under the Land Revenue Code and by the procedure of 214 (3). The "correlative duty" to fix and regulate and not leave the discretion of all officers unfettered (R. L. A. in R. 4820-00) is discharged.

(*v*) Section 214 (2) (*a*) cannot supersede the statutes regulating the Indian Civil Service, for which and for the Provincial Services Rules have been separately framed.

10. If for some other appointment he has furnished security of a less amount, all that is required is to raise the amount to cover the deficit. The discretion given to the Collector is intended to cover short acting appointments or other special circumstances. Ordinarily additional security is not required from an officer who has already given a smaller security when appointed to an office which he is not likely to hold more than three months.

A Bill (II of 1924) introduced to raise the L. R. C. Sec. 35 limit of pay 35 and 99 to 60 and 149 has not been proceeded with.

XIV. Where he executes a bond[11], the number of sureties shall be one or more, at his option, if the amount of security does not exceed one thousand rupees; and otherwise shall be not less than two. [6]

Number of sureties.

11. There are special forms under the Civil Account Code for Treasurer's security bonds (formerly printed as Appendix Q in Sathe), but it is simpler and of more practical use to require security according to these Rules in all cases when they are Revenue Officers (F. 3697-90).

The Form is in Schedule B of the Code (Joglekar p. 561) (F. 4486-82). But when Government paper is deposited the Form is prescribed in F. 3739-82.

Expired bonds are preserved till there is no possibility of their being of use (F. 3449-90). These bonds are exempt from stamp duty. (*B. G. G.*, Part I., p. 493 of 1881 and p. 1808 of 1889).

XV. (1) Heads of offices in which any officer required to furnish security is serving will be held responsible for seeing that the necessary security is duly furnished, and that it is good and sufficient[12] both at the time it is first furnished and thereafter, until it is no longer required.

Duties of heads of offices in respect of securities.

(2) For this purpose heads of offices shall carefully scrutinize the security and satisfy themselves as to its sufficiency both when it is first offered and also once a year after it has been accepted, and if they deem it insufficient, shall require the officer concerned to furnish additional or fresh security.

(3) Care must be taken that no one person is accepted as surety on behalf of a disproportionately large number of officers, whether such officers belong to the same office or department or not.

(4) No Karkun should ordinarily have in his custody more than the amount for which he has given security: surplus should be placed in the treasury (R. 4431-01). [7]

12. For rules and form of Solvency Certificate, see R. 5187-02 and 3072-09. The property pledged must be in British India (R. 2192-00). A Bond or Contract by more than one person is joint unless there are distinct words importing severance (R. 1635-16): a joint contract is also several (I.L.R. 17 Bom. 6).

XVI. (1) The Collector shall keep a register (Appendix O–A) (R. 2497–99) of all securities furnished by each officer in his district in accordance with Order XIII for scrutiny by the Commissioner during his tour, and shall submit annually to the Commissioner, on 1st October, a certificate that all such securities are good and sufficient.

A register of securities to be kept by Collector.

(2) This register shall contain such particulars as the Commissioner may from time to time direct. A column must be added in all cases in which to record immediately on receipt notices of withdrawal (section 39) of a surety (R. 257–10).

(3) For the purposes of section 31 (2) an annual declaration [13] of all landed property is required from all officers (G. 3000–03). [8]

13. This form and the form of Register of all the declarations is in Joglekar, p. 581.

CHAPTER III.

REVENUE SURVEYS. [14]

Survey and assessment of agricultural land.

3. (1) Every holding not less in area than the minimum fixed [15] under section 98 shall be separately measured, classified, assessed and defined by boundary marks, and entered in the land records as a survey number. [55–1a]

Survey numbers and sub-divisions.

(2) Every holding of which the area is less [16] than such minimum shall be separately measured, classified, and assessed and entered in the land records as a sub-division of that survey number in which it is directed to be comprised; it may also be separately demarcated if the Commissioner of Survey [17] so directs, provided that the said Commissioner may require the persons interested in such holding to prepay the costs, or such portion of the costs as he thinks fit, of so defining the holding. [5–1b)

14. No area exceeding 10 acres should be surveyed by any department, local authority or railway, etc., without consulting the Director of Land Records. The object of this order is to prevent overlapping, or incoherent surveys or resurveys without regard to existing Land Records and previous surveys (R. 13152–18). The Code speaks of the Commissioner of Survey; but after the abolition of the old Survey Department, Government do not approve the revival of the old designation of *Survey and* Settlement Commissioner.

15. The old scale of minima is given in Joglekar, p. 321 with all the orders. But in view of the rank of sub-division under the Code of 1913, the restrictions have little practical effect. Sub-divisions massed into a Survey Number acquire a joint liability for Land Revenue (sec. 117B) and a right of pre-emption (sec. 180) not attached to a separate Survey Number.

16. This rule is based upon R. 9578–08 which removed all restrictions on the size of recognised sub-divisions. It has been decided not yet to introduce Mr. G. F. Keatinge's Bill for restricting generally the sub-division of land (R. 6557—18, 13061–19): but a Bill with this object for irrigated land was circulated for opinion in R. 6601–18. R. 5290 of 5–2–23 sums up the discussion and policy regarding Small Holdings. A Small Holdings Bill was published in Legal Department Resolution No. 191-P of 2–7–27, but was subsequently withdrawn.

17. *I.e.*, the Settlement Commissioner and Director of Land Records (R. 5370–01).

Record of measurements.

4. All measurements shall be recorded in a book or embodied in a plane table map kept in such form as shall be prescribed by the Commissioner of Survey for each survey. The said books or maps shall be preserved as a record of the survey. [55 III]

Test of measurements.

5. The original measurements made by the subordinate survey officers employed for the purpose shall be tested by the officers in charge of measuring establishments in such manner and to such extent as the Commissioner of Survey shall deem sufficient. [15 IV]

Village maps.

6. Village maps shall be prepared under the orders of the Commissioner of Survey showing each survey number and its [18] boundary marks [55 V]

18. Interestatal and international Boundary marks should also be shown, though not covered by the L. R. C. See also Note to Rule 25.

Classification of land.

7. For the purposes of assessment all land shall be classed with respect to its productive qualities. The number of classes and their relative value reckoned in annas shall be fixed under the orders of the Commissioner of Survey with reference to the circumstances of the different tracts of country to which the survey extends and to the nature of the cultivation. [55 VI]

Field-books.

8. Every classer shall keep a field-book and record therein the particulars of his classification of each survey number and sub-division and the reasons which led him to place it in the particular class to which in his estimation it should be deemed to belong. Such field-books shall be preserved as permanent records of the survey. [55–VII]

Test of classification.

9. A test of the original classification made by the subordinate officers employed for this purpose shall be taken by the officers in charge of classing establishments, in such manner and to such extent as may be directed by the Commissioner of Survey. [55 VIII]

XVII. The said test shall be an independent test, that is to say, it shall be made by the testing officer in entire ignorance of the original classer's proceedings or record until it has been completed and its

results have been finally determined, when only the original classing valuation and the test valuation shall be compared and their separate results recorded. [55 VIII]

XVIII. When any classing operations are undertaken, notice shall be given to the ryots to enable them to represent defects and point out their own improvements (R. 7447-86). [N]

Assessment.

10. When rates of assessment have been sanctioned by Government, the assessment to be imposed on each survey number or sub-division shall be determined according to the relative classification value of the land comprised therein. [55 IX]

XIX. In order to afford the people [19] an opportunity of knowing and filing their objections to his proposals, the Settlement Officer shall publish a notification in the vernacular in Form O-B (R. 7447-86, 12161-14, 344-15 and 8914-16), in which the proposed increase or decrease in rates in annas and pice per rupee is stated with a short abstract of his reasons translated into the vernacular; also a copy of his report is deposited for inspection at the Taluka Office. Petitions of objection received by the Collector within two months are submitted to Government for consideration with his proposals. If Government raise (or in an inam village lower) the rates proposed by the Settlement Officer, a fresh notice issues and a fresh opportunity of objection is afforded before the orders become final (R. 6141-03, 15544-17). [N]

19. This order applies to talukdari villages also (R. 1240-18). For a Register of the objections to proposed settlements, see R. 2110, 6529-94. See also R. 1205 of 15-8-28.

10-A. All agricultural assessments (or judi) shall be calculated out to the nearest pie at the rate (per acre or otherwise) sanctioned upon the area chargeable and rounded off in the following manner [19a]:

When the assessment (or Judi)

(*a*) does not *exceed one rupee* the nearest half anna shall be taken neglecting 3 pies and under and counting 4 pies and 5 pies as 6 pies, in case of all districts, except the Konkan and below-ghat talukas of Kanara, where the nearest 3 pies shall be charged. For example, in the Thana, Kolaba, Ratnagiri districts and the below-ghat talukas of Kanara—

an assessment of Re. 0-10-4 shall be taken as Re. 0-10-3;
an assessment of Re. 0-10-5 shall be taken as Re. 0-10-6;
an assessment of Re. 0-0-2 shall be taken as Re. 0-0-3.

Elsewhere

an assessment of Re. 0-8-3 shall be taken as Re. 0-8-0;
an assessment of Re. 0-9-4 shall be taken as Re. 0-9-6.

(*b*) *exceeds one rupee*—

the nearest anna shall be taken in all cases, neglecting 6 pies and under and counting 7 to 11 pies as one anna, for example—an assessment of Rs. 1–3–6 shall be taken as Rs. 1–3–0 ;

an assessment of Rs. 1–3–7 shall be taken as Rs. 1–4–0 : Provided that—

(1) when the calculation results in the sum total of the new assessments (or Judi) of all sub-divisions of a survey number being greater or less than the whole assesment (or Judi) of that number, the difference shall be equitably distributed over the sub-divisions by deduction or addition in the largest shares, so as to make the total equal to the assessment (or Judi) on the survey number;

(2) subject to proviso (1), the assessment of a sub-division shall in no case be less than a pie and every fraction of a pie shall be considered as one pie, the addition being counterbalanced by deduction in the assessment of any of the other sub-divisions of the same survey number in an equitable manner ;

(3) no new assessment (or Judi) on a survey number or sub-division of a survey number shall be less than 3 pies in the Thana, Kolaba and Ratnagiri Districts and in the below-ghat talukas of the Kanara District, or less than 6 pies elsewhere, but this provision shall be subject to the condition that the total of the assessments of all the sub-divisions of a survey number shall not exceed the assessment (or Judi) of that survey number. Where this condition cannot be fulfilled, any assessment of less than 3 pies or 6 pies, as the case may be, may be retained subject to proviso (2). (G.R., R.D., No. 5314/28, dated 15-6-32.)

19*a*. This rule does not apply to Sind which has another but equivalent method. (R. 5387—24–5–26.)

Amalgamation.

11. (1) Any survey number or sub-division of a survey number may be amalgamated [20] with any other coterminous survey number with the sanction of the Collector and upon the application of the holder, whenever all the parcels of land proposed for amalgamation are held by the same holder upon the same tenure.

(2) Any sub-division may be amalgamated without prior sanction with any coterminous sub-division of the same survey number held by the same holder upon the same tenure.

(3) When such amalgamation is effected, the two or more portions of land shall become one entry in the land records, bearing the same distinguishing number as the first in series

of the amalgamated numbers. Any boundary marks placed between the amalgamated holdings shall be removed and the village map corrected accordingly. [N]

20. Such amalgamations involve revision of the village atlas or Record of Rights Map; and can therefore be charged for under sec. 135 G (*b*). They cost very little, and, if we cannot check sub-divisions directly, we can by this newly sanctioned scheme of amalgamations set up a counter-current which will tend to mitigate the obvious evils of excessive "morcellement."

20-A. A holder of two or more contiguous Hissas in 2 (or more) S. Nos. desires to have them amalgamated. Directly, this is not allowed; but if the Collector (upon information or the report of a Surveyor, Mamlatdar or D. I. L. R.) judges that there is no objection and it would be a genuine aid to cultivation he may permit the amalgamation indirectly by first allowing (on holder's request) the amalgamation of the S. Nos. then automatically the contiguous hissas become one hissa. The objections would be (*a*) if the new amalgamated S. No. would be of unwieldy size or shape (*b*) if the interests of the holders would be adversely affected (which seems unlikely) (D.L.R.'s L. R. R. 11, dated 1-6-23 and 11-1-27) and (*c*) if the advantage to cultivation would be too small to secure at the cost of so much correction of the Land Records. It should not be allowed for merely sentimental reasons.

12. (1) Rules 3 to 11, unless otherwise directed by Government, shall be observed in the conduct of revenue [21] surveys of lands used, or which may be used, for the purposes of agriculture. [22] [55]

Application of rules 3 to 11.

(2) Matters of detail [23] not provided for in the foregoing rules shall be determined in each survey in accordance with such general or special orders as the Commissioner of Survey, acting under the general control of Government, may, from time to time, issue.[55 X]

Form and details.

21. The principles of Settlement (R. 2619-84 and 9623-10) are discussed in the Settlement Manual (Mr. R. G. Gordon). Orders as to the annual calendars of Settlements and their disposal will be found in R. 800-00, R. 543-11 Quinquennial calendars are prescribed in R. 3157-07, to give figures to the end of July (R. 14548-17). These rules apply in their entirety only to future assessments of land not hitherto brought under a Survey Settlement, such as lapsing Inam villages, etc. Though there are no other rules *framed under the Code*, still Government have approved Manuals of Accounts, A.B. Lists for the destruction and preservation of records including Land Records, and the Survey and Settlement Manual; and a compilation of Rules in the Land Records Department, dealing with maps and plans among other matters. Therefore [see note 9 (*iv*) to order XIII] the requirements of the law [sec. 214 (2) (*o*)] are satisfied.

22. To put an assessment under these provisions on non-agricultural land is illegal and the settlement guarantee does not cover it since the issue of R. 4267-96 (R. 2905-12). Land which has been assessed for agriculture by the Settlement Department when used for non-agricultural purposes has its assessment altered under sec. 48 and the new non-agricultural assessment is fixed by the Collector under Rules 80-91, and not by the Settlement Department.

23. For the old Dharsod rules, see R. 1698-10, 5242-11, 6368-13, 7410-14 (when more land is amalgamated into an old survey number); no doubt the same rule would apply to exclusion. See also Note 31. But after 1925, Rule 10-A regulates all Dharsod.

Survey and assessment of non-agricultural land.

13. (1) Land of any of the kinds specified in sub-rule (2) shall be measured and mapped in accordance with rules 3 to 6 inclusive, but shall not be classified or assessed in accordance with rules 7 to 10.

Non-agricultural land not to be classified in accordance with foregoing rules.

(2) The lands referred to in sub-rule (1) are the following :—

(*a*) occupied unalienated lands, which are situated within an area in which a survey under rules 3 to 11 is in progress and which are used for any non-agricultural purposes ;

(*b*) unoccupied unalienated lands, situated within any such area, which are deemed to be likely to be more in demand for building or industrial purposes than for agriculture ; and

(*c*) all lands to which a survey is extended under section 131. [24] [N]

24. For surveys of village sites, see R. 4054-01 and the City Survey Manual.

A charge can be levied for the survey of village sites not large enough to fall under sec 132 only when first the Record of Rights Act is applied to the village site, when the cost of mapping and preparation of plans is recoverable under sec. 135G (*b*). The mere survey of street lines without the mapping of individual plots is rejected in paragraph 2 of R. 995-10. Where there is any such Register of Titles or Record of Rights, the Municipality should not be charged with the maintenance thereof (F. 968-13).

Assessment of non-agricultural land.

14. The Collector on receipt of a schedule of the lands referred to in rule 13 (2) shall assess [5] them at the same rates and for the same period as if he were altering an agricultural assessment under whichever of Rules 81 to 85 has been applied to the locality. [26]

Provided that land wholly or partially exempt [27] from assessment under the proviso to section 52 or under section 128 or otherwise shall not, so far as it is so exempt, be assessed.

And also provided that land held under unexpired leases shall become liable to the rate of assessment in force for the locality only upon the expiry of those leases. [N]

" 14-A (*1*) All non-agricultural assessments, rents and fines leviable under rules 43, 47, 49, 51, 80—83, 90, 92, 93, and 99—103 shall be calculated out to the nearest pie at the rate (per acre or otherwise) sanctioned upon the area chargeable : but any sum so calculated that –

(*i*) is less than two annas, shall be raised to 2 annas ;

(*ii*) exceeds two annas, and is not an exact multiple of two annas, shall be rounded off, upwards or downwards, and when equidistant upwards, to the nearest multiple of two annas—*e.g.*,

an assessment (fine or rent) of one anna and 3 pies will be charged as two annas ;

an assessment (fine or rent) of 2 annas and 11 pies will be charged as two annas ;

an assessment (fine or rent) of 3 annas will be charged as four annas ;

an assessment (fine or rent) of Rs. 8-9-5 will be charged as Rs. 8-10-0;

an assessment (fine or rent) of Rs. 8-10-7 will be charged as Rs. 8-10-0;

an assessment (fine or rent) of Rs. 8-11-0 will be charged as Rs. 8-12-0.

25. Non-agricultural assessments are leviable in three forms:—

(*i*) as an original assessment imposed at survey time under sec. 100 by a Survey Officer (the Collector can be nominated) (unless he finds a lease or agreement already in existence);

(*ii*) a similar original assessment imposed by the Collector under sec. 52 upon land which was left unassessed at the time of the survey and was then occupied or subsequently granted for non-agricultural uses;

(*iii*) an altered assessment imposed in place of an original agricultural assessment under sec. 48.

There are also *rentals* (not assessments) fixed under Rule 52 (old 36 IV) and in special agreements or leases for Hill Stations, etc.

The whole subject was excluded from the Survey and Settlement Manual by R. 3444-15, and transferred to Supplement A of this volume.

26. He may also in cases under sec. 130 impose a price for the occupation: and for unoccupied land also under sec. 62 and Rule 43: and fines in special cases for permission to alter the use under the last clause of sec. 65.

(*ii*) The concessions in Rules 83-85 (now cancelled except in Bombay Suburban District) could not apply retrospectively. They were intended to encourage proper spacing of new buildings and to induce people to take up new land for building, and therefore they are quite out of place in dealing with land already so occupied, the use of which is in itself a cause of some of the overcrowding which Rule 85 (2) aimed at removing.

27. The policy of Government is not to assess village site plots at present, while *reserving* the right to assess them (sec. 7, Regn. XVII of 1827; R. 9656-16). This is more fully discussed in Supplement A on N-A Rates and Tenures. See for instance the sanction of the G. of I. to a grant for Educational purposes of 8 acres valued at Rs. 1,200 in (G.I.) L-127A of 28-2-12.

(*ii*) If such assessment were ordered to be made, then we should find three classes of holdings:—

(1) Pre-British occupancies.

(2) Grants made by the British Government.

(3) Occupations commenced after British rule, but without any British Government grant.

(*iii*) But all land irrespective of its ownership is liable to assessment, unless exempted by a definite grant, the onus of proving which is on the claimant. Holdings of class (2) may have been granted free of revenue in perpetuity or for a term: or subject to payment of revenue if at any future time Government demands it, or subject to an actual payment reserved in the grant and liable to revision or not, according to the grant. Unless exemption or "other terms not yet expired" can be proved, all holdings in classes (1), (2) and (3) are equally liable to be assessed: but Government will not apply a power to tax under a Taxing Statute unequally and will not arbitrarily tax some plots and not others (R. 4344-86). Hence for the present such plots if not liable to pay under a special grant under class (2) are not taxed unless they fall within the class of recent usurpation defined in sec. 130.

(*iv*) Likewise in the Kolaba and Kanara districts (Konkan generally) where there are usually no gaothans or quite inadequate gaothans, all land occupied by farm or agricultural buildings, prior to the first British Revenue Settlements, about 1856, is to be left unassessed (R. 10255-94 and for Kanara 1637-91). Being practically gaothan it would be anomalous to tax it. But there is evidence that originally the intention was to exempt only farm buildings held by agriculturists (R. 858-72, 4333-85, and Selection CXXXV). But the exemption spread to all rural buildings probably because of the difficulty and infructuous results of making distinctions. See also the case of Mafi Kachho noticed in Note 185 (*ii*).

(*v*) A grant or sale of land merely omitting to specify any assessment is not equivalent to an exemption and does not deprive Government of the right to assess under sec. 45 or 52 at any time (I.L.R. IX Bom. 483). See an analogous case in R. 3275-17. If any landholder desires that any lease or deed alleged to have been granted in the past should be respected, he must himself produce it (R. 3482-83), and cannot throw the burden of production upon Government.

(*vi*) The officers who are deemed to have had authority in the past to make grants of land are (1) Collectors, (2) authorities superior to Collectors, (3) officers mentioned in the Schedule to Bombay Act VII of 1863 in the territories subject to them and under the British Government. This declaration was made in R. 7284-11 for Igatpuri under sec. 128 (*3*), L. R. C., and presumably would apply in principle to other places, substituting (for Gujarat) Act II of 1863.

(*vii*) Sections 128-130 apply only to certain towns brought under Act IV of 1868 where an enquiry into title (though unfortunately without legal provision for the finality of the decision) was made as follows :—

Ahmedabad (with its suburbs). Broach. Surat. Rander. Bulsar. Karachi. Sukkur. Hyderabad. Dharwar. Hubli.

But in many towns (*e.g.*, Broach, Bulsar, Ahmedabad, etc.), there is land known as "Kirayá" or rented land which has always been recognized as Government land, and in its rental Municipalities cannot share ; and there cannot be any occupancy price, as it is occupied (though premia were levied on its conversion into long leasehold or perpetual occupancies) (R. 1148-72, 4732-73). Such land is of course in class (2) "terms not expired" of clause (ii) of this Note.

(*viii*) In sec. 128 is the only exemption prescribed by law. When any survey of a city or town site is carried out, an Enquiry Officer is appointed whose duty it is to decide boundary disputes under secs. 119-120 and claims to titles against Government or the Municipality under sec. 37 (*2*), Land Revenue Code, and sec. 50A of the Municipal Act of 1901 (as amended by X of 1912), and also to deal with claims to exemption. Appeals under sec. 119 apparently lie to the Superintendent of Land Records (sec. 203) ; while those under sec. 37 (*2*) and as to exemption lie to the Collector (R. 6884-15). For a general discussion of City Survey policy see R. 995-10 and the City Survey Manual. Sites exempted even from the Land Revenue are still in theory liable to Local Fund (R. 6515-95). But this has been remitted or never levied in Bijapur, Dharwar and Hubli, or in Gujarat, and presumably elsewhere (R. 8936-14) though levied in Broach on Kiraya lands which were never exempted. Rentals aggregating Rs. 3,010 of town site plots in Kanara are assigned (R. 1569-71) to Municipalities of Sirsi, Karwar, Halyal, Kumta and Gokarn and to Local Funds, and no one-anna cess was levied prior to R. 1732-18 when it was ordered to be collected [see note 76 (*v*)]. It has now been declared that L. F. is leviable on "Mafi Kaccho." (R. 1542-21).

(*ix*) In Narvadari villages such assessment was actually levied as "gharbhadu"; even in talukas where this levy has ceased to be made Government reserve their right to re-impose it if the necessities of the State should so require (R. 541-73). Where the Narvádars themselves levy rent from non-patidars, an assessment is in turn recovered from them (R. 555-68).

(*x*) Another class of land about which there has been much discussion is the Pardi, Wadgi, Udafa or Wada land which is found attached to houses within or sometimes outside the village site. Ordinarily it is used for agricultural purposes, especially for storing produce. Sometimes it contains cattle-sheds, etc., and sometimes becomes covered with farm or other buildings (R.616-59). In Kanara and the Konkan generally, [see (*iv*) above], cocoanuts, turmeric and fibre-hemp are almost always cultivated, and often owners of houses occupied by non-agriculturists attempted to pass them off as agricultural farm buildings on the pretext that the tenants "take care of the palms." [Compare also Note 198.] The question whether the use is agricultural or N-A is sometimes difficult to decide (R. 1637-91). The general rule (old Survey and Settlement Manual, Vol. II, p. 103) is that such lands were exempted as Mafi Kaccho from the agricultural assessment up-to a certain limit ranging from ¼ to 1 acre (Nadiad ¼ acre, Godhra 1 acre) provided they were attached to houses of *land-holders*. For Jhalod Pardi lands see R. 5575-10 and Selection DVI, New Series. Otherwise they were assessed or dealt with under the Summary Settlement Act (R. 722-76). In Gujarat the exempted area was deducted from the larger plots (*e.g.*, out of 28 gunthas, 10 gunthas would be deducted, and 18 assessed), but in the Deccan the whole 28 gunthas would be assessed, and as this exemption was an executive, not a legal act, the Superintendent of Survey exercised a wide discretion loosening or tightening the strings at his pleasure. The exempted portion of such land though it has not been assessed to agriculture is still *held* for agriculture, and cannot be used for non-agricultural

purposes without permission of the Collector under sec. 65 (R. 4583–92). Also it is liable to assessment when its use becomes N.-A., though it has been incorporated in the accounts as gaothan. The assessed portions are still more clearly liable; either immediately on change of use, or at the expiry of the Settlement, being ear-marked for that purposes (R. 9805–94) if the N.-A. use commenced before (*a*) the Settlement: or (*b*) the guarantee notification was amended in 1896 (R. 5344–93). Its exemption even from agricultural assessment is only an executive act of grace, and can be reversed by Government at any time: Sadashiva A Bhat *versus* Secretary of State (Thana District Court Appeal No. 213 of 1908 to High Court decided in 1913).

In Ratnagiri district (e.g., Khed town) plots which clearly would not exceed the ½ acre limit, though not assessed, were roughly mapped and designated "Andaz pardi" and must be regarded as occupied gaothan plots, now mostly non-agricultural, though formerly cultivated.

(*vi*) Pardi and Wada lands are agricultural. Therefore naturally and *prima facie* liable to assessment like all other lands.

(*i*) Wada is open land for storing fodder, manure, cattle, etc. Whether within a Gavthan, such land should be assessed or not turns upon whether the holder has held it by continuous title from a time anterior to British Rule or not.

(*ii*) Pardi means "curtain land" and can only rightly be used when there is a house to "curtain" or surround for privacy.

Further certain area limits of exemption were adopted:—

R. 4344–56 was applied: (in Ahmedabad) to (*i*) and (*ii*), (in Kaira) to (*i*) only when exceeding 1 acre: (in P. Mahals) (*i*) not allowed unless possessor proved his proprietory right; (Broach and Surat) practically none allowed free: (Thana) see R. 8293–83 (Dharwar, Kanara Ratnagiri), confirmed to (*ii*); (Belgaum) both (*i*) and (*ii*); (Kolaba) both (*i*) until cultivated and (*ii*).

Sind R. 3752–72 "in small villages," building sites may be given "under such rules" as the Commissioner thinks fit: not in proprietory right but subject to payment of rent or house tax should Government in future consider it necessary.

The criterion was "whether the land was valuable". Therefore the exemption in Sind may cover (*i*) and (*ii*).

Maintenance of records.

15. For all lands which have in the past been surveyed or assessed, or which shall be hereafter surveyed or settled under the provisions of the Code and these rules, it shall be the duty of the Director of Land Records—

(1) to cause to be corrected any arithmetical or clerical error [28] whenever discovered;

(2) to cause to be incorporated punctually in the land records all changes in boundaries, areas, tenures and assessments either of survey numbers or of their sub-divisions which are made under orders of competent authority as defined in the Code and these rules or any other Act:

Provided that where the assessment of any survey number has been fixed [29] by a declaration under section 102, such assessment shall not be raised [30] upon the discovery of any mistake in classification until the term of such declaration expires. [N]

28. (*i*) Rule 15 which embodies existing practice also partly replaces old secs. 109–110, which are in part also superseded by the Record of Rights.

(*ii*) Clerical and arithmetical errors are therefore to be distinguished from "errors of judgment". Apparently the meaning is that when the assessment of a S. N. is declared, as deduced from a certain area classification and maximum rate, that assessment should

not be altered because it is found that the classification was erroneous or that the area was wrongly defined. But if the servants of Government in making out the account committed transparent clerical and arithmetical errors such as writing down $2 \times 4 = 5$, or by miscopying the number of chains, or writing the bhagannas and assessment of one S. N. against another S. N., or repeating the same figures against the next S. N. instead of fresh figures (dittographia), and so on (all of which errors are from time to time discovered here and there in the huge quantity of survey records we have to deal with) then these mistakes, which were never intended by any responsible person and which Government cannot be taken to have pledged itself not to correct, may at any time be set right upon discovery. The fact of the error must be capable of the clearest demonstration. On the other hand, it was never intended that occupants should be unsettled by re-examination of areas and classification during the settlement period, still less by alteration of the sanctioned rate or jantri. See also Note 31.

29. This means once fixed: after two fixings Proviso to Section 106 of the Code operates. Even the cursory confirmation given to classification by its acceptance without further examination at a revision settlement is held to bar reclassification at any subsequent settlement (R. 4632–17). For a full discussion of the history and law as to reclassification, especially as to Talukdari Estates, see R. 10253–18.

30. This proviso will not cover the case of a parcel of land unmeasured and not included in a survey number, or of a parcel which is transferred from one survey number into another. The guarantee of the assessment of a survey number applies only to the land contained in it and if, the limits of the survey number are enlarged then its aggregate assessment may be enhanced by the addition of the proper assessment of the added portion. Nor does this rule bar the revision of assessment of any land by proper authority upon change of its use (sec. 48) or under sec. 55 for additional irrigation; nor does it bar the reduction of assessment at any time on the deduction of any area, nor (as an act of grace) when an error is discovered which has led to the guarantee of an over-assessment.

16. Detailed instructions [31] and forms shall be drawn up and maintained by the Director of Land Records, subject to the orders and approval of Government from time to time for the proper carrying out of Rule 15. [N]

31. Whenever recalculation of the assessment of a survey number is necessary for any reason, the new rules of Dharsod in Rule 10-A should be followed. The new pakka akar so calculated will be levied even if it results in the anomally that increase in the old area or class of the survey number yields by the new rules decrease in the pakka akar. But in order to bar pettifogging work, reductions or enhancements of less than 4 annas (in the final rate after Dharsod) on account of miscalculations, etc., etc., are not made; in survey numbers assessed at Rs. 2 or less this limit is lowered to 2 annas (Sett. Commr.'s Circular S. V. 73, dated 12–7–17). When the assessment on a Survey No. or sub-division has been fixed at a settlement or revision settlement and guaranteed, and any mistake in fixing the assessment is thereafter discovered the correction of which would result in an increase of the assessment, the mistake should be noted in the Akarband, but the assessment must remain unchanged during the period of guarantee. At the next revision settlement only can the mistake be rectified. Settlement Commissioner's Circular No. S. V. 73 of 24–3–30, based on Remembrancer of Legal Affair's opinion in Revenue Department Memo. No. 4275–B/28 of 12–3–30.

(*ii*) But when large errors which have led to overcharge for many years are discovered, do we besides abating the demand for the future, make refund for the past? No claim is legally admissible after 3 years (R. 5545–05, and item 96, Sch. I, Limitation Act IX of 1908) and in R. 5557–15 Government refused to refund excess collections made through a survey error.

Introduction of settlements of land revenue.

Notifications of Settlements and of period of guarantee.

17. (1) Where the assessments have received the sanction of Government under section 102, a notification shall be published in the district or portion of the district to which the Settlement extends in form A, [32] if such district or portion

of the district is situate in the Bombay Presidency excluding Sind, or, in form AA, if it is situate in Sind, as the case may be. And when the Governor in Council has, under section 102, declared[33] such assessments, with any modifications which he may deem necessary, fixed for a term of years, such declaration shall be notified in the official Gazette.

(2) Where a Settlement is introduced into a part of a taluka of which part has been already settled the guarantee will be restricted to the unexpired portion of the period for which the assessments in the already settled part of the taluka were fixed. [90]

32. The form was approved in R. 4582–04, 819–18 and 3012–20, but the New Rice clause added by R. 508–00 (Jalalpur Revision) is now omitted (R. 6543–16). The increments should now be calculated to ¼ anna under R. 1601–16. All reservations as to trees must be specified therein. Prior to R. 6651–08, when a 30 years' guarantee expired on 31–7–1901, the new settlement rates were announced during the Revenue year ending 31–7–1902 but not levied till one more year had elapsed, i.e., with effect from 1–8–02. But now over all the Presidency we dispense with this interval of one year (R. 3772–16). Separate form AA is now prescribed for Sind (R. 557-B dated 3–7–1932) and this form sufficiently for the circumstances of Sind reserves the right to levy additional water-rates under section 105 for improvements in the water-supply during the settlement period (R. 11081–17).

This rule badly needs amendment thus :—

In line 1 for " sanction " read " approval ".

In the last line read " such declaration of guarantee shall be similarly published and also notified in the official *Gazette*."

The error lies in L. R. C. Sections 102–103 and the subject is more appropriate for discussion under the L. R. Code where I am dealing with it. After this amendment next in Form A of these Rules we should refer to sec. 102 only and should omit the passages about trees, local fund and water.

Then after form A has been issued and after Government have finally sanctioned and guaranteed the settlement, App. XIV. to the L. R. C. (Joglekar's page 627) should be published as a declaration under the revised sec. 103 when redrafted to make sense.

Section 104 of the Code will then drop into its proper place and meaning.

The approval given by Government to the proposed new rates would be a sufficiently considered approval to allow of their introduction and levy. But there would remain a *locus paenitentiae* or space for making amendment and hearing complaints which might be extended to about a year. The Settlement Officer's report and proposals should of course go through all the usual procedure and examination before the first notification of introduction in form A is issued.

The Assistant Settlement Officer prepares a brief summary of his recommendations and remarks and deposits a copy of his report and of this Summary in the Taluka office. (R. 8914–16). This summary is to be translated in Vernacular (R. 3937—14–6–24). The A.S.O. should send his appendices to the Press with headings in big lot (English and Vernacular).

The Precis or Summary in Vernacular which should be about 1/10th the bulk of the Report should also be printed and (some) copies kept for sale at the Government Book Depot (R. 8686-24—30–10–27 ; 17–2–28). Orders as to the printing of the Settlement Reports and reviews (to go in duplicate) as in R. 1093–28—24–7–28.

Scope of Guarantee.

33. Prior to 29th May 1896 it seems that all notifications guaranteeing assessment applied those rates " as fixed by the Superintendent of Survey " to the whole *village*. Thus, whether the land was agricultural or N.-A. and whether occupied or unoccupied, if it was entered as assessed in the Akarbands then that assessment was guaranteed. This seems never to have been really intended, because for unoccupied lands Government had

always from early times reserved the right of giving them out on special terms without being bound by the guarantees applied to occupied land. It was first pointed out in 1901 that if an assessment were imposed in the Akarband on unoccupied land, then Government was bound by it. This conclusion was at variance with the spirit of sec. 54 (and the 2nd clause of sec. 54 repealed in 1913) which presumes that the Settlement is made with the person in occupation, and there can be no *settlement* in respect of lands in the full possession of Government. However, the Code was amended by Act VI of 1901, so that a proviso to sec. 68 restored the right of Government to deal with all unoccupied land without regard to the guarantee. Meanwhile in 1896 the Guarantee Notification had also been amended (R. 4267–96) so that it did not cover any N.-A. land even if assessed in the Akarband in a Settlement intended for agriculture only. After 1901 all unoccupied land whether N.-A. or not and all N.-A. land and all land which was judged to be building sites even if not yet built upon (R. 4763–03) even if occupied was excluded from the Settlements (R. 6513–03). In 1904, however, in disregard of sec. 54, it was again ordered (R. 4582–04) that unoccupied agricultural land should be deemed to be included in the Settlement, if any assessment was imposed in the Akarband. It is difficult to interpret this order in view of the decisions of 1901; perhaps all that it means is that *in the absence of any other order* unoccupied land may be given out at assessments fixed for the Guarantee period. If this were so, then old Rule 18 (new 38), which prescribed that unoccupied unassessed land should be given out (for agriculture) at the same rate as is imposed on neighbouring soil, is a natural corollary: though apparently the proviso to sec. 68 could still operate if in any particular case it was deemed expedient to use it, and not to give out the land at the settlement rates.

(*ii*) A guaranteed assessment upon N.-A. lands in Bijapur City was imposed in 1895 (R. 6515–95), and this applied to all lands occupied or unoccupied. But since the law, as it now stands, since 1901, permits Government to give out unoccupied land otherwise than according to the guaranteed Settlement, in R. 2326–17 they have declared that all unoccupied land in Bijapur City shall henceforth (after 26th February 1917) be given out on leases for a fixed term of years under old Rule 24 (now 43) with standard rates fixed according to Rule 56-II (new 82) and they have ratified the Collector's proceedings in similarly deviating from the guaranteed Settlement in respect of waste lands given out since 1895. (Query, if this would be legal in respect of grants made between 27th August 1895 and the passing Act VI of 1901? Probably only Government would lose by such illegality.)

(*iii*) The effect of an agricultural settlement upon pot kharab (Rule 75) has been much debated. Pot kharab is not unassessed waste (see Note 166), but seems most analogous to pardi land left unassessed (or assessed at *nil*) so long as it is used and held for agriculture.

(*iv*) As far back as R. 3942–85 it was ordered for Thana and Kolaba that *near any town* land occupied by buildings should not be deducted as pot kharab, and the compounds treated as warkas. It was in such situations valuable enough to be made into distinct survey numbers and, if liable, to be assessed, compound and all. After these orders if the Superintendent of Survey did treat any buildings as pot kharab, it was to be taken as a formal act of exemption for the settlement period. To decide what towns were meant it was therefore directed (R. 1397–99) that lists should be drawn up for all other talukas like the lists approved in that resolution for Pen, Roha, Mangaon, Alibag and Mahad. No doubt the fact that there was no such list before 1899 created much uncertainty as to what lands should be exempted; but for the Konkan Government in R. 1397–99 were right in observing that the land which though used for buildings has been so classed as pot kharab on the principles laid down in 1885 was "intended and promised by the guarantee to remain unassessed for the settlement period". But it seems that the amendment of the form of guarantee in 1896, definitely excluding all lands used for building, etc., would have neutralized the effect of the inclusion of such pot kharab in the calculations underlying the published Akarbands. The amendment in R. 4582–04 laid greater stress on the fact of 'use'.

(*v*) But in settlements after 1896, the position seems altered; even if the change from agriculture to N.-A. use was before the settlement. This was argued in R. 10255–94 (the Salsette Settlement), 11023–09, and again in R. 10438–17, it was held that if it was used for N.-A. purposes before a settlement announced since 1896, still it cannot be assessed for that use till that guarantee expires. *The ratio decidendi* is not easy to find. The point is very important in the Konkan where (since gaothans rarely exist) much land is set apart for pot kharab for buildings, and some of these buildings are decidedly N.-A. In Alibag town, land assessed for agriculture was found used for N.-A. and was again assessed and guaranteed by error in a settlement before 1896. In one case, a block of buildings yielding to a non-agriculturist holder over Rs. 900 per annum is assessed at 9 pies, another yielding Rs. 518 at 6 pies, and many more such cases exist.

(vi) Under the form of Notification finally confirmed in R. 3012–20, the Pot kharab used for N.-A. purposes, or indeed for any purpose, is excluded so that even its *nil* assessment is not guaranteed. It is not " dealt with " (R. 11023–09) by the Settlement Officer. The same argument can be used to show that Gavthans are settled by the Settlement Officer R. 3536–24—25–3–25.

Therefore Sec. 48 could never be used: being applicable only to assessed land (clauses 1 and 2), or held free of assessment *on conditions* as to its use (clause 3) which term does not rightly embrace Pot kharab. But it is occupied land left unassessed, and therefore is at any time liable to assessment under Sec. 45 without regard to the change of use: the wings of the guarantee are not thrown over it. What was really needed was a guarantee of *nil* assessment on the Pot kharab (if not already N.-A. so long as it is not used for a purpose unconnected with agriculture. Then Sec. 48 (3) would cover it (Joglekar 120–21, 352. See also Notes 183, 187 (ii).)

(vii) Section 104 does not permit the levy of enhanced rates in the year of introduction, e.g., if an original or revised settlement is announced between 1st August 1916 and 31st July 1917, no enhancements are leviable in the year 1916–17, even though the old settlements expired on 31st July 1916. This will apply to inam villages also in virtue of sec. 216. By R. 6651–08 it is also prescribed that reductions announced in the year between 1st August 1916 and 31st July 1917 shall usually take effect in that year, even when the old rates may not expire till 31st July 1917 and have already been collected; the refunds are not made in cash, but by deduction from future demands (R. 8825–16). In the same circumstances, enhanced demands should be brought into the accounts and treated as " remitted ", though legally they cannot be demanded (R. 4747–97). The anomaly results from the new practice (cancelling R. 2973–04) of introducing revised settlements in the last year of the expiring settlement which sec. 104 does not seem to have contemplated. For the account adjustments entailed, see R. 1148–17. This is an executive concession, never yet explicitly extended to Inam villages, though no doubt equally intended for them. Nor does it affect the duration of the guarantee which runs from the next year (1917–18 in the instance given) (R. 1393–96).

(viii) When the term of a settlement expires, but no action is taken, that settlement continues integrally, and cannot be applied to some lands and not to others (R. 784–92, 1397–12); and this holds good for Inam villages also (I.L.R. 44 Bom. 110).

Notice of sanction and announcement of assessments.

18. (1) The notice required by section 103 shall be given by beat of drum in the village for which the assessments have been sanctioned and a written notice shall be posted in the chavdi or some other public place in the village.

(2) Such notice shall be given by or under the orders of the officer in charge of the survey, referred to in section 100, or the Collector. [90]

(3) Persons affected by the assessments who do not attend at the time and place specified in the notice shall be subject to the same liabilities as if they had attended. [N]

Survey Fees in Towns and Cities.[34]

Survey fees in towns and cities.

19. (1) Where a survey is extended to the site of a town or city, the survey fees payable under section 132 shall ordinarily be so fixed that the total sum payable in respect of such site shall cover the cost of the survey and preparation of the Record of Rights[35] thereof.

(2) In fixing the fees for each building site or any portion thereof held separately[36] the Collector shall have regard[37]

to the provision of sub-rule (1) and to the position, value (or rental), and area of such building site or portion thereof, but such fee shall not exceed ten rupees.[38] [83]

34. Sec. R. 6416–09, 7859–13 and 1338–14.

35. The survey fees should cover the cost of survey and enquiry exclusive of the cost of surveying purely Government lands or lands covered by Government buildings. And even the cost of such extension of the enquiry as is needed to make it effective for purposes of Chapter X–A (R. 5493–18).

36. The meaning of the term "held separately" is determined in R. 5000–16. The term "holder" includes a lessee under Government and a tenant. Therefore, it would seem—

(*a*) if a block of land is owned by one man, but many separate houses are built thereon (either by himself or by his tenants), then each house is a separately *held* building site, because separately tenanted, and a Sanad can be issued for each, and each tenement separately mapped;

(*b*) the term "land" includes building, but "building site" does not: when land is held by one man, and the building upon it is owned by another, each are not holders of the building site, and only the land-owner is entitled to a Sanad;

(*c*) when a Municipality acquires or is granted a block of land and leases it out for buildings or otherwise then (1) N.-A. assessment is leviable just as it would be leviable if the Municipality were a private person: (2) a Sanad is due for each site; the Municipality will pay, unless they have sold all their rights. Fees are in future to be levied also on Municipal property used for public Municipal purposes (R. 15407–17).

37. These fees are recovered after the total cost has been ascertained. A possible method of applying the rules would be to determine for each site which has been surveyed, whether it contains a building or not, its area and also its approximate gross value in round thousands of rupees. Municipal assessments might help but extreme accuracy is not important. Position is an element of value and does not require separate consideration. Having ascertained for each site the value and area, these elements might be then reduced to *units* for the purpose of assessing the fees. The unit of area might be each whole or part of 100 square yards (neglecting fragments of a hundred square yards if the area exceed 200 square yards), and then units of value might be fixed on a sliding scale, such as one unit for the first Rs. 1,000 or part of Rs. 1,000; another unit for the next Rs. 2,000; another for the next Rs. 3,000 and so on; so that a building *plus* land valued at Rs. 1,500 gives two units, but one valued at Rs. 7,200, would give four units. Then multiply the value-units by the area-units and get the total units of assessment for each site and consequently for the whole town or city area. Then see what fee per unit is necessary to cover the total cost. If in many cases the fee so calculated on individual sites exceeds Rs. 10, then the unit charge will have to be slightly raised to meet the loss from the application of this limit. Experience shows that Rs. 10 is far too low a maximum and makes poor and small sites pay for the most valuable sites.

38. The City Survey Sanad Forms A and B are in Schedule H to the Code (R. 482–10). They are now printed as Standard Forms (Orders R. 845 and 12163–14).

The Sanads issued after a City Survey under sec. 133 do not create tenures, but recognize them (R. 10347–(9) and there is no objection to the modification of the wording of the Standard Forms in Schedule H to suit the conditions of any tenure actually found and admitted (R. 482–10, 5000–16).

CHAPTER IV.

Sub-division of Survey Numbers.[39]

Notices to be issued.

20. Before field operations a notice shall be issued by the Mamlatdar and posted in the village chavdi and proclaimed by beat of drum, stating that the sub-divisions of survey numbers in the village are about to be measured according as they has been divided

by the holders, and daily notices shall be given as far as possible specifying the numbers or parts of numbers which are to be measured next day and warning landholders to be present. [N]

39. This is a process carried out by the Land Records Department (R. 10524–10). See also Note 16.

Partitions made by the Collector under Civil Court decree cannot be revised by that Court (I.L.R. XI Bom. 662; XV Bom. 527; and R. 870 and 4873–90 and 4558–97).

Boundaries to be laid down.

21. (1) When there is no dispute the boundary of each sub-division shall be laid down according to the statements of the holders.

(2) Where there is any dispute, the boundary to which the dispute relates shall be measured and mapped in accordance with the claims of both disputants, and the dispute entered in the register of disputed cases. After the dispute has been settled under sections 37 and 119–120, or Rule 108 as the case may be, the map shall be corrected accordingly and the areas finally entered into the land records. [N]

Fees.

22. The fees to be recovered[40] for making sub-divisions in cases to which section 135G (*b*) applies shall, unless Government in any case otherwise direct, be such as will cover the entire cost of measuring, assessing and mapping the sub-division; they shall be assessed[41] by the Collector. [N]

40. For the procedure of recovery in advance see R. 1821–11, now generally obsolete owing to the new provision for post-recovery as a Revenue Demand. Under sec. 135G (*b*) costs are to be recovered as a revenue demand after the completion of the work. The total charges will first be met from advances; then the amount recoverable from each landholder will be assessed and collected.

41. The practice was to divide all the costs in the taluka equally over all hissas irrespective of size or value: but a system of assessment according to area and value appears to have greater propriety and equity under the Code and is being tried, though of course more troublesome. See R. 15303–19 where in Malvan the fees were assessed according to a scale recommended by the Land Records Department. The Collector would be furnished with the figures of cost and classes of hissas by the Survey Officer.

The boundary of a pot hissa as mapped in a Plane Table survey under sec. 135G is held to be the boundary "previously fixed" within the meaning of sec. 119. The map made at the time when the survey number is sub-divided under sec. 117A is the best possible evidence of such fixing (R.L.A.'s 3259–28—12–16 relied upon to remove an encroachment in R. 3476–20.)

"22-A. A survey number comprising land irrigable by the Lloyd Barrage Canals shall not be divided into sub-divisions:

Provided that the Collector may permit any such survey number to be divided into sub-divisions of not less than one acre in extent subject to the following conditions:

(*i*) No such sub-division shall be partitioned, alienated, assigned, transferred, mortgaged, charged or otherwise encumbered, apart from the survey number of which such sub-division forms part, and

(*ii*) If any such sub-division is partitioned, alienated, assigned, transferred, mortgaged, charged or otherwise encumbered apart from the survey number of which such sub-division forms part, the whole survey number or the sub-division thereof shall be liable to forfeiture." (G.R., R.D., No. 1078/33, dated 22–6–1934.)

Assessment.

23. The proportionate assessment[42] of sub-divisions to the land revenue settled upon the survey number shall be calculated subject to the proviso to section 117A (2) according to the relative classification value[43] of the several parts of the survey number as directed in rule 10. Detailed instructions shall be prescribed by the Commissioner of Survey subject to the approval of Government, and may provide for the rounding off of fractions of annas. [N]

42. Rule 23 does not apply in Sind. See Sind Survey Manual, p. 41, para. 1–8, for a discussion on sub-divisions in Sind see R. 12389–16. In Sind, each sub-division is treated as a survey number and as there is no classification as we understand it in the Presidency but only classes according to crop and methods of irrigation, the assessment of each hissa is (possibly) recalculated each year upon its recorded area.

43. For the distribution of assessment of pot hissas, see R. 3464 and 775–11, and for the minimum assessment of 6 pies or one pie (R. 5314/28 of 15–6–32) or ¼ anna in Konkan and Kanara below-ghats R. 6368–13) and Dharsod to the nearest ½ anna if the assessment is less than one rupee and the nearest anna in other cases (R. 1698–10) subject to the total assessment of the S. N. not being exceeded, see R. 7410–14, and for Dharsod on amalgamation see R. 5242–11. The same Dharsod scale is applied to judi on inam sub-divisions (R. 15227–17). The distribution must be based on the classification confirmed by sec. 106 whenever possible. The result is usually summatised in a statement termed the Akarphod Patrak.

(*ii*) Effect is not given at the time of discovery of slight (below 5 per cent.) differences in the aggregate area : they are noted for incorporation in the new Akarband and V.F.I. at the next Revision Settlement. But larger differences are investigated and corrections made (see Compilation of Rules for Land Records Department and new Rule 15).

(*iii*) The detailed measurement of sub-divisions often discloses in respect of the survey number (1) errors, (2) encroachments, (3) conversions of land to other uses or categories. As to (1) see Rule 15 which comes into operation if the difference is appreciable, after the new measurement is proved correct.

As to (2) we must obviously either restore the old boundary or accept the new (R. 3630–97). It will depend upon the agreement of the parties and the evidence. Where the old maps and measurements cannot be exactly relied upon to prove the boundary, and where a party has been in uncontested possession for over 12 years we cannot refuse to accept the boundary and areas as we now find it (R. 7859–17). When we thus accept it, the Records may have to be corrected, and some area may be transferred from one survey number to another.

If A " improves " Warkas or waste land in an adjoining survey number, whether it belongs to Government or to B, and incorporates the improved land in his own number, then it seems that he would not be protected against paying the full Old Rice assessment on the converted area, if he retains it, instead of the concession rates for New Rice. The " improvement " which he had made was not in his own holding, and is not covered by any guarantee.

As to (3), assessment is not always affected by improvements, but the new map of sub-divisions and the village map should show the existing state and existing boundaries, while the assessment depends upon the former classification. The commonest case is the conversion of Warkas land into Rice ; if the map shows only Warkas when all is now Rice, it will not satisfy our requirements for crop inspection ; it is better not to ignore the facts. We therefore map as we find the land. But when fixing the proportionate assessment, we look at the old Suds to see what the land originally was.

CHAPTER V.

BOUNDARY MARKS. (44)

Details of boundary marks to be furnished by the Survey Department to the Collector.

24. On the introduction of a Survey Settlement, the Superintendent of Survey (44a) shall furnish the Collector with a map and statements showing the position (45) and description of the boundary marks erected or prescribed by or under the orders of the Commissioner of Survey. It shall be the duty of the Director of Land Records to amend these maps in accordance with any subsequent alteration of boundaries, in a revision survey or in the sub-division of a survey number or on any other authorised occasion. [97]

44-a. But when an Inam village is surveyed otherwise than under the L. R. C. and no survey settlement is introduced L. R. C. 123-24 cannot be applied, R. 3613-88. But in Talukdari villages (including Udhad Jamabandi) when surveyed under Section 4 of the Gujarat Talukdars Act, B. M. can be maintained by appointing the Collector & Superintendent of Survey for the purposes of Sec. 122. (R. 7642-20—24-4-28).

44. These rules apply to surveyed alienated villages where the landholders have the same responsibility as occupants and the Collector has the full obligations imposed by sec.124 (R. 7169-09).

45. (ii) They apply also to Ratnagiri Khoti villages, except that the repairs are not carried out by Government agency in survey numbers held by the Khot; i.e., they fully apply only to what are known as Sheri Nos. and Khalsa Nos. in Kichadi villages; and Dhara lands (R. 7798-10). In R. 2180 F.-29-3-22 it is ordered that the second section of Rule 24 shall not apply in any village under the Khoti Settlement Act. The reason is not given. In Kolaba they apply without reservation to Dhara and Nisbat lands, and the Khot himself would be responsible for Khoti Khasgi lands.

(iii) The procedure in the repair of boundary marks is given in R. 10527-06, 11737-06, 12186-08. Charges high enough to deter rayats from wilfully leaving the repairs entirely to the Circle Inspector's agency, which are sometime termed 'penal charges' are approved in R. 4981-09. Such charges cannot legally by levied as 'fines' and separately credited; but can be so pitched as to yield a moderate excess over the actual cost of all repairs and be credited to Government in lump as surplus recoveries after allowing for all irrecoverable items, etc. Rewards to village officers for good work in repair of marks are sanctioned in R. 309-89.

(iv) The rules for the repairs of boundary marks will be found in the Manual of the Land Records Department. Some of the rules for advances and the accounts in connexion therewith are in the Manual of Revenue Accounts and the Sub-Treasury Manual. Powers delegated to officers in connexion with these repairs will be found in Chapter II dealing with powers of officers under this Code. It is the duty of Collectors to see that flagholders are furnished by occupants and assistance is rendered by the Balutedars (R. 4860-53). In the Deccan, the Sutar carries the 'shanku' (cross-staff) or the Plane Table: the Chaugula the daftar: the Mahars are chainmen, the Mangs use pick-axe and crowbar: the Chambhars do the whitewashing: the Sanadis or other village messengers hold the flags.

(v) It is not necessary that the marks should be erected on the boundary line: in the method of survey by plane table on a frame work of triangles, large stones are interred to mark the triangulated points. Sometimes the best position for these stones is not quite on a boundary line. But wherever placed, each such stone serves to fix and mark the boundaries of all adjacent plots: it is therefore a boundary mark within the meaning of these rules, and the maps show its position. In R. 4960/28 of 14th July 1930 it is ruled that these stones cannot be considered as boundary marks within the definition of section 3 (10) of Land Revenue Code. These pillars are not provided for by Rule 28. The cost of maintaining or erecting can be levied by distribution amongs urrounding holders, but they are usually maintained and repaired at Government expense. It was the original intention of the Fathers of the Survey Department (Govt. Selection N. S.

No. CCLXXVIII) to constitute survey numbers as blocks of land demarcated without the slightest reference to rights of occupation, etc., but simply to provide suitable sub-sections of the village map, which being firmly demarcated would suffice for the maintenance and recognition of the internal divisions constituting individual holdings.

(*vi*) For marks demarcating the boundaries of " blocks " in Canal irrigated tracts, see new Canal rule 11 (2)—P. W. D. Notification 1556—8-2-26).

25. The following boundary marks are authorized[46] :—

Continuous marks—

(1) A boundary strip.

(2) Sarbandhs or hedges[47] and other permanent continuous structures, such as walls.

Discontinuous marks—

(3) Conical earthen mounds or cairns (*buruz*) of loose stones.

(4) Pillars of cut stone, or brick or rubble-stone masonry.

(5) Prismatic or rectangular earthen mounds.

(6) Roughly dressed long stones.

(7) Any other marks found suitable for special localities[48] and sanctioned by the Collector or Survey Officer, such as teak posts in the marine marshes on the Gujarat coasts.

46. This rule does not apply to Sind (see rule 1). For the Sind rules see R. 12498-07 : special provision for 'diglas' (cairns) and 'kharas' (wattle-pillars) and for boundary strips are laid down in the Sind Circulars.

Various arguments about the merits of different kinds of marks (stone khunts, pillars, iron marks, etc.) were dealt with in R. 1120 and 2215-65 ; they were left to the discretion of the Survey Commissioner (see note 17). The earliest idea (R. 1735-57) was to put a continuous raised ridge round every field.

47. For the recognition of sarbandhs see R. 3804-07 and for the acquisition of a prescriptive right (easement) of having on a boundary trees which overhang a neighbour's land, see I.L.R. 44 Bom. 605.

48. For special forest marks see R. 7063-86.

XX. In districts to which the experiment authorized in R. 7671-14 is extended the Collector may permit the holders of land to substitute[49] for one kind of mark any other authorized mark within the limits below defined :—

(*a*) A continuous mark of class (2) may be substituted along the true boundary line for single or discontinuous marks, or *vice versa*.

(*b*) Single marks (3) or (4) may be substituted for groups of two or more of (5) or (6) on the intersections of the boundaries of 3 or more survey numbers or *vice versa*.

(*c*) Any sanctioned single discontinuous marks may be inter changed at the corners or bends of the boundary common to only two survey numbers.

Marks so substituted, if themselves in proper repair, shall not be deemed to be marks out of repair. Nor shall it be necessary to alter the map so long as the substituted marks occupy the same position and indicate the same boundary as the marks in the printed map. [N]

49. At many places on the intersections of straight line boundaries we find in the Survey Maps 4 large rectangular mounds and one stone at the point of intersection, or sometimes 5 stones arranged in a star. The cost of maintaining so many marks is considerable. Sometimes again it is not easy to maintain an earthen mark, or a stone in a particular position, but it would be easier to maintain another kind of mark. Then again in some places stones to mark corners or bends are expensive, and the landholders would find conical earthen mounds much cheaper and less difficult to erect. Under the rules strictly enforced, no mark indicated in the Survey Map may be changed to any other kind. The idea of the experiment referred to in the above Order is that some latitude should be allowed in the choice of the least expensive and most durable marks according to local and individual circumstances (a principle foreshadowed in R..8-85), so long as the exact boundary is still precisely indicated by the substituted marks. The system of single marks at corners has proved satisfactory in Baroda and Jamnagar States where it was introduced by Mr. C. N. Seddon, I.C.S.

XXI. Ordinarily a general notification under the second paragraph of section 122 requiring all landholders to repair their boundary marks within a period of ten days shall be issued for each village fifteen days before the Circle Inspector expects to commence[49a] the periodical complete boundary mark restoration. [99 (1)]

49a. The old practice was that each year a general notice was issued; then the Village Accountant went round and recorded for each Survey Number whether the marks on its North, South, East and West boundaries were 'in repair' or not. He did not specify as a rule which were out of repair. Then again the holder was called upon to repair them; and then again an inspection was made. Then the Circle Inspector 'tested' the work—and usually found very little repair has been done. He then set about repairing the marks at Government expense. In short there was much inspection and filling up of forms and very little repair. This was cancelled at the writer's suggestion in R. 11737-06. Now it is intended that after the notice period has expired there shall be no further delay before proceeding direct to the final stage of repair by Government. The inspection and the restoration should be simultaneous. If a landholder complains that he would have repaired his marks (and so avoided expense to himself and trouble to Government) if he had known where they were, the answer is that every landholder ought to know the position of the prescribed marks: and if he does not, can find out from the village map and the accountant: and as he has not done that, he should now learn where they are from the Circle Inspector's repairs and never be in doubt again. Without unlimited staff and cost, 3 or 4 rounds of inspection and test and several notices are impracticable.

Maintenance of boundry strips.

26. (1) Boundary strips[50] or ridges shall not be ploughed up or otherwise injured by cultivation.

(2) The minimum width of boundary strips shall be as follows:—

(*a*) in dry crop lands .. .. $1\frac{1}{2}$ feet.

(*b*) in rice and garden lands .. .. 9 inches.

(*c*) On the frontier lines between British India and Baroda State:—3 ft. (on the British side of the exact pillar-to-pillar demarcation line).

This strip shall also be kept free from tree-growth, any young plant being destroyed at inspection time. (R. 9277/24 —2-2-28).

Provided that—

(*i*) where the boundaries of such lands are well defined by banks, hedges, or the like, the actual width of the strip covered by such bank, hedge, or the like, shall be sufficient for the purpose of this rule;

(*ii*) where the boundary of a survey number also forms the boundary of a Native or Foreign State, the minimum width prescribed above shall be maintained for the portion of the boundary strip on the British side; and

(*iii*) where village boundaries have been defined at the time of survey by double lines of boundary marks, the whole of the intermediate strip shall be maintained as a boundary strip.

50. (*i*) See R. 7397-10, 11542-08. For the origin of these ridges or strips, sec. cl. 2 of Note 46. Such an unploughed strip can, of course, only be left where there is ploughing or cultivation: the term has no meaning in grazing land and jungle. When there are no crops on the ground mounds and stones may clearly show the division between fields but when there are tall crops these marks cannot be seen, but the unploughed strips leave a visible break. These ridges or strips are easily ploughed up, and must to some extent be kept clean (see Notes 55 and 56). Consequently a strip cannot be used to supersede discontinuous marks, and is not therefore allowed by Order XX (*a*). The rule has given rise to discussion (R. (L.C.)—1831—11-11-25). The land-holder is required to maintain the marks "specified by a survey Officer (s. 122) or by the Collector exercising similar powers" (s. 124). Rule 25 under s. 124 permits a 'strip' to be specified. But until it is, the chain is incomplete, and it is doubtful whether Rule 26 could be enforced 'proprio rigore'. Therefore, the Collector should declare that unploughed strips between fields are boundary marks under Secs. 122 and 124, and must be preserved in all occupied cultivated fields. Rule 26 (1) assumes that they already exist, and in fact they almost everywhere do exist and are sometimes maintained in a less marked degree even between sub-divisions of Survey Numbers. It might have been better to have added to Rule 26 a provision that such strips shall be maintained round all occupied cultivated fields where they are coterminous with other such fields.

It has been suggested that Rule 26 (2) (*c*) should be extended to the Portuguese Frontier. But no precise convention exists and proviso (*ii*) comes very near to it.

What boundary marks to be considered out of repair and how to be repaired.

27. The following boundary marks shall be considered out of repair and shall be repaired[51] in the manner prescribed for each kind as follows :—

(*a*) A continuous mark (strip, sarbandh, hedge, etc.), if it deviates more than three feet from the true straight line of the boundary. *Mode of repair*—either the deviation shall be rectified or the continuous mark not being a boundary strip must be replaced or supplemented by discontinuous marks.

(*b*) Any conical mound or cairn less than $2\frac{1}{2}$ feet in height and 6 feet in diameter at the base. *Mode of repair*—raise it to 3 feet in height and 6 feet in width at the base. [52]

(*c*) Any rectangular mound less than 2 feet high, or less than 5 feet long and 4 feet wide at the base. *Mode of repair*—the mound shall be raised to full dimensions, that is $2\frac{1}{2}$ feet high, 6 feet long and 5 feet wide at the base. [52]

(*d*) Any mound, conical or rectangular, within 4 feet of which earth has been dug for repairs, when such excavation has affected the stability of the mark or allows water to lodge. *Mode of repair*—the excavation shall be filled up.

(*e*) Any pillar[53] (i) less than 1 foot square or 2½ feet in depth, (ii) broken down, or (iii) rising less than 4 or more than 9 inches clear above the adjacent ground level. *Mode of repair*—(i) replace by one of proper dimensions, (ii) rebuild, (iii) raise the pillar or clear away or make up the ground.

(*f*) Any stone less than 2 feet long and 6 inches thick. *Mode of repair*—a stone of proper size shall be substituted.

(*g*) Any stone out of the ground, or buried less than two-thirds of its length and loose. *Mode of repair*—the stone shall be replaced or fixed firmly.

(*h*) Any mark considerably out of proper position or so repaired or erected as to indicate a materially incorrect line of boundary. *Mode of repair*—the mark shall be correctly placed.[54]

(*i*) Any mark overgrown or surrounded by vegetation of any kind so as not to be easily visible. *Mode of repair*—the vegetation shall be cleared away until the mark is easily visible.

(*j*) Any sarbandh, or continuous embankment less than 2 feet high and 4 feet wide at the bottom. *Mode of repair*—the sarbandh shall be made full 2 feet high and 4 feet wide at the bottom throughout, unless the occupant prefers the substitution of authorized discontinuous marks.

(*k*) Any hedge or other continuous mark which by reason of want of continuity or disrepair fails to define the boundary. *Mode of repair*—the necessary renewals shall be made or other authorised marks substituted.

(*l*) Any boundary strip or ridge which has been ploughed up or otherwise obliterated[55] or the dimensions of which are less than those prescribed by Rule 26. *Mode of repair*—the landholder shall be ordered to restore the strip or ridge within a prescribed period by leaving it unploughed and undisturbed ; [56] on his failure to comply he may be prosecuted under section 125.

(*m*) Missing marks. *Mode of repair*—new marks shall be erected.

Proviso as to marks liable to injury from flooding.

Provided that in any case where a boundary mark cannot, owing to flooding of a nala, or river, the breaking away of the bank, or other causes, be kept in repair, another kind of authorised mark may be substituted. Where even that is impracticable the direction of the boundary

must be fixed by a pair of discontinuous marks erected at an adequate distance back from the abandoned position; either both on the same side, or one on each opposite side thereof. [99][57]

51. In consequence of much opposition to the new boundary mark system in Khandesh and Nagar in the early days of its maintenance, Government ordered particular care always to confine repairs to those actually required by the rules, and to avoid imposing any trouble or expense beyond what is absolutely necessary (R. 512-53, also R. 263-64, 646-94). The maintenance of the marks was considered "essential to the proper working and permanency of the survey arrangements" (R. 3270-56), and in the early years just after the Joint Report, a Mahalkari of Mishrikot was dismissed for allowing boundary marks to fall into disrepair. It has always been the incubus of our village work to maintain the very numerous marks which the survey considered necessary. We have relieved Kulkarnis of useless labour of making an annual detailed inspection note upon every mark, and we have relieved higher officers of the duty of checking this. But it seems that we might now go much further; by setting up pillars at reasonable intervals to be maintained solely by Government and then mapping the intricate boundaries of Survey Nos. and their divisions on a large clear scale, we might dispense with at least 80 per cent. of the number of marks which used to be considered necessary. It is a delusion to suppose that a stone is any preventive of an encroachment. The man who encroaches also moves the stone. Many law givers legislated against it before Moses and Manu. What we do want are incontrovertible points of reference within easy reach of all corners and bends, and clear maps on an adequate scale. Neither of these are furnished by the old surveys.

52. These are the dimensions in newly laid dry earth: they will not be excessive after rain.

53. See R. 8-85.

54. It should be remembered that the intermediate marks along the boundary of a Survey Number are not always placed at the exact distances along the boundary indicated by the scale of the village map: and provided that the number and relative position of such marks is correct no change should be made. The demarcation of minor bends was stopped, except along the boundary of waste land "warkas" (R. 1093-07). The reason is that in fitting Survey Numbers measured on a large scale into a village map on a small scale, a certain amount of distortion and inexactness unavoidably occurred. The village map is a good index to the relative position of Survey Nos. and also shows what boundary marks were erected. But if the exact position of a mark is in dispute, the detailed measurement records of the Survey Number must be referred to. If copies of tippans are needed, occupants can be charged (R. 646-94).

55. It is not intended that a strip, which has been ploughed or dug with the object of clearing out weeds to prevent them from spreading over cultivated land, should be treated as a mark out of repair. The existence of discontinuous marks at corners and bends of the fields makes it easy in most cases to draw the straight line boundary of the field. Weedy boundary strips do not improve cultivation and they waste the land. Ordinarily the ploughing of such a strip is not a serious matter if done inadvertently and without ulterior motives or for the improvement of cultivation provided it is then left undisturbed to fulfill its function once more. It is also common (especially in rice lands) to plant tur or juvar along the ridges between fields; so long as the ridges remain uninjured this may be allowed.

56. Restoration is otherwise impracticable. A strip is land set apart for a special purpose (Select Committee on Code of 1879), and therefore it can be revindicated under sec. 61.

57. Part of old Rule 99 imposing a penalty for repairing a sarbandh or mound with earth dug from a public road has been abandoned as perhaps *ultra vires*: and because there are other remedies: the offence is of negligible frequency.

Likewise in R. 4981-09 a "penal" rate (*i.e.*, above the actual cost) was authorised: but finally in R. 9202-24 Government reverted to the old orders R. 646-94 in which the items to be included in the recoverable cost are defined.

28. (1) The responsibility of the several landholders for boundary marks on a common boundary lies on the holder of the survey number which is numerically lowest.

Determination of responsibility for maintenance.

(2) Sub-rule (1) is subject to the proviso that when any survey number is unoccupied or assigned for public or Government purposes the responsibility for repair of the marks on its periphery will pass to the landholder on the other side of the boundary. Repairs will be made at Government expenses[57a] only when the marks in disrepair lie between survey numbers each of which has no holder except Government.

(3) Within each survey number the holder or holders of each sub-division are responsible for the marks if any have been prescribed on the periphery of that sub-division to the same extent as they would be responsible if 'sub-division' were read instead of 'survey number' in sub-rule (1) and (2).

(4) A mark which is on the common boundary of two or more villages must be repaired by the holder of the land in the village which is under restoration when the marks are found out of repair. [N][58]

57a. When grazing is sold at auction or is granted to villagers free, or at a fixed rate per acre, the boundary marks are kept in repair at Government expense (R. 8627-10); otherwise the purchaser repairs.

58. The effect of this rule is that in each village—

(a) the holders of Survey No. 1 are responsible for all the marks on the periphery of that survey number.

(b) The holders of Survey No. 2 are responsible for all the marks on its periphery except those which are also on the boundary of Survey No. 1.

And so on for all the survey numbers.

(c) If Survey No. 1 the holder of Hissa 1 repairs all the marks on its periphery.

The holder of Hissa 2 repairs all on its periphery, except those which are also on the boundary of Hissa 1.

And so on through all the Hissas.

This definite fixing of responsibility is far more administratively definite and practicable than any method of dividing the cost in shares: and it will work inequitably in very few cases.

When a new (N.A.) Survey No. is formed it is the duty of the holder of the new No. to put up the marks necessitated by its formation. This duty on first creation cannot be transferred to the other S. Nos. under this Rule.

CHAPTER VI.

ENQUIRIES UNDER SECTION 37.

29. (1) (*a*) Before an enquiry under section 37[59] a written notice in form B of the proposed enquiry and of the time and place and subject-matter thereof shall be affixed not less than ten days before

Notice of enquiry.

the enquiry[60] at the chavdi or some other public place in the village in which the property is situate; and in a conspicuous position upon the property with respect to which the inquiry will be held.

(*b*) A copy of the notice shall also be served not less than ten days before the enquiry on all persons who are known or believed to have made any claim to the subject-matter of the enquiry, and every such notice shall be served in the manner provided in section 190 for the service of a summons.

Notice of decision.

(2) (*a*) Written notice[61] in form C of any order passed under section 37, specifying briefly the subject-matter, contents and date of the order passed, shall be served in the manner specified in clause (*b*) of sub-rule (1) upon the persons referred to in that clause.

(*b*) Such written notice shall also be affixed in the places specified in clause (*a*) of sub-rule (1). [N]

59. First enacted in Act XI of 1912, in its present form, with sec. 50A of the Municipal Act, first enacted in Act X of 1912.

60. The Rules were notified in R. 8866-16. Government in R. 14447-17 consider they cover the procedure under sec. 50A of Muni. Act also, but R. L. A. has excluded reference to that section from these Rules.

(*i*) The minimum legal notice is 10 days: this still leaves upon the officer holding the enquiry an obligation to give longer notice, and to allow adjournments, when the case is complicated and cannot be adequately presented in so short a time.

(*ii*) The notice must also take the form of a summons since the Enquiry Officer cannot hold an enquiry without also desiring the attendance of parties, witnesses, and documents. So he has intrinsically power to summon these (sec. 189).

61. See also R. 11312-16.

Questions of rights between Government and Municipality how to be dealt with.

XXII. Where the right to any piece of ground is in dispute between a Municipality and Government, the Collector shall endeavour to decide the dispute and with special regard to Rule 53. Where the Collector is in doubt or the Municipality does not accept his decision, the case shall be referred to the Commissioner. To secure finality the ultimate order should be made under section 37 (2). [N]

CHAPTER VII.[62]

THE DISPOSAL[63] OF LAND VESTING IN GOVERNMENT[64]; AND EXEMPTIONS FROM LAND REVENUE.

30. (*a*) The right of Government to mines and mineral products which is reserved by section 69 shall not be disposed of without the sanction of Government, and in all grants of land the right to mines and mineral products and full liberty of access[65] for the purpose of working and searching for the

same shall be deemed to be reserved unless Government direct to the contrary and unless such right and liberty are expressly granted. [59]

(*b*) No land situate within port limits [65a] shall be disposed of without the written concurrence of the Collector of Salt Revenue and without the reservation as to the tree-growth provided for in Rule 58 (*d*) (N).

(*c*) In all grants and disposals of land the right of occupation and use only subject to the provisions of the Code shall be granted: and not the proprietary right [66] and [66a] of Government in the soil itself.

62. This chapter deals with the disposal of land and rights over land. The general principle is that land, whether paying revenue or not, should be disposed of only under the same rules as govern the expenditure of public money (Govt. of India quoted in R. 889-72, Cordeaux Appn. K., p. 58), though by many orders exceptions have been established.

Before 1923 (R. 6690—19-12-23) the Local Government could not (R. 2340-165-70) dispose of any estate or land by private contract without sanction from the Government of India. This sanction is no longer required: but still the rules (in this chapter and otherwise) must be observed.

Audit Rule 12 (*ii*) gives the Accountant General the duty of auditing all grants of land and land revenue (G. of I. Notifn. F. 164 F.E. of 27-1-21, p. 146, *Gazette of India*). But see Bombay Government's observations in letter R. 15374-19.

63. Disposal includes gift, lease, or sale or any other transfer. On the principle "expressio unius," neither Government nor any Commissioner or Collector is authorized to dispose of the possession or of the revenue or of any rights over land *otherwise* than according to these rules. It is not therefore necessary to repeat the old rule (G. 132-80) expressly forbidding alienations to Municipalities or Local Boards in certain circumstances; everything that is not expressly permitted by these rules is implicitly forbidden. Even where the right of Government is limited to a right of reversion after the expiry of certain terms or circumstances or on breach of certain conditions, even these rights may not be disposed of. Land which has once vested under the statutory rules or law in a Municipality or other body may not be disposed of by that body *in perpetuity* in breach of the rights of Government to its reversion (R. 1890-91). The Acts constituting these bodies require sanction to the disposal of their land; and even Government will not sanction sales in perpetuity (R. 4511-00). But so long as the Municipality, etc., sell only their own interests, the land which has vested in them is "alienated" from Government and Government did not claim any share (R. 3445-11, 447-12). But these rulings and R. 6111-87 are now clearly withdrawn by R. 2579-18. When the purpose for which land vests ceases, it reverts to its former owner (I.L.R. 44 Calc. 689) and is liable to Land Revenue (R. 2579-18). They cannot sell the land of a street at all, even when it has ceased to be a street (G. 2461-91): this order of 1918 vindicates the writer's opinion in R. 448-12 and restores R. 4732-11.

(*ii*) A Municipality holding land from Government upon payment of a periodically settled assessment cannot, in demising such land, emancipate it from that liability (R.7596-17), see also R. 8262-18. When a Municipal district is extended (or newly created), care must be taken to reserve Government rights over such lands as tanks, aqueducts, etc., which it is not intended should vest in the Municipality (G. 6523-17). But in case of any doubt, the grant must be interpreted strictly in favour of the Crown as against the Municipality, the grantee (Waman *v.* Collector of Thana, 6 Bom. A.C.J. at p. 199). A tank which became dry after having vested in the Municipality was held not liable to land revenue (R. 6111-87): but this ruling would probably not now be followed. (See also Note 141). Vested land can at any time be resumed (R. 447-12). The reclaimed banks of a stream do not vest but were granted in R. 1272-21.

(*iii*) When land is acquired under Act I of 1894, and no longer required, its disposal follows the same rules as Government waste. It could not be restored to an inamdar or leaseholder on the tenure on which he held it before acquisition, except by a fresh grant under these rules (R. 5872-97).

(*iv*) Corrections in the Land Records (Durusti patrak) must be made for all such alienations and disposals (R. 1811 and 4107-76). For the institution of a new heading in Village Form 9 (old), now V.F. III, for rent-free N.A. tenures see R. 55-02. Partly rent-free tenures were held under leases or sanads which are recorded in the old forms V.F. I-B and T. F. 31-A. For the present orders see the Revenue Accounts Manual and Land Records Manual. Even the transfers of jurisdiction involved in territorial changes must be reported to the Superintendent of Land Records (R. 1103-68, 3215-70), by copies of the Government orders.

(*v*) A monthly statement, due early in each month (6-2-26P. 196-6-4-26), is required for all transfers of occupation and all grants of revenue under Rules 32 to 35 or otherwise (R. 4865-76, 811-79, 74-80 and 2695-07 and F. 720-87). All waste lands and acquired lands made over to Local Bodies and authorities must be included (R. 2213, 2518, 2835-77, 6095-04) and all lands given for religious use. The Collector must submit his statement to the Commissioner showing the grants he has made, and the Commissioner will transmit it to the Accountant General after adding the grants which he has himself sanctioned under R. 3136-14 or otherwise. The Local Government will communicate sanctions given by them to the Accountant General monthly. But the following transfers and grants have been expressly excluded :—

Lands transferred to Railways (because there is other machinery for watching such transfers).

Assignments under sec. 38 (because no revenue and no possessory right is alienated even when a Muny. is placed in charge—see R. 6597-16).

Land sold or allotted for building sites, if not sold revenue free or with proprietary right in the soil.

Lands transferred or leased to Local Bodies on *ordinary* tenures.

The form to be used is Appx. O. D. (P. 196—6-4-26).

(*vi*) *Assignments* (*e.g.*, the grant of a communal threshing floor) (R. 3317-99) amount to easements (Act V of 1882) granted by license (R. 4347-02) and are neither disposals [R. 8558-82, F. 720 (A.3)-87, I.L.R. 21 Bom. 634] nor transfers to other Departments which the Collector is empowered to make by R. 4347 (19)-02.

(*vii*) An insidious form which some of these disposals may sometimes take is what is popularly known as the "Nádáva Kabulayat." This means that when there is a dispute between Government and a private person as to the ownership of land he is sometimes allowed to retain possession on the execution of an agreement to give up possession whenever required and not to deny the proprietary right of Government or something of that sort. There is no stereotyped form. If this means that the Collector will assert his rights and claim surrender of the land next day, it is perhaps no breach of the rules. But if it means (as the private person usually hopes) that he will be allowed to retain possession practically for ever, then it is an alienation of the possession lawfully claimed by Government, and possibly also of the annual revenue, to avoid the immediate settlement of the dispute. Sec. 37 (2) and 79A of the Code of 1913 now render such devices superfluous, as well as irregular (R. 12348-12).

(*viii*) When land is claimed by and admitted to belong to Government, still some easement, such as access, may be desired to be exercised over it; in such cases a form of "Nadava Kabulayat" or "claim-repudiating lease" setting out and admitting the Government ownership, and agreeing that the easement shall be enjoyed *by license*, and shall never ripen into a right, is a permissible document; since it does not alienate but safeguards, and only grants a license presumably harmless, and reserves the right to terminate. These views were exemplified and confirmed in R. 8782-16-8-23. For such licenses in the case of eaves and balconies in surveyed cities, see p. 78, Selection CXXXV. Such agreements do not "relate to immovable property," since the chance of acquiring a right is not such property (I.L.R. XX Bom. 704): registration therefore not compulsory.

(*ix*) Easements over Government land may not be granted, except (1) with the express sanction of Government or (2) according to an authorising rule or order. Unauthorised easements must be barred and interrupted (R. 3864-91). I.L.R. 9 Bom. 227, 14 Bom. 220. A form for granting an easement (balcony) over Government land is given in R. 1834-24—20-4-25. Such licenses for culverts and approaches over road land are given in R. 9264-24—9-3-28.

A list of easements is given in R.1376-92, and to these may be added rights of light and air ("ancient lights") over Government plots, which if acquired might preclude the disposal of the Government land: also rights to enjoy trees which project over a neighbour's land.

(x) For a case in which Government sanctioned expenditure for preventing the growth of prescriptive easements (Surat) see Order R. 4548-16. Similarly, a license to use land "on sufferance" is not regarded as an alienation of any right (Order R. 6628-15, Hubli Hindu Gymkhana case). See also Note 92, and the Umreth play-ground case (R.1591-18). There is a practice also of leasing lands "so long as Government do not require them," and fixing a rent for the same indeterminate period. It is not desirable to dispose of lands on such terms: and thereby indirectly to create perpetual tenancies at inalterable rents. These rules do not permit (*i.e.*, they prohibit) such disposals: though they were common before 1881, and even later with no rule to support them. When the Collector finds any such tenancy he should, if possible, terminate it and replace it by any authorised tenure.

(xi) No charge should be levied from fishermen for the use of the Government sea foreshore for the purpose of drying fish or nets, but a small rental should be charged if sheds or huts are erected for trade or residential purposes. (R. 3005/28 of 17th March 1930.)

64. It is hardly necessary to observe that the term "Government" here is synonymous with "the public" or "the community at large." Even Government cannot grant or sell a street (sci: if in use as such) R. 5965-86, nor the right of the public to fish in the sea (I.L.R. 2 Bom. 19).

Prior to the passage of the Government of India Act (1919) there were restrictions on the powers of the Local Governments. But these having disappeared under the reformed constitution, were deleted in R. 449-12-12-23. No returns of landed alienations are now prepared or submitted.

(ii) Land relinquished by a Railway or any other department to the Revenue Department becomes subject to these rules, just as land transferred to another department (*e.g.*, Forest, Military, P.W.D., etc.), so long as the transfer is in force, naturally is outside these rules; but such departments have no power to alienate land or its revenue. When they cease to require it, it reverts to the Revenue Dept. [R. 1619-10 and see Note 70 (*vii*)]. While land is in charge of the P.W.D. the Collector of course cannot lease it except under orders from the P. W. Department (R. 8394-99). No charge is made to a non-commercial department for holding land (R. 4428-92).

Surrendered Cantonment land, sometimes even other land, might still be subject to subsisting tenures, leases or agreements, (See Suppt. A). For a case in which the Military Dept. retained certain rights, see R. 12058-17.

But for land transferred to or from a "Commercial" Department for which regular Revenue and Capital accounts are kept (*e.g.*, not Post Office (R.10195-12) but Irrigation, including Minor (R. 4599-13) State Railways (R. 5125-17), Military Dairy Farms) full market value shall be debited or credited. Rules for such Transfers are in R. 1619-10, for Railways generally see P.W.D. 1263-Ry.—16. The land of the G.I.P. Ry. is not transferred but is Government land—R. 653-19, 1754-20.

65. Without such a stipulation in the lease or grant the right of access is doubted (R. 6706-00). R. 3504-24—25-5-26, 21-8-26, R. 4524-24—22-9-26, R. 711-24—31-1-27, all deal with rules regulating grant of licenses to prospect for minerals and of mining leases in British India.

65a. See R. 4580-93, 986-95, and 231-02.

66. *Proprietary Right.*—Land granted by Government out of unoccupied or other land in which the proprietary right vests in Government at the time of the grant ought not to be granted in full ownership, but only the right of occupancy thereof as it is usually termed under the Code of 1879. Occupation now means possession. It would be clearer if the rules spoke always of the grant of the possession of land, rather than of the grant of land. There may not be much practical difference between proprietary right and possession under the Code which is a transferable heritable right in perpetuity, subject to certain burdens. But if it were a question of ultimate property, mineral rights, rights of reversion to portions of land allotted to roads or other public uses, and other claims we cannot foresee or formulate, the reservation of the proprietary right is justifiable, and it has always been ordered to be reserved both by the Local Government and the Government of India. See Govt. Circulars 3361, 4239 and 5292-73, and R. 2065-80. It was ordered to be made a condition in all kabulayats, so that it might be superfluous to reserve the right to minerals (R. 6688-79). It was reserved in all the grants to Municipalities

(see R. 74-74, 4342-73). See also R. 4892-13 and the Dece
Report. It may prove to be a very important matter, and such onger required, its dispos
to be abandoned merely because its exact effect is not discern restored to an inamdar
the reservation omitted from the draft published in 1918 has now n, except by a fresh gran
majore cautela, as the R.L.A. notes.

66(*a*). With a view to preserving rights over Governmen made for all such aliena-
telephone poles have been erected a nominal rent at the rate of new heading in Village
per annum shall be levied on telephone companies who shall be req 02. Partly rent-free
aggregate rent due on 1st April every year. (R. 9598/24 of 14th Mar old forms V.F. 1-B
Manual and Land

Under the Indian Electricity Act a licensee can have only a right of al changes must
lands made use of by him and he cannot acquire any adverse right against G 0), by copies
If the owner of the land is a local authority and not Government even then
seem to make any difference. Having regard to the provisions of the quired for
Electricity Act, the criterion to be applied to each case, in order to see whether otherwise
may be levied or not is to determine whether in the particular case the land is ded cquired
to public use or not. Land utilised for roads is land dedicated to the public us , 2518,
no rent is leviable. For all other land including Government land not only is a mit his
leviable for its use but also such other conditions as the owner of the land may ch sioner
to lay down may be imposed. (G.R., P.W.D., No. 3989/27 of 6th May 1930.) imself

31. Land may not be granted free of land revent icate without the sanction of Government except as hereinafte ing provided. [11].

such

67. Even land vesting in a Municipality but which may in some circumstances rnated to Government (R. 4511-00).

68. The revenue referred to in Rules 31 to 35 means either the agricultural or t prietary agricultural revenue, whichever the land may be bearing or be liable to. Land l an enhanced non-agricultural revenue may not be disposed of upon the agri revenue alone, unless there is a proper grant of the difference (R. 4892-13). When re is sold for a term the Local Fund Cess must also be included in the computation (R. 87) and paid to the Local Funds, by treating the whole price as consolidated rev punt But when the Land Revenue is wholly extinguished L.F. is not leviable on the capitalised s payment (if any).

In the case of Kumbhar-khans in E. Khandesh, though revenue is redeemed, L. levied.

hat is dispute

(*ii*) The price of a redemption of all revenue in perpetuity is not "ordinar metimes Revenue" (Act III of 1869) and land should not be so transferred to a Bion when y exempted, as Railway Cos. are exempt, (and not itself the Local ent or so Body which receives cess ?), without a stipulation for the payment of the capitalis Collecte d L.F. to the Dist Board (R. 2452-87).

s no bre

69. Even when land has been alienated, to change the chara ssion la ter, or head, or term the alienation invariably requires Government sanction (R. 627 he imm -76). The large subj of old inam grants is dealt with in other publications, chiefly nder s n *R.B.* R. N. Jogleka Alienation Manual (Rs. 12 : March 1921) and Watan Act (I ts. 2 : September 192 Some granted property in the soil, others only rights over the r evenue (see R. 1934-1

(*ii*) If for sufficient reason (clerical error, etc.) a new Sana ernme in su d is issued with holder consent the Commissioner signs it (R. 5589-92, 15941-02) : aft ut a er an acquisition, Sanac should be endorsed. e enj

70 (*i*) Government may in any case dispose of all rights ov t doe r land except so far a restricted by the statutory rules of the Secretary of State (R. 4 rese 892-13). The Code is not final as it leaves undefined the distribution of powers within the 82-1 term "Government" as between the Local and Imperial and Supreme Government. 8, S these Statutory Rules are under sec. 1 of the Government of India Act, 1859(22 and 23 V cha ict. c. 411), published in Fin. and Com. Notifn. 933 Ex.—20-2-94. ratic

(*ii*) The general state of these Rules in 1921 was unsatisfactory t (and not settled. The discussion in R. 4892-13 was not concluded, and the rules as they are now drawn in some cases go beyond and in some cases fall short of the limits suggest d in the Government of India draft rules. The rules have been drawn according to old en practice with few small modifications in the direction of the conclusions foreshadowed by that discussion. Rule

sa[illegible] restricts the Local Government to a grant of revenue of
to[illegible] A list of easements is given which is not enough to create a post of an inferior village servant
g[illegible] ("ancient lights") It is true that the Government of India deprecate such methods of
[illegible] disposal of the Government land. In the notes, various officers already exercise far greater powers of
neighbour's land.

(x) For a case in which *services rendered*. The limits in Rule 32 (1) (2) are very low; hardly
[illegible] prescriptive easements in the country could be built on land worth less than Rs. 1,000
"on sufferance" is these powers seem to have been enlarged by the complete transfer of
Hindu Gymkhana case to the Local Governments; but in the decade 1919-29 no progress
There is a practice towards a better definition of powers and such discussion are now
and fixing a rense Statutory Commission.
lands on such
rents. The draft Rules last proposed by the G. of India in R. 8289-19, discussed further
common [illegible]4-19, are intended to supplement these Land Revenue Rules, but do not override
finds any have the force of law: they also do not interfere with the operation of the Statu-
tenure. Rules (Note 76) though limiting their applications by a stricter definition of
[illegible]strial purposes." The new rules are to deal with town sites, Nazul (Govt. plots)

(xi) town lands alienated for purposes not strictly industrial, unless already vested in a
foreshal Body. The Government of India propose that their sanction should be got to any
if above or grant for more than 30 years, or in which the period fixed for revision of the
Marassessment exceeds 30 years: this restriction would cover all grants of tenure under these
Rules in which (Rule 43 (*b*) and 87 (*a*)) the ordinary period was 50 and now is 30 years.
[illegible]he powers of gift are to be enlarged to Rs. 2,500 in case of "other" bodies. Local
caGovts. were proposed to be restricted to a limit of one lakh in sales or exchanges of land,
[illegible]fully assessable to revenue, and Rs. 25,000 if not assessable.

(xi) *Interdepartmental Rules.*—Local Governments have unrestricted power to transfer
[illegible]and to other departments of Government including Imperial Departments such as Mili-
[illegible]tary and Post Office. Cantonments fall within this class of transferred lands. Usually the
[illegible] assessment is removed and Village Form I corrected. But when the departments are
'commercial' (in which term Minor Irrigation works are included, R.4599-13) book debit
of the value of the transferred land may be raised. When land is transferred to Railway
Companies or State Railways, there are special rules detailed in the Manual of Land
Acquisition: such transfers are not included in statements of alienation of land
(see Note 63 (*r*) to Rule 30). Land transferred to the Irrigation Department no longer
yields revenue to the Land Revenue Department not even sales of grass or other
products. But the revenue from leases of babul kurans (not being Imperial Forest
Reserves) even if realised by Forest Officers, and therefore (R. 1335-04, 9082-06 after
C.A.C. 283 (4) (12) credited in Forest receipts, is Land Revenue and liable to Local
Fund (R. 5339-74).

(*v*) *Imperial buildings and land.*—G.I. must sanction transfers of lands or buildings in
occupation of an Imperial Dept.(R. 2111-01). Land not required by an Imperial Dept.
or Railway, etc., is surrendered to the Provincial Govt. to dispose of as Government
waste land (R. 1619-10). The Director General of Post Offices may sell Post Office build-
ings: and also land acquired by or unconditionally transferred to the Post Office
(R. 10878-10).

As between the Government of India and the Local Government since the complete
provincialisation of Land Revenue under the 1919 Constitution, rules regulating the debit
and credit of land transferred are detailed in F. 1083—23-4-26.

(vi) *Provincial Buildings.*—Commissioners, including Salt and Excise, and Sind, may
sanction the inter-departmental transfer of Provincial buildings not on the P. W. list, if
heads of offices agree (J. 8900-12): or they may sell them if the value does not exceed
Rs. 1,000. In other cases, Govt, in the P.W.D. is consulted before transfer or sale
(R. 3911-62, 7073-81: F. 1529-87).

(vii) The renting of the compound of a building in charge of P.W.D. requires
Government sanction in P.W.D. (R. 8394-99).

Sale proceeds of *buildings* sold by Civil Depts. are credited to XXXV Misc. (R. 318-12).
P.W. sales of course go to P.W. heads under XXX. This would seem to apply to build
ings constructed by Government (at debit of P.W. grants?) but when buildings are
attached or forfeited or lapse to Govt. under the Land Revenue law, then the sale proceeds
would seem to be credited to I, Land Revenue.

But when any *land* in charge of P.W.D. or other Department is no longer required by
them they must relinquish it to Revenue Department for disposal (Para. 250, P.W.
Code, and P.W. Circular 9754—28-2-27) and see R. 9002-24—18-8-24).

Gifts of the possession and the revenue.

32. (1) Land may be given free of price and free of revenue, whether in perpetuity or for a term, for any purpose hereinbelow mentioned by the authorities and to the extent[71] specified in this table[72] :—

Limits of revenue-free grants for different purposes.

Purpose	Estimated revenue-free value. (73)		
	By the Governor in Council.	By the Commissioner. (81)	By the Collector (82)
(1) For sites for the construction at the cost of Local or Municipal Funds, of— (*a*) Schools, or Colleges (74), (*b*) Hospitals, (*c*) Dispensaries and (*d*) other public (75) works from which no profit is expected to be derived. (76)	10,000	5,000	250
(2) For sites for the construction at the cost of other (77) than Local or Municipal funds, of any of the works (78) referred to in item (1) above and for religious use. (79)	1,000	500	50
(3) To any private (80) individual for Services— to be performed or already rendered to the State ..	1,000	....	....
to be performed to the community	500	....	....

Provided that land in the neighbourhood of railway stations[83] shall not be granted for dharmashalas under head (2) in the table unless when erected they are to be in the charge of the Local Board or Municipality concerned. [11, 12].

Proviso as to land near railway stations.

(2) Such gifts shall ordinarily be made in form D. [13].

71. To determine whether a given case falls within the limit of this power, when the exemption is only partial the abatement would be capitalized at only 25 years' purchase, since it is not a *sale*. [In view of present rates of interest 25 seems too high a figure]. Great care should be taken in all cases under this rule that the sacrifice of revenue is unavoidable and the public importance of the object is sufficient (R. 3621-83). The fact that power is given to sanction a grant does not imply that every proposal should be sanctioned if within the powers; in the case of religious grants especially the greatest restraint should be exercised.

(i) The rule states the limit of the power and any restriction or reduction in the grant which Government think fit may *a fortiori* be imposed, such as the prohibition of buildings outside a certain class (R. 9912-13) or sanitary restrictions; in grants under class 3, restraint on alienation without the Collector's permission and conditions of loyalty and good conduct should be imposed. In all grants, the conditions in Rule 36 must also be imposed. But of course such conditions, except the reservation of minerals, cannot be imposed in *sales*, without concessions: but if a local body is willing to accept them it may [in that case apparently a lease would be required to validate the transaction: R. 1849-92]. *Active* support of Government in any time of trouble and disorder is invariably to be stipulated in Class 3 and the Local Government is the final judge whether the condition is violated (R. 2882-18).

72. R. 9193-11 and 3520-12.

73. There are two distinct elements in the term " value of land " from the Government point of view—

(*a*) The value of the occupation or possession, when vested in the Land Revenue Department ; termed sometimes by the Government of India the " proprietary right "; though most of the sales and transfers contemplated by the Code are not transfers of the ultimate property but only of the occupation. In other words, the value of the net rent, after deducting the revenue-tax from the gross rent.

(*b*) The value of the land revenue, even if only partial, assessed upon it.

Care must be taken to keep these two elements mentally distinct throughout these rules. The expression " revenue-free value " is used in the rules as a compendious term for the value of both these elements, " the price which the land would fetch (if sold subject to the liability to pay revenue) together with the capitalized value of the revenue which it might bear."

74. All applications to Government for lands for educational uses must be submitted through the Director of Public Instruction (Circular R.1786-99). When grants are made for educational purposes as part of grant-in-aid for a building, a Trust deed under the grant-in-aid Code is also required.

75. The Government of India at present define " public " as including the conception of " absence of any distinction of caste, race, creed, or membership of a particular association ;" therefore, no grant under this head can be made for the use of a religious body or of a club or society. This was discussed in R. 7167/24—8-12-26 and modified in a particular case.

76. (R. 8981-08). When profit is to be derived the land must be sold at a proper occupancy price and subject to full revenue ; any reduction in the price or revenue can be granted by Government alone. This provision extends to all 4 items (R. 8274-24, dated 10-3-25).

Land used for drainage and water works, slaughter houses, etc., cannot be regarded as yielding no return and is therefore not exempt (R. 15191-17).

(*ii*) The grants hitherto dealt with are those to public or charitable bodies for purposes *devoid of profit*. Grants to single persons (or firms, companies, etc.) for their personal or commercial profit, may be made.

(*a*) *to non-officials* (*i*) for political reasons, (*ii*) for assistance given to police or criminal administration (Note 80 (1) and (2)), (*iii*) for commercial or industrial purposes, (*iv*) for agriculture ;

(*b*) *to officials* (*i*) Civil, [Note 80 (*iii*)] ; (*ii*) Military [Note 80 (*v*)].

(*iii*) Notes dealing with some of these points are quoted above : (*a*) (*i*) falls under the Statutory Rules (and see also *B.G.G.*, p. 260—29-2-72, and is regulated by Rule 9 in F. 2028-13, amended by 1578-14 and Rule III 7 in F.2292-16. Grants can be made by Government alone and are *limited* to a value of Rs. 1,000 *a year*. This ' value ' means the value (rental) which the grant may be expected to bring in to the grantee after payment of the full assessment (or we might say the fair normal occupancy value) (R. 3878-96), together with the capitalised annual revenue, if any conceded.

(*iv*) The Statutory Rules deal with (*a*) (*iii*). These rules (F. 1563-04, 3963-10) restrict the powers of the Government of India and the Local Government. They arose out of a mistake made in drafting a lease for the water power for the Gokak Mills in 1884. We are concerned with the restrictions upon our Local Government only. The limits of power of the Government of India are higher, but exactly similar. These Rules do not apply to agricultural uses, or to Forest exploitations (R. 3724-10), or apparently to ordinary building development ; but only to non-agricultural *industrial* uses, such as mines, mills, manufactures, railways, trams, water-works (*e.g.*, hydro-electric), profit evidently being in view (F. 3963-10). They have been ruled not to apply to a lease for a dairy industry, which is regarded as an agricultural activity (R. 12588-16). They prohibit the Local Government from making any lease, contract, grant, or concession, to any person, firm, *company* or public body, for purposes above described—

I. (*a*) for more than 5 years, *and* (*b*) without the power of revocation.
and (*c*) imposing a liability on the revenues of more than Rs. 5,000 a year, or

II. involving the cession of property or rights exceeding an estimated (sci : capital) value of one lakh, or

III. imposing on the State revenues a capital liability to damages or to expenditure exceeding one lakh.

(*v*) The liability contemplated in I (*c*) apparently means an abatement of revenue demand or rent or a liability for subsidy or damages or any other such expenditure or loss exceeding the defined value. It must be a definite and positive liability (paragraph 3) of Bombay Govt.'s reply to G. of India in R. 8289-19 and 15374-19. The value in II means probably the remission of occupancy price or capitalised value of produce.

The old prohibition of concessions of any sort to Joint Stock Companies was rescinded in F. 282-17. But previously a number of leases to Companies granted by the Local Government were held to be *ultra vires* in G.I. 606-374—4 of 26-5-15 (R. 6563-15): and the concession to Local Bodies in Kanara (see Note 27 (*viii*) was sanctioned by the G.I. in R. 1732-18 under paragraph 5 (5) of the Annexure to G.I., F.D., 361-E. A. of 24-7-16.

(*vi*) For agricultural grants (*a*) (*iv*) the Land Revenue Rules are to be applied, and no other concessions are authorised (see Note 96).

77. Semi-public associations registered under the Act or formally constituted Boards of Trusts are much to be preferred. The Statutory Rules used to prohibit *any* grant or concession to a (commercial) Joint Stock Company. But this rule was rescinded in F. 282-17. In grants for Schools not under a local authority the condition that the site may be resumed if the school be not properly conducted is to be introduced (R. 3303-20, 213-21).

78. The assessment on land not exceeding one acre was allowed to be remitted for groves of trees or amrai (R. 1037 (B2)-91), but the power is not continued by present rules, unless the land is handed over to a public body.

78*a*. R. 570-B—22.

79. See R. 1581-02 and 5295 (96)-11. The Government of India permit grants for religious use, though proposing a limit of Rs. 500, but this does not include religious *profit*; e.g., land on which a church, temple, or masjid is built may be exempted, but not land assigned for their support. The actual use must not be confused with destination of the profits (R. 10702-11, the Bandra Church case). See also (Order) R. 2274-16.

Local Governments will be well advised in making as little use of these powers as possible (G. of India, Rev. and Ag., Circular 6 of 1913: para. 7 (*d*) in R. 4892-13). For a recent instance see R. 6382-16 and for a discussion as to religious residences, R. 555-18.

For Sind, see R. 1521-21.

80. *N.B.*—The rule in respect of grants by Government was withdrawn by R. 8274-B/24, since the local Government has no restriction on its powers under the Reforms (1919) Constitution. But the old note is retained for historical interest as showing the old condition, and there is still [see Note 70 (ii)] great uncertainty as to the position.

(*i*) Gifts by the Local Government for help to the Police or criminal administration are restricted to an occupancy value of Rs. 500 (on the non-alienable tenure) or an annual revenue remission of Rs. 15 (presumably when the land is already occupied by the donee) or a combination of both subject to a maximum revenue-free value of Rs. 500, the assignment of revenue to be continued for one life or for 26 years whichever is longer (R. 6710–06, 3872–09).

(*ii*) But in Sind the Commissioner may grant free of, or at a reduced occupany price (unless the land is already occupied by the donee) [no limit specified] and free of assessment up to a limit of Rs. 75 a year to a village police officer or person of influence who renders general or public service (R. 9191, 11380-08); and for political grants to Junior Talpurs in Sind, see P. 589–96.

(*iii*) All Commissioners may sanction the grant of the occupancy of land to an official in service or retired, when there is no concession of the Revenue and when the gift of the occupancy is not a gift having a money value beyond the fact that the grantee receives the grant in preference to others (F. 1578–14 and Rule 5(9) of Notfn. F. 2292–16) provided the assessment does not exceed Rs. 75, [or in Sind the area does not exceed 100 acres] (R. 6942–5632–01 (Sind), 8526–08, and (letter) 6599–13). The intention is not to increase pension or pay; for a full statement of the principles governing extra pensions, see Appx. IX C. S. R.; but it has been explained to the Secretary of State that under the ordinary Revenue Rules of Bombay the Collector can give waste land for settlement purposes or to develop his District, and in so doing he may just as well select a suitable retired official or other person who has rendered service as some other grantee. There is no money or market value to the grant, but a preference only is shown. The amounts at stake being therefore trifling or nothing at all and the powers having been exercised for a long time, this exception was sanctioned by the Secretary of State (R. 3136–14). Collectors may make such grants of occupancy for settlement purposes without sanction only when not made to a Civil or Military Officer.

(*iv*) In R. 1254–16, a large grant of *occupancy* value subject to full assessment was sanctioned to the heirs of a Civil officer. The Local Government has in the past exercised the power of granting the occupancy of land, when the revenue is not assigned but is to be paid in full, without any limit upon the occupancy value. See also R. 2910–20. When any special terms are attached to such a grant it is classed as an Inam of "Class II (starred)": (see Revenue Accounts Manual) even if no revenue be alienated. (R. 9640–18).

(*v*) Grants (by Government alone) to Military officers are restricted to Native officers and Senior Hospital Assistants (R. 4634–05). They may take the form of a *grant of occupancy* to the maximum annual value of Rs. 400 the land to be subject to full assessment, or of an *assignment of revenue* to the maximum annual amount of Rs. 600 for three lives only, half being resumed at each succession (R. 5224–90, 2260–93).

(*vi*) *Annual value* is explained in R. 2919–20 (G. of I., Army Dept., 10217–8–5–20) thus:—The value existing at the time of grant, unless the land is waste and needs expenditure: then the value as it will be when reclaimed or developed. The gross rental income *plus* the profit of cultivation on any part cultivated by the grantee in person shall not exceed Rs. 400 a year as the standard limit. The Government of India see no objection to grants made temporarily or partly free of revenue provided the value of these concessions is included in the "rental value" of the grant, and the term is limited to 20 years or the life of the grantee, and the grant is inalienable (G. of I, Army Dept., 10217–5–8–20 as above).

(*vii*) Assignments of land revenue in Bombay would mean that the occupants of the land would have to pay their revenue to the grantee as an inamdar, through the village officers; this might not be acceptable. Consequently such *assignments* of revenue should be confined as much as possible to cases in which the grantee already holds the land. (R. 3878–98, 6815–98). When there is delay in making the grant, no compensation can be given (R. 5170–03). If any part of the assigned revenue is lost through famine, suspensions or remissions, the grantee must bear the loss (R. 249–11). On the death of a grantee of an assignment, the Collector is to select a *single* heir to whom the grant is to be continued. (R. 8669–93). But in 50-Finl. 2–2–19 the restriction to a single heir was removed and distribution left to the discretion of the Local Government (R. 3634–19).

It was not anticipated that more than one or two such grants would be made in Bombay Presidency in one year (R. 2086–11, 10326–13).

All such grants are to be on inalienable Tenure.

When grants are for Military services (Mily. Dept. G. of I. 867–B–27–2–93) the value of the Occ. price and of the L. R. exempted is debited to the Mily. Dept. through the exchange Acct. and credited to Provincial V. L. R. Cash grants are paid by Military disbursers. (F. 2060–6–7–24).

(*viii*) But during the Great War, ordinary grants of land to Indian Military Officers and N. C. O. were suspended. A general scheme for rewarding distinguished services was applied. No land can be granted to men pensioned before the War: (R. 6057–17). Some relaxation of this is in R. 692–18, as to small plots.

Preference is to be given (*a*) to *combatants* (R. 12029–17) and (*b*) to soldiers and recruits with satisfactory service: in other cases, ordinary, disposal of land is to be temporary only (R. 7830–18) and should be made only when there were no recruits from the village, or Collector considers the grant necessary for food production. A number of blocks each valued at Rs. 3,500 were reserved and placed at the disposal of the Government of India, and now all other waste lands may be disposed of subject to preferences (*a*) and (*b*) above (R. 6475–19). The reservations in N. D. were cancelled by R. 2957–20. Rules were issued in R. 2322, 20–1–22 which being obsolete are not printed and the grants ceased entirely under R. 2572—8–9–23.

The United Provinces proposed, Bombay concurred, that a concessive grant of revenue for one life is more appreciated than an extra cash pension (R. 6228–19). Where it is impossible to find land to grant, "jangi" Inams in cash are given till land can be found (R.—B. 121–20). Cash grants-in-aid to Indian soldiers to meet the cost of bringing waste land into cultivation are also allowed (R. 1807–20).

(*ix*) Assignments of land revenue to retired Civil officers for very exceptional and distinguished services are sanctioned by the Local Government [up to an annual value of Rs. 600] continuable for three lives only and to single heirs, (subject to the discretion given to the local Govt. in R. 3634–19) and reduced (by re-imposition of assessment) by one-half at each succession. [Larger grants must be referred to the Government of India.

(R. 3136–14).] For instances of grants by the Local Govt. see R. 8713–14—7718–17 and 4657–22. But Government now disapprove such grants and will make them only in exceptional cases: see R. 9524–23.

All grants of land revenue (by remission or transfer) are debited in accounts to the Military Department (F. 2060–24). Similarly grants for services rendered to the Government of India are debited to Central Revenue (R. 2217–30–8–21).

(*x*) The regrant of (Mahar) Inam land for village service useful to Government and to the community would seem to fall under this rule. In fact the Local Govt. have exercised this power without any prescribed limits, e.g., land assessed at Rs. 27 in R. 9285–19.

(*xi*) An annual statement of all assignments of land revenue made during the past financial year by the Local Government to Civil officers, for distinguished services, was due to the Government of India on May 1st: see F. 2952–16, rule 10 (9) (*b*). But has now been cancelled.

81. R. 5771–05.

82. The Rs. 50 limit for non-public and religious grants and Rs. 250 for grants to local bodies for public purposes, was fixed in R. 11819–16.

83. The Collector might impose the same condition in case of a well, or the like, and in places distant from Railways.

33. (1) When it is clear that such a sale is preferable to any other course on grounds of obvious convenience to Government no less than to the parties concerned:—

(*a*) any land wherever situate, of which the estimated revenue-free value does not exceed one hundred rupees, and

(*b*) with the previous sanction of Government, any land included in a village site of which the estimated revenue-free value does not exceed five hundred rupees

may be sold[84] revenue-free by the Collector to a private person for a private purpose.

(2) The previous sanction[85] of the Government of India is required to the sale of land revenue-free to a private person for a private purpose in any case not provided for by this rule or by rule 49. [10].

84. Whenever revenue due to Government *in perpetuity* is permitted to be sold, the price must be at least 30 years' purchase (F. 4169–98). But this figure seems high in view of existing rates of interest; and not likely to be accepted. Local Bodies cannot redeem even in Land Acquisition proceedings R. 4578–18.

85. (*a*) It is neither convenient nor desirable for any Government to capitalise its revenue in anticipation and thereby sell its future resources. Such redemption by private persons was disallowed in R. 7432–76, 2958–86. It was prohibited by the Government of India in R. 7332–97, but see Note 256 (*ii*). Such a course could only be justified when the amount is so small that the cost of annual collection would equal, or seriously encroach upon, its annual value, or when a small plot of land is sold for inclusion in another larger plot already free of revenue, when it would be inconvenient to have the two plots held on different tenures (Rule 49). The capitalisation of revenue for the purpose of such a calculation of the extent of the Collector's powers must be made at 30 years' purchase, since it is a *sale* (see Note 84 above). It therefore follows that no Collector on his own authority can sell land revenue-free which would produce more than Rs. 3½ per annum or, with the prior sanction of the Local Government, 16 in a village site, even if it had no occupancy value subject to that revenue. If any occupancy value exists, then the annual assessment limit falls rapidly lower. This power was continued in R. 10952–11.

(*b*) Under these rules, therefore, there could never be any sale in which part of the revenue was sold in perpetuity and the rest reserved; it would affront all the principles.

Gifts of the possession only.

34. (1) In the district of Dharwar[86] whenever unoccupied land is available for the purpose, the Collector may give such land to any shetsanadi who is willing to accept remission at the rate of one rupee of the assessment in exchange[87] for two rupees of the usual annual cash remuneration:

Grants in the Dharwar District to shetsanadis for remuneration.

Provided that no such land shall be given if the estimated occupancy value thereof exceeds five hundred rupees.

(2) Where a grant is made under this rule no sanad need be issued to the grantee, but it is to be a condition of his tenure that the land is granted revenue-free to the agreed extent only in consideration of the shetsanadi's service, and that it is resumable at the pleasure of Government[88].

86. The Collectors of Surat and Broach have been authorized to make the opposite exchange of cash payment against assessment reimposed in re-organizing the inferior village service cadres of their districts (F. 207–10, R. 6188–12 and 180–13). Except for the Dharwar case, the power of granting any land revenue in exchange for an annual cash salary is reserved by Government (R. 8385—06).

(*ii*) When one sanadi is discharged and his land is thereby available for resumption, the Collector may re-grant it to the officiator he appoints (R. 12118–07), provided he does not exceed the scale fixed for the village under R. 10372–09. This seems to confer the power of granting the land to other persons not the original holders thereof so long as the assignment for sanadi service is not broken; just as if it is wrongfully alienated, he may resume it, and re-grant it to the officiator (R. 2702–02 and 10336–08). Government refuse to extend the power of granting *waste* lands to sanadis beyond the Dharwar District (R. 8385–06).

(*iii*) Surplus lands of discharged Shet Sanadis, which are retained under the category of Watan with a liability to serve when called upon, but pay full assessment, may be converted into ordinary Rayatwari if the holders or their heirs enlist in the combatant or non-combatant forces (R. 1889–18).

87. When Government gives the occupancy, the alienation is worth at least double the assessment; but if it is old occupied land converted to service land, the exchange should be equal, one rupee of assessment for one rupee of cash remuneration (R. 180–13). These payments by abatement of fixed revenue are all brought into the Provincial Accounts through an annual adjustment based on T. F. III.

88. *Other Ex-changes.*—The Collector can give unoccupied Government land at its full assessment (*not* as inam land) in exchange* for any inam land *acquired*† (R. 4347–02, as modified by item 35 of R. 11221–12). See note 70 (*iii*).

(*ii*) The Commissioner can give unoccupied Government land, either at its full assessment or as inam, in exchange* for *any kind* of inam land *acquired*† (R. 6825–86), or for the inam lands of inferior village servants rendered unfit by diluvion, etc. (F. 720–87, 3422–93). Or he can sanction a cash allowance in exchange for *acquired* † land of inferior village servants (*not* including Patils or Kulkarnis, etc.) and also he can sanction the reduction of the judi on the inams of such village servants in lieu of such a cash allowance (R. 671–12). In ex-changing inam land the Collector should certify Inamdar's assent and endorse the Sanad (R. 7851–81, 5589–92, 6003–94). See Note 69 (ii).

Government sanction is necessary to the transfer of Inam or Gavthan rights to other lands in Town Planning Schemes.

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*Instruments of exchange for land given up for public purposes are exempt from Stamp Duty (*Bom. G. Gazette*, p. 970, Dec. 1887).

†But in view of section 31 of the Land Acquisition Act this must be interpreted as "acquired otherwise than under Act I of 1894."

Gift of the revenue only.

35. (1) The Collector may exempt[89] from payment of land revenue without any limit[90] lands used for sites of hospitals, dispensaries, schools[91] and for other public purposes, so long as such lands are used for such purposes and yield no return to private individuals or local bodies.[92]

(2) Lands used for sites of buildings solely devoted to religious or charitable purposes[92a] may be exempted from payment of land revenue by the authorities and to the extent specified below, so long as such lands are used for such purposes and yield no return to private individuals or local bodies :—

By the Collector—up to an amount of Rs. 10.

By the Commissioner—up to an amount of Rs. 50.

By the Governor-in-Council—up to any amount.

(3) Such exemptions shall ordinarily be made in form E.

89. Presumably the greater includes the less, and the Collector could grant, in cases where it was appropriate, *part* of the revenue.

90. (R. 3520–12). The sanction of the Government of India to this rule, particularly in cases where the land is acquired by a public body, was under discussion (R. 5295(7) 111). But now the Government of India have given the Local Government full discretion as to how much it will assess (or exempt) on all roads and sites as above handed over to L. Bodies (R. 924–24—26–6–24. It was the old common practice to make such exemptions (R. 3053–53).

91. See Notes 74 and 77. Lands required for hostels, teachers' quarters and playgrounds are generally used for purposes connected with educational institutions. Land so used shall be granted revenue-free or be exempted from payment of land revenue—R. 2535–28 of 23–12–29.

92. (i) When circumstances will always permit an immediate resumption at will without encumbrances (such as a use of waste land only for stacking road-metal,etc.) a Municipality or Local Board may be permitted to use waste land yielding no revenue at present (because unoccupied) during the pleasure of Government without any charge. This is a mere license and not a transfer. Care should be taken not to grant such permission for uses which would make immediate resumption impossible, e.g., for erecting buildings (R. 8981–08). Arrangements have been made in some places on the borders of Baroda State, permitting that State to make similar uses of plots of waste ground in British territory in return for reciprocal facilities in Baroda territory. Such arrangements involve no alienation and are therefore permissible. See Note 63 (*viii*). The wording and meaning of the rule are further discussed in R. 7167–24—8–12–26 and R. 8274–24— 20–10–27.

(ii) [For general financial rules restricting the alienation of any land revenue to Local Bodies, see F. 2292–16 in *Bombay Government Gazette* of 7th August 1916, rule II-5 (5), The Accountant General declined to agree to the continuance even of a past alienation, unless the Government of India now continues it. See Government letter R. 12894-17.] But all this has been changed by the constitution of 1919. It may be regarded as a principle hereto enforced that Municipalities and other Local Bodies should live on their own income derived from the sources of taxation assigned to them, and should not endeavour to save local rates by poaching on the revenue which is intended for Provincial and Imperial purposes.

(iii) Alienations sanctioned in Bombay are :—

(1) all proceeds of quarries, lime-stone, sand, etc., to the Local Board (R. A. M. p. 241).

(2) Mahableshwar Station Fund gets all receipts (except Income Tax) from houses and lands in its limits including grass and timber (R. 687, 688–62), and the sale price of occupancy rights (R. 1319–63) and fees for renewal of leases (R. 1194–65, 2265–65 and 3269–65).

(3) Matheran Municipality gets revenue fines, proceeds of sales of maps, notice fees, and half the forest revenue (R. 2166-05, 5389-05) and all ground rents of Bazar plots, and sale-proceeds of plots less the cost of administration (F. 112-10).

(4) Panchgani Municipality gets the rents and assessment of all Government lands (G. 392-10).

(5) It follows that no municipality is exempt for sites vesting in them under Section 50 (2) MI. Act as markets, etc., and used for profit—R. 9202-24—5-9-27 overruling R. 2579—15-3-18.

92a. This is further extension (beyond Hospitals, Schools, Dispensaries and other public purposes) to religious and charitable purposes which are not public (*see* Note 75) but yield no revenue.

There remains a class of Institutions which yield some revenue but not profit (*i.e.*, small fees are charged which do not cover the cost of maintenance). In a Kolaba case the coconuts growing on the ground of a free dispensary yielded Rs. 40 a year.

Pinjrapols are often put forward as eligible; but they usually receive some revenue and (all income considered) some are even run at profit. They are discussed in R. 2997-24—22-6-25.

Conditions attached to grants under foregoing rules.

Conditions attached to grants under rules 32, 34 or 35.

36. (1) Every grant under rule 32 or 34 shall be made expressly on the following conditions in addition to any others[93] that may be prescribed in particular cases, namely:—

(*a*) that the land with all fixtures and structures thereon shall be liable to be resumed by Government if used for any purpose other than the specific purpose or purposes for which it is granted, or if required by Government for any public purpose, and that a declaration under the signature of the Commissioner that the land is so required shall, as between the grantee and Government, be conclusive;

(*b*) that, if the land is at any time resumed by Government under condition (*a*), the compensation payable therefor shall not exceed the amount (if any) paid to Government for the grant, together with the cost or value at the time of resumption, whichever is less, of any building or other works authorizedly erected or executed on the land by the grantee.[94]

(2) Where exemption from revenue is granted under rule 35 on land already occupied by the grantee, the following condition shall be imposed, in addition to any others that may be settled in particular cases, namely, that, if the land is used for any purpose other than the specific purpose or purposes for which exemption is granted, it shall, in addition to the assessment to which it becomes liable under section 48, become liable to such fine as may be fixed in this behalf by the Collector under the provisions of section 66, as if the land having been assessed or held for the purpose of agriculture only had been unauthorizedly used for any purpose unconnected with agriculture.

93. See Note 71.

94. R. 1581–02.

XXIII. In all cases a sanad in such form [94a] as may from time to time be prescribed by Government shall be issued to the grantee by the Collector.

Where any land is granted revenue-free with the sanction of Government for any purpose not mentioned in Rules 32, 34 and 35, the form of sanad to be issued by the Collector will be specially prescribed by Government.

Every sanad issued under this rule shall be registered in the register prescribed by section 53, in the form of Appendix O.-C. (R. 5634–83).

The Collector and all Revenue Officers subordinate to him shall exercise due vigilance to prevent the terms of any such sanad being either exceeded or evaded. [13]

94a. Two forms were sanctioned in R. 7010–05 : I when occupancy is granted, II when revenue only is abated (now forms D and E).

Grant of land for agricultural purposes.

37. (1) Any unoccupied survey number not assigned[95] for any special purpose may, at the Collector's discretion, be granted for agricultural purposes to such person as the Collector deems fit, either upon payment of a price fixed[96] by the Collector, or without charge, or may be put up to public auction and sold subject to his confirmation to the highest bidder.

Survey numbers how to be disposed of.

(2) In the case of such grants an agreement[97] in form F shall ordinarily be taken from the person intending to become the occupant.[98]

(3) When the land is granted on inalienable tenure[99] the clause specified in form I shall be added to the agreement.

(4) When the land is granted on impartible tenure an agreement in Form F (1), and, when it is also granted on inalienable tenure, an agreement in Form I (1), shall ordinarily be taken from the person intending to become the occupant.

(5) The declaration below the agreement shall be subscribed by at least one respectable witness and by the patel and village accountant of the village in which the land is situate. [17]

95. See Note 178 to Rule 73.

96. See note 70 (iii) to Rule 31. Here (as in Note 200) there is no idea of an arbitrary fixing of prices in disregard of market value. To give for Rs. 50 possession of land which would sell normally in the market for Rs. 100 is hardly distinguishable from giving a cash order on the treasury : and the Government of India have remarked that when land is consciously sold or leased at less than the market value whatever limits and conditions apply to the power to make gifts of occupancy value apply also to the

difference between the market value and the accepted value (R. 4892–13). The power of giving away public property without equivalent consideration is not conferred upon any authority.

The meaning of the rule (which is literally capable of the above interpretation, but must be interpreted consistently with the Code) is that—

(*a*) ordinarily the occupancy of land will be offered at public auction ;

(*b*) some plots, such as strips between fields and roads, abandoned roads, alluvion etc., can only be usefully taken up by one person who might refuse to bid at all (if, there were persons who wished to obstruct him) or might get it for practically nothing (for want of competion) if an auction were held. In such cases the Collector fixes a fair price such as might be got at auction if circumstances permitted open competition.

Experience in Canal Colonies in the Punjab shows that grantees often sell their rights immediately ; or evade the (Punjab) Land Alienation Act by leasing for a long term for an immediate premium or lump payment. The net profit to grantees (mostly military and non-resident) by re-sale for Rs. 165 per acre of land granted to them at Rs. 12½ per acre was recorded at 16 lakhs in one Colony in one year.

97. Much land in Thar and Parkar (and other districts) was taken "annually" by roving tenants who paid the "assessment" only (no occupancy price, no Kabulayat, no obligation to continue the holding). This "Eksali" tenure is most destructive and demoralising by putting it up to annual auction the Collector got from 5 to 8 times the assessment thus proving the extreme lowness of the assessment. But such a tenure is ruinous for the land. It is understood that there is a similar system in parts of the Punjab.

98. R. 8931–14.

99. (i) Such a tenure cannot be fully secured by a lease, since a general covenant against transfer without the lessor's consent does not avail against transfer by Court's decree (I. L. R. 7 Bom. 256, etc. ; R. 2036–18).

For the genesis of this tenure see R. (letter) 4180–01, though even then not quite a new feature see R. 6210–83 ; and for other discussions and directions see R. 1624 and 9183–02, 5075–05. All feudal tenures were originally inalienable and even non-heritable and early Aryan and Celtic practice put many restraints on alienations. This tenure is not suited to the advanced classes, and such land when found in their possession should be converted into ordinary tenure land on payment of a premium equal to the ordinary occupancy price of ordinary tenure land.

It can be prescribed even for building sites (R. 2682–09) when it is not desirable to bestow the power of mortgage and sale of their houses upon certain classes. Sales and leases between agriculturists are not seriously objectionable (R. 8610–01). But power to sanction transfers and leases of new tenure land should *rarely* be delegated to the Mamlatdar (R. 4347 (17)—02, 8708–10.) There is a risk that land granted on a low occupancy price on this tenure may subsequently be converted at an inadequate premium into ordinary tenure land. This should be borne in mind when auctioning land on this restricted tenure (R. 8526–08, 6211–09, and the Chopda cases, R. 599–12). A proposed grant of large tracts of valuable land on this tenure by auction or at low fixed prices is discussed in R. 10262–14.

The clause in Form I is sanctioned in R. 6210–83 and 2293–02. A Court must set aside even after its conclusion a sale of land under this tenure upon receipt of the Collector's certificate (R. 655–05).

The Collector was authorised to convert land, originally "sheri," held on this tenure in Ratnagiri into ordinary tenure for a premium of 5 times the assessment (R. 1836–15).

But if revenue officers act so as to cause the transferee to believe the transfer was valid, it might be held the Collector is estopped from avoiding it : I. L. R. 25 Bom. 746. 26 Bom. 277. But the mere acceptance of a razinama kabulayat has not such effect (R. 9257–07).

(ii) Yet one more new tenure has commenced to spring up. As a consequence of the lengthy discussions on the Fragmentation of Holdings Bill it has been sanctioned that in West Khandesh the Collector may grant lands to Shahus on a tenure containing restrictions against partition. Sometimes it is to be combined with the inalienable or restricted tenure. In other cases it may be given on impartible tenure without being restricted. These grants will necessarily have to take the form of leases ; because there is nothing in the Land Revenue Code authorising grant of occupancy on such terms [yet see first sentence of No. 99 (*i*) above]. The occupancy price, if any, will be at the Collector's discretion taking into consideration these restrictions (R. 4702–24—19–10–28).

38. Where any survey number disposed of under rule 37 has not already been assessed,[100] it shall be assessed by the Collector (after reference to the Superintendent of Land Records) at the rates placed on similar soils in the same or neighbouring villages; and the assessment so fixed shall hold good for the period for which the current Settlement for the village in which the land is situated has been guaranteed, and shall be liable thereafter to revision at every general settlement of the said village. [18]

Survey number not already assessed to be assessed before it is disposed of.

100. At Settlement an assessment can be placed on unoccupied land, but it is not binding on Government: *see* Note 33 (*i*).

39. Where it appears that the bringing of any survey number under cultivation or its reclamation for other purposes will be attended with large expense, or where for other special reasons[101] it seems desirable, it shall be lawful for the Collector (with the previous sanction of the Commissioner, in cases where *the assessment*[102] on the land included in the total grant exceeds one hundred rupees) to grant the survey number revenue-free or at a reduced assessment for a certain term, or revenue-free for a certain term and at a reduced assessment for a further term, and to annex such special conditions as[103] the outlay or other reasons aforesaid may seem to him to warrant, and to cancel the grant or levy full assessment on breach of these conditions[104] [105].

Where survey numbers may be given at reduced assessment.

Explanation.—"Assessment on the land" means the assessment fixed at the settlement or, where no such assessment has been fixed, the assessment determined in accordance with the procedure prescribed in Rule 38. (R. 745–28 of 7–2–29.)

Provided that, on the expiry[106] of the said term or terms, the survey number shall be liable to full assessment under the rules then in force for lands to which a settlement for agricultural use has been extended or which are assessed for other uses.

(2) Form G1 may generally [107] be used in cases under this rule. [19]

101. These reasons are derived from the desire to promote agricultural or urban development, not from such motives as are dealt with in Note 80. A case of a grant to Bijapur Municipality for a cloth market which would not have been covered by this rule is discussed in R. 4745–16: the grant has been revised in R. 806–21.

102. Either the assessment fixed at the Settlement or an assessment now fixed as in Rule 38. The effect of the rule is to enable the Collector to pay a landholder for bringing land into cultivation instead of demanding an occupancy price. For the general form of this sort of lease see R. 7033–84 and Forms G-1 and G. 2.

103. Gifts by the Collector of the possessory right, but subject to the usual revenue are authorized and sometimes made to encourage the settlement of new areas, or new methods and experiments. Grants to Civil officers have been mentioned in Note 80. Such grants will be on the ordinary tenure or with restricted power of alienation according to the class of recipient, but never at reduced assessment. For special forms

for Kolis and wild tribes in jungle tracts of Khandesh, Nasik, Surat, Ahmedabad and the Konkan see R. 1044–75, 6210–83, 6907–87.

(*ii*) For a discussion of the economic significance of occupancy price see R. 180–13 and Collector of Nasik [now Governor General of the Irish Free State] (J. McNeill)'s No. 8300 of 27–8–14 in R. 10262–14.

(*iii*) Grants are also made in Sind under the Sind Occupants' Act III of 1899; and grants at reduced or no occupancy price under Commissioner in Sind's Special Circular No. 23 (R. 5632–01).

(*iv*) Under R. 9397–17 a monthly return is now required of all grants under Rules 9 and 9A (*a*), (*b*) of F. 2028–13.

A. *Collectors* enter all grants made to non-officials other than those made at auction or full market price under Rule 37; see Note 80 (iii) above. No value is to be entered, as *ex-hypothesi* the grants have no money value. The return is sent by Collector direct to the Accountant General.

B. *Commissioners* enter grants sanctioned by themselves under Note 80 (iii) and Financial Rule 9A (*a*). Here too no money value is presumed. They send their returns direct to Accountant General.

C. The Local Government transmits to the Accountant General a return of the sanctions given under Financial Rule 9 [Note 80 (1)], and 9A (*b*) [Note 80 (v)]. The value of the land and the value of the capitalized revenue is to be separately shown. Also all leases, contracts, etc., entered into under the Statutory Rules (Note 76) are forwarded for audit to the A. G.

104. For some particular terms sanctioned for waste lands containing babul in Kaira see R. 8931–14 (Appx. O-F.); for waste lands in Thana (and generally) R. 2154–09, 6368–09. For a new form for clearing land of prickly-pear see R. 11514–11. For waste lands in Ahmedabad, R. 7837 and 9547–17.

105. A tenure cannot be terminated for breach of such a condition (of reclamation, or of cutting "tabal," etc.) unless the condition is *lawfully* annexed to the tenure; otherwise the land must be leased, with a forfeiture clause. For violation of a condition in the lease itself see R. 472–01, also 7440, 8610–01.

106. *Leases.* In all cases when leases have been given the terms, especially the date of expiry, or date on which an altered rent or assessment will be leviable are to be recorded in T. F. II: and at least 6 months (if not a year) before the expiry of any such term notice should be served on the lessee intimating what action the Collector proposes to take. Otherwise the lessee may have new terms suddenly or even retrospectively sprung on him which will cause him loss, or at least evidence unbusinesslike habits.

107. If it is desired to reclaim for building purposes or for other non-agricultural objects, special terms will be negotiated and approved by Government.

Grants of salt-marsh lands for reclamations.

40. Salt land [108] or land occasionally overflowed by salt-water, which is not required or likely to be required for salt manufacture, may, after consultation with the Commissioner of Salt, be leased for purposes of reclamation [109] by the Collector, subject to the confirmation of the Commissioner on the following maximum terms, and with such modifications in particular cases as may be deemed fit:—

(*a*) no rent shall be charged for the first ten years;

(*b*) rent at the rate of four annas per acre shall be levied for the next twenty years on the whole area leased, whether reclaimed or not;

(*c*) After the expiry of 30 years the lease shall be continued in the case of reclaimed lands at the rate at which they

would be assessed to land revenue from time to time if they were subjected to survey settlement; and in the case of unreclaimed lands, if any, at the average rate of the reclaimed lands (Notification No. 372-B. of 17th April 1923);

(*d*) any portion of the land used for public roads shall be exempt from the payment of rent;

(*e*) if the reclamation is not carried on with due diligence within two years, or if half the area is not reclaimed so as to be in a state fit for use for agricultural purposes at the end of ten years, and the whole at the end of twenty years, or if any land once reclaimed as aforesaid is not maintained [110] in a state fit for use for agricultural purposes, the lease shall be liable to cancellation at the discretion of the Collector;

Provided that the lessee shall be at liberty during the first ten years to relinquish any area which he cannot reclaim.

(*f*) if the land reclaimed is used for any non-agricultural purpose, its rent shall be liable to be revised according to the rates under whichever of rules 81 to 85 has been applied to the locality notwithstanding that any of the periods specified above may not have expired;

(*g*) Form G2 may generally be used in cases under this rule. [20]

108. Land overflowed by salt-water or in Port limits may not be disposed of without consulting the Deputy Commissioner of Salt and Excise. If he is likely to require it for making salt, then the Collector places the land at his disposal, cancelling the assessment and correcting V. F. I. The Deputy Commissioner of Salt leases the land at a fixed royalty of 3 pies per maund of salt produced which is credited to salt revenue (R. 5186–97) and not liable to Local Fund (R. 2637, 2865–70). But it may be leased "eksali" and its grazing may be sold if not within Port limits. (R. 986–95.) Similarly all lands within Port limits are transferred to the Department of Salt and Customs and not disposed of without consulting it whether it is needed for Port or channel conservation. (R. 4408–97.)

109. For a discussion of the term "reclamation" see R. 4954–00, 3875–01, R. 231–02 and I. L. R. 25 Bom. 32. But the rule is now made clear by defining it as "reclaimed so as to be fit for agriculture." For the standard form of lease Form G2 see R. 3208–82, 2641–98 and 3875–01.

Though for a partial breach, the Collector cannot determine part only of the lease, he could determine the whole and regrant a part.

A practice existed in Ratnagiri of evading these rules by granting salt land (needing reclamation) on ordinary occupancy, and at an arbitrary assessment, not based on its actual productive rental value (which would have been almost nil) but on the value it was estimated likely to attain when reclaimed. This is most unsound and unjust and has (it is understood) been stopped (Cmr. S.D.'s A. P. S. R. 1069—9–8–23). When the rules provide a manner of disposal for a certain class of land they by implication exclude other methods of disposal.

110. The lessee must keep the sea out throughout the period of the lease (R. 6346–18), but is not obliged to continue cultivation in leases granted before the present rules came into force. (R. 618–20.)

41. Land situated in the bed [111] of a river and not included in a survey number shall, save as otherwise provided in sections 46 and 64, ordinarily be leased [112] annually by auction [113] to the highest bidder for the term of one year or such further period as the Collector thinks fit. The accepted bid shall be deemed to be the land revenue chargeable on such land. But in Sind the Collector may grant it for cultivation to those holders who have lost land by erosion. [21]

Land in beds of river.

111. Bed does not include shore or bank. (R. 4551–85.) See discussion as to vesting of public streams in a Municipality in R. 1272-21.

112. See powers delegated to Mamlatdars (Order VIII).

113. (*i*) Annually: this is the only case in which the Code or Rules contemplate rack-renting or leasing agricultural land year by year to the highest bidder. All other occupancies must be granted according to a fixed tenure at the survey rates; for a Collector to let out the waste land of his district annually or otherwise to the highest bidder or at any rent above the survey assessment would be a violation of the economic theory of our Land Revenue law (see Joint Report of 1847). But in particular cases there is no *legal* obstacle to the renting of waste lands on temporary leases on any terms Government please (R. 5034–94). This discretion seemed, however, to be restricted to lands not surveyed or assessed (see opinions of Advocate-General in R. 3400–01), till the law was amended by Act VI of 1901; though the legal bar was removed by the proviso to sec. 68 as amended the general inexpediency remains in the case of agriculture (R. 7873–01). For a standard form of eksali lease see R. 10361–05. See also Note 33 (*i*).

(*ii*) Special concessions to Bhils and Bhois in the matter of such leases were abrogated in R. 8801–14.

(*iii*) Alluvial islands or "bets" even if assessed by a Survey Officer are not brought under Survey Settlement which could not be applied to them; and therefore fall outside the general theory in clause (1) (R. 5366–00). Where there is possibility of injury to bridge abutments within half a mile or of insanitary fouling of drinking water such sales should not be made; the Executive (R. 7430–05) or Resident Railway (R. 2760–06) Engineer should be consulted.

Grant of land for non-agricultural purposes.

42. Unoccupied [114] land required or suitable for building sites or other non-agricultural purpose shall ordinarily be sold after being laid out in suitable plots by auction to the highest bidder whenever the Collector is of opinion that there is a demand for land for any such purpose; but the Collector may, in his discretion, dispose of such land by private arrangement, either upon payment of a price fixed [115] by him, or without charge, as he deems fit. [116] [22]

Disposal of land for building and other purposes.

114. The Government of India in a recent communication (R. 4892–13) are disposed to reserve this power when the land forms part of a continuous town area of 10 acres or more.

115. See Note 96 to rule 37 and Note 200. Sanction has been accorded to arrangements in which part of the occupancy price is paid over to a Town Planning Fund, or Local Fund, for road construction (G. 4887–15), but see Note 76. Similar arrangements are common in Punjab Canal Colonies.

116. No waste land near Railway stations should be disposed of for building sites and no permission should be given under sec. 65 for such use without concurrence of the Railway. If there is any difference of opinion the Commissioner will decide it (R. 4606–99). This is more fully discussed in the notes under Rule 80.

43. (1) Save in special cases in which the Collector with the sanction of Government otherwise [117] directs, or in localities falling under rule 44, land for building sites shall be granted in accordance with the following provisions :—

Conditions of grants or building.

(*a*) The land shall be granted in perpetuity [118] subject to the provisions of the first paragraph of section 68, and shall be transferable.

(*b*) Where the land has already been assessed for agriculture, the assessment shall be altered under whichever of rules 81 to 85 has been applied to the locality.

(*c*) Where the land has not been assessed the Collector shall fix the assessment in accordance with the principles laid down for alteration of assessment in rules 81 to 86 and the privisions of the said rules shall as far as may be, apply.

(*d*) All such assessments shall be fixed for the period specified in Rule 87 (*a*) and may be commuted when they do not exceed one rupee in accordance with the provisions of rule 88.

(2) In the case of such grants an agreement [119] in form F or form H, as the Collector may deem fit, shall ordinarily be taken from the person intending to become the occupant, and in the case of land in development schemes undertaken by Government in the Bombay Suburban District an agreement shall be taken in form HH. In the case of grants in which an agreement in Form H is to be taken, the Collector may, with the approval of the Commissioner annex such additional conditions to the grant as the Collector thinks fit.

(3) When the land is granted on inalienable tenure, [99] the clause specified in form I shall be added to the agreement.

(4) The declaration below the agreement shall be subscribed by at least one respectable witness and by the patel and village accountant of the village in which the land is situate. [24]

117. This provision relates only to the terms of the tenure, and does not in any way authorize free grants or charitably reduced assessments which fall under rules 32–35; see (Order) R. 4495–16.

A most important distinction to bear in mind in this chapter is that between "sale" and "lease." When land is sold, a ground rent or assessment can be reserved and certain conditions can be lawfully (i.e., by law) annexed to the tenure, but no more. But if it is desired to place restrictions on the use other than those imposed by the law itself, then a lease is the proper instrument (R. 472–01). When a lease has a vague renewal clause, it must be interpreted, in the absence of anything specifically to the contrary, to be of renewal for the same period as the original lease; otherwise the clause is nugatory (R. 514–01 and sec. I. L. R. 7 Bom. 109). A leaseholder has no right to minerals or trees (R. 3482–83). For some (hill-station) leases renewal in the same form and terms can be demanded (G. 6259–15). See too Note 105.

For the distinction between rent and land revenue, see I. L. R. 25 Bom. 556.

e grants require a 10 feet margin between all holdings and the ay relax that condition at his discretion. (R. 1071–02).

rms for house building are made to criminal tribes; four special for Bijapur in R. 9358–12, but replaced by two forms of *lease* in odified into perpetual leases with periodic revisions of assessment 1–21) Appx. O. E. and again modified in R. 8509—19–7–23.

81 when old rule 25 was first notified up to 28–6–05 when it was pancies were not granted in perpetuity but on a lease for 99 years rdeaux' Compilation). None of these leases can have yet expired. 2 years for completion of a building was sanctioned under R. 7898–83 was cancelled as unauthorized in R. 6373–06. Unfortunately an as printed for two purposes, in which the words "in perpetuity" truck out and replaced by "for 99 years;" but in issuing the leases uently neglected.

119. A second Form (H, alternative to Form F) containing conditions as to forfeiture and the erection of a building with proper spacing and access was sanctioned in R. 10002–15 for use in large villages and non-municipal towns. But Government think it is too elaborate (R. 922–20).

And another Form HH-R. 4976—16–9–27 used in B. S. D.; see R. 930/24—29–8–24 and 8–6–25.

Another special form for one village in Yellapur (Kanara) was sanctioned in R. 4113–22.

43-A. *Terms on which land intended for future building sites may be temporarily disposed of.*—Unoccupied lands which are eventually intended for building sites within the Bombay Suburban District or any other area, to which Government may by notification in the *Bombay Government Gazette*, extend this rule but of which the immediate disposal for the said purpose appears to the Collector to be undesirable, may be let under written leases in a form [119-a] approved by Government for short terms not exceeding in any case seven years at a ground rent equal to double the standard rate of non-agricultural assessment in force in the locality, or at a ground rent which may in special cases or localities be fixed with the sanction of the Commissioner.

119-a Form O—O (1) sanctioned in R. 9545—31–7–1924.

In hill stations.

44. In hill stations and such other localities as Government may direct land shall not be granted [120] for building except on such conditions as are considered desirable regarding the style of building, the period for construction and the observance of municipal or sanitary regulations. Such conditions should be embodied in the instrument (Form H).

120. R. 127–98. The previous rules as to rate of assessment will not be affected. Among these special cases are the Bandra leases (R. 4176–91 and 6751–11); the Kasara leases (R. 5338–05), Panchgani and Mahableshvar (R. 1293, 4316, 7504–05, 2201–06, 7987–13 and 2522–21) (see Appx. O-G), Matheran leases (R. 3668–00, 3583–04, 2179, 5215, 5324–12 and 7987–13, 5620–15 and 1663–20). R. 700–97, 683–11, 1604–16 declare that it is customary for Government to make provision of land for gaothan by the machinery of the Land Acquisition Act—Sec. 3 (*f*)—and R. 12769–17 extends the provision to Ratnagiri so that all districts are now covered. See Land Acquisition Manual, para. 34. All these special leases require to be registered (R. 2926–09). Every such lease must contain a Clause reserving rights over minerals and reserving right of access to search for the same; also a clause providing for the surrendering of land on reasonable terms (usually the same price as has been paid to Government or less, together with the value

of buildings *authorizedly* constructed) whenever the land is notified under the Acquisition Act for acquisition for a public purpose or certified by the Commissioner to be so required. They also contain clauses regulating renewals: and at Mahableshwar securing a prerogative of Government officers over tenancies of houses. Such leases will be exempt from stamp duty [G. I. Notfn. 785-S.R. at page 250, *B. G. Gazette*, of 2-3-99, and A. (7) 3616-40 of 16-7-09] and from Court fees [item C. (24) of G. I. Notfn., F. and C., 4650 of 1889]. But this exemption from stamp duty is lost if any strip of land is relinquished in the agreement (R. 6411-03).

[Clause 8A of the Matheran lease does not give Government a special remedy against infraction, but only a suit is possible. Fine is *ultra vires*, and permission to transfer and renewal cannot be arbitrarily refused (R. 4525-18). The earlier 30 years' leases restricted enhancements on renewal to 33 per cent., a curious instance of the influence of false analogy: but this is now abandoned by R. 1663-20].

Establishment of entirely new village site.

45. Where an entirely new village site is established [121], or an addition is made to an existing site, the disposal of the lots therein shall be made under such of the rules 42, 43 or 44 as may be applicable. [27]

121. For acquisition see Land Acquisition Manual. These rules deal with the disposal of the land after it comes to the possession of Government (R. 8462-12).

Substitution of a new village site for an old one.

46. Where a new village site [122] is established, in lieu of a former one which it is determined for any reason to abandon, an agreement shall be taken in form J, from each occupant before he is permitted under section 60 to enter into the occupation of any lot. [26]

122. The land occupied by buildings within village, town and city sites has ordinarily hitherto not been charged with land revenue. See Note 27; Supplement A; and Appx. J. But when the provision of new sites involves public expense, there is no reason why this exemption should extend to them.

Conditions of grant of land for non-agricultural purposes other than building sites and alteration of assessment.

47. Where unoccupied land is granted for non-agricultural purposes other than building sites, the Collector shall annex such conditions [123] to the grant as may be directed by Government or, in the absence of any order of Government, may annex such conditions thereto as he thinks fit, subject to the control of the Commissioner; and where the land has already been assessed for the purpose of agriculture, the assessment of such land shall, in the absence of any order of Government to the contrary, be altered in accordance with the provisions of rules 81 to 85. Where it has not been assessed, its assessment [124] shall be fixed by the Collector, as far as may be in accordance with the principles laid down for alteration of assessment in the said rules.

123. For an example of special conditions in the grant of an occupancy for building a Mill, see R. 3086-20 wherein the Collector uses the term rent when apparently he means assessment. For a tea-shop near Anand Railway Station, See R. 734-21.

124. The G. of India [see Note 70 (iii)] are disposed to expect that all unoccupied lands should be granted on leases at a rent.

XXIV. (1) Where unoccupied land of the kind described in Rules 42 to 47 is to be disposed of, it shall, in the first instance, be marked out in convenient lots and mapped in such a manner that persons desirous of becoming occupants may clearly know what plots are available.

(2) Due provision[125] should be made in the plans for roads and approaches and access of air and light, and careful regard should be had to sanitary requirements. [25]

125. (*i*) Government have laid down no more detailed rules as to the development of N-A land. [See also Rule 40 (*d*)] Obviously, when any block of land now agricultural is developed, it must frequently be necessary to give up part of the area to make streets, etc., for access. If the land is Government unoccupied, then this portion of the area must be reserved as public. When a new village site or town planning scheme is carried out, this is provided for. If the land is occupied, then before development the holders must surrender the street area to Government, *i.e.*, to the public. If the whole of the land is owned by one man or body, they might retain the ownership of the street while throwing it open for public use; even so, they would scarcely elect to pay assessment thereon.

(*ii*) When a large agricultural block is undeveloped by streets and means of access, it has a low N-A value. As soon as a portion of the area is sacrificed to make streets and paths, the remainder acquires a greater value. Not only does it increase enough to set-off the value of the surrendered land, but usually *even more*; so that it pays the owner to surrender these streets. Now in fixing standard rates of N-A assessment, ordinarily the entirely undeveloped value is taken as the basis. If Government thereafter lay out streets and lanes and set apart and deduct that street land as non-productive of revenue, then it would certainly seem that the "standard" N-A assessment should be raised upon the remainder. Instances could easily be shown in which the value of the undeveloped block is even doubled by the surrender of perhaps 1/5th of its area for streets. A N-A assessment fixed upon the undeveloped value would then be hardly half the proper assessment on the developed value. It would therefore seem that when the Collector makes a layout of any agricultural or waste land and reserves land for streets which will be non-productive of assessment, he should at the same time revise the N-A valuation so as to secure for the State its proper proportion of the developed value.

(*iii*) When any person applies to build on unoccupied land or occupied agricultural land, there is a high probability that other people will sooner or later desire to do the same. One of the very commonest mistakes made in granting *permissions* to build is that no such action to lay out the land and consider its effects upon total area, etc., is taken. When the first application to build in a certain S. N. is received, the Collector ought first to consider *whether a layout is necessary*. If the S. N. already has access to a road and the holder proposes to build upon and utilize the whole No. as one compound, then there is no need to "lay out" that S. N. though even then we might require the surrender of a strip for access to land behind. But if a portion of a S. N. is proposed to be cut off into a building plot, it must be considered what is to happen to the rest. If we leave useless fragments or if we put a row of unbroken plots along the road frontage so that the land behind is entirely cut off from access to the roads and from future development unless (by applying the Land Acquisition Act or otherwise) some new means of access is provided there is not only a loss to Government under the N-A assessment, but the public is put to loss by the waste of land, the two things being closely correlated. A bad instance just N.-E. of Dharwar Railway Station was corrected in 1916. We sometimes see new buildings strung out in a long narrow stretch down a road until the plots at the end get so far distant that the demand is choked off. If the land *behind* the frontage strip had been made available, there might have been three or four times as much building development, which means not only benefit to the public, but also benefit to the Government revenues.

(*iv*) There seems to have been no pronouncement from Government in the past on this point. In special agreements under sec. 67, form A—Appendix O-N it is provided [para. 4, (*c*), (2)] that the land-holder may be required to surrender to Government for public use land for road purposes. If he makes such a surrender, it has been held to require the registration of the document as a conveyance of land *in favour of Government*. But in almost all development of agricultural land, it is indispensable that public access should be provided. In the case of S. N. 118 of Manjeri (Poona City) a patchwork of agricultural hissas was built over; it was impossible to do so without leaving roads and "bols." The hissas all belonged to different people, so that the lanes for access must become public. Some hissedars had to lose a lot of land, others lost none. Yet the Circle Inspector

measured the land and treated each original hissa as liable to N-A assessment on its full area, and charged the holders at the undeveloped rate of Rs. 60 per acre for all their original agricultural area, even when a large part was lost by surrender to lanes and the value of the built-over residue held by others was much enhanced so as to deserve a much higher rate than Rs. 1½ per guntha. Not an inch of the land of the S. N. was set apart as a public road. The boundaries of the plots so mapped and the areas recorded by the Circle Inspectors were quite absurd, and the public right over the essential means of access was thus imperfectly protected. Exactly the same thing has occurred in S. N. 63 of Marian-Timmasagar (Hubli City), and many such cases could be adduced.

(*v*) *Koregaon Road Estate, Poona.*—This lies East of the road joining the Mula Mutha river (Fitzgerald Bridge) and the junction of the G. I. P. and M. & S. M. Railways. Originally 200 acres were acquired at an average price of under Rs. 1,000 per acre. About Rs. 500 *per acre* (one lakh in all) were spent in roads, and this with the miscellaneous expenses roughly brings up the cost per developed acre to about Rs. 1,500. An N. A. assessment of 6 pies per yard (approx. Rs. 150 per acre) was imposed on the 180 acres available for plots. Capitalized in perpetuity at 5 per cent. this amounts to a State demand of Rs. 3,000 per acre. Subject to this demand, 67 plots were sold by auction and realised an average of Rs. 8,700 per acre for the first 17 sold and 3,080 for the next 50. Assuming that such high rates will not be maintained, but that the general average might not exceed Rs. 3,000 per acre, even so it will be seen that by the expenditure of Rs. 1,500 the public can get a return of Rs. 6,000. The great increase is due (1) to the removal of private interests and obstacles to organised development; and (2) to the prior construction of proper means of access. Where conditions ensuring a natural demand for land exist, such enterprise which secures for the State all the unearned value subsequent to the development (together of course with all risks involved) is economically justified. Even before Government stepped in, the agricultural holders were able to realise two or three times the agricultural value of the land without becoming liable to any taxation. The scheme was carried out mainly through the energy and initiative of W. F. Hudson, Esq., I.C.S., Collector.

(*vi*) More recently Government have ruled that where it consists of many separate holdings it is better to acquire land outright before laying it out. The risk and the profit then will be borne by the planning authority, which is as it should be. See G. 2809–20 and a Belgaum case R. 2059–20, Byadgi R. 4578–18. Instead of a permission to convert agricultural land, we then deal with a grant of "unoccupied" land. The Ambarnath scheme, and much of the development of South Salsette and Trombay follow this principle.

Special rules for certain city surveyed areas.

Special rules for the sites of Ahmedabad, Broach, Surat, Rander, Bulsar and Godhra, and certain other places.

48. Except as may be otherwise specially directed by Government, nothing in rules 37 to 47, both inclusive, shall be applicable to the grant of any lands to which a City Survey has been extended[126], under Bombay Act IV of 1868 or under section 131 and which do not vest in the municipality [127], within the sites of the towns and cities of Ahmedabad (inclusive of its suburbs of Saraspur, Dariapur Kajipur [128], Rajpur Hirpur, Asarwa, Kochrab, Chhadavad, Changispur[a] and Paldi[b]), Broach, Surat, Rander, Bulsar, Godhra, Igatpuri[c], Bandra-Danda[d] and Ahmednagar[e], Tando Adam (Nawabshah) R. 7080—B/24-27th November 1926) or of any other town or city to which Government may by notification in the official *Gazette* extend this rule: and nothing in rules 81 to 85 shall apply to any agricultural land lying within the same sites, but to which a City Survey cannot by law extend. [57 (1) and (2)]

The granting of such lands for building sites, and the granting of permission to use such lands (when assessed for agricultural use) for non-agricultural purposes, shall be regulated by the following rules 49 to 52.

126. Such lands cannot be agricultural.

127. R. 3445–11. Such lands must be clearly shown in the map. Government formerly declared that they had no claim to proceeds of sales of such land (R. 447–12), but this opinion was questionable (see Note 63) and withdrawn in R. 2579–18.

128. With Madhavpur, surveyed in 1852 (R. 6960-97): (*a*) R. 8370-05. (*b*) R. 5484–08. (*c*) R. 7284–11. (*d*) R. 7149–08. (*e*) R. 10910–09.

Disposal of strips of land adjacent to existing building sites.

49. Whenever the holder of a building site desires to acquire any small strip of ground belonging to Government which is adjacent to his site and which could not reasonably be disposed of by the Collector as a separate site, the Collector may, if he thinks fit, and notwithstanding anything[129] to the contrary contained in rule 33, sell such strip to the said holder on the same tenure on which he holds the said site, and on payment of ground rent or assessment at the same rate, if any. [36-I.]

129. *I.e.*, the limitation to a revenue free value of Rs. 500 does not apply. But grants under this Rule are intended to cover only miscellaneous fragments. No form is prescribed because the conditions are determined by the last two lines of the Rule.

Mode in which other lands may be disposed of.

50. (1) Any[130] unoccupied land to which rule 49 does not apply and which is not assigned for special purposes may be granted to such person as the Collector deems fit either for purposes of agriculture only or for other purposes.

Lands to be ordinarily sold by auction.

(2) Any such land shall ordinarily be sold by auction to the highest bidder; but the Collector may in his discretion[131] sell the same by private agreement.[132] [36-II.]

130. *I.e.*, not a small strip, etc.

131. See Note 200 to Rule 82 and Note 96 to Rule 37. In the disposal of the usually more valuable lands in a city the Collector would do well to obtain the Commissioner's approval of any price he proposed to fix otherwise than by auction.

132. For the Municipal share in the sale-proceeds, which was intended to be devoted to the improvement of roads in Sir T. Hope's original Rules, see R. 3044–63, 862–67.

Terms on which building sites may be disposed of.

51. (1) Unoccupied land shall be granted for building sites and permission under section 65 to use for non-agricultural purposes lands occupied[132a] and assessed for agriculture shall be given by an instrument in a form[133] approved by Government, for terms expiring on the date fixed[134] in this behalf by Government for each city or town, at a rent or altered assessment, as the case may be, of two pies per square yard per annum, or such higher rate[134a] as the Collector may, with the previous approval of the Commissioner, fix for any particular site or portion thereof.

(2) (*a*) Unoccupied lands which are eventually intended for building sites[136], but of which the immediate disposal for the said purpose appears to the Collector to be undesirable, may be let under written leases in a form approved[137] by Government for short terms not exceeding in any case seven years at a ground rent[138] of not less than one anna per square yard per annum.

Terms on which land intended for future building sites may be temporarily disposed of.

(*b*) Unoccupied lands under clause (*a*) shall, ordinarily, subject to the provisions of the said clause, be let by auction to the highest bidder; but the Collector may in his discretion let any such land by private agreement[138a]. [36-V.]

132-a. See modification in Form M, when used under this rule. (R. 9508-24—23-8-27).

133. The Collector may not add to the conditions in the sanctioned standard form R. M. 227, Appx. O-H (R. 1086-03) without the approval of Government in each instance. The disadvantages of a lease which under the old rules of 1867 would now (1921) run only for 45 years up to 1966 are discussed in R. 9787-17. Under the arrangements with the Municipalities, however, it does not seem that the same solution as was adopted in the case of Bijapur [see Note 33 (*vi*)] can be adopted. The old term was "lease," not instrument which is wider; but see Note 124.

134. For details, see Supplement A.

134-a. This almost nullifies the 2 pie rate (See R. 14802-17) which is too low for modern conditions. It is again discussed in R. 354-24—28-1-25.

135. Embodies old Rule 53, from which Ahmednagar is exempt (R. 6258-09).

The rule is not well conceived. No provision is made for the possible use of these fragmented areas to improve existing holdings. At any rate the grant of short-term leases under R-51 (2) for building would be an unjustifiable evasion.

136. Notfn. R. 8612-08.

137. R. M. 228 in the schedule of Standard Forms, Form O-I.

Form O-I can be used for short-term leases in city surveyed areas to which rules 49—52 are not applicable (R. 9138 of 20th September 1923). This order has been extended to all places (i.e. whether city surveyed or not) outside city survey areas to which Rule 48 applies. (R. 9138 of 21st January 1930).

138. Compare the rent with that in sub-rule (1); this does not contemplate any occupancy price or premium in addition. Ten pies out of the anna are assigned in the Hope Rules to the Municipality as interest on the postponed occupancy price; see paragraph 4 of Mr. A. Rogers' 448 dated 30-1-67 in R. 862-67. This rule does not debar the Commissioner from approving higher rates for short-term leases. If a higher rate is levied the Municipality is to receive 10 pies out of *each* anna (R. 14802-17).

138-a. Government desire that Collectors should record reasons when land is let by private agreement R. 5189/28-33.

52. Unoccupied lands may be leased for purposes of agriculture for terms of one year. An agreement in Form F, with such modification, as may be necessary, shall be taken from every person who is to become an occupant of land under this rule, and the provisions of sub-rules (2) to (4), inclusive, of rule 37 shall be applicable to every agreement so taken. [36-VI.]

Terms on which lands may be disposed of for agricultural purposes only.

53. (1) In municipal districts, building sites and plots of open ground, which have not been dedicated to public use or already transferred[139] to the municipality, are hereby declared to be specially reserved[140] by Government within the meaning of sub-section (2) of section 50 of the Bombay District Municipal Act, 1901.

Unoccupied building sites, etc., within municipal limits to be distinguished from lands forming part of public streets.

This reservation does not apply to small pieces of ground lying between the houses and the road-way in an irregular street or road of varying width, which should be recognized as forming part of the street and vesting in the municipality[141] unless private individuals have rights thereto. But separate vacant sites between houses do not vest in the municipality even though they are unenclosed unless they have been transferred to the municipality by Government. [35]

139. *E.g.*, as air spaces (see R. 8181–00). This transfer is under Rule 73.

140. For reservation of the Bhadar (Ahmedabad City) see R. 2511–81, 3151–11, but the tenure is unique, and a law suit has just ended in favour of Government (R. 3438–16, 10218–16). A special form of lease is to be prepared (R. 12211–17). Land once vested in a District Municipality can be resumed and the Municipality divested [see sec. 50 (2) [illegible] Municipal Act]. And if while so vested it ceases to be used for the purposes for

No. 47

'age 63, *Note* 140—

For the third and fourth sentences beginning with "Land once vested" nd ending with "Government land", *substitute* the following:—

" Land vested in a municipality under section 50 (*2*) of the Bombay District Municipal Act, 1901, or section 63 (*2*) of the Bombay Municipal Boroughs Act, 1925, cannot be resumed, but if while so vested it ceases to be used for the purposes for which it vested, it reverts to the original owner (I.L.R. 44, Cal. 689) and thereupon can be assessed or disposed of as Government land."

[illegible] this decision dissents from I. L. R. 10 Mad. 154 and was am[illegible]

No. 48

Page 63, *Note* 141—

For the first sentence of the note, *substitute* the following:—

" If land vested in a municipality is allowed by that body to [illegible] encroached upon, and if adverse possession by limitation is establish against it, then that land is lost and Government cannot resume and claim the benefit of the longer period of limitation, namel 60 years."

(Government memorandum, R.D., No. 5900-B/33, dated 19th July 1937.)

[illegible] a limitation about vesting [illegible]
and the rights of these bodies as regards sales and leases see R. 2640 of 28th April 1931.

Both for agricultural and non-agricultural grants.

54. The permission in writing[142] to be given by a Mamlatdar under section 60 to enable an intending occupant to enter upon occupation shall be in form K, or Form KK. [34]

Form of written permission to occupy under section 60.

142. This formality follows the old principle of "livery of seisin" by symbol in Feudal and Roman law. Confusion as to rights must ensue when there is not publicity and formality in the transfer of possession.

The officer in charge of a City Survey (if not already the Mamlatdar) ought also to be given powers under sec. 60.

XXV. No such permission shall be given until the Mamlatdar has ascertained that either a lease of an agreement has been duly executed and delivered under one of the Rules 37 to 47, 51 or 52 as the case may be. [34 (2)]

XXVI. The Mamlatdar who takes the said agreement will be held responsible for exercising due care in ascertaining the identity of the persons signing the same, and their fitness to be accepted as occupants responsible for the payment of land revenue notwithstanding that the agreements have been duly endorsed by witnesses. [32 (1), cl. 2]

Exceptional cases.

55. Unalienated land to which none of the foregoing rules is applicable[143] and concerning which no other rules have been framed by Government, shall be disposed of in such manner for such period and subject to such special conditions, if any, as the Collector, subject to the control of the Commissioner, deems fit. [29]

Disposal of land to which foregoing rules are inapplicable.

143. In this category would fall the grant of permission to plant trees in waste land and open spaces in towns and villages and in reserved forest and common land, without grant of the possession of the land, and with certain right over the trees reserved. These concessions continue to the legal heirs and assignees of the grantees without restriction as to succession or transfer (R. 9124–18). (See R. 8966–01 and Sanad Form Appx. O-J as amended by R. 4042—8–3–22, and revised Forms in R. 4–13), and for babul plantations in assessed Survey Nos. see R. 4118–01 and in unassessed waste in Ahmedabad see R. 3293–87. These are, however, covered by the next sentence of the rule. Also for (revenue-free) grants, for "huris" or groves in Sind, see Commissioner in Sind's Special Circular No. 16. Form for grant for brick making is prescribed in R. 1417–24–II of 30–4–29.

For terms of a grant to a temple committee for encouragement of anti-famine fodder storage see R. 6928–19. For lease of a well and lands adjoining it to a private individual in Kaira District for water supply scheme, see R. 3858/28 of 4–12–29.

Trespassers built a well in Government waste land. They were granted a repairing lease to use the well, without transferring its ownership (R. 4579/24—19–12–25).

56. The forms[144] appended to these rules shall be used where applicable, but where a grant is made on special terms and none of such forms is suitable and a special form has not been sanctioned,

Special forms.

the orders of Government shall be obtained regarding the form[145] to be used. [31,32]

144. See Note 120 to Rule 44 for exemptions from Court-fee and Stamp duty (see also Rule 134).

145. Special leases are prepared by the Solicitor to Government at the lessee's expense (R. 3208–82). But simple Mufassil leases are drafted by the R. L. A. (R. 7573-95).

There is no special form of lease for melon beds in rivers (Rule 41). In Sind the occupant of annual alluvion in the Indus should execute an agreement in preference to a lease.

Records.

57. The document[146] evidencing a grant shall be drawn in duplicate and one copy, which shall be retained by the Government officer concerned or by Government, shall be signed by the grantee. [N]

146. The Register of Leases (now T. F. II) will show when they are about to expire. In all cases it should be decided whether the lease is to be renewed or not, and *the lessee should be served with a notice to quit six months before the expiry of the lease*, unless meanwhile he applies for renewal. For detailed arrangements see the Manual of Revenue Accounts, p. 202, para. 1 (R. 2028-83). Generally a fresh premium or occupancy price is to be levied, see Supplement A. This obligation to give notice might well be expressed in an administrative order.

Of course leases granted before these rules must be observed, even though their terms differ from those now in vogue (R. 3482–83).

CHAPTER VIII.

TREES AND FOREST RIGHTS.

General reservations.

58. The extent to which the right[146a] of Government to trees[147] is generally conceded to occupants[147a] under the third paragraph of section 40 shall be specified in the notification[147b] issued under rule 17. The said general concession will ordinarily extend to all trees, except the following:—

(*a*) all road-side trees planted by or under the orders of Government;

(*b*) teak, blackwood, and sandalwood;

(*c*) trees, the produce of which has hitherto been disposed of by Government[148]:

Provided that whenever any land is disposed of after the first introduction of a settlement of land revenue, such trees shall also be disposed of under section 62;

(*d*) any trees specially reserved[149] in the terms of the grant of the land. [91 (1)]

(Forest—"Ea quae foris stat" *i.e.*, is not divided for individual occupation in the distribution of village land; it has in its meaning no association with trees.)

(146a). Trees abutting on cart tract in Municipal limits belong to the Municipality—Advocate General's opinion in G. 7410—12-8-29.

147. The Feudal, and still more the earlier communal English and Irish laws of land tenure vested all forests and waste in the Crown or lord as 'trustee for the community'. It is not too much to say that early English constitutional history pivots upon this right in the Norman, Angevin, and Tudor dynasties.

(ii) In Bombay forest rights are discussed in R. 2493–81. Dunlop's (Kolaba and Ratnagiri) and Harris' (Kanara) proclamations are discussed in 8 Bom. H. C. R. 2; I. L. R. 3 Bom. 728, and R. 8049–24 of 22–3–29.

(iii) The rule cannot from the terms of sec. 40 (*3*) apply to alienated lands, and can only be applied to lands not yet settled (R. 5637–89). Building sites held revenue-free *under sec. 128* are "alienated" (R. 7097–89), and in the compounds of bungalows where agricultural settlement does not apply, Government make no claims to trees (R. 2113–98). In the case of the great majority of building sites in village gaothans neither surveyed nor assessed but not "alienated", the right of Government to "reserved" trees seems clear. The rule still leaves Government power to reserve any other trees whenever at a new original Survey Settlement it is deemed expedient. But as nearly all unalienated lands are now surveyed and settled, this rule is largely inoperative.

(iv) See too especially Rule 30 (*b*) as to Port limits, within which no trees, particularly mangroves, may be cut without the written permission of the Deputy Commissioner of Salt and Excise: see Commr. of Salt and Excise's C. R. 732—12–6–18.

(v) The unauthorized cutting of trees in waste or occupied land is more appropriately dealt with under sec. 76, Forest Act (R. 3394–03). Civil Court jurisdiction over this subject is barred, P. J. 1893, p. 186.

(vi) Trees belong always to the landlord, not to the tenant. But a *permanent* tenant, the origin of whose tenancy is lost in antiquity, is entitled to the trees. For tenant's rights to the *produce* of trees see I. L. R. 30 All. 134 and 38 Bom. 716. Also note 154 (ii).

147*a*. Sec. 40 itself applies only to unalienated land. So in the case of Inam villages, this tree-reservation clause is omitted from the Settlement notification, form A.

(ii) In uncommuted service lands of district and village officers, there is no right of the holders over the trees (R. 419 and 7633–87); nor in kadim service lands (R. 7664–88). Rules for cutting such trees are in R. 6376–90 replacing 9578–89. Permission must be got. The Mamlatdar is empowered to give it by R. 5295 (22)–11 and certain Forest officers R. 5651–13. It is given to other than temporary holders (R. 6376–90) if the trees are not reserved or sacred or specially useful. Isolated reserved trees may be cut on payment.

(iii) There are many decisions as to the rights over trees and forest in Inam lands and villages: a general enquiry was held, and the subject belongs rather to the Manual of Alienations and of Watans (*R. B.* R. N. Joglekar, 1920–21). For Summary Settlement Inams, see R. 5572–90.

(iv) Trees are ceded on all land definitely included in the Revenue Settlement: but waste and 'forest' (Norman-Latin *foris stare:* to stand outside the settlement) are not so included. For rights over trees in occupied lands in Ratnagiri District see R. 8049/24 of 22–3–29.

Forest Department should undertake disposal of Government sandalwood trees growing in lands outside forest. (R. 4622/28 of 23rd June 1930.)

For a discussion as to Sandal trees in Village sites; see R. 3536/24—25–3–25.

For sandal exploitation Rules see R. 7491/24—11–6–28.

147*b*. See note 32. We should understand the *final* notification of guarantee under the latter parts of Existing Sec. 102; not the announcement under Sec. 103.

148. Honi and matti trees in Kanara (R. 1053–85.)

149. Bamboos are not reserved in Peth (Nasik) (R. 8036–05). Everywhere specially valuable kinds or specimen trees shall be reserved. Trees in land granted on the restricted tenure in Thana were reserved under rules in R. 5633–02. See too Note 151.

Special reservations.

59. Trees in groves, trees round temples or places of encampment declared to be such by the Collector, and trees other than teak, blackwood or sandalwood, which for any reason are of special value or utility, shall be specially reserved[150] at the settlement and entries to that effect made in the settlement records. [91 (2)]

150. Trees standing in public places would ordinarily be standing on land not brought under the agricultural Settlement and not likely to be given out for occupation. Of course Rule 59 does not refer to such land, but to groves, etc., which are nevertheless in assessed agricultural holdings of occupants. Trees on land already assigned for public purposes are in no need of protection by rules. In Rule 55 for the disposal of Government land will be found a provision for permitting trees to be planted in such public land in the possession of Government (R. 8966-01, 4-13).

Disposal of trees on occupied lands.

60. (1) Subject to the provisions of rule 63 the disposal of trees on land occupied or being given out for occupation shall be regulated by the following sub-rules :—

(2) Of the trees to which the rights of Government are reserved, [151] such number or kinds as Government may from time to time direct will be at the disposal of the Forest Department. Lists shall be kept for all occupied numbers, over the trees in which the Forest Department has any control or lien; the clearing of these numbers by the Forest Department [152] shall be arranged in concert with the Collector, and every number when cleared shall be recorded as exempt from all interference in the future on the part of the Forest Department. In districts, where there is no Forest Officer, these functions will be discharged by the Collector alone.

(3) All other reserved trees shall be in charge of the Collector who may dispose of the same or of their produce as he may deem fit, subject to the general rules for the disposal of Government property.

(4) In talukas in which the demarcation of forests has been completed, when any unoccupied land containing jungle or valuable trees which have not been included in any forest reserve is granted to any person for cultivation the Collector may offer the trees, or such of the trees as he may see fit, to the occupant. If such person agrees to purchase the same, the value [153] shall be recovered from him by the Collector and credited as land revenue. If the occupant refuses to buy under this sub-rule or sub-rule (3) then the Forest Department should clear the land of trees.

(5) In talukas in which the demarcation of forest reserves has not been completed, the Collector may, if he thinks fit, consult the Conservator of Forests before any land containing jungle or valuable trees is granted; and if any such land is granted to any person the provisions of sub-rule (4) shall apply; in no case shall land be granted which is likely to be required for forests. [93]

(6) In Sind the clearance of reserved trees under sub-rule (1), and of trees not accepted by the new occupant under sub-rule (4) shall be effected by the Collector.

151. In 22 Bom. L. R. 884, it is held that 'trees reserved' means trees existing at the time of the settlement: not trees which may afterwards grow. See too Rule 62. This is almost certainly the contrary of the intention of the law.

152. When such trees are sold by Forest Department, it takes the credit (R. 3906–83, 4503–84).

Draft rules for the exploitation of Sandal in Malki and Service Inam lands in Dharwar, Belgaum, Bijapur and Kanara are published in R. 491–24—20–8–28 (*not* 11–6–28). They are chiefly under the Forest Act and are not here reprinted.

153. For an all-round upset price see R. 7537–90, 6852–91. Sandalwood excepted and sold at auction (R. 895–95, 985–01).

61. Whenever the right to unreserved trees in any land is at the disposal of Government simultaneously with such land all such trees shall invariably be disposed of [154] to the same person who acquires the holding and not to any other person. [93-VI]

154. But restrictions upon tahal cutting may be lawfully annexed to the right of occupation in Thana or Kolaba (R. 11936–08 and Notfn. R. 2154–09). The amended Code (1913) puts this beyond doubt (sec. 62).

(ii) When land is transferred to another Department, such as Forest, P. W. D., Railway (unless any trees are expressly reserved, R. 9313–83, 237–90) the Revenue Department is no longer concerned with its minor products. The head of the establishment occupying a P. W. building may dispose of grass, fruit, trees, etc., except for cutting down live trees; if it is an office, hospital, etc., he credits all the proceeds to P. W. D., but if it is a residential building, the proceeds of trees only are credited to P. W. D. (P. W. 364-A–1964–87; 178-A–1187–88; 139-A–686–89) the tenant being entitled to other proceeds. The so-called "forest" lands in charge of the Revenue Department are not transferred to the Forest Department within the meaning of this note (R. 1253–89).

62. When the right of Government to the trees in a holding has been once disposed of to the occupant, or when all the reserved trees have been once cut and removed either—

(*a*) at the grant of the land, or

(*b*) after such grant, or

(*c*) in Sind, at any time before such grant, or

(*d*) elsewhere than in Sind, within five years before such grant,

Government will have no further claim to trees which may afterwards grow in the holding, or which may spring up from the old roots or stumps, so long as the land continues in occupation. [155] [93-VII]

155. But when land while waste and unoccupied is cleared by Government and more than five years subsequently becomes occupied, the after-growth belongs to Government unless disposed of at the time of the grant of the right of occupation (R. 4321–88).

Except when in a Summary (or Gordon or Pedder) settlement, the Sanad grant a proprietary title (to the soil or trees) in clear terms, the holders have no right to aftergrowth of sandal and other reserved trees (R. 7627/24—1–5–27).

Exception of reserved trees in varkas and beta lands in certain districts from rules 60–62.

63. (1) Nothing in rules 60 to 62 inclusive shall be deemed to apply [155a] to varkas lands in the districts of Thana, Kolaba and Ratnagiri, and beta lands int he district of Kanara, or to any land in the Dindori [156] Taluka or the Peth [157] Taluka of the Nasik District or to any land on the

banks of streams and nálas in the Godhra Táluka of the Panch Maháls District, or to any riverside jámbul trees growing in occupied lands on the banks of the rivers Mula, Pravara, Mhais and Mhalungi in the Párner, Ráhuri, Sangamner and Akola Tálukas of the Ahmednagar District; or (pending the completion[158] of the acquisition of all occupied lands[159] within the sanctioned demarcation limits of the forest in the Haveli, Purandhar and Junnar Tálukas and the Ambegaon Petha of Poona District) to any teak trees in such unalienated land.

(2) In the said lands the trees on which the rights of Government are reserved shall be available for cuttings to be made from time to time by or under the orders of the Forest Department, in consultation with the Collector.

(3) The sale of any such tree or of the timber thereof will confer no right to the after-growth from the root or stump of the tree so cut. The reservation of the rights of Government over the trees will extend to all such after-growth also. [94]

155*a*. Here we should understand "within the forest settlement demarcation lines." The rule has not correctly reproduced the effect of R. 10661/1906 it seems.

156. Here when land is given out for permanent cultivation after-growth will be conceded (R. 5384–97), unless the growth is needed for some better purpose. The old rule said "unalienated land in Dindori" but Rule 63 cannot apply to alienated land.

157. Here the after-growth will be disposed of by the Revenue Department under certain restrictions (R. 5865–06).

158. Up to April 1921 the acquisition had not been completed; hence the rule is still retained. This incorporates old Rule 95 (1). The Poona forest settlement acquisition proposals have just been finally made out, December 1928.

159. Outside the demarcation, ordinary rules apply (R. 6734–96).

159*a*. Originally this whole Rule 63 was intended to apply only to waste inside the Forest Settlement demarcation and when the trees exceeded 50 to the acre. Other occupied warkas in *Kolaba* was released by R. 6922/1900; R. 10661/06. And can therefore be sold under Rule 62. It is not clear how it stands as regards Thana and Ratnagiri. (Because Pen, Roha, Mangaon and Mahad fell under Dunlop's proclamation of 24-3-1824, which gave up the trees and after-growth. Government attempted to rescind it in 1851 but in 18 Bom. 671 it was ruled they could not do so. The Colaba problem is dealt with in R. 10087/92 and 6808/93.) In Kolaba [but not in Ratnagiri (Dunlop's proclamation)] or Kanara (Harris' proclamation)—see R. 6922-00 and 10661-06—the right to after-growth of all trees once cleared was conceded to occupants. R. Memo. 2011 D/28 of 29-12-28).

For a discussion about claim to after-growth of teak trees in warkas lands in Kolaba and amendment of Rule 63 which was denied see R. 6607/28 of 23rd March 1931.

CHAPTER IX.

Disposal of Grazing and Minor Products of Land.

Sale of produce of Government trees.

64. (1) The produce of trees belonging to Government[160] may be sold by auction annually or for a period of years.

(2) Where any such trees are sold under section 41, the sale shall be by auction or otherwise[161] as the Collector may direct. [37]

Grazing and other similar produce to be ordinarily disposed of by sale for periods not exceeding five years.

65. (1) The grazing or other produce of all unoccupied land vesting in Government[160] whether a survey settlement extends to such land or not, and whether the same is assessed or not and of all land specially reserved for grass or for grazing (except land assigned to villages for free pasturage), may be sold by public auction or otherwise[161], as the Collector deems fit, year by year, or for any term not exceeding five years, either field by field or in tracts, and at such time as the Collector shall determine[162].

Provided that the purchasers' rights over such land shall entirely cease on the dates respectively fixed in the following table, unless, under special circumstances, the Collector deems it necessary to alter the time so fixed :—[38]

Collectorates	Waste assessed Dry-crop Land	Waste assessed Rice Land	Reserved Kurans and unassessed Waste
All in Sind ..	31st July ..	31st July ..	31st July.
Thana ..	31st March ..	31st March ..	31st December.
Dharwar ..	31st March ..	31st December..	1st May.
All others ..	31st March ..	31st March ..	1st May.

160. Sci : "in the Revenue Department."

161. *i.e.*, at a fixed price : and generally subject to the consideration in Notes 85 and 200.

162. Another authorized system in certain tracts is that known as the "Kanara" grazing fee and pass system sometimes worked in conjunction with Forests, sometimes independently. Yet another such system is the disposal at a fixed rate of one anna per acre (*vide* R. 8952-09). The management by panchayats therein directed has not always been a success (see R. 2254-17).

Disposal of earth, stone, etc., by the Collector.

66. (1) The Collector may, at his discretion,[163] sell by public auction or otherwise dispose of the right to remove earth, stone, kankar, sand, muram, or any other material which is the property of Government[163a] for such period and in such quantities and on such terms as he thinks fit[164]:

Provided that such sale or other disposal shall be made subject to the privileges conceded by Rules 67 to 70 inclusive.

(2) The rate charged by the Collector under this rule, when the right in question is not put up for sale by public auction, may be either a lump sum, or so much per cubic foot of excavation, or in the case of a Railway Company requiring land for excavating ballast, so much per mile of the railway line for which ballast is obtained, or otherwise as the Collector thinks fit[165]. [39]

163. See Note 200.

163a. It is important to note that in *occupied* lands charges for quarrying, etc., are levied not as "Stone and Mineral and Sand fees from *Government* land" but are altered assessments under L. R. C. section 48 and 65. Such altered assessment is not assigned to or to be paid to the Local Boards (R. 10424/17; R. 5428/22). See rule 82 IV.

Bill II of 1924 providing for right of access to all "valuable" minerals has not been proceeded with.

164. For power of free grant see Order II. For free removal by Government contractors from lands in Government possession see R. 2322-12, partially modified by R. 8478/24 of 14th June 1929. Village Panchayats are exempted from payment of fees for removal of stones for public purpose from quarries situated in Government forest. (R. 8478/24 of 27th June 1930.)

The statutory restrictions (Note 58) upon the disposal of land do not apply to miscellaneous products; or to rules under Rule 5 of the General Mining Lease Rules (G. of I., Com. and Ind., 7552-121—15-9-13) for extraction of minor products, such as slates, building stone, limestone, clay, etc. (R. 12438-15). The concession of removing stones for public purposes from Government forest is extended to sanitary committees and notified area committees subject to the condition that the concession is recommended by the Collector of the District. (R. 8478/24—31-10-33.)

165. All quarry fees and fees for earth, stone, sand (even when realized from Revenue Forest, R. 5042-89) are allotted to the Local Funds (R. 4550-74, 376-87, 1057-90, 7251-90): but if realized within municipal limits from land vesting in the Municipality, they are kept by the Municipality. A Municipality has no power to levy fees on land which does not vest in itself, even though it may be in municipal limits (R. 4225-88, 2743-94).

Therefore no fee is charged to a Local Fund (or village panchayat R. 8857/12-4-24,

No. 3

Page 71, Note 165, Paragraph 2—

***Add* at the end :—**

"or (to the Village Improvement Committees for carrying out repairs to village roads. R. 8857 of 16th April 1935)."

[illegible] no Local Fund can claim any part, but the Collector or Conservator of Forests must first give permission for removal (P. W. 1337 Ry.-02), state managed Railways and the B. B. & C. I. Railway shall be charged the usual Royalty for the extraction of mineral products from land included in reserved forests. (R. 8478/24 of 14th June 1929.) A scale of charges for the M. & S. M. Railway is sanctioned in R. 6262-86 and 844-87. Other companies' Railways would probably be charged similar rates. In the case of private individuals, the Collector's power to enhance these rates to meet special cases remains unrestricted, as provided by this Rule. (R. 2334-20.) Special rates for Matheran are in R. 4920-12.

Sanctioned rates per 100 cubic feet (not applicable to G. I. P., B. B. & C. I., or N. W. R.—R. 844-87):

	Rs.	a.	p.
(All as measured on delivery, unless otherwise stated.)			
(i) Building stone by cubic measure in the actual building ..	1	0	0
(ii) Surplus stone removed from quarry but not consumed (125 cubic feet reckoned as 100)	1	0	0
(iii) Ballast, or concrete	0	8	0
(iv) Special stone used for pitching; measured as arranged by the Collector	0	4	0

	Rs.	a.	p.
(*v*) Kankar from cultivated land	.. 0	8	0
(*vi*) Sand	.. 0	2	0
(*vii*) Surface boulder stones	.. 0	2	6
(*viii*) Kankar in unassessed waste	.. 0	4	0
(*ix*) Muram or white earth	.. 0	2	0

R. 2334-20.

The Forest and Revenue Departments charge even other departments for material of all sorts extracted from the unoccupied lands in their charge, except for mineral products extracted by the departmental agency (with the assent of the officer in charge) (R. 5792-97). This order is modified by R. 8478/24 of 14-6-1929. For extraction by contractors and levy of fees from them see R. 8824-06. Contractors for Railways other than State Railways are similarly charged, and the fees are credited to the Local Fund. But if the Railway is entitled to free material Government then repays the Company (? by debit to 11—Subsidized Companies) (P.W. 1629-Ry.-82, R. 2503-83). Since it is very difficult to make sure that a contractor allowed to extract and remove metal or stone free would not subsequently sell it for private works, the Surat method of first charging the royalty in full on all extractions and then refunding it on evidence of delivery on public works or other exempt municipal or Local Fund (or Village Panchayat, R. 8857-24) works is commended for general adoption (R. 5141-15). Rules for Railway Companys are in R. 5939-17. But in case of quarries allotted to Railway Companies, the Company (1) may not allow contractors to sell to outsiders, (2) must pay royalty for all they use for Native State Railways. A system of check must be devised (R. 5939–17).

In some Malki villages the Maleks are entitled to seven annas of all mineral income. Therefore Government can hand over only nine annas to the Local Fund and if any contractor or Department is given "free" material, this is valid only as to nine annas of the whole royalty value, and P. W. D. should not give contracts based on free stone (R. 8951—10-1-24; and 13-2-28).

When the right of removing sand, gravel, etc., is sold direct by the Local Board, a clause clearly defining the rights of certain Railways and Departments to exemption from the Local Board fees must be drafted—considerable loss once occurred through omitting this.

Any quarry fees levied from other parties by Government are paid to Local Fund and the Local Board itself may quarry free of charge. (R. 8824/06.)

Removal of earth, stone, etc., by villagers for their own use without fee with the permission of the revenue patel.

67. (1) With the previous permission in writing of the revenue patel, or where there is no such patel of the Mamlatdar or (in Sind) of the Tapedar, but without payment of fees (*a*) any potter or maker of bricks or tiles may, for the purposes of his trade, (*b*) any person may, for his domestic or agricultural purposes, remove earth, stone, kankar, sand, muram or other material from the bed of the sea or from the beds of creeks, rivers and nalas or from any unassessed waste[166] land not assigned for special purposes within the limits of the village in which he resides or in which the land for the benefit of which the materials are required is situated[167].

(2) Nothing in this rule applies to any case falling under Rule 69, and where it appears to the revenue patel or Tapedar that any case in which application is made to him under this rule falls under Rule 69 he shall refer the application to the Mamlatdar for orders. [40]

166. Does not include pôt kharáb (classes (*a*) or (*b*), Rule 75) (R. 3291–85).

167. As amended by R. 6146–12.

68. With the previous permission in writing of the Mámlatdar but without payment of fee, any person may, for the purpose of building a well, remove stone from any of the sources specified in sub-rule (1) of rule 67 if those sources are within the limits of the taluka in which he resides[168]. [40 (1) (c)]

168. R. 3588-09.

Excavation.

69. (1) In any case where excavation of the soil is likely to damage or destroy any valuable building or any land required for any special or public purpose or any boundary mark, the previous sanction of the Mámlatdár to any such removal shall be required and he shall refuse permission to the extent necessary to prevent such damage or destruction.

Ports.

(2) No pátel or Mámlatdár may permit any removal under rule 67 or 68 from land within port[169] limits, or on the banks or shore of any port without the written concurrence of the "Collector of Salt Revenue" and under such conditions, if any, as he may impose.

Bricks, etc.

(3) In any case where it appears to the Mámlatdár that the trade carried on by any potter or maker of bricks or tiles is sufficiently extensive and lucrative to render such a charge fair and equitable, he may grant permission only on payment of fees at such rates as may be prescribed by the Collector in this behalf under rule 66.

(4) In such cases or localities as he thinks fit, the Collector may prohibit the Mámlatdár, the Tapedar or the revenue pátel from giving permission without obtaining his previous sanction; and in any such case all applications for permission shall be referred to the Mámlatdár for the Collector's order.

(5) Where the revenue pátel or Tapedar refuses permission when the same is applied for under rule 67 or does not refer the application to the Mámlatdár under sub-rule (4) an appeal shall lie to the Mámlatdár. [40 (2)]

169. As defined in sec. 30 (i) of the Ports Act XV of 1908.

Removal of earth, etc., from village tanks.

70. Any person may, with the sanction[170] of the revenue pátel, take free of all charge from village tanks[171] as much earth, stone, kankar, sand, muram or other material as he requires: provided that no stones shall be removed that may have fallen from the banks of built tanks, and that no

excavation shall be made within 10 cubits of the foot of the embankment of any such tank. [41]

170. This is distinct from the previous written permission of Rule 67. An oral or general permission suffices under Rule 70.

171. This would not cover privately owned tanks, but would include such tanks as are classed as pôt kharáb, class (*b*), provided right of access could be obtained. It is not desirable to restrict such removals to agricultural or domestic uses, since it is desired to get rid of the silt and improve the capacity of the tank, and it does not matter what is done with the spoil.

CHAPTER IX-A.

DISPOSAL OF WATER VESTING IN GOVERNMENT.

70-A. No person shall without the previous permission of the Collector in writing make use of any water of a river, stream or nala which is the property of Government, for the purpose of irrigating by a *budki* or a pumping plant land other than that subject to the existing nala-chad.

70-B. The Collector may grant permission for the use of the water of a river, stream or nala which is the property of Government and for which no water-rate is levied under the Bombay Irrigation Act, 1879, for the purpose of irrigating by a *budki* or a pumping plant land other than that subject to the existing nala-chad, on payment of such water-rate as he may deem fit, but not exceeding the rate per annum per acre which may have been fixed for the locality by Government for occasional irrigation by *Pats* under section 55 of the Bombay Land Revenue Code, or where no such special rate has been fixed, the maximum *Patasthal* rate sanctioned in the current settlement for the group in which the village in which the land in question is situate may have been included. Provided that in precarious tracts irrigation by *budkis* or pumping plant shall be exempt from the water-rate leviable under this rule.

70-C. Any person who, without the previous written permission of the Collector, makes use of any water of a river, stream or nala which is the property of Government and for which no water-rate is levied under the Bombay Irrigation Act, 1879, for the purpose of irrigating by a *budki* or a pumping plant land other than that subject to the existing nala-chad, shall be liable to pay such water-rate as the Collector may deem fit, but not exceeding Rs. 50 per annum per acre of land so irrigated.

70-D. The water-rates payable under rules 70-B and 70-C shall be recoverable as arrears of land revenue.

Explanation.—For purposes of rule 70-A, 70-B and 70-C "*budki*" includes a "*dhekudi*" or any similar appliance for raising water. (R.L.C. 2587 of 1-7-31.)

CHAPTER X.

ALLUVION[172] AND DILUVION.

Holders of land with shifting boundaries may occupy up to such boundaries.

71. When a holding is bounded on any side by the bank or shore of a river, creek or nála or of the sea, the holder will be permitted,[173] subject to the provisions contained in sections 46,[174] 47, 63 and 64, to occupy and use the land up to such bank or shore, notwithstanding that its position may shift from time to time. [44]

172. The subject of alluvion is one of the most difficult in the law of land. The references in secs. 37, 46 and 63 to " any law for the time being in force " are vague since so far as is known there is no such law in force behind the L. R. C. except in the case-law or judge-made law based upon the common law and natural equity, and some special Municipal and Port Trust enactments outside Bombay Island. Alluvion must, according to these rulings, be interpreted to mean strictly gradual, slow, and imperceptible [imperceptible day by day as it occurs but of course perceptible enough in the long run (Halsbury's Laws of England, Vol. 28, p. 362)] accretion by deposit of fresh soil by water upon existing riparian land. (Justinian and 3 Bengal L. R., p. 525, 1870). Sand blown by the wind or a mass of shingle suddenly flung up after a storm, or new land left bare by a receding sea or a diverted river is not alluvion but derelict land. Nor would the deposits in a river bed which raise their surfaces above the hot-weather water-level be treated as alluvion in respect of a holding terminating on the upper edge of the steep bank of a river high above the deposit; there is no physical connexion between them, to which the term " accretion " would be applicable. L.R. 27 All. 655, 28 All. 647.

(This condition of *gradual* change does not attach to diluvion.) The fact that a riparian holder (or even, semble, a third person) by artifice assisted the alluvion to form does not affect the law: the persons to whom an alluvial strip of frontage had been granted were evicted in favour of the riparian hissedars: R. 12383-19. Nor does the fact that it forms *in situ* of previous diluvion (for which assessment was reduced) affect the title of present riparian holders (R. 744-19). The existence of a public footpath along the old estate boundary or anything else which puts a limit to the riparian owner's property would prevent the deposit of fresh soil from being an *accretion*, and so from being alluvial at all.

173. Rule 71 seems, at first sight, to repeat secs. 46 (alienated) and 64 (unalienated). But it must be understood that *alluvion* is not the only cause of the extension of a holding, or of want of definition of its boundary. Then again, the riparian holder is not obliged to accept possession and pay assessment or judi for any accretion, alluvial or not, unless he wishes. If it is unprofitable, he can decline; though he would then run the risk of the land being allotted to some other person. In the case of alluvion there is a limit (in the case of unalienated land) of one acre to his right of *free* enjoyment; and no limit of his right of occupation of alluvion *subject to the payment of revenue*. Conversely this seems to imply no title to exemption from revenue when the extension is not alluvial. In the case of an alienated riparian holding, it has first to be decided whether the alluvion or abandoned shore or river bed, or new island, does vest legally in the Inámdár. It has been (Bom. L. Reporter, VII, 1905, p. 872) held not so to vest unless his original grant had covered the area now reformed or reappeared (since such grants are construed strictly against the grantee). Again R. 744-19 rejects the view that the alluvion formed in place of old diluvion on the site of an inam grant, becomes Inam: but no reasons are given and the order has not been confirmed by any legal decision. Sec. 46 does not confer any proprietary right on the Inámdár, but simply refers us to the general law. New islands not " formed on any bank or shore " and other alluvion not proved to vest in an Inámdár would fall under sec. 63. Abandoned river (creek or sea) beds if not vesting in an Inámdár would also vest in Government on becoming dry under sec. 37, not as the " bed of the sea, etc." but as " all lands, etc." Such lands or any alluvion for which no riparian rights [for rights of fishing in the sea, see I.L.R. 2 Bom. 19; for the enjoyment of water by riparian owners see I.L.R. 7 Bom. 209; but all riparian lands are not assessed for water advantages] are asserted or desired to be retained of course become Government unoccupied land and are dealt with under the rules for such land. The Code gives no power to frame rules for alluvion, but only for diluvion: and does not deal

with the proprietary right but only with the liability to pay land revenue (or quit rent and salámi, if alienated). It was held in R. 8011-12 that alluvion artificially formed upon alienated land cannot be granted as Inam. This seems to conflict with R. 12383-19.

174. Section 46 cannot apply to Khoti or Tálukdári villages, because land held by Khots and Tálukdárs is not alienated. It might apply to Kadim or Phut Inám lands in such villages.

In Ratnágiri Khoti villages, omit " section 46, 47, and 63 ".

The Kolába Settlement *Leasehold* Khots have a right of disposal of waste land whether assessed or not, subject to the payment of revenue : therefore, the Collector would have no power of disposal even if the unassessed waste were alluvial. Still Rule 72(*b*) should be applied administratively in order to keep the Land Records right.

Kabulayatdar (including Sanadi) Khots have a right only to assessed unoccupied land (and they pay revenue for it). Therefore they can have no rights to alluvion, except that which forms on Khoti Khasgi lands. In such villages therefore secs. 47, 63 and 64 all apply.

It would seem that both classes of Kolaba Khots are entitled to remission on account of diluvion.

The Collector to dispose of claims under section 47.

72. (*a*) Claims to decrease of assessment on account of diluvion under section 47 shall be disposed of by the Collector. [47 (1)]

(*b*) It shall be the duty of the village officers[175] to ascertain[176] and to record the increases due to alluvion and losses due to diluvion in every holding subject to such changes. They shall also report to the Mámlatdár for orders when the area of any newly formed alluvial or island, or of any abandoned river bed, or land lost by diluvion exceeds the limits prescribed in sections 46, 47 and 64. [177][45, 46]

175. In Khoti villages, read " Village Accountant or Japtidár, or Circle Inspector if there be none " (R. 3451-08) and " Japtidár or Bánd Kárkun " in Tálukdári and omit reference to section 46-47 (R. 2180-F.—29-3-22. For Alluvion increasing forest land, see R. 5080-24—17-7-26.

176. In the course of their boundary and crop inspections, which notes they should transfer to the Remarks column of the Record of Rights.

177. The Rules for Sind differ and were framed by Mr. Frere (the then Commissioner in Sind) and issued on 22. 5. 52, and declared to have the force of law under Government of India Notfn. 1254-30. 11. 80, republished under Bombay Govt. Notfn. R. 8120-7-12.80 (pp. 1067-1072) *B. G. G.* 9.12.80). They are not printed in this volume, and have been put into the melting pot to be recast (R. 3861-24—22-9-26.) The subject is of far greater importance in the Indus Valley : and many local customs and rules have grown up.

CHAPTER XI.

Assignment of Land for Special Purposes.

Cattle stands and dhobis' and potters' grounds.

73. (1) Gurcharan (gairan) or grazing ground for cattle, burial and burning grounds, spots near villages on which the village cattle stand, and lands for the use of village dhobis and potters, and for other recognized public needs may be assigned[178] by the Collector for these purposes respectively,

ccording to the reasonable requirements of the villagers without charge: and he may for sufficient reasons at any time revoke[179] such assignment.

(2) Orders under this rule shall be passed in writing and recorded.

178. (i) Land so assigned remains public property; there is no disposal of possession or proprietary right under sec. 37 (R. 555-01). There is therefore no limit of value (R. 3317-99). Grants of sites for idgah, temple, or extensions of village sites are not assignments but disposals (R. 9424-06). Instances of public or Municipal purposes are land for rab-cutting, public latrines.

Municipalities may retain half the income derived from the strictly temporary use of such land subject to the approval of the Collector or City Survey Officer; the other half will be credited to Government (R. 125-24—7-2-25).

(ii) Such assignments do not include transfers to other departments which must be sanctioned by Government.

(iii) The annual statement of such assignments was discontinued (R. 11506-11).

(iv) "Gairan" may be transferred to "Burial ground" without Government sanction (R. 3317-99, 5701-01); and Government can modify any gairan assignment (R. 3121-88).

(v) When any expenditure on provision of burial grounds, is required, then it devolves upon the local bodies (R. 4953-00). But after acquisition, the land would be assigned under sec. 38, and not as L. B. property.

Inámdárs cannot enclose free pasture or other such assigned land (Vishvanath *v.* Madhavji 1879).

179. For power of re-allotment of a disused village site for agriculture, see R. 5295 (17)-11.

179a. Almost nothing is said in the Rules about roads (but see note 186). No doubt a road is an area over which the public has rights (S. 37 L.R.C.) and is the property of Government [or sometimes of private persons (see note 125)] subject to such right. But suppose a new (and more suitable) road is made available out of public funds; it would seem a natural prerogative of the public (Government) to resume the disused road. But the High Court has ruled (not yet reported, Sept. 1928) that (on the English principle that once a highway always a highway) Government cannot revoke such a dedication. If good law, it is bad common-sense. The "consolidation of holdings" claims as one of its merits that it saves a considerable area dedicated to individualist paths and cart roads. If this ruling stands this "replanning" of fragmented fields will be checkmated.

Roads transferred to L. B. (and Municipalities) (see s. 61-A D. L. B. Act and 52-D. Municipal Act) vest in those bodies as roads, and as soon as disused or not wanted, revert to Government. Therefore a D. L. B. (or other body) has no power to declare a portion of a road no longer wanted and then to lease it as their own property (R. 721—28-16-7-28.)

Municipal Gardens (Surat and Balsar, R. 9691-24—31-10-27) or "air spaces": the latter (R. 12524/15-4-26) should not be granted without reporting the real necessity and the market value for Government approval.

So also disused Tanks (Pot Kharab of class b. Rule 75). See N. 186 (ii).

All such assignments are revokable. R. 4343/02 and I. L. R. 21 Bom. 684. No assigned land could be disposed of for private use till first disassigned. R. 6393/24—21-7-26.

CHAPTER XII.

RELINQUISHMENTS.

Endorsement as to identity required below rajinamas.

74. (1) Every notice given under section 74 shall be in Form L[180] and the declaration below the notice shall be subscribed by two respectable witnesses.

(2) The Mámlatdár[181] who receives any such notice will be held responsible for exercising due care[182] in ascertaining the identity of the person who has signed the same, notwithstanding that such notice has been duly endorsed as hereinbefore required.

180. Free of Court fee (Government of India's Notification 4650 at p. 807, *B. G. G.* of 19-9-89) and stamp duty (*B. G. G.*, p. 1384, 28-7-09) and exempt from registration (sec. 90 (*e*), Act XVI of 1908). They must also be written by village accountants without fee: see Rule 134.

(ii) For printed copies of Form L (Rájináma) (supplied gratis in books of 25) see R. 9511-04. But nowadays rájinámas are too rare to justify a printed form. Rájinámas by minors are subject to restrictions (R. 7074-82, 2407-83, 8078-85).

(iii) There was formerly provided a form for relinquishment in favour of some other person. The law provides that when any holding of land is transferred by any private transaction to another person, the transferee will hold it on the same tenure and subject to all the liabilities and rights of the former holder, provided the transfer is one permitted by law. Transfers by inheritance or by Court sale and so on were formerly recorded, but transfers by private sale or mortgage or gift were not recorded; hence at that time the need of the form. But now we have the Record of Rights in which all such transfers are fully recorded; and therewith the need of the relinquishment form known as the "Mobadla" disappears. A relinquishment must be complete, and cannot retain wells or trees (R. 7152-90), but a separate house (*i.e.*, not in the resigned land but held in association with it in some other land) may be retained (R. 5512-86).

(iv) Among alienated villages, sec. 74 is applied only to those brought under a Survey Settlement. The rájináma can be presented only to the Mámlatdár, unless the inámdár has a commission under sec. 88 (*e*) (R. 3439, 5730, 7045-81 and 959-82).

181. Rájinámas may also be executed before a Forest Settlement Officer (R. 1708-86 and then transmitted to the Mámlatdár, and before Aval Karkuns when the Mámlatdár is absent (R. 1743-89, 7428-05).

182. Relinquishments by a Government department may be accepted even when third parties assert rights over such land. The rights should be settled under sec. 37 (2) and 79A, cases in which eviction is proposed being reported for the orders of Government (R. 2104-09).

(ii) In Khoti villages, if a dhárekari, quasi-dhárekari, or tenant-at-will resigns land, it comes to the khot's possession; and he is responsible for it, and cannot resign single holdings. Neither can the chapter apply in Tálukdári lands.

XXVII. All notices received under section 74 shall be kept in the records of the village accountant until the expiry of one year after the end of the year in which they were given and afterwards in the records of the Mámlatdár for at least 12 years. Entry will at once be made in the Diary of Mutations and certified in due course: this will ensure resufficient record. [79]

CHAPTER XIII.

Restrictions on Use of Land.

Cultivation of unarable land in survey number when prohibited.

75. (1) Land included as unarable (*pot kharáb*) in survey number[183] assessed for purposes of agriculture only is of two kinds:—

(*a*) that which is classed as unfit for agriculture at the time of survey[184] including the farm buildings[185] or threshing-floors of the holder;

(*b*) that which is not assessed because it is reserved or assigned for public purposes; or because it is occupied by a road[186] or recognized footpath, or by a tank or stream used by persons other than the holder for irrigation or for drinking or domestic purposes, or used for a burial or burning ground by any community, or by the public; or because it is assigned for village potteries.

(2) Class (*a*) may be brought under cultivation at any time by the holder and no additional assessment shall be charged therefor.

The cultivation of class (*b*) is hereby prohibited[187] under section 48, sub-section (4):

Provided that this prohibition shall not apply in the case of a tank or stream when such tank or stream is used for irrigation only and waters only land which is in the sole occupation[188] of the holder, or when the privilege of cultivating the dry bed of the tank or stream has been specially conceded to the holder. [48]

183. In view of sec. 218, sec. 48 (1) to (3) would apply to alienated land also, but sec. 48 (4) would not apply. Consequently there could be no general prohibition as to the use, and no eviction for unauthorized use of assigned pôt kharáb in alienated land, but only altered assessment, if it had been subjected to a Survey Settlement. This would not be a sufficient protection for pôt kharáb of class (*b*); therefore recourse would better be had to sec. 61. Indeed (see Joglekar, p. 119) the two kinds were not distinguished in inam villages (R. 3908-16). Pôt kharáb is not unassessed waste land for purposes of Rule 67-69 (removal of minor minerals).

184. Sec. 61. The rule or practice was as old as the Survey and is formulated in R. 2619-84.

185. The definition of "farm buildings" is difficult. It is impossible to confine it to houses and buildings inhabited by servants, tenants and cattle only; in Kánara and many other districts, quite substantial buildings are erected on agricultural holdings for the residence of the farmer himself; probably the practice of erecting such substantial buildings will become more common, and certainly should not be discouraged. See Note 33 (iv).

(ii) Closely analogous to Pôt Kharáb, except only that it is left unassessed *between* Survey Nos. and in the Gavthan and not *inside* them, is the "Pardi" land discussed in Note 27 (x). *Mafi Kaccho* land in Surat reported at 2,202 acres assessed at Rs. 7,816, and other Gujarati districts (see R. A. M. page 139) is liable to assessment when its use becomes non-agricultural by passing to a non-agriculturist (R. 4583-92). This Resolution however is practically never put into operation owing to the obvious practical difficulties. This Mafi Kaccho closely corresponds to the Pardi or Wadgi lands in the Deccan. It is the land used as farm-yard attached to cultivators' houses whether within or without the gavthan limits. It is not the site of the house itself. These cultivators' house sites have always been exempt. But also the land appended to them even when cultivated within or without the village site was excluded from assessment subject to limits as in the case of Pardi (R. 858-72). Selection (CXXXV, pp. 155-6.)

"For a discussion about assessment of mafi kachho lands see R. 141/28 of 10th October 1930."

All such land bears an assessment, though it is not collected. It is therefore liable to L. F. upon that assessment R. 1542/21.

(iii) It is surmised that the Ghar Kaccho was held rent-free originally as a sort of bonus for a large "khata" or perhaps more probably it was granted by the Kamávisdar is Desais and others to induce settlement and cultivation in the Moghul and Maratha days. In this latter view it would be analogous to the Wanta lands further north in Gujarat. We also find this Ghar on Máfi Káccho held by one or a number of Halis or serfs of large

khatedars, very often far outside the village sites. It was a common practice before 1863 to assess these Kachhas when transferred to non-agricultural use, e.g., when transferred by a Court Sale to non-agriculturists (R. 5152-57, 4344-86). The latter of these Resolutions also cites the Native State practice which had remained unaffected by our Revenue laws. This practice was not followed in R. 409-09 (Bandra) by reason of its obvious difficulties. The exemption of these lands is always an act of grace, and does not seem to have been claimable as a right; though it is true that in Chikhli, Bulsar, etc., considerable clamour would have arisen if the old customary exemption had been withdrawn, and this seems to have been a contributory reason for continuing it. It is not however a proprietary Inam.

186. At a revision of the Survey, roads, etc., passing through Survey Nos. may be deducted as pôt kharáb when the land has been properly acquired and demarcated (R. 696-91). Also P. W. 692-C. W. 1783-83. But this practice is now obsolete (R. 539-01). It has caused much trouble in case of Railways.

(ii) Occupants retain a right to the reversion of Pôt kharáb of class (*b*) when the special use ceases (R. 3291-85) and would also retain a right to land they dedicate without compensation to public uses but this event is too distant and uncertain to be weighed against the destruction of boundary marks and the vagueness of the limits of the set apart land, when the road and the like are left as pôt kharáb. For a private tank, see. R. 1114-24,—11-7-24. When land is formally acquired the occupant cannot retain any special right of reversion, but there is a natural practice of giving disused roads, etc., to the old adjacent owners.

187. Under sec. 48 (3), where mahárs held land free of assessment for mahárki service and used it for non-agricultural purposes, it was held they could not be assessed (R. 3012-91, 5115-91). Evidently "used for any purpose" is not the same as "assessed for a use"; they could still apply the profits to remunerate their service as mahars. Compare this with Rule 36(2). But this would not debar action if pôt kharáb of class (*b*) in alienated land were diverted from the use for which it was held free (R. 3908-16). Rule 75 is drawn so as to apply to alienated land also.

(ii) Note should be recorded in V. F. I (or VI), and when no distinction of class has been shown the omission will be supplied by the Land Records Department as far as now possible. Collectors can permit its cultivation when the reason for its reservation becomes extinct and assess it (R. 696-91) both when it is unalienated and when it is dedicated in alienated land—provided in the latter case it can be clearly shown from the Survey papers that the land was exempted from assessment on account of its reservation (R. 3908-16). See also Note 33 on the scope of the settlement guarantee in which it is discussed whether pôt kharáb in an agricultural S. N. is liable to N. A. assessment if used for building. Pôt kharáb of class (*a*) is likely to be specially suitable as building sites and for other N-A uses. If the use of pôt kharáb is altered after any settlement then sec. 48 no doubt applies (R. 2156-10, 10438-17) even before this 1920 Form was used. See Note 33 (vi).

Fine can certainly be levied for unpermitted N-A use of pôt kharáb in spite of the guarantee of no assessment (R. 6629-95). See the case of the Ankleshwar burial ground converted into a timber depôt (R. 9833-16); portions so diverted must be made into separate S. N.

188. Because then the dominant and servient hereditaments unite in one holder.

Use of land for the manufacture of salt prohibited except on certain conditions.

76. (1) No occupant or unalienated[189] land shall use the same or any part thereof for the manufacture of salt without the previous permission in writing, first of the "Collector of Salt Revenue", and then of the Collector of the district.

(2) The Collector of the district may, in any case where such permission is granted, either

(*a*) require the occupant to relinquish his rights of occupation, and to enter into an agreement that such land shall be placed at the disposal of the Salt Department, subject to a lease in favour of the applicant on such terms as the

Collector of Salt Revenue under the general orders of Government may require; or

(*b*) permit the use applied for without requiring the occupant to relinquish his rights of occupation on the following conditions:—

(*i*) that the occupant shall pay such fine as the Collector may deem proper, not exceeding one-tenth of the amount which would be leviable under section 66 in a case of unauthorized use, and

(*ii*) that the occupant shall execute an agreement that he will pay, [190] in lieu of the existing assessment and Local Fund cess, such amount or rate as may be imposed by the license to be granted by the Collector of Salt Revenue in accordance with the general and special orders of Government, and shall also in respect of the land used conform to all the conditions of such license; and

(*iii*) that whenever the Collector of SaltRevenue declares that the land, or any part thereof, is not used or has ceased to be used for the manufacture of salt, such land shall forthwith become liable to the survey assessment which was chargeable upon it immediately before it was permitted to be used for the manufacture of salt. [49]

189. This includes Kheti and Talukdari [R. 12022-08 (Notification)].

190. To the credit of salt revenue (R. 5186-97, 4820-00).

Removal of earth, stone, etc., prohibited, if injurious to cultivation and for purposes of trade, etc.

77. Save as provided in section 65 and rule 76, no occupant of land assessed or held for purposes of agriculture only, and no person claiming under or acting by authority of any such occupant, shall excavate[191] or remove earth, stone other than loose surface stones, kankar, sand, muram or any other material of the soil thereof, or make any other use of the land (*a*) so as, in the opinion of the Collector, thereby to destroy or materially injure the land for cultivation or (*b*) for purposes of trade or profit, or any other purpose except his own domestic or agricultural purposes. [50]

Removal of earth, stone, etc., from building site prohibited except on certain conditions.

78. No holder of land assessed or held[192] as a building site, or lease-holder of a building site in a hill station, and no person claiming under any such holder or lease-holder, shall, subject to any special provision in the conditions annexed to his holding under section 62, section 67 or

otherwise, or prescribed by his lease, excavate or remove for any purpose whatever earth, stone other than loose surface stones, kankar, sand, muram or any other material of the soil thereof, except with the previous permission in writing of the Collector [193], and in accordance with such terms (including the payment of fees for any such excavation or removal) as the Collector in each case thinks fit to prescribe. [51]

191. A definition of the term "excavate" might sometimes be wanted. The reason of the prohibition is partly sanitary and partly fiscal. Probably the prohibition would not apply to holes dug in the ground and filled up again (sanitary) from which no material or mineral product is removed (fiscal).

192. Land held free as an act of grace (see Note 122) would not be regarded as alienated for the purpose of this rule; see also Note 147 (iii). The rule therefore applies to almost every Gaothan plot.

193. The Supt. of a Hill Station is ordinarily gazetted as an Assistant Collector for the purposes of these rules.

Excavation of unalienated land within site of village, town or city prohibited except for certain purposes.

79. (1) No unalienated [189] land within the site of any city, town or village shall be excavated without the previous written permission of the Collector, for any purpose except the laying of foundations for buildings, the sinking of wells and the making of grain-pits.

(2) When permission is granted by the Collector to excavate any such land as aforesaid for any purpose other than those abovementioned, such excavation shall not be made otherwise than in accordance with such terms (including the payment of fees for any such excavation) as the Collector in each case thinks fit to prescribe. [52]

CHAPTER XIV.[194]

THE USE OF LAND FOR ANY PURPOSE OTHER THAN THAT FOR WHICH IT HAS BEEN ASSESSED.

Recovery of assessment in the case of unalienated [195] lands.

[For notes about permission, see under Rule 99.]

Alteration of assessment when land assessed or held for agricultural purposes is used for non-agricultural purposes.

(1) Where unalienated land assessed or held[192] for purposes of agriculture only is subsequently[196] used for[197] any purpose unconnected[198] with agriculture, the assessment upon the land so used shall (except in the cases provided for in rule 59 or 76 and except as otherwise directed by Government)[199] be altered under sub-section (2) of section 48 and such alteration shall be made by the Collector in accordance with the following rules. [56]

94. These rules do not apply in Khoti [at present, see Note 2 (i)] or Talukdari villages; to Thana wood lands which are not held under settlement (sec. 48, L. R. C.) but are rest lands.

95. Since no permission under sec. 65 is needed for non-agricultural use of alienated land, and only the assessment could be altered if it had been brought under the Survey settlement and not the judi or salami except in rare cases under sec. 134, sec. 48 (3) cannot usefully be applied to alienated land *by Government*. But rules for its application by the inamdar to his inferior holders have been framed (Rules 92 to 98).

196. There is no limitation as to the period within which assessment can be claimed (see Secretary of State *vs.* Bai Kuverbai; R. 10817-08). But claims to fines or assessments accrued due more than 60 years ago are barred by Art. 149, Schd. 2 of the Limitation Act of 1877. Thus a fine which became legally due (but was not levied) in 1850 could not be levied in 1920; but the assessments since 1861 could then be levied; nor would the 70 years' immunity ripen into a title to future immunity. For a case see R. 6887/24—7-6-28. Land assessed before the Code of 1879 cannot be subjected to altered assessment till the settlements expire; there are a few such (inam) villages (R. 10196-85, 4758-86).

Government remitted some arrears to avoid hardship (Igatpuri R. 3897/24—13-12-25).

Subject to this bar, when land has been converted from agricultural use and at the time of its conversion was—

(1) *unassessed*.—We can assess at any time but retrospectively only if converted or first used without permission (old Rule 24-IV, now 43); see Dharwar Civil Lines cases, R. 7329-17;

(2) *agriculturally assessed (and that assessment never since the conversion revised or guaranteed)*.—Then if the assessment was imposed under Act I of 1865, we can levy *fine* at 30 times that assessment; but if the assessment was imposed after 1879, then fine and altered assessment according to the rules under sec. 48 current at the time of conversion. (R. 8418—18-7-23) Retrospective levy (deducting the agricultural assessment paid) can be made whether the conversion was with permission (I. L. R. 1 Bom. 352; R. 8516-01) or without (R. 1-04): but fine would be levied according to present policy only when without permission. Such cases must now be almost obsolete;

(3) *if after conversion the N-A land was by mistake agriculturally assessed*—

(*a*) *before the issue of R. 4267—29-5-96*.—The guaranteed assessment must run out (R. 3699-01), and on its expiry a new assessment (not retrospective) is imposed under sec. 52, and no fine is leviable. Such cases must now be almost obsolete after 1926;

See Note 33 for the special case of Pot Kharab or Mafi Kacho "agriculturally assessed at *nil*."

(*b*) *after 29-5-96*.—The unguaranteed assessment is invalid and can be altered at any time; but retrospectively and with added fine only if no permission was got (old Rule 71, now 99) (R. 2156-10, 9514-16, 10438-17). In R. 2156-10 a fine levied (without alteration of assessment) under old rules was not admitted as a set-off against N-A assessment due under present rules.

We must distinguish from all these cases the ruling in I. L. R. 9 Bom. 486. There was *no change of use* but Government sanctioned a scheme of re-assessment and the Collector imposed assessments, and then sought to recover them retrospectively for the years before he had imposed them. No liability to these new assessments had accrued or had its birth before the date of the re-assessment. The retrospective levy was therefore held illegal. (View supported in R. 8418-23). But since 1879, sec. 48 (2) makes the liability arise *when use is changed*; and therefore even if the Collector does not find it out till some years have passed, still he could legally demand back payments as above suggested, unless he had known of the use and exempted it under proper authority: but those payments must be at rates sanctioned for those years, not at new rates.

In time yet to come, the word "used" will be replaced by "valued" because when land acquires this enhanced value, but is left untaxed if not *used* owners are encouraged to 'withhold' their land and strangle development in hopes of better values. This is the breeding ground of congestion and slums.

197. The old term "appropriate" has been dropped in consequence of the decision in Secretary of State *vs.* Laldas Narayandas I. L. R. 34 Bom. 229 (R. 8954-10).

Each N. A. area is made into a separate S. N. (Sec. 116) (D. L. R.'s Circular L. R. 54—19-6-17).

198. The Secretary of State has termed this "industrial land"; it is, however, difficult to get a comprehensive term (R. 4892-13). In administering the Rules and

Code, it is frequently difficult to distinguish between agricultural and non-agricul use. Farm buildings [meaning the residence of a cultivator or his tenants and his b and cattle sheds, etc. (I. L. R. 44 Bom. 609) or even of a landlord for the purpos of cultivating or supervising the cultivation of his land, water-lifts and granaries and all that is inseparable from cultivation] are agricultural uses (R. 3053-53). The popular idea that the style or cost of the building should be considered is altogether erroneous. In many countries, cultivating farmers live in substantial and even imposing residences, and it is much to be hoped that the same thing will also soon be seen in India. The point is that the buildings must be on the holder's own land and form an integral part of his cultivating arrangements. Attempts to pass off non-agricultural buildings as farm buildings often require special enquiry and prudent judgment. In Kanara (R. 1637-91) and the Konkan generally one often sees houses crowded together into gardens containing a few cocoanuts, and it is alleged that all these people live there to take care of the palms as agricultural tenants of the landlord. Many of these allegations are spurious. Again considerable blocks of land round houses are sometimes alleged to be used for agriculture, because they contain a few mango-trees, rose bushes, etc. Agriculture means the ploughing, sowing, tilling and reaping of some crop or produce *for profit*. Letting a few trees or flowers grow for pleasure is not agriculture. There are some (market) gardens in which roses, etc., can be seen cultivated for the market, which is certainly agriculture. But many attempts are made to obtain exemption from N.A. assessment on the plea of gardening operations which are not agriculture (R. 6209-97). A dairy *farm* was held to be agricultural in R. 7307-17.

Storing manure is an agricultural purpose (R. 7702-99). But a Co-operative Dairy is non-agricultural. However in enterprises closely connected with agriculture the rules as to N-A assessment should be liberally interpreted (R. 10108-19).

Cane Crushing and Gul Boiling are essential to cane cultivation and are not N. A. uses. R. 5321-22.

The Wadia (Raymond) Woollen Mills, Thana, occupied 55 acres, but were allowed to cut off 22 as N. A. and 33 acres classed as agricultural and the N. A. assessment levied on them was refunded (how much agriculture had they done ?) (R. 6887/24—7-6-28).

The High Court wrestled with such a problem in 29, B. L. Reporter—1350; and it is further discussed in R. 10231/24 of 19-1-29.

199. For special directions as to the vicinity of Poona see R. 2329-05 and 922-20; Shikarpur, Hyderabad (Sind) and other places generally, R. 7103-09.

199*a*. Also these *rules* 81-82 and the fine rules 100-101 shall be published in every locality in which revised rates are proposed to be introduced, R. L. C. 2327—2-12-25.

Land owned by or transferred or assigned to a Municipality for one purpose but then leased to N. A. uses (such as houses or Cinema Halls) is liable to assessment. (R. 3550/21)

81. *Ordinary rates of altered assessment.*—(1) For the purpose of determining generally the rate of altered assessment leviable, each Commissioner shall, from time to time, by notification published in the official *Gazette*, divide the villages, towns and cities in each district in his division (to which a standard rate under Rule 82 has not been extended) into two classes. [72]

Ordinary rates of altered assessment.

(2) The assessment shall then be fixed by the Collector at his discretion,[200] subject to the general or special orders of Government at a sum per square yard within the following limits :—[56 I]

Maximum—For Class I land 2 pies.
For Class II land 1 pie.

Minimum—The agricultural assessment.

a fixing the rate within the above limits due regard shall be had to the general level of the value[201] of lands in the locality used for non-agricultural purposes.

Provided that the altered assessment of plots of land not built upon in Development Department Schemes shall be limited to a maximum rate of Re. 1 per 250 square yards or part thereof.

(3) The Collector with the previous sanction of the Commissioner which shall only be given for special reasons to be recorded in writing, may levy on any land altered assessment at a rate higher [200 (a)] than the maximum fixed under Sub-rule (2) in respect of any village, town or city in which such land is situated, in cases where the land is either situated in an exceptionally favourable position, or where it is used temporarily for a non-agricultural purpose, or where the purpose for which it is used is of a special kind. Such higher rate shall not however exceed 50 per cent. of the estimated annual rental value of the land when put to non-agricultural use in question.

200. (i) The apparently unlimited discretion given in this rule and some similar rules to the Collector must be interpreted consistently with the Act. Caprice and favouritism are not discretion. There is no unfettered discretion but there must be a regular system approved by Government. Just as in the agricultural assessment Government approve rates and the general pitch of the assessment while the classer and the Survey Officer determine the proportion which each acre should bear, so too, in non-agricultural assessments, the Collector is the "classer" who adjusts to the actual increment of the locality the altered assessment within the limits laid down by Government. He does not arbitrarily relax the proper pitch of the assessment as though he might say to himself "this land might fairly be assessed at Rs. 10 but I will let it off with Rs. 3" (R. L. A. in R. 4820-00). Any reduction as an act of grace requires Government sanction (R. 476-03) and can only be granted under Rules 32 and 35.

(ii) Standard maxima rates (superseding the Bijapur 1895 assessments) were fixed for Bijapur and Bagalkot towns in five groups in each town in R. 1204-20; giving the Collector discretion to assess below the maximum. So this is practically equal to the method of classification and fixation of agricultural assessment within a maximum rate: the Collector being the "classer".

200 (a). In localities where there is no keen demand for building sites, non-agricultural assessment is leviable at the rates prescribed in No. 81 of the Bombay Land Revenue Rules, 1921. In growing towns and villages, however, it is desirable to increase the rate of assessment *pari passu* with the progress of building development by the application of standard rates under rule 82, fixed on the full market value of land as a building site. The maximum rate of Rs. 50 per acre prescribed under rule 81 is equivalent to a full market value of Rs. 2,000 per acre. In towns where land is worth more than Rs. 2,000 per acre a point is reached where there is sufficient justification for the application of standard rates under rule 82. Government consider that a full market value of Rs. 3,000 per acre is the point at which standard rates should be fixed in all growing towns, and direct that in all towns where this or higher land values prevail steps should be taken as soon as possible to introduce standard rates of non-agricultural assessment under rule 82.

(G.R., R.D., No. 6234/28 of 7-5-31.)

201. In dealing with an essentially suburban area the agricultural assessment should not be adopted as a basis of rating (R. 2059-20). We might add that it is entirely irrelevant. In dealing with any area its retention is a survival of effete theory, and in fact has now been entirely struck out from Rules 81-82 by the orders in R. 144/24—6-7-28.

When the assessment period was fixed at 50 years (R. 1291-20—Form N for other uses and Form M for building) within the 50 years the agricultural assessment was revised nearly twice, the N. A. assessment could frequently be *lower than the agricultural in old Class V.* This anomaly is now nearly removed by the orders of July 1928.

Special rates of altered assessment in certain areas.

82. In any area in which, on account of there being a keen demand for building sites or for any other special purpose, Government may, by notification in the official *Gazette*, direct that this rule shall be applied, the rate of altered[203] assessment shall be determined in accordance with the following provisions and not under rule 81 :—

I.—The altered assessment shall ordinarily be a percentage[204] on the full market value[205] of the land as a building site.

II.—In cases where this rule is applied on account of there being a demand[206] for building sites, the market value[207] of the land shall be estimated as far as possible on the basis of actual sales of unoccupied land for building purposes in the locality. In cases where this rule is applied on account of the demand being for other special purposes,[208] the market value shall be estimated as far as possible, on the basis of actual sales of unoccupied land of which the value is enhanced by the existence of the special demand.

III.—Government shall determine what percentage shall be charged in any locality[209] to which this rule is applied, and the standard rates of altered assessment shall be calculated thereupon and shall be levied in place of the current rate of assessment. At intervals of ten years or, in particular localities, at such shorter intervals as Government may direct, the rates shall be revised with the sanction of Government. Until the rates are so revised, the old rates shall remain in force. The rates sanctioned from time to time shall be published in the official *Gazette*. A public notice shall be given one year before any revised rate comes into force.

IV.—A rate differing from the standard rate of altered assessment in any locality shall not be levied without special reasons[210] which shall be recorded: provided that the Collector, with the previous sanction of the Commissioner, may levy a higher rate in the case of land situated in an exceptionally favourable position.[212]

V.—Deleted (R. 1890/28 of 1-2-29).

VI.—The rates of altered assessment leviable on lands in the Bombay Suburban Division, to which this rule applies, shall however be reduced to such extent as Government may specify by a notification in the official *Gazette*.

203. Alteration implies the supersession of the agricultural assessment, and therefore the altered rate can never, subject to Note 202, be less than the agricultural assessment, which the Collector is authorized to remove after the alteration (R. 1812-05, 369 and 1143-12).

204. It is the intention of Government in all cases to claim for the public a full half of the " unearned increment " or value due to building site demand of which the agricultural holder is not the creator—i.e., excluding any value due to " improvements (buildings, wells, terracing, etc.) carried out by owners (or tenants)—and to which he is rarely entitled even as investing purchaser. Everyone buys agricultural land for building sites or non-agricultural uses knowing (since these rules were first framed) that whatever on the average he pays to the landholder [in excess of the agricultural value (old rules)] will have to be again paid to Government in the shape of a percentage assessment on the situation value he has paid (82, 84). For G. of I. views on taxation of urban areas see R. 1603-11.

(ii) In R. 963-20 the rate was raised to 6 per cent. in harmony with the post-bellum conditions of the money market. Nevertheless in R. 1204-20, the standard rates for Bijapur and Bagalkot City areas were fixed without regard to the " 6 per cent. on half the full market value " rule. Government do not desire (R. 922-20) that when a standard market value for a particular zone has been fixed, and a standard assessment promulgated, spasmodic increases should be made, since they create a spirit of uncertainty, and discourage builders, and they directed that the Koregaon Estate (Poona) standard rates should not be raised for ten years, while in R. 906-21 for a group of Salsette villages (Andheri, Juhu, etc.) a triennial revision is ordered. Matheran sanctioned rates were all cancelled and raised in R. 1663-20 and these orders are now superseded by rule 82 (iii). But surely spasmodic increases in the demands of private holders have far more influence, and the alteration in the standard rates which we have to make from time to time seems to be an effect and not a cause. But the theory of N. A. assessments is more fully treated in Supplement A.

(iii) The rate is now fixed at 5 per cent. on half full market value (N. 8693-B/24 of 22-10-28).

205. Full market value is discussed in Supplement A, paragraph 24.

It is further defined in R. 144/24 of 6-7-28 (for ordinary unalienated land) as the market value plus the capitalised assessment in force or expected to be in force at a time of the sale.

206. From the very nature of the case it is impossible that such rates can be fixed in anticipation of a future demand. Until the demand has resulted in actual sales at advanced rates this rule cannot be applied.

207. For a discussion of market value of building sites see R. 6504 and 6505-00, and Land Acquisition Manual, Chapter VII, paragraph 78.

208. (i) See R. 2814-09. Maximum quarry assessments for Kolaba District were fixed in R. 385-11 on the area used, and in R. 6262-86 on the cubic quantity extracted. Matheran quarry fees R. 4920-22.

A special royalty was levied in Kaira on occupied land supplying gravel to Baroda State Railways (R. 6518/24 of 14-5-26). The method of taxing minerals on value is commended in Parliamentary Blue Book—(Cd. 4750).

(ii) See too R. 10424-17 which deals with methods of taxing quarries by putting on a permanent assessment. It is feared that this matter will have to be reconsidered. It is impracticable to tax a quarry by means of an annual rate, because the quarry-man can always expedite the extraction, and resign the land without penalty, and the annual revenue will then end, and Government will possess a useless hole.

(iii) The utter inappropriateness of the classes in Rule 81 to quarrying does not need emphasis. An extreme instance of the unsoundness of the method of taxing upon acreage can be found in R. 5320-18, cases of a village suddenly acquiring a high unearned mineral rental value from the proximity of Tata's Hydro-Electric Works. So too in R. 6578/24 of 14-5-26, Government had to sanction special rates of royalty at half the Government waste land rates.

208-(iii) In R. 6032 of 25-9-23 Government expressed themselves quite satisfied with this method of levying N. A. rates upon minerals by surface area : but directed that the assessment so levied should be termed " royalty " and not altered assessment !

" Standard rates " are also sanctioned for some Jalgaon villages in R. 7471 of 28-3-23 at Rs. 160 per acre.

(iv) In all the villages of Salsette, Bhivndi, Kalyan (Thana) Rs. 40 per acre is assessed (R. 1233-20) for brick making (R. 68-20). The whole area must be demarcated. Exemption from this assessment to encourage development was negatived, since obviously the exemption would go into the pockets of the holders of the clay land, and not of the consumers of bricks. The Bombay Port Trust pays this rate after acquiring a brick field near Kalyan (R. 1303-21). For a discussion of the principles of assessment on major and minor minerals see Supplement A.

(v) The case of brick digging in Sind is peculiar, since often it is desirable to lower the land to bring it under irrigation. The cases distinguished in the Commissioner's Special Circulars are :—

(*a*) for improvement of land, even when there is added profit from the bricks ;

(*b*) by non-capitalist makers of bricks digging from their own land without injuring it ;

(*c*) purely for profit.

In this last case, a special condition as to depth must be imposed under section 67. The form of " agreement " is to be sanctioned by Government (R. 4016-07). Probably this *agreement* is obsolete after the Code of 1913. Penalties and enhanced assessment for such brick-making were authorized in R. 6883-88.

209. The use of the term " locality " clearly empowers the Collector to fix different rates for different zones or sectors of any one town, e.g., (*a*) within 200 yards from the Railway station and goods-yard ; (*b*) beyond the above limits, but within 500 yards or within 100 yards of the road, with frontage thereto ; (*c*) and so on.

In any tax demand upon land there are (besides the area) three elements :—

(*i*) The Rate : say 3 annas in the rupee of capital value ;

(*ii*) The Valuation : say, a capital value of Rs. 12,000 ;

(*iii*) The assessment got by applying the rate to the valuation : Rs. 2,250 in the above illustration.

The term " basis of assessment " means that to which the valuation is directed ; e.g., in the above case, the " capital value ".

The Rate should be fixed in perpetuity or for long intervals. The Valuation should be revised as frequently as value changes ; at intervals never more than decennial. Then the assessment will automatically follow the value and the area.

The maximum rate we speak of in agricultural assessments is really a combination of a rate and a valuation of the (hypothetical) best, or 16 anna, soil. To fix a rate for 30 or even more years is right and proper : but to fix a valuation is to fly in the face of facts and of nature. For N. A. assessments, it is gravely unjust to fix the valuations for long periods : though, so long as land values rise generation by generation, private land holders do not often feel the injustice. They would be ruined if values fell upon land so subjected to fixed assessment.

209-a. A standard *rate* [valuation is the more correct term] is the sanctioned (revised) rate which will be applied to any new case of conversion arising. A guaranteed *assessment* is the tax-demand in a particular case and fixed for (30) years. A fresh revision does not of course alter any guaranteed assessment till the period of guarantee runs out : when it will be altered according to the revised rate *then in force*. The interval between revisions of standard rates is governed by Rule 82 (iii) and is here fixed at ten years : in R. 1756/24 of 7-7-27 for Dhulia and Jalgaon, Government said 5, which will now probably be overriden by this later rule. The period for which an assessment once guaranteed runs is governed by rule 87.

No 33 per cent. limit on enhancements or " Igatpuri concessions " are applied to N. A. lands : because the revised assessments only follow actually ascertained enhancements of rental value.

All Agricultural lands are subjected to revised rates at one time ; and the assessments (rates × areas) are guaranteed for a term of years (usually 30). Any waste land taken up for use during the 30 years is assessable at the same rate (and *not* any other) and its assessment will expire and be revised with that of all other lands.

Not so with N. A. lands : Government sanction a rate for a " zone " or tract and this rate is imposed on each plot as it comes into use. Once imposed the resulting assessment is paid for a term of years (undefined from 1827-1865 : 30 years if imposed between 1865 and 1879 : 99 if imposed before 1906 : 50 if imposed between that date and 1928 : (see Suppt. A) and now after 1928 : 30 years again). But the rate itself can be revised at frequent intervals, and the revised rate will be applied to each new case dealt with during its currency.

For agricultural rates the period of applicability of a rate and the period for which in each case the assessment may be levied coincide: for N. A. rates they differ: but this seems very wrong and unjust and gives rise to scandalous situations. There is nothing in the L. R. C. which would justify such difference. I know of no other country in which the fiscal arrangements give rise to such anomalies: and the whole position needs re-examination.

Thus we may have four contiguous plots A, B, C, D of one acre each fronting the same road in the same suburb.

A converted in 1882 and assessed for 99 years at Rs. 10 per acre.

B Do. 1912 do. 50 years at Rs. 40 per acre.

C Do. 1929 do. 30 years at Rs. 200 per acre.

D built over in 1864 and being treated as goathan not liable to assessment at all.

Of course the rental values of all are alike; in fact they are all sublet for a ground rent of Rs. 1,000 per acre per annum.

A cannot be revised till 1981: B till 1962 and C till 1959. D will not be assessed till Government apply the principles of land value taxation and recognise the rights of the tax payers at large to be relieved by this taxation.

In 1960 (if not before) when C, B and A confer notes and discuss the theory and policy which has led to their scandalously unequal treatment, there may be an awakening.

All assessments and valuations should be made to expire on a fixed date and then should be revised with reference to rental value; and refixed for a new period. There should be no exemptions, and all old contracts to the contrary in violation of the right of the State to levy a just taxation should be abrogated. The rate should be never *less* (the present rules say more) than half the unimproved rental value; and the revision interval should never exceed 10 years. This of course will neither confiscate any privately acquired values, or disturb the value or the fixity of any owner or builder's tenure. To this ideal by slow degrees the law and rules are sure to converge unless wrecked altogether.

(ii) In *R. B.* H. V. Sathe's edition of the rules 32 pages of rate notifications were reprinted; but now see Rule 89; it is useless to print here rates which are continually altering. One interesting case is the Satara Collector's fixation of rates for Mahableshwar and the ground given by Government for not accepting them—R. 2522 of 17-8-23 revoking R. 2522 of 28-11-21.

(iii) Rates should be kept uniform over as wide an area as possible (R. 965-20) even if the latter course involves some slight sacrifice of revenue (which would only happen if the rates were pitched below the mean average of the area); but how wide an area is possible? "In cities and towns rates will vary within quite short distances" (G. of Bom. letter to G. of I. No. 9138-19 in R. 1291-20).

210. These reasons will, of course, be of the same character, *mutatis mutandis*, as those which influence a classer in classing agricultural land; but the gradations of building site land are not usually so rapid and complicated as those of agricultural land. Distance from certain points (such as Railway station or sea), access, elevation, amplitude of plots and so on, are the leading considerations; and the rate is not altered capriciously or at less intervals than three years (R. 1071-02). Improvements, in or upon the land, made by occupants are not to be taken into account (sec. 107 and R. 2890-00, 4738-01).

212. In a locality where there is no building demand special suitability for some special trade (e.g., alongside a river wharf) may accrue. Under this category fall the rules known as the Sawta Sanjan rules which were first sanctioned in R. 5715-01; then stopped in R. 8954-10, and revived in R. 416-14; and extended to more villages engaged in timber trade in Thana District (Order R. 12649-14). These rules did not alter the tenure, but levied a rate (graduated by zones and published) each year the land was used; and double rates if used without permission, and also double rates on Government waste land (Collector of Thana's T. 278 of 29-4-03). In any other locality in which industrial use is made of land otherwise than for building sites (such as timber storage, grass-baling, accommodation alongside Railway stations and wharves) the principle to be observed is that there must be maximum rates sanctioned by Government irrespective of the classes fixed for building assessment and the Collector will apply these maxima rates according to the situation, facilities *and profits* of each particular plot (R. 11437-16) and using his discretion as in Note 200. The removal of earth, clay, etc., from agricultural land is N.A. use (Memo R. 4823-16). For principles of taxation see Supplement A.

(ii) Where there were no special rates sanctioned, the Collector was held to have rightly applied the standard building rates to yarn-dyeing and drying sheds, Ahmedabad agreement (R. 12617-17).

(iii) A form of agreement for altered assessment for brick manufacture is given in Appendix X to the L. R. Code as amended by R. 1417/24 of 6-1-27.

(iv) The discussion on the Bill in Council (1913) shows that for temporary use, such as plague huts, not entailing *any profit or unearned income*, it is not intended that any tax should be imposed.

82-A. Notwithstanding anything in rules 81 and 82 in any area to which Government may by notification in the official Gazette direct that this rule shall be applied an additional rate of Rs. 2½ for every lakh of bricks manufactured in any one year shall be levied in addition to the annual assessment of Rs. 40 per acre on land used for the manufacture of brick: Provided that where exact accounts of manufacture are not available, the Collector shall be at liberty to fix the number according to the known capacity of the kiln, and his decision shall be final [212a].

212-a. This new rule 82-A finally sanctioned in R. 5882 of 9-11-25 assesses land not according to its value or area or profits or other consideration recognised in the Code, but at an arbitrary "Royalty" no doubt roughly proportionate to profit. It is framed under section 214 (*d*) (Regulating permission to use) and is considered by R. L. A. to be covered by the law.

83. (Cancelled by R. 1890/28 of 29-8-29.)

Grant of permission in hill stations, etc.

84. In hill stations and such other localities [213A] as Government may direct, permission shall not be granted under section 65 except on such conditions as are considered desirable, regarding the style of building, the period for construction and the observance of municipal or sanitary [214] regulations. Such conditions shall be embodied in the Sanad. [N]

213A. When an area is town-planned Government (unoccupied) land in the area comes under the operation of that Act, because by sanctioning the scheme Government agree to be bound by it. But (if proper notice is given) Government buildings do not. They are governed by Government Building Act IV of 1899 (G. 2995/28).

214. When the Municipality or other local authority does not impose these conditions the Collector can do so under sec. 67. In Municipal areas if bye-laws under section 48 (n) (o) (p) (r) and (s) of the D.Ml. Act have been passed all control of building is left to the Municipality (R.L.C. 452 of 14-7-23).

See R. 144/24 of 6-7-28 for further decision to leave these matters to the local authorities except in the Bombay Suburban Division.

Modern building regulations for notified areas are in R. 3543-06 (Salsette) revising those in R. 1188-04; and were extended to all notified areas in R. 7496-06 and also in G. 6315-18. In areas not notified, the general forms of these "agreements" are given in Forms A, B and C (Appx. O-N, O-O and O-P) under R. 1188-04, on which Standard Farms R. M. 232-4 were sanctioned in R. 1254-10 and amended in R. 5124-18. These forms are used thus:—

A: when the occupant applies for permission in advance.

B: when he first appropriates and then applies for permission.

C: when he has once been granted permission at ordinary rates of assessment, but now wants a fresh contract to secure lower rates [therefore in Bombay Suburban Division only].

The old method of inducing occupants to accept restrictions by reduction in rates is now abandoned : see R. 3306-16. Many such agreements still subsist especially in South Salsette ; though no orders withdrawing the forms have been issued it seems they are no longer wanted for future use.

(ii) Such agreements are not divisible if the sub-division either among sharers or by sale, etc., leads to any infringement of the original terms ; *e.g.*, if the condition is that the area is not to be less than 300 square yards (R. 1071-02) then a sub-division into two plots of 200 square yards each is not permissible, and would lead to forfeiture or resumption of the occupancy (R. 2101-16). But it seems desirable to prevent the deterioration of a locality into " slum " conditions by prohibiting explicitly the sub-division of such grants into smaller tenements in advance, instead of waiting till it has occurred. This point has been extensively discussed (See 3540/24—20-5-27).

(iii) If the holder of such an agreement desires its modification, the proper procedure is to cancel it and substitute a new sanad on terms conforming to the general orders of Government and under the new Code of 1913 (R. 9280-09).

No modification in a sanctioned form can legally be made without Government sanction (R. 9787-17).

85. Altered assessment shall ordinarily [214a] be levied upon the whole [215] of the land within the compound of a building and not merely upon the land covered with building.

Assessment leviable on compounds ; reduced in certain cases.

214a. See R. 144/24—6-7-28. The word is retained to meet exceptional cases only.

215. The whole area devoted to the building, its outhouses and premises, is taxed (R. 5734-91 and 6803-01). See end of Note 198.

When non-agricultural plots are held under conditions (legally agreed as in Salsette) involving concession rates, and then are *sub-divided* so as to defeat the intention, Collector has full *discretion* to cancel concessions.

The sub-division must be recorded, but when they prevent the observance of the original object, the Collector can insist even up to forfeiture of the whole holding.

When the ownership has been so divided that no single person represents the original holder better cancel the Sanad and grant fresh to each holder (R. 3540/24—25-5-27.)

If the concessions are granted on certain conditions and those conditions are not fulfilled : full rate will be levied (R. 6694/24—5-10-26). But not retrospectively (R. 6694,24—24-10-28.)

86. (*a*) The altered assessment shall ordinarily be levied from the first day of the revenue year next succeeding the revenue year in which permission [219a] to use the land for non-agricultural purposes was given, provided that (1) where the use is temporary [219b] the Collector may in his discretion levy it from the first day on which or the commencement of the year in which the non-agricultural use begins.

Levy of altered assessment when to begin.

(2) In the case of building sites held by Co-operative Housing Societies which are not built upon, no altered assessment shall be levied for the three years subsequent to the date on which possession of the land was taken or the building permission granted, whichever was later; And on the expiry of that period, altered assessment shall be levied with effect from the first day of the next revenue year at half the rate current in the locality, unless for special reasons which shall be specified in writing the Collector considers it desirable that the full exemption from altered assessment should be continued for

a further period or periods. In all cases, the full altered assessment payable in the locality shall be levied as soon as a plot is built upon.

(G.R., R.D., No. 620/28, dated 14-10-32.)

(*b*) Where no permission was given the altered assessment levied for non-agricultural use shall always be levied from the first day of the revenue year in which the use commenced. (Notification R. 9113/24, 3rd January 1928).

"86A. *Graduated levy of altered assessment.*—If the altered assessment fixed in accordance with the rate determined under rule 82 in respect of land used for building purposes is revised and increased, such revised altered assessment shall be levied in the following manner:—

(1) If the rate of the revised altered assessment does not exceed 2 pies per square yard the whole of such revised altered assessment shall be levied from the year in which the revised altered assessment is leviable under rule 86.

(2) If the rate of the revised altered assessment exceeds 2 pies per square yard,

(*i*) an assessment equal to double the altered assessment existing at the time of revision in respect of the said land or an assessment at the rate of 2 pies per square yard whichever is greater shall be levied in the year in which the revised altered assessment is leviable under rule 86, and

(*ii*) thereafter in subsequent years the assessment shall be increased every year by an amount which is equal to the altered assessment existing at the time of revision or to an assessment at the rate of 1 pie per square yard whichever is greater until the whole amount of the revised altered assessment as fixed is leviable in any year:

Provided that—

(*a*) the whole of the revised altered assessment so fixed shall be levied from the year in which the limit of such revised altered assessment is reached or from the eleventh year computed from the year in which the revised altered assessment is leviable under rule 86, whichever is earlier, and

(*b*) in localities where the concession of reduced assessment has been granted under rule 56-III and IV of the Land Revenue Rules published in Government Notification No. 7368, dated 6th December 1881, as subsequently amended from time to time, each successive increase in the altered

assessment under sub-clause (*ii*) of clause (2) above shall be made at intervals of two years and the whole of the revised altered assessment which is fixed shall be levied from the year in which the limit of such revised altered assessment is reached or from the twenty-first year computed from the year in which the revised altered assessment is leviable under rule 86, whichever is earlier.

219a. The levy begins even if the grantee does not build or begin to use the land. Sound economics but doubtful law.

219b. When land is used for fairs or shows, sometimes for a short time only, large profits are derived. If for less than a year plainly these profits might escape taxation altogether, if the Collector is allowed no such latitude.

Revision of altered assessment.

87. (*a*) *Revision of altered assessment.*—The period for which the altered assessment is to be fixed shall ordinarily[219c] be 30 years from the date prescribed in the sanad, except in the Bombay Suburban District where, on account of its special conditions the period shall ordinarily be 50 years. (R. 1890-28 of 26th January 1931). On the expiry of this or any other period mentioned in the sanad, and at such further intervals [220] as may be from time to time directed by Government in this behalf, the assessment fixed shall be liable to revision in accordance with the Code and the rules and orders for the time being in force thereunder. (56V)

(*b*) When land is used for non-agricultural purposes is assessed under the provisions of rules 81[221] to 85, a sanad shall be granted in the Form M if the land is used for building purposes, in Form NI if the land is used temporarily for N-A purpose other than building and in Form N in all other cases. (N)

219c. This word provides for some latitude in undeveloped localities where a longer period may better encourage prospective development. But when *revised* the period will always be 30 years.

220. Several cases have occurred in which, when a general revision of N A rates was under preparation, it was pointed out that if the old rates were applied and guaranteed in a Sanad for 50 or even 30 years, the lands for a long period would be assessed below the level of adjoining sites converted later under the contemplated new rates. L.R.C. Sec. 102 leaves Government a discretion to fix rates for a period *not exceeding* 99 years, provided the rates are fixed for a 'term of years' (*i.e.*, more than say 2 years. R. 784-92). It would not be illegal to fix them for (say) 5 years to expire when the new rates had been sanctioned and then to reassess the lands to the new rates. This has been done at Sholapur (R. 10304/24, 17-1-28), in East Khandesh (R. 2417/24, 7-5-26) and West Khandesh (R. 2483/24, 7-7-27). The wording leads one to suppose that Government feared that if the old approved rates were not extended, something would occur to bar the application of the new revised rates: which seems to be a misapprehension. So also in temporarily re-assessing Inam villages, pending revision of survey and classification, in any case a period of 4 to 5 years only has been fixed: when the old rates were plainly not such as would be long continued. This exceptional power is apparently covered by the word 'ordinarily' in this rule. It would seem that R. 457/24, 12-4-24 is illegal; since one year is not a 'term.' So too R. 2218—30-8-21.

There should be periodical Settlements, and the intervals should not be so great as for agricultural Settlements (30 years), but probably 10 years would be appropriate.

See Supplement A. But in R. 1291-20 (letter to G. of I.) the Government of Bombay still maintained the 50-year intervals, but have abandoned it in R. 144/24—6-7-28.

(ii) In R. 906-21 in a "special case" the Collector was directed to fix renewal periods at his discretion.

221. This new rule abolishes the old anomally by which the rates under Rule 81 were fixed for the unexpired portion of the agricultural settlement only [Though here see Note 209*a*]. The new forms M & N sanctioned in R. 1291-20 replace the old forms (Sathe's Appx. E) which covered both building and other purposes.

But sometimes (A) an agricultural assessment has been imposed by error, though at the same time the land was being used for N-A purposes, and this assessment is not protected against alteration (*e.g.*, by a guarantee given before R. 4267-96) all of which guarantees must now have expired. (B) The land, being in N-A use was left unassessed at the Settlement, for the Collector subsequently to assess. For these two cases special forms were sanctioned in R. 4637-12, and standardized as A and B by (Order) R. 12128-14 and printed as Appx. O-L and O-M.

Commuting altered assessment.

88. In cases where the altered assessment is fixed under rule 87 the assessment, if not exceeding one rupee, instead of being rendered annually, may,[222] with the consent of the Collector, be commuted by the occupant for a lump payment of its present value, for the residual term for which that assessment is fixed, at a rate of interest not more than half per cent. above the market rate at the time of commutation upon public securities the interest on which is liable to income-tax; and a note of such payment or commutation shall be made in or at the foot of the sanad granted in respect of the land under Rule 87 (*b*), [56 VI], on the expiry of the period for which it has been commuted the assessment, whether revised or not, shall again be leviable unless it is again commuted under this rule.

222. Together with the Local Fund Cess (R. 2452-87).

The commutation is permissive and is to be restricted to cases where the annual revenue is so small as not to be worth annual collection (R. 4578-18). Such cases must be so rare that commutations will practically not be allowed.

Maps showing altered assessment.

89. (1) Each Collector shall permanently maintain in his office and from time to time as required renew a map of his district upon which it shall be clearly shown by distinct colours, or otherwise as may be convenient, under which of the foregoing rules and classes all the land of the district falls.

(2) When an area is very small, or when its limits intersect a village in an intricate way, insets on a larger scale or a supplementary file of village maps shall be provided.

(3) Whenever any area is brought under a different class or rate by a fresh order, the map shall be corrected and the authority for the change noted over the Collector's signature on the map[225].

(4) Each Mamlatdar shall similarly maintain a map of his taluka with similar supplements which shall be similarly corrected and endorsed by the Collector at each change.

(5) These maps shall be open to public inspection free of charge during all office hours. [N]

225. This procedure is intended to replace the long and intricate and constantly changing appendices to the published rules under the Code, reproducing all the notifications for the whole Presidency, which do not interest people in other districts and cannot be adequately followed without a map.

Such 'land value maps' are a fixed feature of Danish and American rating practice.

There is no reason for putting this work on the survey office (D. L. Rs. L. R. R. 89 of 4-2-28).

Levy of rate when land assessed for a purpose other than building is used for building.

90. (1) When any holding which has been assessed or is held for non-agricultural purposes other than building, is with the Collector's permission, used for residential building, the Collector shall levy the rate of assessment imposed on land used for such purpose in the locality. (R. 1890/28 of 15th May 1931.)

(2) In such cases the holder shall be given a new sanad in the form prescribed from time to time under rule 87 (*b*). (N)

Re-imposition of agricultural assessment.

91. (1) When any holding, which has been assessed or of which the assessment has been altered for any non-agricultural use, is used for agriculture only, the Collector may [228], on the application of the holder [229], remove the non-agricultural assessment and impose either the old agricultural assessment, if any, and if the settlement period has not expired; or may impose in other cases a new agricultural assessment equivalent to that imposed on other similar agricultural lands in the vicinity.

(2) Such agricultural assessments shall be subject to the same conditions as to periodical revision and the same rules and provisions of law as if they had been imposed at the ordinary revenue settlement of the village in which the land is situated:

Provided that if the holder has paid any lump sum as commuted assessment for any period, he shall not be entitled to any refund or to any change in the conditions of his lease or agreement until the period for which the commutation has been paid expires. [N]

226. If a *lease* under sec. 67 had been executed and the holder then wished to revert to the conditions of an agricultural holder, the lease would first be cancelled. But if the Collector found the condition of the land did not warrant such cancellation, he can always hold the lessee to his terms.

227. Grave-yards or other land set apart for public or special purposes and therefore unassessed, may nevertheless be privately owned: when the use of such lands is changed they can be assessed (R. 9832-16). See end of Note 187 (*ii*).

228. The need of such a rule arises from the excessive term for which non-agricultural assessments are fixed, and our failure to tax value instead of actual use. The power of reducing the assessment is permissive, and not obligatory. Further, it is not contemplated that any portion less than the whole holding once assessed as a unit for non-agricultural uses should have the benefit of this rule. In the notes to Rule 85 an expectation that all concession rates for house building will be abandoned is expressed. The need for this Rule would also then disappear, and has disappeared except in B.S.D.

229. It would not in all cases be advantageous to revert to the agricultural assessment particularly in cases to which the concession in Rule 85 had been applied, and especially when we remember that the reversion would again make permission under sec. 65 necessary for any further non-agricultural use; also, such future use might not be permitted except on more onerous terms than the holder now enjoys. Hence it is provided that no such change shall be made except *upon the application* of the holder, which is an important point.

230. When any land assessed for any one N-A use is proposed to be used for another N-A purpose, the permission of the Collector is required under sec. 65, 66, and assessment can be altered under sec. 48 (R. 5930-15). Usually the alteration is an enhancement, and falls under other Rules. There must be a clear evidence of the alteration: a will compound was assessed for stacking cotton; but no particular use was specified; when altered to building, it was held no further rate was leviable. (R. 5053/24—19-1-26). It is deemed desirable in this rule specifically to provide for reduction.

It is assumed that the rates for residence are (owing to the restrictions) usually less than for other uses when Rules 83 and 85 apply; *e.g.*, a mill compound fully assessed in a residential area might, on closure of the mill, be laid out as residential plots with the benefits of Rule 85, and the nett rental value to the holder be increased.

The withholding of land for higher capital values is perhaps the greatest evil of modern times. It is made worse when the State encourage it by charging less tax on the unused land. The permission to convert (Sanad M) fixes a period within which use must begin. So too in a case of reversion if the more lightly rated use does not begin, it is doubtful whether the Collector should allow the non-agricultural assessment to be taken off. He should try to avoid abetting "with holders". But so long as our non-agricultural law and rules are based on use and not on value (demand) the position is unsound and difficult (see N. 197).

Alteration of Assessment in Surveyed and Settled Alienated [231] Villages.

Application of rules: certain powers of Collector to be exercised by holder with commission.

92. When land assessed for purposes of agriculture only is subsequently used for any purpose unconnected with agriculture, the assessment upon the land so used shall, unless otherwise directed by Government, be altered under sub-section (2) of section 48 by the Collector [232] in accordance with rules 81 to 87 inclusive:

Provided that the powers of the Collector under those rules, other than the power of estimating the full market value [233] and fixing standard rates of assessment, shall be exercised by the holder or holders of the alienated village in respect of land specified in a commission [234] conferring the powers of a Collector under section 65 or 66 upon such holder or holders under section 88 (*d*). [A-J]

231. When a Survey Settlement extends to an alienated village, probably sec. 48 could not be applied unless some rules were framed; so these rules give a power to the inamdar which otherwise he might not be held legally to possess. A tenant-at-will who had not acquired the rights of an occupant under sec. 217 would still be at the mercy of the inamdar and to him these rules would not apply (R. 5884-06, 5641-07, 6615-10, 8705-10, 1873-11, 2533-11). The caption of these rules aught to be *incorporated* in Rule 92.

(ii) Holders of alienated land in a khalsa village cannot acquire the rights or the disabilities of Survey occupants under sec. 217, and so are (wrongly) protected against any alteration of assessment by sec. 65.

If the Inamdar levied any rates from a 'settled' occupant without Collector's orders it would technically be an illegal exaction for which the Civil Court affords a remedy. Curiously the L. R. C. does not provide any penalty for Inamdars exacting revenue in excess of the rates settled for their village; yet instances are not easy to find.

(iii) Jadid inamdars or mirasi tenants who hold from an inamdar in an alienated settled village, are liable to pay enhanced N-A rates to their inamdar (Order R. 7755-15). Here too it must be remembered that any terms an inamdar may grant outside these Rules, even in an unsettled village (such as perpetual tenancy at a fixed rent), would lapse if the village lapses. Various circumstances might involve such lapses; therefore it is safer for their N-A tenants to come under these Rules. It has always been the policy of Government to survey alienated villages even if they reject the settlement (R. 5479-55).

(iv) When khalsa lands in an alienated village have been settled along with the khalsa villages of the Taluka, then the ordinary rules (80-88) would apply to them. When a block of Inam land in an alienated village is acquired by Government under the L. Acq. Act, it ceases to be "alienated" and also falls under the ordinary rules 80–88 (R. 906-21). See Note 53 to Rule 30.

232. Local Fund is not leviable on such altered assessment, as it is not assessed by Survey Officers (sec. 7 (1) III of 1869), but by the Collector or Inamdar (R. 2353-20). Amendment is contemplated.

233. This has been corrected in conformity with Rule 82.

Standard rates have been fixed for Inam villages in Salsette, Kalyan, and Bhivandi, and for Daskroi in R. 2998-09 and these now need revision under R. 1291-20.

234. See R. 4702-89, 7537-03.

93. For the purposes of determining the amounts of the fines leviable under section 66, rules 99 to 102 shall be applied:

Fines.

Provided that the powers of the Collector under section 65 or 66 respectively shall be exercised in accordance with the provisions of rules 99 to 102 by the holder or holders of the alienated village in respect of land specified in a commission conferring the powers of a Collector under section 65 or 66 respectively upon such holder or holders under section 88 (*d*). [A-2]

94. (1) When the Collector receives an application under section 65 for permission to use for any other purpose land assessed for purposes of agriculture only, he shall forthwith forward to the holder or holders of the alienated village in which the land is situated a copy of the application and shall as soon as possible thereafter also forward to such holder or holders a letter showing the altered assessment leviable upon use of the land for such other purpose and requesting such

Applications how to be dealt with.

holder or holders to intimate within one month of the date of the letter whether the application should be granted or refused.

(2) If such holder or holders intimate that the application should be granted it shall be granted accordingly ; but if such holder or any of such holders intimate that the application should be refused or do not make any intimation within the time specified, the application shall be refused. [A-3]

Procedure when information of use for non-agricultural purposes is received.

95. (1) When the Collector receives information that any inferior holder of land assessed for purposes of agriculture only has rendered himself liable to any of the penalties specified in section 66 the Collector shall address to the holder or holders of the alienated village a letter communicating the information and the liabilities of the holder of the said land and showing the altered assessment or fine or both leviable and requesting the holder or holders of the alienated village to intimate within such time as the Collector considers reasonable whether the liabilities should or should not be enforced.

(2) If such holder or holders intimate that the liabilities should be enforced, they shall be enforced accordingly ; but if such holder or any of such holders intimate that the liabilities should not be enforced or do not make any intimation within the time specified or within such further time as may specially be granted, they shall not be enforced.

(3) Provided that the Collector shall not pass any such orders in respect of land specified in a commission conferring the powers of a Collector under section 66 upon the holder or holders of the alienated village under section 88 (*d*) but shall forthwith communicate the information for the orders of such holder or holders of the alienated village ; and also provide that any such information may be received and acted upon by such holder or holders of the alienated village direct. [A-4]

Communication of orders and levy of assessment.

96. (1) The Collector, or the holder or holders of the alienated village, as the case may be, shall communicate any orders passed by him or them under these rules to the Mamlatdar, who shall communicate such orders to the applicant or holder of the land concerned and shall direct the village officers to levy any altered assessment or fine so ordered.

(2) Such altered assessment or fine shall be levied in the same manner as other land revenue and shall be paid wholly

to the holder or holders of the alienated village where such holder or holders are entitled to the whole land revenue of the village or proportionately to their shares when such holder or holders are entitled to a proportion only of the land revenue in accordance with the conditions under which they hold the alienated village. [A-5]

Kadim and sheri lands exempted.

97. Nothing in rules 92 to 95 shall be deemed to apply to lands which are alienated lands apart from the alienation of the village in which they are situated, nor alienated land in the possession of and occupied in person by [235] the holder or holders of the alienated village. [A-6]

235. [See R. 8779-18 for old wording. Tenants-at-will do not deprive the Inamdar of his possession: but "permanent" or occupancy tenants do. The distinction between permanent tenants and tenants-at-will is often hard to draw, when not defined by written leases (I. L. R. 17 Bom. 475, 29 Bom. 415), but the "sutidars" of Kurla are admitted to be permanent.]

The wording is amended by R. 5094-I-2-23; and it cuts out even permanent tenants who are thus rightly made liable to pay N. A. rates to the Inamdar.

Meaning of "holder" of alienated village.

98. For the purposes of rules 92 to 97 the holder or holders of any alienated village shall be taken to mean the actual holder or holders or in cases of doubt the person or persons whose name or names is or are registered as such in the register kept under section 53. [A-7]

Permission for Non-Agricultural Use and Fines in cases of Unauthorized Use.

No fine ordinarily to be imposed under section 65.

99. No fine [236] shall ordinarily be imposed under section 65, that is to say, where land assessed or held for purposes of agriculture is used for any purpose unconnected with agriculture with the permission [237] of the Collector. [71]

236. R. 3459-08. The original conception of a fine for such uses was that it should act as a penalty [see sec. 35, Act I of 1865 (Survey Act)]. By degrees the idea was converted into that of a premium upon a change in tenure capitalising the future unearned rents. Finally the fines disappeared altogether in R. 2117-03, 4283-04. They are now retained only where a penalty is genuinely required for unauthorized diversions of use, and for certain commercial, non-residential uses, like brick making, where the annual levy of the rental share is difficult.

(ii) *Unauthorized use.*—The rules and Code prohibit certain *uses*, but say nothing about misuse or disuse. Suppose an extreme case: a wealthy holder of many thousands of acres left it all waste and was able to pay his assessment out of other income: ought there not to be a power reserved by Government to give him notice that unless he uses his land for agricultural it will be resumed and alloted to competent and willing cultivators? This problem has been encountered in England in the case of the "game-preserving" landlord: the exigencies of war have brought it into bold relief. There is a universal feeling that private property in land should at any rate be limited by reasonable obligations. Individuals cannot be conceded the right to force multitudes to starve. In Bombay, it would be fully consistent with the theory of our land tenure that the Collector should have power to give notice

of intended forfeiture to any landholder, even if his assessment be punctually paid, if he persists in neglecting the proper use of his land. It might in time go even further and be extended to cases in which from poverty and lack of capital and enterprise, a holder is unable to cultivate up to a reasonable standard of efficiency. Many allow their lands to go to ruin through spread of weeds, or irruption of sea water, or denudation by surface flows, and then resign them to the public in this ruined condition. Many again apply for reduction of assessment on the ground of deterioration, but it has been ruled that this cannot be granted if the deterioration is the result of individual neglect (R. 5423-02). The remedy of course is resignation in order that if possible the land may be granted to a more capable holder. Government have observed (R. 8191-85) that it serves no good purpose to keep men without capital as occupants when there are better men ready to take their places. When the bankrupt holder fails to pay his debt, it is a public duty to forfeit his land and give it to those who will put it to a better use. But this power gives no remedy in some cases of misuse of land. We need not subscribe to extreme doctrines of socialism in order to recognize that the public, represented by the Government has a right to require the landed territory of the State to be used in the way most advantageous to the State and population: any prudent landlord, without the responsibilities of Government, will give notice of eviction or of refusal to renew his lease to a tenant who from whatever cause spoils and neglects his land. The fallow rules in Sind are open to much criticism from this standpoint.

237. (i) *Permission.*—The Collector gave permission in 1912 to convert certain land to building but reserved no land for roads, etc. The Municipality then at a high price (in consequence of the enhanced value conferred by the permission) acquired land for these roads. The Commissioner then in 1919 cancelled the permission. It was ruled that since an equitable right had grown up after the permission had been granted it could not be cancelled (R. 2652-20). It is admitted in R. 922-20 that the Collector has power to plan occupied agricultural land which it is proposed to convert to N. A. use by imposing conditions under sec. 67. The application of Land Acquisition Act commends itself however to Government as preferable because the increase of value due to the planning and opening of the market accrues to the public, and not to the private holders. Action was taken on these lines in G. 2809-20.

(ii) For discussion of the conditions and extent to which the Collector can altogether refuse permission to convert see R. 15159-19, where the amenity of a District Bungalow was the origin of the discussion. Government suggested here also that Town Planning Scheme should be framed.

Refusals of permission may not be capricious: broadly speaking the same sanitary, aesthetic and civic considerations should govern both disposals of Government unoccupied land and permissions to use occupied agricultural lands. Some of the points noticed under A. O. XXIV are equally relevant to permission under Rules 80 onwards.

In Bombay H. C. Appeal 247-22 (Shivapalsing Bhagwatsing *vs.* S. S.) decided on 14-2-24 it has been ruled that when the Collector received an application and (in order to gain time) issued a reply that "permission is refused: it may be granted after the enquiry which will now be made" the applicant was justified in proceeding with his building; because sec. 65 clause 3 (*b*) with its proviso, contemplates enquiry and reply to be completed within 3 months. It does not contemplate (*a*) a purely arbitrary refusal in order to get (*b*) an indefinite extension of the statutory period for decision. To expedite the enquiry it has been suggested that for literate applicants a form of questionnaire might be devised and issued in reply to the first application. This view cancels the instruction in R. 5893-92.

In consequence the Commissioner's proposed forms of application and inquiry in their joint letter L. N. D. 248, 7-6-26, were approved in R. 3511-B.24, 15-9-27, but pending an amendment in section 65, L. R. C. providing for the compulsory use of a standard form of application they are in abeyance: they are being printed in the new Edition of the L. R. Code.

(iii) In no case should overcrowding be allowed in the disposal of building sites: and Government buildings should not be allowed to become undesirably surrounded (R. 7429-05). No building may be permitted within a furlong of District Bungalows or P. W. rest-houses.

(iv) When it is proposed to give permission to build on land near any Railway Station or within the neutral zone, the Railway Administration must first be given an opportunity to acquire by notice for not more than six months. The refusal of permission will not prevent the land from acquiring enhanced value in acquisition proceedings on account of its potential value as a building site (a dubitable view which will perhaps be reconsidered) (R. 8561-18). Meanwhile within the three months allowed by sec. 65 the Collector should request the applicant to postpone building (R. 2753-19).

He should then send a plan prepared in conjunction with the Railway Engineer (R. 5434, 7338, 9448-19) to the Agent. These rules were reiterated in R. 1268-20. Also see R. 1996/28—18-4-29.

(v) Government undertook (R. 1037-02) to maintain a zone clear of buildings along the side of the Tapti Valley Railway: waste land within that zone should not be disposed of without retaining that restriction. Local authorities should be encouraged to frame plans for development and the Collector should refuse permission when projects are insanitary or unsightly (R. 2753-19).

(vi) When a Town Planning scheme has been finally sanctioned the Collector should fix standard N. A. building assessments [at 6 per cent. on the "full market value" for the whole area] and should notify them for each final plot: also intimating that subject to payment of the assessment and observance of all provisions of law, the Collector grants permission to build according to the scheme. These assessments will commence to be levied when the land is built upon according to Rule 86 (R. 3037-20): as no individual permission is given. But undue delay in developing the plots should be provided against in the scheme. Indeed it is proposed to levy an "undeveloped land tax" on such plots.

Maximum fine leviable under section 66.

100. Any fine imposed by the Collector under section 66 shall be fixed by him at his discretion ([238]) subject to rule 101 shall not exceed ten times the altered assessment imposed under this Chapter. (R. 1890/28 of 15–5–31.) [73]

238. See Note 200 to Rule 83; also Rs. 1831-97. But now that fine is only levied as a penalty for not getting permission—and thereby evading the Collector's control over industrial and building uses—the severity of the fine should apparently depend on the degree of harm done and the bad example set and not upon the fiscal considerations adduced in R. 5206-97.

239. Cancelled (R. 1890/28 of 15–5–31).

Maximum fine leviable for unauthorized use for building, brick making etc.

101. When the material of the soil of any occupied land is employed for bricks or tiles or pottery or for any other non-agricultural purposes, without the permission([240]) of the Collector being first obtained and the value of the land is thereby adversely affected, a fine may be levied at a rate not exceeding double the rate prescribed in rule 100. (R. 1890/28 of 15–5–31.) [74]

240. Not infrequently buildings are erected or non-agricultural uses are commenced upon land before permission is obtained. Sometimes the Collector cannot grant the permission, and the question then is what can be done to remove the unauthorized buildings or any other unpermitted use. By making such use, the occupant forfeits his occupancy, and therefore if the Collector does not desire to grant the permission and cannot settle the matter by less severe measures, he must take possession of the holding as Government land together with every structure or tree or other fixture thereon. He cannot require the late holder of such a forfeited holding to pay the cost of removing anything. If the cost of removal exceeds the value of the materials themselves, the Collector must apply for a special grant for the cost of removing at Government expense, if he cannot meet it from his contract grant. The same fate would befall buildings, etc., in all other forfeitures and resumptions and also in the case of the termination of leases (subject to any covenant in the lease itself). At any rate, the Collector is prohibited from giving any value for unauthorized buildings (see Note 120) on the termination of any lease or grant under a sanad, whether by efflux of time or through breach of any condition.

To meet these difficulties an amendment in sec. 61 has been approved in R. 10382-16 but not yet passed into law.

102. Notwithstanding anything contained in rules 99 to 101, the Collector may, in such cases as Government deem exceptional or unusual, impose a fine, whether under section 65 or under section 66, at such rate[241] as may be fixed by Government in that behalf. [75]

Saving of special cases dealt with by Government.

241. No extra-high maximum may be generally prescribed for certain areas; but an individual order in each case is necessary (R. 1831-97).

In a Sholapur case (R. 8124/23) land originally given *free of occupancy price* for tree planting was without prior permission diverted to N. A. use. A fine of Rs. 16,800 was levied as 1/10th of the profit got. Other land has to pay half the estimated N. A. rental value!

103. The limit of fine to be levied under section 61, when land is unauthorizedly[242] occupied and used for any non-agricultural purpose, shall be double the amount of the fine that would be leviable under section 66 and rule 100 if the same land being in lawful occupation had been used by the holder for the same purpose without the permission of the Collector.

Limit of fine under section 61.

Provided that a fine up to Rs. 100 may be levied in any such case irrespective of the area of the land involved. (R. 1890/28 of 15-5-31.) [70]

242. If a trespasser uses for a N. A. purpose without permission land of which A is the occupant, and A neglects or refuses to take legal steps to prevent or evict him, it may then be presumed that A is collusively suffering the trespass. Notice should be issued to A, and if he still takes no action within three months, A and the trespasser should both be evicted (R. 679-96, especially paragraphs 5, 7 of Mr. Batty's Report, and R. 10060-17).

The same principle of the liability of the occupant was enforced in the case of a quarry in occupied land in Maval Taluka by Messrs. Tata, Ltd. (R. 2310—19-4-23).

The neglect of the revenue officers to take early action probably resulted in heavy loss of revenue which went into private pockets.

CHAPTER XV.

RECORD OF RIGHTS.[242a][243]

104. The record of rights and mutations, the Index of lands and the register of disputed cases shall be kept in forms[243a] O P and Q respectively; provided that in sites surveyed under section 131, these forms may be modified[244] by the Director of Land Records to suit the requirements of cities, the record of rights being termed the "Property Register". After the original preparation of the Record, all later entries altering or transferring those rights are termed "mutations". [N]

242a. The method of writing the record has been changed. The rules have therefore been modified as per R. 352/28 of 10-4-29.

243. The subject of the Record of Rights was first mooted by the Government of India in their letter 2770-369 dated 6-12-97 and it was intended purely for Settlement purposes. In April 1898 orders to make experiments were received. The first draft

was prepared by Sir J. W. P. Muir Mackenzie, and the experiments were carried out in 1899 by Messrs. A. B. Fforde, F. B. Young, H. B. Sathe. The first Act was passed in 1903 (IV of 1903) but this was repealed and incorporated in the L. R. C. of 1913. The Record has now also become the basis of the accounts of liability to pay land revenue: and also of the audit of alienations of land revenue.

(*ii*) The first Act extended to all lands except those excluded by R. 263 and 3653–04. It was extended to all sharakati villages in R. 2568–09, and to surveyed inam villages, even if the period of Settlement has expired, except those in Ratnagiri, by R. 288–13. All Revenue survey numbers or parts thereof used for non-agricultural purposes within municipal limits are brought under the Act by R. 11581–13 and agricultural lands in various Municipalities by several notifications. All whole vanta villages, and vanta blocks in Government villages, were excluded by R. 5668–11. But in Broach and Kaira those Summarily Settled are now decided not to be "Talukdari Estates," and therefore come under the Record of Rights Act (R. 3180–20).

(*iii*) There is a special form for Kolaba khoti villages and some modifications for bhagdari and narvadari villages. It has not been applied to talukdari villages, where the Settlement Register, which is a sort of Record of Rights, is prepared; and not applied to Ratnagiri khoti villages (R. 339–19). The 1931 Revenue Accounts Manual contemplates its application to all *surveyed* areas within any municipal area or town or village site. Only unsurveyed and unmeasured plots are of necessity left out. When a village or town site is surveyed, its exemption under R. 263–04 is cancelled by notification (*vide* R. 4136–11 and many similar orders). In unsurveyed alienated villages, the experiment of surveying all the holdings or plots of land under the provisions of sec. 135G was carried out at Udtara (Wai) under R. 1721–16 and Diksal (Karjat) in R. 6847-17 and this species of survey is now to be carried out under a programme in all unsurveyed Inam villages subject to provision being made for maintaining the Record (R. 339-19, 1301-19).

(*iv*) It was extended to the surveyed cities of Ahmednagar, Barsi, Gadag and Godhra (R. 685-16) without any obligation upon the Municipality and to all other city-surveyed areas by R. 6108-17, except those cities surveyed long ago, which were in need of revision survey before the Act can be applied (Ahmedabad City proper, Surat, Broach, Rander, Bulsar, Hubli, Dharwar, Bijapur and cities in Sind). These cities have now been resurveyed. In pursuance of that policy cl. 5 of R. 263–04 is amended: whenever a village, town or city site is surveyed under sec. 131, Chapter X-A, is applied and sec. 135B is applied to all tenancies for 21 years and upwards: no register of tenancies is separately maintained (R. 13565–18).

(*v*) It was once proposed (R. 8911–08) that no document should be accepted for Registration unless a copy or extract from the Record of Rights was produced to support the title: but this was negatived by the Government of India (R. 3588-10). But under the Registration Act it is now required by Rule (R. 6412-10) that all properties must be described by the identifying Number in the maps prepared under Chapter X-A. That all land transfers and titles should be evidenced only by inscription in the State Cadastral records is an ideal at which we may in time arrive.

For notes on sec. 135H, see Joglekar, p. 442.

243a. Forms. The adoption of the system named after Mr. R. M. Maxwell, I.C.S., who first suggested it has further modified the old forms. The principle is that every event effecting any mutation is posted in a continuous "Day Book" or Diary and numbered. Then all the entries against all parcels of land affected by it are corrected by being ledgered in the index quoting the No. of the entry. The Index is constantly undergoing corrections: The record of rights is never touched. Even if a false or erroneous entry is made it is corrected by making a later and truer entry.

(*i*) A further development now being introduced in all Districts (R.10022/24—18-11-27) is a combination of (*a*) the Index of Lands, (*b*) the Record of Tenancies (Rule 113) and (*c*) the crop record: (*b*), (*c*) posted annually for ten years on loose leaf ledger cards. Detailed instructions and samples are in R. A. M.

244. It was formerly decided not to incorporate instructions on the forms in the rules under the Code, R. 7788–10. But R. L. A. now thinks the forms should be fixed by rule. The disadvantage of course is that the smallest modification or experimental adoption of any new method is thereby technically barred until first it has been incorporated by an amendment into the rules, which is often vexatious.

(*ii*) The Rule now allows modifications in case of cities. The principal modification is that (since the Record in cities is kept by an educated and more responsible staff) mutations are posted direct into the original Property Register (and there is no separate

Form P). One or two more columns have been provided in Form O for details of mortgages and leases, but none of the standard information is omitted.

In some cities the register is kept as a card index the information on each card being that of the usual form.

105. (1) When the record of rights is first introduced in any village, as soon as the preparation [245] has begun, the village accountant shall cause notice thereof to be given by beat of drum and shall post up a written notice in the chavdi. He shall also write at the head of the record a certificate that such notice was duly given.

(2) Prior to the preparation of the fair copy of the record of rights, the village accountant shall prepare a rough copy of the record in the form of an Index of Lands with all rights noted against each parcel. Until the fair copy is prepared, such rough copy shall be used as and be deemed to be the register of mutations, and the provisions of the Code and of these rules which apply to the said register shall apply so far as may be to such rough copy, and the provisions of rule 111 respecting the introduction of the re-written copy of the index shall apply so far as may be to the introduction of this first fair copy of the record. [N]

245. The assistance of all village servants is of course required (R. 4950-02). See Note 45 (*iv*).

106. (1) Every mutation [246] shall be posted in the Diary by the village accountant and examined by the Circle Inspector and shall be read out and explained by the latter to all persons present.

(2) The Circle Inspector shall initial all entries so examined.

(3) If any person adversely affected admits [247] an entry to be correct, the Circle Inspector shall note the admission.

(4) If any interested person disputes the correctness of an entry, the Circle Inspector shall not erase [248] but shall correct any errors admitted by all parties either by bracketing the errors and inserting the correct entries by interlineation or side note or by an entirely fresh entry, in either case authenticated by his signature: if the error is not admitted, he shall enter the dispute [249] in the Register of Disputed Cases (form Q), and it shall be disposed of under rule 108. [N]

246. Including intimations from Civil Courts under H. C. Circulars No. 167 at pages 47 and 48 of the Manual of Civil Circulars, 1925, as amended by Addenda and Corrigenda No. 55—*vide* R. 472-28 of 16-4-29 and *B. G. G.*, part I, pages 1392-93 of 1929.

If a sale or other such transfer of land is orally negotiated but no document is executed by the parties it is not lawful even if possession is at once delivered, and could not stand against a registered document (secs. 17 and 49, Registration Act XVI of 1908, and 54, 59, 107, 123 of Transfer of Property Act). Such an oral transaction embodied in the Record if made since 28th May 1913 when sec. 135J began to operate (I. L. R. 44 Bom. 214) must, however, be presumed by any Court to have taken place, and can be proved

by production of a stamped certified copy (if the title to the land is not itself in issue: *e.g.*, in land acquisition proceedings). If a document is executed, then the extract from the Record cannot be used in Court as evidence of the document or its contents (R. 52-17).

247. An admission to be of value as evidence must be against the interest of the person making it. If a person who is recorded as a mortgagee or purchaser informs the inspecting officer that he has acquired this right it is no "admission." But if the mortgagor or vendor admits having parted with his property, his admission is valuable.

248. Through erasure lies the way to fraud. Every entry even though wrong must remain legible: and the way in which it is corrected left perspicuous.

249. The dispute must be between holders: a claim against Government must be decided under sec. 37 and the result recorded: it cannot be dealt with under this Chapter (R. 44-20).

107. (1) The entries in the Diary of mutations shall be further tested and revised [250] by a revenue officer not lower in rank than a Mamlatdar's First Karkun.

(2) Any entry found by such officer to be correct shall be certified by him.

(3) Any entry found to be incorrect shall, if no dispute is brought to his notice, be corrected as in rule 106 (4) and certified by him; such correction shall be a new mutation for the purpose [251] of section 135D (2).

(4) Where such officer finds that there is a dispute regarding any entry examined by him, he shall enter the dispute in the register of disputed cases and the dispute shall be disposed of under rule 108. Such officer shall, wherever possible, himself dispose of the dispute under the said rule forthwith.

(5) One appeal only shall lie against any entry certified under sub-rule (2) or corrected under sub-rule (3) otherwise [252] than by the Collector himself, to the same authority to which an appeal lies in a case decided under rule 108. [N]

250. Ordinarily the Revenue Officer will chiefly concern himself with the fact of actual possession. The L. R. C. does not admit that any person is a "holder of land" unless he is *legally* in possession, but it also gives to no Revenue Officer power to evict a person in illegal possession unless perchance section 48 (4), 61, or 79A apply. This last section could be applied after enquiry under section 37 (2). Since the person in illegal possession must so remain until a Civil Court or the Collector acting under the Watan Act or otherwise with jurisdiction has intervened, the Revenue Officer under the Record of Rights must record who is in actual possession and he may, if satisfied on the point, even note that the occupier does not seem to be legally entitled to the possession, but he should certainly not enter as possessor any other person not actually in possession, even though he may have a better title. The rightful claimant must first assert and give effect to his title through the proper legal procedures before he can be recognized in the Record. Disputes are best settled on the land itself.

251. The correction may possibly be made without the knowledge of the opponent or some interested third party. This provision secures notice to them also.

252. There is *no appeal* against Collector's order. Chapter XIII, L. R. C., as to appeals and revisions does not apply to the Records of Rights. Therefore papers cannot be called for or proceedings revised otherwise than as provided in this chapter, that is to say, otherwise than during inspection and test in the village. If a party presents an appeal, this can be decided by taking evidence, etc., or on local enquiry by the Appellate

Officer. When a party makes a formal appeal, no entry in the Dispute Register is needed, if not already made; as the appellate decision can be posted direct to the Mutation Register (V. F. VII) and will operate as a decision of the dispute.

The reasons for the curtailment of appeals and restriction upon revision are obvious. After all, the decisions of Revenue Officers under the Records of Rights are not final but must bow to the decision of the Civil Courts if any party thinks it worth while to move them. It is not desirable that Revenue Officers should be immersed in appellate work of this sort when there is a properly constituted machinery for dealing with such disputes; they record the facts as they *prima facie* present themselves, and will even often set disputes at rest if the parties accept their decision. The residue must go, as always, to the Civil Courts. See sec. 135H (3).

In the debates on the L. R. C. of 1865 Government were attacked for transferring the power of deciding issues as to the landed rights from the Civil Courts to "irresponsible and untrained" revenue Officers. An assurance was given that the power of framing a record of holders in no way intended to usurp this function or to set up a revenue machinery parallel to the judiciary.

In this spirit all the disputes and appeals under the R. R. should be approached. The revenue Officer who takes "statements" (Javab) of parties (himself or through his subordinates) or writes "judgments" and reasons for his order is violating the assurances given and usurping a function not his: besides grossly wasting his time. I have seen cases weighing 16 lbs. which had lasted 2 or 3 years; and consumed the money of the contestants in employing all the talent in the Local Bar and which ended (where they ought to begin) by "referring the parties to the Civil Court". The whole revenue administration could plainly be paralysed (and in some districts actually is seriously hampered) if it takes upon itself a preliminary (and futile because inconclusive) trial of all the cases which are to go to the Civil Courts. All that the Revenue Officer should do is as a friendly arbiter to form an opinion on the facts *prima facie* before him and select one of two or more claimants to put on the record. This has no legal effect except perhaps that of deciding who should be plaintiff and who defendant if the parties think it worth while to go to Court.

108. (1) Disputes entered in the register of disputed cases shall ordinarily be disposed of by the Mamlatdar's First Karkun or by the Mamlatdar, but may be disposed of by the District Inspector of Land Records or by any revenue officer of superior rank to that of First Karkun.

(2) The enquiry shall ordinarily be made in the village in which the land is situate or where the interested parties reside.

(3) The officer making the enquiry shall record his order disposing of the dispute in the said register, and shall then make such entry in the Diary of mutations as may be necessary.

(4) Such officer shall certify the entry in the diary of mutations to be correct.

(5) An appeal against an order under this rule shall, if the order has been passed by the Mamlatdar's first karkun, the Mamlatdar, the District Inspector or a revenue officer of lower rank than that of a Deputy Collector, lie to the Sub-Divisional Officer or an officer appointed by Government in this behalf, and if the order has been passed by the Sub-Divisional Officer, the Superintendent of Land Records or by a Revenue Officer of not lower rank than that of a Deputy Collector, to the Collector; and must be presented within 60 days from the day the appellant first knew it had been made. The decision

of the appellate authority shall be final. There shall be no appeal against the order of the Collector and no second appeal in any case.

(6) If the appellate order confirms the previous decision, it should be noted in the remarks column, against the confirmed entry. If it alters it, the change shall be entered as a fresh, but not disputable, mutation. [N]

109. Entries in the Diary of mutations shall ordinarily be transferred to the Index of lands as soon as certified.

110. The index of lands shall be re-written incorporating all mutations recorded up to the date prescribed by the subdivisional officer whenever that officer, in view of the number of entries in the Diary of mutations, shall so direct.

253. [One of the reasons which would influence the Collector is the need of sufficient synchronisation. It would plainly be very inconvenient to have all the villages in a taluka falling due for re-writing at different times. Again, it would be an impossibly heavy task to re-write in all the talukas of the district at the same time. The best arrangement would be to have 1 or 2 talukas falling due in each year. In order to synchronise, re-writing might be either postponed or accelerated in certain tracts. If the Record is fairly correct and mutations have not been very numerous, postponement would be justified. If it is very incorrect and mutations are confused, an earlier re-writing would be indicated. For the training of Circle Inspectors in Record of Rights work, see R. 207-20.]

This note will be obsolete when the Maxwell system is universal.

The Maxwell system has for its chief advantage that it does not require the dangerous and difficult re-writing of the old "Record of Rights". That remains permanent and goes on like an endless belt. The index is re-written but (*i*) at far longer intervals, say every 10 or 15 years, than the old quinquennial re-writing of the R. R. (*ii*) with far less danger: for even if a wrong or false entry is made in the index as soon as it is challenged it will be rechecked against the Diary and previous indexes and no fraud is possible. Hence such elaborate precautions are not needed as would be needed if the old record were destroyed or rendered unintelligible.

111. (1) When the re-written Index of land is reported to be complete, the Collector or subdivisional officer shall fix a date for its inspection and shall cause notice thereof to be given calling upon all persons interested to appear on such date at a specified place in or in the immediate vicinity of the village concerned, and notifying that any such person may before such date inspect the Index on application.

(2) On the date and at the place appointed, the Collector or subdivisional officer shall compare the new copy with the old Index and the diary of mutations, cause such portions thereof to be read out as any of the persons present may desire to hear, read and make any correction that may be necessary.

(3) Such officer shall then sign the new Index and subscribe below it a certificate [254] that the entries therein have been duly tested and found correct. [N]

254. The Code says that no entry in the Mutation Register shall be transferred to the Record of Rights, unless duly certified by an officer not below the rank of Aval Karkun [sec. 135D (5), and (6)]. Literally, if "certify" means that he must take a thorough test of each transaction, this provision is impossible of observation. Under the rules as now framed in view of this difficulty, the Circle Inspector is to initial all entries he has tested [Rule 106 (2)]. An officer not lower in rank than Aval Karkun is again to test and certify any entry he tests or corrects. Any settlement of a dispute is also to be certified (Rule 108). All challenged entries are dealt with under Rule 111 (2). It then seems that all entries may then be incorporated in the index under rule 101, even those to which no particular certificate has yet been attached. Sec. 135D gives no definition of the term "duly certified": nor does sec. 135D (6) say "*all* entries". The law does not compel the administration to do impossible things—and it is universally admitted that we have nothing like enough Aval Karkuns to certify all entries, if certification means more than above suggested. No entry which anyone is interested to question can remain unscrutinized.

The difficulty is less under the Maxwell System (Note 243*a*) under which there is no "transfer" but a mutation entry once made in the Diary stays on the substantive record and is neatly indexed in V. F. VII. The certificate in respect of new V. F. VII can suitably be inscribed on a special card inside the last page of the cover and should say how many cards make up the total village Record on the date of certification; all are serially numbered VII-XII.

112. Where a revenue officer or a village accountant issues any summons or notice under section 135E (1) or G, he shall follow the provisions of section 190 or 191 as the case may be.

113. Record of such tenancies as are not perpetual or notified under section 135B (2) shall be kept in form R. The entries therein shall be tested by the Circle Inspector when he examines the crops, and by other officers of higher rank. When any error is discovered by any of these inspecting officers, they may correct it and initial the corrected entry. The register will be compiled every ten [254a] years, but there will be no notification. When any dispute as to such tenancies is found to exist, a note of the fact may be made in the register, but no entry will be made in the register of disputed cases, nor will any revenue officer decide [255] the dispute. [N]

254*a*. The form now is in the combined V. F. VII–XII which contains all the required details in card form, and also the mode or kind of rent—agreement. The cards contain 10 years' entries.

The new Form [see Note 243*a* (*i*)] lasts for a greater number of years: and is more adapted to being written up in the field itself.

After completion the Tenancies are all tabulated under the Modes; and this affords valuable statistics for settlement and for all sorts of valuation and economic enquiry. Finally these tables form the basis of the electoral roll.

255. Sci "under this chapter": a revenue officer (as under the Mamlatdars' Courts Act) may have to decide tenancy disputes in other circumstances.

The Code provides that all Civil Court decisions even as to tenancies must be incorporated in the Record.

For a new method of giving possession upon civil decrees, see Order R. 10455-13. For the form of notification of result of a suit, see H. C. Civil Circulars Rule 60-A, *Bom. G. G.*, Part I, p. 479 of 1910.

CHAPTER XVI.

Recovery of Land Revenue.

Land revenue where and to whom to be paid.

114. All payments of land revenue shall be made to the officers of the village [256] in which such revenue is due: provided that, with the sanction of the Collector, such payment may in special cases be made into a Government Treasury within the district [257] to which the payment appertains. [84]

256. For collection of inamdars' rents directly as Government dues, see sec. 94A. When there is no watandar kulkarni, or when the watandar has commuted (R. 8733-16), this power cannot be used. Inamdars must stamp the receipts they give to occupants or to the kulkarni for sums exceeding Rs. 20 (R. 2641-84); but not receipts given to their tenants on "sheri" lands (R. 5095-98).

(*ii*) See Appendix O-Q for Money Order Remittance Rules (R. 402-11). Payment is ordinarily to be made to the Patel in the presence of the accountant (R. 3845-83).

(*iii*) It is not considered sound finance for any Government to anticipate its revenue by collecting in advance. Obviously it would tend to inflate present revenues and tempt a higher scale of expenditure, only to be followed by a decline in revenue and awkward consequences. To this general rule the following exception is admitted. Under Rule 88 non-agricultural assessments may be compounded for (see Notes under that Rule). When these assessments are substantial, this composition is financially objectionable and disallowed by R. 4578-18. It is appropriate only to plots where the trouble of annual collection is disproportionate (R. 7332-97); and the public have not taken advantage of the facility.

257. Payment in other talukas is inconvenient for the Revenue accounts; and payment in other districts is so exceedingly inconvenient that it is never allowed. Should circumstances ever arise in which revenue is unavoidably recovered or received in another district it should be remitted to the district to which it belongs (charging the R. T. R. fees to the payer, if he pays the revenue at another district voluntarily, R. 9781-85). The agreement of the Provincial accounts and the Wasul Baki Patrak would present great difficulties if revenue were recovered in another district. The proviso covers the Mahal Jamedars' Chitta used in Belgaum, Bijapur and Dharwar.

115. Except in Sind, Ratnagiri, Kolaba, Kanara and Thana, Collectors shall, with the sanction of the Commissioner, classify the villages in their districts into the following three classes :—

Class I: kharif villages in ghat districts and elsewhere where it is necessary that the revenue be secured specially early;

Class II: kharif villages in Gujarat and elsewhere where no such special provision is necessary:

Class III: rabi villages generally. [86]

Dates on which agricultural revenue to be paid.

116. (1) The land revenue payable in respect of lands assessed for purposes of agriculture only shall be paid in equal or nearly equal instalments on the following dates :—

(*a*) in Sind—for kharif cultivation the 15th February and the 15th April, and for rabi cultivation the 15th May and the 15th June, notification 6961/24—19th July 1927.

(*b*) in Thana district—the 1st January and the 16th February ;

(*c*) and in villages classed under rule 115 in—

Class I, on the 5th December and the 5th January ;

Class II, on the 5th January and the 5th March ;

Class III, and the whole of the District [258] of Ratnagiri, Kanara [259] and Kolaba [260] the 5th February and the 5th April :

(2) Provided that—

(*i*) in any district or in any part of a district where the dates above specified are found unsuitable, the Collector may, with the sanction of the Commissioner, fix such other dates as he may deem expedient according to the circumstances of the season [261] and of the villages concerned and the character of the crops generally sown therein ;

(*ii*) Where the annual amount of the revenue is five [262] rupees or under, it shall be payable in a lump sum at the date of the first instalment ;

(*iii*) if the person from whom the year's revenue is due so wishes, he may in any case pay the whole amount at once instead of by instalments. [263] [86]

258. R. 2026-20 and 4500-17.

259. R. 2331-15.

260. R. 4500-17.

261. See R. 5473-82. In the cotton-growing *rabi* villages of Belgaum, Bijapur and Dharwar the Commissioner, S. D., has sanctioned 5th (Dharwar 10th) March and 5th April, and the Commissioner, N. D., has fixed 5th (Surat 10th) March and 5th April for Surat and Broach cotton (*bara*) tracts.

A number of villages in Nasik and Dindori Talukas and in W. Poona were put in a special class, 5th January to 5th February [under rule 116 (2) (*i*)] by Commissioner, C. D., and rabi villages in same area 5th March and 5th April ; and special dates for Ghat villages in Chalisgaon (10th February to 10th March, rabi) and 66 villages in Nasik Taluka and 84 in Junnar (5th February to 5th March.)

262. This was "four" under former rules. The change is hardly proportionate to the general change in value of money.

263. In Kolaba it was very usual for cultivators to pay the whole at once instead of being bothered with 3 or 4 payments.

Other land revenue.

117. Land revenue, other than that due upon agricultural land, shall ordinarily be paid in one instalment, at the time of the first instalment of agricultural land revenue or on such other date as the Collector thinks fit in any case to prescribe ; but in special cases the Collector may in his discretion allow the payment to be made in two or more instalments on dates which shall be fixed by him. [87]

Form of notice of demand.

118. The notice of demand to be issued under section 152 shall be in form S. [264] [88]

264. Subsidiary rules are framed by Commissioners (R. 8714-11); for powers in respect of notices and coercive processes see Orders V to XI.

Indiscriminate issues of notices is deprecated, and the accountant is responsible for this (R. 3813-77, 4432-79, 4921-81 and 7175-93). Fees are levied even when the notice is unserved (R. 954-96, 1194-98). Inamdars, even if commissioned, cannot charge notice fees (R. 2901-86).

In R. 4531-11 permission has been given in parts of Kanara on the coast to levy notice fees in Assistance cases under sec. 86 at the rate of half an anna per rupee (3¼ per cent.) and to apply the proceeds to remunerate village officers employed in executing the processes.

Duties of village officers.

119. (*a*) It shall be the duty of the village officers to warn landholders verbally from time to time of the dates on which their instalments are due, and to use their influence in securing prompt payment without resort to notices of demand or other compulsory processes. [265]

(*b*) Village officers shall report to the Mamlatdar the names of landholders who, they have reason to believe, will not punctually pay their instalments, in order that precautionary measures [265a] under sections 140-145 may be, when necessary, adopted in time: and shall immediately report any case where the produce of any land on which the assessment has not been paid is attached by a Civil Court. [88 (2) and (3)]

265. Whether Land Revenue can be collected by distraint upon money in the hands of a Civil Court under sec. 149 by sending a certificate to the Sub-Judge is a doubtful matter. The Government Pleader should rather be instructed to appear in the Court (R. 9188-16). The breaking open of a door to attach property though permitted under Civil Procedure Code is not advised in the collection of Land Revenue: and even in view of sec. 62 (2), Civil Procedure Code, the practice is condemned (R. 7673-18).

(*ii*) For powers of distraint given to village officers, see R. 7858-81; for Sind R. 3396-81; and to Mamlatdars R. 5954-91. For restrictions upon distraints, see section 60 (1), Civil Procedure Code, V of 1908. There is no form of distraint order (R. 9401-83 and 1302-89). Dwelling houses may not be broken open (R. 9982-84). It is under consideration whether Civil Courts should be required to notify the Collector when they attach crops (R. 9188-16). For rules regulating entry into any premises by an officer empowered under section 154 of the Land Revenue Code for the distraint of moveable property of a defaulter, see R. 4112 of 11th November 1930.

(*iii*) Revised forms for auction sales of moveable and immoveable property as sanctioned in R. 6755-19 and designed by the writer will be found in addendum 83 Suppt. I of Joglekar's L. R. Code.

265*a*. For the form of orders and bonds in precautionary measures see R. 674-91.

(*ii*) For special procedure for recovery of dues of Co-operative Societies, see Act I of 1920.

XXVIII. Whenever the consolidated demand is ordered to be half suspended or half remitted, the division shall be so made that no fraction less than a whole anna shall be taken in the portion to the suspended or remitted. [266] [N]

266. R. 4495-15: *e.g.*, when an occupant is liable to pay Rs. 16 Land Revenue, and Re. 1 as L. F. cess, the remission and suspension order will deal with the Consolidated Revenue Rs. 17; if an inamdar pays Rs. 4 judi and Re. 1 as L. F. cess (the

nuksan being Rs. 12), the orders will apply to his consolidated dues of Rs. 5, and not its components. Thus total Consolidated Demand Rs. 13-1-8—half suspended 6-8-0, half for collection 6-9-8.

XXIX. Whenever an amount is suspended, the suspension shall always be conditional upon the payment of the amount which is not suspended. When, for instance, half the revenue is suspended, but any revenue-payer defaults in respect of any remaining unsuspended revenue the suspension shall be cancelled so that the suspended amount also becomes 'due for the current year' (sec. 148). [267] [N]

267. The effect of this rule is not necessarily to compel the Collector to exhaust all coercive processes, but it does away with the technical distinction between suspended and unsuspended revenue as soon as there is an unauthorized default, and thereby enables the suspended revenue to be dealt with in the same processes as the other revenue. If half the revenue of 1910-11 is suspended and the remaining half is duly paid, but then in 1911-12 defaults is made in respect of the unsuspended dues of 1911-12, then the suspended revenue of the previous year (even though not ordered for collection from other occupants in 1911-12) will become due and pass to the category of unauthorized arrears. Also since it is demanded for the first time in 1911-12 it will be due for that current year and subject therefore to the preferences accorded by secs. 138 and 140; but it would not be liable to the penalty prescribed in sec. 148, unless further, default is committed after the suspension has been formally cancelled (R. 6461-15).

(ii) For the prior credit of current year's dues, see R. 727-85, 80-05. Suspended revenue becomes due in the year to which it is postponed. Assistance can then be given, if applied for within that year, since it is not "arrears" (R. 4849-06). As between back years the Collector can allocate a payment as he pleases, even though the payer specifies it for a particular arrear (I. L. R. 33 Calc. 1193).

(iii) When revenue is not suspended, but the Collector abstains from collecting in order to avoid undue severity, it remains "unauthorised". Therefore Government retain the right to collect even after a succession of bad years. If normal seasons follow, there is no practical difference between suspended and unauthorised: but there is the legal difference pointed out above, specially if poor years follow. Hence the suspension order in R. 8220-18 actually increased the theoretical powers of recovery, since it avoided the loss of the preference accorded by secs. 138 and 140.

General Calamities.

(R. 4966/24 of 1-5-29.)

A.—Suspensions of Consolidated [268] *Land Revenue.*

XXX. When the Collector has ascertained by local inquiries that owing to a partial or total failure or destruction of the crops throughout any tract on account of drought or any other cause, it will be necessary to suspend the collection of land revenue (or judi under the Gordon and Pedder settlements) assessed for agriculture [269] in any area, he is authorized, especially when the tract is already impoverished or the previous harvests have been poor, to grant suspensions according to the scale given below to all occupants, agriculturist and non-agriculturists alike and to superior holders [267] of alienated land (R. 9402-19) without inquiry into the circumstances of individuals:—[R. 1]

Classification of crops.	Amount of assessment to be suspended.
4 annas [270] and under ..	.. The whole.
Over 4 annas, under 6 annas ..	.. Half.
6 annas and over ..	.. None.

The normal crop, or average of satisfactory seasons is reckoned at 12 annas.

268. In old Rules and orders much discussion will be found as to how far Local Fund Cess should be covered by the same orders as applied to Land Revenue. But in the system of Revenue Accounts since 1915, Land Revenue and L. F. Cess are consolidated, and thereafter the demand, collection, suspension, remission and credit of all items is consolidated: so that no distinction remains. This concedes in favour of Local Funds the same priority of charge on the land as Land Revenue enjoys. The change is discussed in the Revenue Account Manual (1931), paragraph 16, page 122. It is complicated by the new L. B. Act of 1930. But Government refused separation of L. R. and L. F. in our accounts, R. 6843-24 of 29-10-29.

269. Therefore these rules do not apply to non-agricultural revenue.

270. For remarks on anna-valuation, see R. 7392-11. It is not an easy matter to determine a true anna valuation for the whole of the crops of a village. If on one acre the crops are 4 annas and on 500 acres the crops are 8 as., then the average value is, certainly not 6 as. Even in estimating the average anna-value of one crop, such as rice, the total area of the crop, and how much had failed totally, and how much in less degree, must be considered. Error in appraising one crop may have less effect on the village average than neglect to "weight" the average correctly.

(ii) An exact method of calculation is this:—Suppose 1,000 acres occupied and assessed in the village. The average unsown (rotation-fallow, etc.,) in ordinary years is 100 acres The crops for the current year are:

	Acres.	Anna value.
Unsown, rain being very short	250	*Nil.*
Juvari	120	5
Bajri	86	7
Rice	64	1
Cotton	280	14
Gram	40	10
Wheat	160	10

The average will then be the sum of $250 \times 0 + 120 \times 5 \times 86 \times 7 + 64 \times 280 \times 14 + 200 \times 10$ divided by 900, the *normal* cropped area: 7,186 divided by 900=*Total anna valuation of the village* 7·98 *or* 8 *as.* Since in this instance the more successful crops are late crops the Collector will probably postpone the instalment till after rabi harvest.

(iii) Government have ruled that fluctuations in prices are not to be taken into account (R. 11908-18). This is an additional measure of leniency, since usually the worse the season, the higher the prices of such produce as is garnered.

(iv) Grass intentionally kept for cutting, or grazing or interspersed with babul for the sake of the future return from timber and the present yield of pods, etc., is a crop. No doubt, it is not a very profitable crop in most cases, but it ordinarily suffices to meet the assessment. Perhaps it will be fair to estimate that when the value of the grass and other products is just about equal to the assessment, then we should treat it as a 6-anna crop, which does not entitle to remission or suspension, but on the other hand is not good enough to bear any further charge for suspended revenue. If the growth of grass has been very good and fodder is scarce so that the grazing value is high, then the valuation of this crop would go above 6 as. The question to be asked in this case therefore is whether the value of the grazing or cut grass, together with babul pods or anything else produced, is equal to the assessment or substantially more or less.

This method has been fully endorsed by the orders in R. (L. C. 1145-B, dated 24th June 1927), though there are inaccuracies of terminology in paragraph 4 of that resolution. This inaccuracy will be seen by carefully studying paragraph 8 of the report of the Committee (of which the writer was a member). The vital point to remember is this:—

(*a*) "land of average classification" means (as a vague generality) land of about 8 annas classification value.

(*b*) In village Nastipur wheat is grown only on good soil for which the average classification *in Nastipur* is not 8 annas but 14 annas. Therefore the standard out put for an acre of wheat *in Nastipur* is not the standard output for land of 8 annas but for land of 14 annas. Once this is firmly grasped, the error of the wording of the Resolution stands clearly out.

XXX-A. For the purposes of the suspension of revenue, annewari is required only when there is doubt as to whether the season is below 6 annas, or, if there are suspended arrears, when there is doubt as to whether the season is below 8 or 11 annas according as the amount of arrears to be collected is half or the whole of one year's assessment. (R. 6365/28 of 2nd February 1931).

The procedure for making the anna valuation is thus laid down in Government Resolution No. L.C. 1145-B, dated 24th June 1927 :—

(*i*) A Committee shall be formed for every village for which an anna valuation is to be prepared consisting of the Circle Inspector (as Chairman), the K, the Patil and two representative agriculturists selected by the Circle Inspector.

In Talukas in which Circle Inspectors have been replaced by a Revenue Inspector, the latter shall take the place of the Circle Inspector and perform his duties in villages which can be visited by him and which shall be previously fixed by him in consultation with the Mamlatdar. In the remaining villages which cannot be visited by him, the patil shall take the place of Circle Inspector and perform his duties with the aid of the village accountant so far as he finds such aid is necessary.

(G.R., R.D., No. 4966-24 dated 31-1-1934.)

(*ii*) The Circle Inspector shall give not less than 3 clear days' notice of his visit.

(*iii*) The Committee shall meet in the month preceding the harvesting of the main crops and record its opinion as to what the anna valuation should be for each of them.

(*iv*) This opinion shall be signed by each member who (if the Committee is not unanimous) shall record his opinion over his own signature or mark.

(*v*) The opinion or opinions thus recorded shall be forwarded by the Circle Inspector to the Mamlatdar, who shall proceed to make a provisional decision.

(*vi*) The Mamlatdar shall fix a date by which the opinion or opinions referred to in section (*v*) above shall reach him.

(*vii*) If the opinion or opinions are not received by that date, he shall make his provisional decision on such other data as may be available.

(*viii*) The Mamlatdar shall publish his provisional decisions in the taluka kacheri and in the chawdis of all the villages concerned.

(*ix*) Any objection to the provisional decision of the Mamlatdar shall be made within 15 days from the date of its publication, and he shall take into account all objections which have been submitted to his superior officers, in person or by petition.

(*x*) Unless the Mamlatdar, on a consideration of the objections or for any other reason, sees fit to amend his provisional decision, such decision shall stand as his final decision. In any case where he amends

his provisional decision, the amended decision shall be published in the same manner.

(*xi*) If the Collector revises the Mamlatdar's decision, this further decision similarly shall be published.

(*xii*) The Collector may select any field in any village for a crop test with a view to checking the accuracy of any anna valuation.

(*xiii*) The Collector or the Mamlatdar as the case may be should supply to the public on payment of the copying fees, information relating to the anna valuation of the crops of a village embodied in the following documents :—

(1) the opinion of the Village Committee as to the anna valuation of each of the main crops,

(2) the provisional decision of the Mamlatdar,

(3) the final decision of the Mamlatdar, if any,

(4) the Collector's decision.

Where possible the Mamlatdar's decision should contain the area as well as the anna valuation of each of the main crops of a village. The information should be furnished in the form appended to R. 4966/24 of 19th June 1930.

(v) Standing in a field and appraising the anna value of its crop, every one must have in his mind some definite standard by which he makes his estimate. If in one taluka the ordinary output of rice is 20 mds. and in another taluka it is only 10 mds. an officer accustomed to the first taluka will, if making a valuation in the second, be very liable to put a crop down as only 6 annas when it is really 12 as. It would be half what he has been accustomed to see ; still it is the full normal crop of the second taluka. In the best possible year, the outturn of the best land will be many times that of the worst land ; and yet the small crop found on the worst land will *for that land* be a 12-anna crop or more. It is evident therefore that unless the classification value of the land and the normal good crop on land *of that class* are both known to the valuer, no trustworthy estimate can be made.

(vi) Very serious errors would occur if different officers valued the crops of a village in different years according to widely different standards. Mamlatdar A will put down the crop as 10 as. in 1919. But if he does not say how many maunds per acre he considers to be the full-crop of 12 as., it is perfectly possible that in 1922 Mamlatdar B seeing an exactly equal crop on the same field will class it at 6 as., because B thinks that the normal fair output is much higher than A considers it to be. It, therefore, seems essential to good valuation that each officer should first put down in maunds per acre what he considers to be the fair normal yield of that crop on land of the best class in that village. If he puts down 20 mds. as the produce in his judgment of land of 16 annas classification, and the field before him is of 12 as. classification, then it ought to produce 15 mds. in the normal year with a 12-anna crop. If the crop is actually only 10 mds. then its valuation is 8 as. If such valuations are put down when the crop is not reaped and removed, and any officer desires to test the valuation, he can always do so by actually cutting and weighing the produce of a small area in any case where the valuation is challenged by the people, or appears to him to be doubtful. There is no doubt that the revenue staff have not the time to carry out extensive tests of this kind during the short time which is available between the maturity and harvesting of a crop. But if in any year reckless statements are set about as to the failure of crops, or if the revenue officers are believed to have greatly overvalued them in misconceived zeal, at any rate half-a-dozen tests taken in different directions and typical villages worked out in full detail, would suffice for illumination. But the *fundamental necessity* is that it should be known to the valuing officer and to the testing officer and to any other critic exactly *how many maunds per acre he had in view* as the full normal crop. There are, moreover, various reports and publications of the Agricultural Department, with which such estimates could be compared. A continuous record checked and corrected by tests and accumulated experience would then grow up in each taluka. The Agricultural Department have a table of Standard and output for each taluka.

(vii) Some land bears two crops (kharif and rabi, such as rice and val): such land was classed and assessed for those capacities, and in good average years would bear a 12-anna kharif and then a 12-anna rabi crop; but in a bad year it might have 6 annas kharif and 2 annas or less of rabi. We should put down the anna valuation of each such crop, and also put the area down *twice*: *e.g.*, 1 acre of 6-anna rice followed by 1 acre of 2-anna val. If we put down as 1 acre bearing 6 annas+2 annas or a total of 8 annas crop, we have very plainly overrated it, since the land is assessed to bear 12+12 as its full ordinary crop and not 12 only. Therefore, for all second-crop lands, repeat the area twice and give the anna valuation of each crop (or failed crop).

If this conception is admitted, then the ideal form for working out the anna-valuation of a village would be as follows. It would be difficult to make all these estimates and calculations for every village and yet no anna-valuation of the crops of the village which omitted any of this considerations could stand cross-examination. Whenever such a calculation is made, it should be permanently preserved.

Village of Nastipur—1922.

N.B.—Cols. 2 and 4 would be standing figures, with slight alteration in col. 4 as the area devoted to that crop changed.

Crop.	Normal yields (12 as. crop on land of 16 as. classification)	Area sown	Average classification value of the land	Estimated yield this year	Anna value	Total annas × acres
1	2	3	4	5	6	7
Normal fallow ..	....	100	..	..	..	..
Unsown ..	*Nil.*	150	...	*Nil.*	*Nil.*	*Nil.*
Grass ..	[6 as. pays the assessment].	80	..	4 as.	4	320
Juvari ..	12½ m. ..	120	10	6 mds.	9	1,080
Bajri ..	10 m. ..	86	12	3	4½	409
Rice ..	40 m.	64	8	2	1½	80
Val ..	9 m.	37	8	1	2½	92
Other pulses ..	8 m.	63	12	1	2	126
Cotton ..	4 mds. (kapas) ..	180	12	3	12	2,160
Wheat ..	8 mds. ..	100	14	3	5	500
Gram ..	4 mds.	20	14	1	3½	70
		750				
Linseed (second crop).	3 mds.	25	12	3	16	400
	Gross area ..	1,025				925)5,237
	Net valued area ..	925	..	..	..	5·66

The formula for each area or the average of the area under the crop is: $\frac{(1)\ 192}{(2)\ \text{Soil—annas of the area under the crop.}} \times \frac{(3)\ \text{Actual produce.}}{(4)\ \text{Full standard produce (16 annas soil in a 12 anna season.)}}$

(4) Can be supplied as a constant by the Agricultural Department.

(2) Is to be estimated for each crop: *i.e.*, for jowari the soil-valuation in annas of the whole area under jowari must be ascertained. The most exact method of doing this upon the crop-register of a village is this:—

$$\frac{\text{Full assessment of the jowari area}}{\text{Acres of jowari} \times \text{maximum dry crop rate}} = \text{anna-value of soil under jowari.}$$

Mr. Ranchodlal Manohardas, formerly Circle Inspector at Godhra, has on this formula calculated a table for all yields up to 20 annas.

[For most of this Note we are indebted to Mr. R. G. Gordon, I.C.S.]

When more than usual area is sown the calculation is the same: the increase in column 7 will yield a rather higher valuation; if the sown area exceeds the normal, still the full average 100 acres of normal fallow should be deducted to get the nett valued area.

Government also agreed to a scheme for improving the standard tables of outturn of crops, and to increase the number of rain gauges. But for want of funds no action has been taken.

XXXI. Where the area affected is homogeneous [271] or whole villages are more or less uniformly affected, the suspensions should be announced for such tract or villages without detailed inspection. [R. 2]

271. The principal difficulty in applying the term "homogeneous" is in respect of irrigated land. It can hardly be said that land irrigated by wells is homogeneous with unirrigated land. The general rule is that when fixing the anna-valuation of the crops for a considerable tract such as a taluka, attention is paid only to the dry crop (R. 9952-11). But if it were specially necessary to determine whether suspensions or remissions should be granted on irrigated lands regarded as "a homogeneous tract" distinct from the dry crop lands, the orders are that each holding in the sense of a single plot of land held by one holder (*i.e.*, the Survey Number if undivided, or the sub-division) should be treated individually. If more than half is irrigable it should be treated as irrigated: if less than half, then as dry crop. Next the valuation of the crops should be based rather on the general state of the water-supply and level. A man who has a well full of water but has not used it hardly deserves compassion. A full utilisation of the existing facilities is presumed. Therefore detailed inspection of the crop of each irrigated holding is quite unnecessary. We should ascertain (*a*) which are the irrigated holdings, and (*b*) what is the general state of water over the tract, and give suspension and remission orders accordingly. These orders might of course be quite different from the dry crop orders (R. 763-06, 650-07, 219-14).

When we are not dealing with a tract, such as a taluka or mahal, but the question is only as to a group of say 10 villages, then we are dealing with a Local Calamity and Order XXXVII applies. When tank or well irrigation has completely failed, either in respect of a single tank through its bursting, or local absence of rain, or in respect of many such sources through short rainfall, then a special remission or suspension on the irrigated holdings affected is countenanced under order XXXVII.

XXXII. The Collector shall cause the occupants and superior holders of alienated land whose revenue is suspended to understand distinctly that such suspension is provisional only, and that it will be decided subsequently whether the revenue suspended shall be ultimately remitted or collected. [R. 4]

B.—Remissions of Land Revenue.

XXXIII. Remissions should be granted to occupants and to superior holders of alienated land in the manner explained below; there should be no inquiry into the circumstances of individuals. [271*a*]

271*a*. This puts to rest an old controversy. There was of old a strong inclination to draw distinctions between "agriculturists" and "sawkars" (*i.e.*, between those who combined the function of landlord (drawer of the unearned rent and cultivator in one person, and those who were "renters" only). Another line of distinction was between "rich" and "poor". In R. 4520-09 there is a long discussion of a sort of campaign conducted against "sawkars" in Kaira by the late Mr. A. L. M. Wood, I.C.S.

(*i*) Except as provided in sub-paragraph (*ii*), the grant of remission should depend on the character of the three seasons following that in which the assessment is suspended. The oldest arrears shall be remitted

first (R. 9402—19). Suspended revenue should be collected to the extent permissible under the table given below. In accordance with this table, all suspended arrears which either (*a*) in Gujarat and the Konkan are in excess of one year's revenue or (*b*) in the Deccan are in excess of two years' revenue or (*c*) are more than three years old should ordinarily be remitted by the Collector :—

Anna classification of crop.	Proportion of assessment the collection of which would be justified.	
	Current.	Suspended arrears.
11 annas and over ..	1	1
8 annas and under 11 annas ..	1	½
6 annas and under 8 annas ..	1	..
Over 4 annas and under 6 annas ..	½	..
4 annas and under	..	..

(*ii*) In the tracts noted below,* the grant of remission should depend on the character of the four seasons following that in which the assessment is suspended. In other respects the instruction in sub-paragraph (*i*) will apply except that the suspended arrears shall not be due for remission until they are more than four years old (R. 4966/24—27th March 1928).

*Sholapur District.

Bijapur District.

Ahmednagar District (excluding Akola, Kopargaon and Sangamner talukas).

Indapur and Bhimthadi talukas and Sirur and Dhond Petas of Poona District.

Gadag, Ron and Navalgund talukas and Mundargi and Nargund Petas of Dharwar District.

(*iii*) The amount of suspended revenue to be collected with any particular instalment should be fixed by the Collector and announced before the collection of the instalment begins.

(*iv*) Cases in which owing to the impoverishment of a tract by a succession of bad seasons, or for any special reasons, it appears to the Collector desirable to remit or to collect suspended revenue otherwise [271b] than in accordance with the ordinary rule, should be reported through the Commissioner for the orders of Government.

271*b*. Owing to the peculiar impoverishment of certain Kanara tracts buried in Forests, all arrears of the current year's assessment on land not ploughed were remitted. All arrears on cultivated land except half of last year's suspended revenue were also remitted. Power was given to the Collector to remit next year half the consolidated revenue on fallow (unploughed) land. Public notice was also given that unploughed land might be resigned without liability for arrears. (R. 450-21.)

XXXIV. When the assessment includes a separated rate [272] for water-advantages then, if the water fails to such an extent that no irrigated crop, or an irrigated crop not exceeding 4/6 annas can be grown the $\frac{\text{whole}}{\text{half}}$ of the portion of the assessment which represents the water-rate should in the case of all occupants and superior holders be remitted without suspension (R. 5087-07, 5324-08). If such remissions are

extensive, the Collector should first consult the Irrigation Officer of the district, and in case of difference of opinion should refer the case to the Commissioner. [R. 7]

272. These separate rates are the Patasthal, Himayat or tank-water, Dhekudiat, and Akasia. Motasthal on well irrigation is not usually an extra rate, but only a rise (or chad) in classification which is not separable from the Land Revenue. The separate or separable water rates are usually distinguished in V. F. I. or a statement supplementary thereto, such as the Himayat statement. These rates were discussed in an Appendix now transferred to the Survey Settlement Manual.

(*ii*) Akasia is a rate for capacity to grow rice on rain water only. When the rain is insufficient and crops other than rice are grown, the Akasia portion is to be remitted (R. 5475-05).

(*iii*) A water rate not assessed as land revenue but optionally contracted for by the holder, as for a supply of canal water, is not land revenue and its remission, etc., is not regulated by these rules.

XXXV. When much land which would ordinarily be sown is left unsown because present or recent calamity renders sowing impossible, the case is identical with that of failure of crops and should be similarly treated. [R. 8]

XXXVI. Suspensions may be granted to superior holders in [including mewasdárs (R. 11946-07)] in accordance with the orders and the provision of sec. 84A of the Bombay Land Revenue Code. Such grant entails the suspension and remission of rent (other than crop share) payable by the inferior holders or tenants to the ext nt provided by that section, under which the Collector must also record his order. [R. 9]

II. Local Calamities.

XXXVII. Relief on the occasion of local calamities, including the loss by fire or flood of harvested crops or other property (R. 8507-11), should be determined by the investigation of individual cases. Before relief is granted the resources of the owner should be taken into account.

When the damage amounts to total or nearly total loss of crops, immediate remission is preferable to suspension (R. 650-07, 2702-07, 8507-11). [R. (L). 1, 2, 3]

General.

XXXVIII. (R. 8714-12) In order to carry out these rules it is essential that each autumn, not later than 1st October, each Sub-divisional Officer should obtain from each Mámlatdár a list of the villages in the taluka (printed lists should be available). This list should show against each village the full normal year's demand of fixed consolidated revenue in round figures, omitting annas. The next column should show the total amount of suspended revenue in each village. When these suspensions are not given uniformly to all occupants this fact should be made clear, together with the proportion (half, whole or more than one year's demand) which stands suspended. The next column should show the Mámlatdár's Final anna valuation for the village. For orders as to methods of valuation see R. 3750-09, 7392-11, and 7760-12, para. 2, and 7773-B. 27. A duplicate of these statements must also be sent to the Collector. [N]

XXXIX. Upon this information the Remission and Suspension Rules can be applied. If there is no suspended revenue, no orders about its collection will be needed. If the crops are plainly well above 6 annas there will be no suspension for the current year. If they are unmistakably above 11 annas, the collection of the current revenue together with one full year's demand of suspended revenue could be ordered without further enquiry. But when the reported anna-valuation is close to one of the critical figures,—say 5½ to 6½, so that perhaps suspensions may be needed in the current year, or 10½ annas, so that it is doubtful whether two years' dues can be demanded,—then a careful test of the valuation must be made. For this purpose the Sub-divisional Officer will, if necessary, go out on inspection in October (R. 438-12). It is imperative that the crops should be seen before they are reaped, and the Sub-divisional Officer must ensure that the list reaches him in time for this to be done and should call for and proceed to act on the Mamlatdar's provisional estimates should there be danger of his final estimates being received too late. He will select villages for test from the list so as to take a fair sample of the average condition of the taluka and should specially select villages for which the figures are critical. (N)

XL. Reports of the extent and result of this test must be submitted weekly to the Collector. Duplicates of the original lists have been sent to the Collector, so that as he receives the results of the tests he can modify his estimate of the effect upon the probable demand and collections for the year. He can also see that proper progress is made in the tests. The Collector must see that reports required by Order XLIII below (F. 2225-10) are submitted promptly. He must not wait until the last tests have been taken and the conditions of both kharif and rabi crops ascertained. If this first *estimate* requires material modification, he should intimate the revised figures later. These estimates can be made upon the schedules showing the normal demands (or indeed upon the District Returns up to the end of July which will exhibit by Tálukas the exact suspended revenue). He should not attempt accuracy to a single rupee and not delay while figures are collected, a task that should not be placed upon the subordinate establishment. (R. 8714-12). [N]

XLI. Only in cases where some special remission of water-revenue, or collection of the full revenue from irrigated holdings while other holdings are granted suspensions, has been ordered, will it be necessary to collect estimates (or actual figures) of the financial effect in detail from the villages concerned. The general intention of these orders is that the village should be the unit, not the aggregate 'kháta' or the single field. [N]

XLII. The lists of suspensions and remissions should be published in the following manner. As soon as the statement for any village is sanctioned, the Mamlatdar should cause a copy to be sent to the village officers, who should be required to read and explain the orders to all the villagers and to post the copy in a conspicuous place in the village chavdi, if any, or otherwise in some building to which the villagers resort. The

Collector's orders, if any, under section 84-A should be published and explained in the same manner. The village officers should be required at the same time to enter in the rayat's ledger (village form VIII-B) the remissions and suspensions which have been sanctioned, and in due course to note in the rent column of the Tenancy Register (Form XII) for each hissa concerned the suspension or remission granted by the Collector's orders under section 84-A unless these orders are of a general character, when they may be recorded in a remark at the end of the Register. All Revenue Officers from Circle Inspectors upwards should satisfy themselves (by personal observation) that the publication has been made as directed and that any torn or defaced notice has been replaced and (by direct inquiry) that the remissions and suspensions and the Collector's orders under section 84-A have been read and explained to the villagers. The Circle Inspectors and other Taluka Officers must examine not less than 25 per cent. of the rayat's receipts and of the entries in the tenancy register within three months after the remissions and suspensions have been declared, giving special attention to receipts and entries affected by the orders. The District Officers should pay special attention to ensure that this examination has been properly carried out.

In alienated villages the same procedure should be followed throughout as far as practicable, and in those in which forms VIII-A and B and the Tenancy Register or corresponding forms do not exist, the Inamdar should be invited to provide every inferior holder who is entitled to remission or suspension and whose dues are not collected through the village officers with a combined demand and receipt form showing the remission or suspension sanctioned for each and the balance due for payment.

XLIII. The Collector, as soon as he issues his orders, should report to the Commissioner his proceedings as regards both suspension and remission of land revenue, stating fully the reasons for these orders and the extent of their application, with other relevant particulars.

CHAPTER XVII.

Disposal of Forfeited Land.

Restoration or grant on inalienable tenure.

120. Where the Collector thinks it advisable that the holding [275] of a defaulter should, after forfeiture, be either restored to the defaulter or given out with or without any occupancy price to any other person, [275a] subject to the condition that he shall not transfer it in any way to another person without the previous sanction in writing of the Collector, the Collector, after having declared such holding to be forfeited to Government, may, without having resort to any of the other means provided in the Code for the recovery of an arrear of

land revenue, restore, or give it out (as the case may be) accordingly, and shall take an agreement in form T. [276] [60, 61]

275. The old meaning of holding=khata, or aggregate of all the plots of land held by the same person has now disappeared from the Code and rules. It must here mean any single plot of land in separate occupancy. Under our system of Revenue Accounts it is not, and never has been possible (when a man holds several plots and is in arrear for less than the *whole* of his land revenue) to say to which plot the arrears attach. But Rule 121 provides a solution.

275*a*. This method of recovery was first advocated as successfully used by Lieut. G. S. A. Anderson in 1846 (see Joint Report Selection). If a superior holder or occupant has a tenant but refuses to pay L.R. on the ground that he cannot afford it this means that the rent paid by his tenant is less than the L.R. The next proper step then is to test this by offering the holding to the tenant. There can be no boycott of sales or other sort of obstruction except only the genine economic obstruction that the L. R. is really greater than the rental value. The method was employed with great success in Alibag in 1927-28. As it will leave the ex-Landlord without a vote for Council or L. B. but will install his tenant as sole elector, it threatens the social and political power of the landlord Class so gravely that they dare not risk its application—the weapon is here if the land revenue exceeds the rental value like all other means of recovery it fails. If the land revenue does not exceed true rental it is a just and honest weapon. Let it be used,—If the land revenue lies between 15 and 100 per cent. of the rental value, let the landlords first pay and then prove their case.

276. (*i*) Such land would still be freed from all prior encumbrances (R. 7440-01). Herein forfeiture differs from relinquishment. (The Code, sec. 56, has now been amended.) The Collector ought not, however, to use this power in fraud of a mortgagee for value: and the Commissioner can call for and revise his proceedings in this respect or in sales of land if inequitable (Bom. H. Court, P. J. 1901, p. 230). Section 56 provides for this equity.

(*ii*) A mere order of forfeiture does not extinguish a (mortgage) encumbrance (I.L. R. 22 Bom. 389) nor does restoration to the defaulter (P. J., p. 547-89). But if forfeited land is disposed of by being entered as waste (and the arrears remitted) or disposed of by grant to a third party or by auction, then the encumbrance is extinguished, unless the Collector reserves the encumbrance under sec. 56 (I. L. R. 36 Bom. 91).

The "Conditions of Sale" are printed separately and one sheet of 'conditions' can be attached to a number of sale proclamations when the conditions of all are identical.

(*iii*) If a khata consists of several plots of land, the Collector cannot proceed to forfeit and sell any plot which he has not definitely included in the notice under sec. 153. Though he may publish proclamations in other ways also [sec. 166 (3)] he must not omit the methods prescribed by sec. 155 (R. 11876-17). When land is forfeited, trees are forfeited with it, even if they are separately mortgaged (R. 11908-16). The form of notice threatening forfeiture is given in Appx. O-R. sanctioned in R. 4236-02 and if combined with intention to restore the land on the new resricted tenure, then Appx. O-S is annexed. For printing the forms of sale proclamation (Forms U and W) see R. 1297-17, and Joglekar Appx. XXV. Land cannot be forfeited for arrears of Local Fund Cess. (R. 5673/28 of 28th August 1930.)

(*iv*) Sale expenses are levied even if arrears are paid on the day of sale (R. 9482-92, 5304-94). A certificate of sale must always be given (R. 3009-80) and sent to the Sub-Registrar (sec. 89 (4), Act XVI of 1908). The form is discussed in R. 6023-83; and it must be stamped (Art. 16, Sch. I, Stamp Act), and the purchaser must execute a kabulayat (R. 2600-83).

XLV. Where Rule 120 is not applied, resort should not be had to forfeiture [277] of land unless it appears to the Collector that the arrear cannot be readily recovered by any of the other means provided in Chapter XI of the Code. [61]

277. It is not the wish of Government that the power of forfeiture should be enforced to the risk of outstanding revenue, which is to be written off when land is forfeited, or to the prejudice of holders who will probably pay if given time (R. 4949-80) and will lose all their improvements if evicted (R. 7726-83, 8757-84). For a discussion of pauper cultivators, wild tribes and the disqualification of defaulters from again holding land see R. 4297-81.

121. Where the land in respect of which an arrear is due consists of two or more survey numbers or of two or more subdivisions of survey numbers or of two or more estates separately assessed, and the Collector is of opinion that the whole amount of such arrear could be realized by the sale of less than all of such survey numbers, portion or estates, he shall restrict forfeiture to such one or more survey numbers or the subdivisions as prove sufficient to realise the arrears. [62]

Partial forfeiture.

122. [46] Deleted, as it merely repeated sec. 117B (*i*).

123. Forfeited land shall not be put up for sale in the following cases, but shall be disposed of in the manner hereinafter prescribed for the particular case under which it falls, namely :—

Disposal of forfeited land otherwise than by sale in certain cases.

(*a*) Where the Collector thinks that, owing to general agricultural depression or to the want of demand for such land, or to a combination of the neighbouring land-holders, or for any other special cause, there will be no bidders at the sale, or that the highest amount bid will be considerably below the reasonable value, he shall cause the land to be entered in the land records as unoccupied.

(*b*) Where the Collector finds that the land is likely to be required either immediately or within a reasonable time for any of the purposes described in section 38, he shall take steps at once to assign it for such purpose.

(*c*) In the case of a forfeited alienated holding, where the Collector considers it expedient [278] to allow the land to continue in the possession of its actual holder or tenant, as an occupant of unalienated land, annulling the alienation, he shall pass orders accordingly for its continuance.

(*d*) In the case of an inferior holding forfeited on account of an arrear of rent or land revenue due to a superior holder, for the recovery of which assistance is being rendered under sections 86 and 87, the Collector may in his discretion transfer the holding to the superior holder thereof, subject [279] to such tenures, rights, incumbrances or equities (if any) as he may direct under section 56. [280]

(*e*) In any other case, [281] where the Collector considers it is expedient that the disposal of a forfeited holding should be otherwise than by sale, and obtains the sanction of Government thereto, he shall dispose of it in accordance

with the particular orders for its disposal passed or sanctioned by Government. (282) [65]

278. It may be inexpedient to lose the tenant, even if the superior holder be bankrupt.

279. There is the same reservation in ordinary forfeitures (see Note 276).

280. R. (Notfn.) 765-07. In the villages of a commissioned inamdar, forfeiture can only be ordered when assistance is given under sec. 86-87 (R. 10505-08).

281. *e.g.*, non-service alienated land, assessed at more than Rs. 50, on which arrears are tendered for payment after forfeiture but before sale (R. 334-01). (See proviso to Rule 126.)

282. Any degree of re-grant of an alienated holding, or transfer of an inam from one head to another, must receive Government sanction (R. 6279-76). And any such re-grants should be subject to the 'active loyalty' condition. [Note 71 (*ii*).]

Forfeited land to be sold for recovery of arrears in other cases.

124. In cases not falling under rule 120, 121, 122 or 123, forfeited land shall, subject to the provisions of rule 126, be put up for sale for recovery of the arrears due. (283) [66]

283. Land originally held on the tenure with restricted rights of alienation will be offered for sale on the same tenure. Thereby no question of the disposal of possible additional realizations (if sold on unrestricted tenure) can arise (R. 5964-11).

(*ii*) Surplus sale proceeds belong to the late occupant or his creditors (R. 5737-79): but when land was given free of occupancy price, if it is forfeited and sold for a surplus over the dues, the surplus may be credited to Government (R. 6806-87). This is an old ruling, and it is doubtful if it could be maintained: the value originally granted or accrued since that grant does rightfully revert to the community; but ordinarily the rights of private property are too strong in the eyes of the law. When land is forfeited and sold at once, its surplus proceeds go to the defaulting occupant: and are not "ordinary land revenue" and so the price bid is not chargeable with L. F. Cess. (R. 2002-83).

(*iii*) Sec. 153 already provides that if a forfeited holding is sold, the proceeds (after meeting the arrears and expenses) go to the defaulter. We have therefore only to consider the cases in which it is not sold. These are regulated by Rule 123, and above all by the Collector's good conscience. It is clear that literally following the rules, the Collector, after forfeiture of a holding through default due to sheer misfortune in spite of the fact that the holder had spent much in acquiring or improving the land, could enter it as waste, or assign it for some communal use and thereby shut out the holder from the capital value of his investments. Even if the bids at the auction were low owing to bad seasons it would be a poor reason for stripping the holder off his last remaining capital. Old rule 63 provided that if a defaulter required that the holding should be sold, the Collector was bound to comply. Though this rule has been omitted let the spirit underlying it remain.

(*iv*) The unearned portion of the rent of land may be deemed the rightful property of the State or community. Moreover, if a tenant defaults, his landlord re-enters upon his estate. So whether as 'community' or as 'landlord', Government has justification for some confiscation of the value of forfeited holdings, and if a forfeiture never operated hardly it would be no penalty. It should not take a penal direction unless there is good reason to hold that the defaulter deserves such treatment (see notes 276-277).

Rules and orders applicable to sales of forfeited land.

125. (1) Every sale of forfeited land (284) shall be made subject to the same rules as are applicable to the sale of unoccupied unalienated land so far as the same are consistent with the provisions of Chapter XI.

(2) The Collector should ordinarily set aside the sale under section 179, if in his opinion—

(*a*) the bidding at such sale has not been *bona fide*; or

(*b*) there has been collusion to recover the holding without payment in full of the arrears and charges due to Government or the superior holder; or

(*c*) there has been some material irregularity or mistake or fraud, in publishing or conducting such sale, which is likely to have affected the amount of the highest bid or otherwise to have caused substantial injury to any person. [67]

284. The purchaser of forfeited land, like purchasers of unoccupied land, passes an agreement in Form F or H (with or without Form I) or if in Hill Stations, or certain Municipal areas, or for certain kinds of *leasehold* land then O-E, O-F, O-G, O-H or O-I as may be applicable.

No permission to occupy (Form K) is needed since sec. 181 requires the Collector to put him in possession; but a sale-certificate should be issued on impressed stamp paper: no printed form is provided (R. 6023-83).

Restoration of forfeited land.

126. (1) It shall be the discretion of the Collector to restore any forfeited land at any time previous to any sale or other disposal under these rules on payment of the arrear in respect of which the forfeiture was incurred together with all costs and charges lawfully due by the defaulter, or on security being given to his satisfaction for the payment of the said arrear, costs and charge within a reasonable period:

Provided that no forfeited alienated holding, [285] which is not held for service, shall be restored as alienated land without the previous sanction of—

(*a*) the Commissioner if it is assessed at more than Rs. 20;

(*b*) Government if it is assessed at more than Rs. 50.

(2) Where in the case of a forfeited alienated land held for service by a watandar the Collector is satisfied that the failure to pay the land revenue due thereupon arose solely from the inability [286] of the defaulter to meet the demand, he may deduct from the forfeited land a portion of which the price would be likely to equal the amount of the arrear recoverable, and deal with such portion in accordance with such of rules 122 to 125 as are applicable, and restore the remainder of the forfeited land to the defaulter, or may [287] restore the entire forfeited land to the defaulter, and either remit the arrear of land revenue due, or make such arrangements for its being paid in the future as he thinks fit. [68]

285. R. 9193-11, 3520-12. A holding may (in this rule) consist of several portions of land, even perhaps held on different inam tenures and some unalienated. It is intended that if such an alienee defaults, and the Collector is compelled to forfeit *any* of his land, the order of forfeiture shall apply to the whole holding (even if part is devasthan and part is personal, and part unalienated, and so on). Then in deciding whether to restore,

or to give the alienee the benefit of any of these rules (other than 123 (c) which terminates the alienation), the order of the Commissioner or Government shall be obtained with reference to the aggregate assessment (not judi) of the whole holding (R. 2127-16). The reason is that the Treasury has a strong interest in terminating alienations when a lawful and just opportunity arises.

286. This introduces the idea of "uneconomic" holding (see Rural Economy in the Deccan by G. F. Keatings, I.C.S.). But it is doubtful if the economic position of any holder could be improved by forfeiting part of his holding unless it were unduly large—a rare phenomenon. Moreover, the Remission and Suspension Rules deprive these rules of much of their former importance.

287. It is inexpedient, perhaps to terminate the watan.

Recovery of land revenue due on forfeited land which is not sold.

XLVI. Where land which has been forfeited for default in payment of the land revenue is not sold, the arrear payable by the defaulter shall ordinarily be remitted [288] without having recourse to further compulsory process against him. But it is not intended that the right of recovering arrears from defaulters by other means, notwithstanding that their holdings have been forfeited, and disposed of without being sold, should be altogether relinquished; in special cases [289] the Collector may, with the sanction of the Commissioner, enforce that right. [290] [59]

288. It may be assumed that the holder would not let his land go unless really unable to pay. Still the arrears are not *written off*, but remitted, which is different (R. 6413-05). The Collector may remit the sale expenses in whole or part (R. 5295 (81)-11).

289. The cases contemplated would be such as contumacious default together with conspiracy to prevent the land being sold.

290. When an occupant dies without heirs, his occupancy does not lapse or become forfeited or liable to resumption by Government, but the case is provided for in the Code Sec. (72). When, however, the land is alienated, then it is quite otherwise. Government is the heir of such alienees, because on the extinction of the grantee the grant reverts to the grantor and does not become ownerless property, (R. 973-56, 2936-72, 5137-93). Although such lapses are not forfeitures or relinquishments, this seems a convenient place in which to mention them. The land upon lapse will be unoccupied assessed unalienated land, and will be disposed of by the Collector in that category.

CHAPTER XVIII.

SALES.

Auction sales under rule 42 where to be held.

127. Auctions held under rules 37 (1), 41, 42 and 50 (2) shall ordinarily be conducted in the town or village in which the land is situated [291] [23]

291. It is of course desirable that most other auctions should similarly be conducted near the property to be sold. Sometimes, however, for some contracts and farms there is better bidding at the taluka head-quarters than at a distant village.

Upset price may be fixed.

128. Where any land or other property is sold by public auction, an upset price [292] shall, if the Collector thinks fit, be placed thereon. [30]

292. An upset price means the price at which the auction may commence or start. If the Collector considers that the fair value of a property is Rs. 100 but that he would let it go if at least Rs. 80 were obtained, he would then fix the upset price at Rs. 80. When the auction commences, if anyone bids Rs. 70 the officer conducting the sale would not record or accept the bid (R. 9,442-10). For references to upset prices see R. 5295 (items 107-113)-11, 9193-11, 3520-12. The method of fixing upset prices should not be used to compel villagers to pay an undue amount for grazing, etc. (R. 6709-94).

Sales how to be conducted.

129. (1) Every sale by auction [293] under these rules, or in pursuance of any of the provisions of the Code, shall be conducted, so far as may be, in accordance with sections 165, 166, 170 to 177 both inclusive and 180. The proclamation and written notice of sale required to be issued under sections 165 and 166 shall be in one of the forms U or W, with such modifications, [294] if any, as may be necessary :

(2) Provided that, in conducting the following sales, namely :—

(*a*) sales of the right of grazing and of the right to take or cut grass in waste lands,

(*b*) sales of the right to take the fruit of specified Government trees for a specified period, and

(*c*) sales of dead-wood,

the procedure shall be in accordance with such orders as may from time to time be made by the Collector [295] either generally or in a particular case instead of the procedure prescribed in sections 165 and 166. [42]

293. When a bidder at an auction defaults in fulfilling his contract, he can be sued for damages if, any are provable (R. 373-12), in addition to any other forfeitures provided by the Code.

294. After forfeiture, there could be no other claim to which the footnotes in Form U could apply.

295. The Collector frames rules (sec. 170) for his own district for the sales of movables and perishables whether the property of Government or defaulters. In the case of perishables the officer conducting the sale always concludes it on the spot. In the case of movables (not being perishables) the Collector prescribes by his rules whether the Mamlatdar should confirm the sale subject to an upset price or not, or should report it for his own confirmation. For power of confirmation when an upset price has been fixed see Orders as to powers of officers, Chapter II.

CHAPTER XIX.

APPEALS.

Form and contents.

130. (1) Every appeal [296] shall be made in the form of a petition addressed to the authority to whom an appeal lies, and shall be drawn up in concise, intelligible and respectful language ; and shall bear the signature or mark of the appellant or of his duly authorized agent.

(2) The petition should give the following particulars :—

the name, father's name, occupation and place of residence or address of the appellant ;

the name and address of the writer of the petition.

(3) The petition should also contain a brief and unexaggerated statement of the facts on which the appellant relies in support of his appeal and the grounds of the appellant's objection to the order or decision appealed against. [100]

296. This chapter does not apply to appeals under the Record of Rights. See rule 108, etc.

(1) Applications for compassionate allowances from discharged Revenue Officers are treated as "appeals" (G. 4997-08).

(2) For the rules for submission of petitions to Government see B. 5528-13. Matter provided for in sec. 208 has not been reproduced from the old rules.

Presentation.

131. (1) Appeals may either be presented to the authority [297] to whom an appeal lies in person or be forwarded to him by post.

(2) Where an appeal is sent by post, the postage on the cover containing it must invariably be fully prepaid. [101]

297. In dealing with Civil Court darkhasts, the Collector is not subject to appeals to or revision by the Commissioner, but only by the Court. The Collector cannot set aside a darkhast sale, but can only confirm or refuse to confirm it (R. 2172-15).

Rejection of appeals without enquiry into their merits.

132. Inattention in any material respect to the requirements of rule 130 or 131 will render an appeal liable to be rejected without enquiry into its merits. [102]

CHAPTER XX.

PENALITIES.

Breaches of the rules how punishable.

133. Breaches of rules hereunder mentioned shall be punishable on conviction before a Magistrate [298] as follows :—

(1) Whoever commits a breach of rules 67, 68, 69, 70 or 78, by excavating or removing earth, stone, kankar, sand, muram or any other material of the soil without due authority :

with imprisonment which may extend to one month, or with fine [299] which may extend to five hundred rupees.

(2) Whoever commits a breach of rules 75, 76, 77 or 79, by using or excavating land in a prohibited manner, or for a prohibited purpose, without due authority :

with fine which may extend to five hundred rupees.

(3) Breach of any of rules 67, 70, 72 (*b*), 119 (*a*), 119 (*b*), 134 or 135 committed by a village officer [300] or city surveyor—

(*a*) by taking or levying any fees for preparing any document or copy or extract of any document which he is bound by any such rule [301] to prepare without charge, or

(*b*) by charging any fee (*i*) for granting any permission or inspection which he is authorized by any such rule to grant, or (*ii*) for making any search for records, for which no fee can lawfully be charged,

(*c*) by refusing without reasonable cause an inspection of land records which he is required by any such rule to permit:

with imprisonment which may extend to one month, or with fine which may extend to five hundred rupees.

(*d*) by refusing or neglecting to prepare any document or copy or extract of any document, or to sign or to certify the same, in the manner prescribed by any such rule, or

(*e*) by neglecting to make any report or to perform any duty which he is required by any such rule to make or to perform:

with fine which may extend to five hundred rupees. [103]

298. Magistrate means *any* Magistrate (R. 3103-83; H. C. Ruling 46—16-11-93).

299. Fines are recovered as arrears of land revenue under sec. 187 (not by the ordinary police procedure) (R. 4697-85).

300. In khoti villages under the Khoti Settlement Act (Ratnagiri) (R. 3451-08) read "Revenue Patil, Village Accountant or Japtidar" and omit 134, 135, and omit sub-clauses (*a*), (*c*) and (*d*). R. 2180F—29-3-22.

301. R. 580A-12.

CHAPTER XXI.

CERTAIN DOCUMENTS TO BE PREPARED FREE OF CHARGE.

Village accountants to prepare certain documents without charge, when so desired.

134. (1) It shall be the duty of every village accountant, if so requested by any occupant, or by any person about to become an occupant, of land in his village, to prepare any agreement that may be necessary under either rules 37, 43, 46 or 120 without fee or charge of any kind, and any notice of relinquishment under section 74.

II.—Extracts and copies.

Uncertified copies.

136. (1) No uncertified copy or extract shall be obtainable of or from any documents other than those prescribed in rule 135, nor otherwise than under this rule.

(2) Any person may himself or by an agent make a copy of [304a] any public document or of any portion of any public document of which he has duly obtained inspection, but no copy so made shall be certified [305] by any public officer. [C.3]

304a. Local Boards should be supplied free of charge with copies of, or information from, public documents provided that copies from preliminary survey records shall only be given with the sanction of the Collector, R. 1715/28—21-9-29.

305. The form of this certificate is prescribed by sec. 76, Evidence Act.

Village accountants to grant certified copies of certain records.

137. (1) So long as [306] the originals are in their charge, all village accountants, and in the cities surveyed under section 131 all City Surveyors, shall themselves receive and grant applications for certified copies of any serial number (entry) in the record of rights, register of mutations (Property Register) or of tenancies, or of a map of a survey number or sub-division thereof.

(2) The Collector may, in his discretion in respect of his whole district or any part thereof, also empower [307] village accountants to receive and grant applications for certified copies of village forms Nos. (old) 1, 3, 5, 6, 9, 11, 13, 14 and 18; (new) Nos. I, III, VII—XII combined, VIII-A and B, X, XI, XII, XIV and XV, and of orders for levying miscellaneous land revenue.

(3) Such copies shall after comparison with the original be certified by the accountant as true, and given to the applicants without within ten days from their application. [N]

306. The period is determined by the orders in the A. B. C. D. lists of Records (C 648-14).
307. R. 580-12.

Mamlatdars generally to grant certified copies of village papers.

138. Except as provided in rule 137 every application for a certified copy of any public document in the charge of a village accountant shall be made to the Mamlatdar to whom he is subordinate, who shall cause the copy to be prepared, compared with the original, and signed in token of correctness by the village accountant. The copy shall then be certified and made over to the applicant by the Mamlatdar. [C.4]

139. In all other cases the officers in charge of any public document [308] described in rule 135 shall, and in the case of any public document or portion thereof other than those described in rule 135 may, cause to be prepared and give certified copies of the same or of any portion thereof under his own signature to any person applying for such copy on payment of the fees hereinafter prescribed :

Officers in charge of document generally to grant certified copy.

Provided that (*a*) no copy shall be granted of any record, map or plan which has been printed or lithographed and published under the authority of Government and is on sale ; but small extracts of not more than five fields or plots [309] may be granted under rule 142 (6) ;

(*b*) that no copy of any document is to be given in any case in which the grant would be prejudicial to the public interest.[310]

308. (*i*) Petitions of parties would not be documents maintained under the provisions of or for the purposes of the Act (secs. 3 (*26*), nor are they records of the proceedings of any public officer, and therefore fall entirely into the optional class.

(*ii*) When an original document is filed in a case under the Code, including cash allowance cases and general revenue matters (R. 2071-08) concerning private parties only, and the parties then apply for its return, a certified copy should be retained on the record, unless (R. 4492-98) the period of appeal or revision has already expired. This rule was extended to Mamlatdars' Courts (J. 3394-81) and to Watan Proceedings (R. 148-86). No court-fee is leviable on such applications (*B. G. G.*, Part I, p. 368, of 1887). The originals of Government Records should therefore always be brought back (R. 3615-99).

(*iii*) Originals must be produced if they are in issue. A copy will not do (R. 1479-89).

309. Government print many village maps and City Survey sheets : it is better for applicants and for the administration to sell the ready printed sheets than to have manuscript copies made. But when an extract of a small area only is required it may be a hardship to require purchase of a whole sheet. Hence the exception : see rule 142 (6).

310. Proviso (*b*) refers to cases in which for reasons of State or policy it is plainly inexpedient to give copies even although documents fall within the obligatory class. It is not intended that copies should be refused merely because they contain facts (not opinions) which might be used to support claims against Government or used in civil or criminal proceedings ; since the Courts can always require production of documents and disclosure of evidence nothing is gained by attempted concealment. It is the desire of Government always to further the ends of justice (R. 565-46 ; 6400-50). The injury to public interest contemplated by the proviso is not of that character. See also Adv. General R. 5190-73 and R. 5487-73.

XLVII. Subject to the provisions of the rules, the grant of copies of some documents is obligatory, while of others it is optional.[308] Ordinarily the latter are given, but every application must be carefully considered by the officer to whom it is made who will be guided by the administrative orders of Government and his superior officers ; and in any doubtful case he must obtain the order of his immediate superior. [C. 5]

XLVIII. No copy of any official correspondence, or any opinion of a Government officer, or of any order or Resolution [311] embodying any such opinion shall be given by any officer subordinate to a Collector or

to the Survey Commissioner without the previous permission of those authorities. [C. 5]

311. (*i*) In giving a copy of a Resolution or Order of Government, it is usual to omit the preamble, and if the Law Officer's opinion or other non-communicable matter is incorporated in the Resolution itself, an extract only is furnished (R. 2644-06) Resolutions sanctioning pensions may be communicated (F. 3956-06).

For a discussion on the point of production of Resolutions in Court see R. 4134-15 and sec. 123-4, Evidence Act.

(*ii*) Letters between officials are public documents and receivable in evidence (sec. 171 of 1872): but the public have no right to inspect, and certified copies cannot be demanded under sec. 76 *idem*. But unless protected by sec. 123 or 129 (correspondence with R. L. A.) they can be called for *subpœna* (R. 5627-92). The Court alone can decide as to their relevancy and admissibility (R. 9007-92). For the right of withholding papers from Royal Commissions and from Parliament, see. R. 1678-86.

Receipt to be endorsed on copy.

140. On every certified copy or extract granted under these rules and delivered otherwise than through the agency of the value payable post there shall be endorsed by the officer who receives the fe for the same a receipt [311a] in the following form :—

Received Rs. a. , as fee for this certified copy.
Dated of 19 .

(Signed) A. B. [C. 7].

311a. This rule was discussed and upheld in R.—L. C. 1094—30th September 1924 and a proposal that Talatis should keep detailed accounts was negatived.

III.—Searches.

Search fees when to be charged.

141. When an application is made for an inspection or copy of any public document or of any portion of a public document and such application does not distinctly describe the number, date and nature of the document required; or if the description given in such application is incorrect, and it shall in consequence be necessary for the officer in charge of the document to search his records in order to find it, a fee, at the rate hereinafter prescribed, shall be payable by the applicant for such search whether the inspection or copy for which he applies, on examination of the said document by the said officer, be granted or not. [C. 8]

IV.—Fees.

Fees.

142. (*a*) The following fees shall be levied [312] in cash under these rules :—

(1) For an inspection granted under Rule 135 for each day [313] on which inspection is made.	Twelve annas an hour for each applicant subject to a minimum of Rs. 1-8-0, to be paid in advance.

(2) For every certified copy of a public document not falling under Articles 3, 4 and 5 of this table—	
(*a*) if the original be in English, for every 25 words or fraction of 25 words :	Nine pies.
(*b*) if the original be in the vernacular, for every 33 words or fraction of 33 words :	Nine pies.
(*c*) (*i*) for examining or comparing 100 words or fraction of 100 words, whether the original be in English or the vernacular :	Nine pies.
(*ii*) for comparing copies of maps, etc., under Articles (5), (6) and (7) out of the copy fee there will be credited as comparing fee :	One-fourth [314]
(*d*) if the original be in a tabular form, whether in English or the vernacular :	Twice the rates, respectively, named in clauses (*a*) and (*b*).
(*e*) if the copy be given on a printed form [315] for every sheet or page of forms used :	Three pies *plus* the fees at the rates herein prescribed for the manuscript additions made on the form.
(*f*) For each form of extract of a City Property Register [316] :	Two annas.
(*g*) When no printed form is supplied or available, for each sheet of foolscap paper [317] used in preparing the copy other than that of a map or plan under Articles (5), (6) and (7) :	Six pies.

(3) For every certified extract from a register of alienations granted under section 53 :	One anna for every rupee of the amount of alienated revenue, or if the sanad lost or destroyed had been granted under Bombay Act IV of 1868 or under section 133, a sum equal to one-half of the survey fee which the holder of the building site included in the sanad would be liable to pay under section 132 if not exempted by the second paragraph of that section : provided that the fee shall in no case exceed Rs. 10 or be less than 8 annas.
(4) For every certified copy of a serial number (or entry [318]) in the record of rights, register of mutations, or register of tenancies 318*a*, and for every Holding Sheet in V. F. VIII-A (including the printed form), and in villages to which rule 137 (2) applies for every certified copy of each entry in the forms named, or for each khata in V. F. VIII-B : provided that there shall be no charge for correcting the Holding Sheet at any time during the 5 years for which it is current :	One anna.
(4-A) (*i*) For every certified copy of the tabular annewari statement of a village with the annewari decision worked out therein	Five annas.
(*ii*) For every certified copy of the decision of the Collector or Mamlatdar not embodying	

such a form, or of the opinion of the village committee as to the anna vaulation ..	Two annas.
(5) For every certified copy of a map [319] of a survey number or subdivision of a survey number or of any (uncoloured) map of any immovable property prepared under clause (*a*) of section 135G, or of an entry in a City Property Register [316] :	Two annas.
(6) Subject to proviso (*a*) to rule 139 for every other certified copy of a map [319] of a survey number or of a subdivision or of a field or of any ordinary (uncoloured) map or plan of any immoveable property, or extract of City Survey map, for each field or plot :	Eight annas.
(7) For every certified copy of a map or plan or of any portion of a map or plan not falling under Article (5) or (6) of this table :	Such fee not exceeding fifteen rupees, and not less than one rupee, as the officer who certifies the copy shall determine : provided that no fee exceeding Rs. 5 shall be charged by any officer subordinate to a Collector except with the permission of the Collector, or by an Officer of the Land Records Department except with the permission of the Superintendent of Land Records, to whom he is subordinate.
(8) For every search ..	One rupee for each year of which the records are searched.

(9) For every authenticated translation [320] of orders, and the reasons therefor, and of exhibits in formal or summary inquiries under the Code :—

(*a*) for the first 100 or fraction of 100 words :	Eight annas.
(*b*) for every subsequent 100 or fraction of 100 words :	Four annas.

Provided that—

(*a*) when any fee is required to be recovered through the agency of the value payable post, postage and postal commission shall be levied in addition, [321] and when the total amount of fee together with postage and commission includes a fraction of an anna a whole anna [321a] shall be levied in place of the fraction :

(*b*) any revenue officer shall be entitled to receive fee of any charge [322] a certified copy of the final order recorded in his own case under section 33.

142 (*b*). While recovering copying and comparing fees, any amount less than six pies shall be remitted, and six pies or more shall be rounded to the extent of whole anna. (R. 762/28 of 23rd April 1930.) [C-9]

312. Fixed by R. 2925-12 and amended by R. 1753-20 in conformity with the High Court rates.

313. Even in one day a large amount of inspection might be made ; and it was proposed by the Commissioners to fix a fee for each document inspected or searched for. This would, however, be hard to define, and an all-round average rate is simpler and will be adequate for the majority of ordinary inspections, though naturally sometimes too low for exceptional cases.

314. R. 7669-99 fixed a rather higher proportion—one-third—as a maximum not to be exceeded.

315. R. 10141-10.

316. R. 3333-20 : the fees are credited to Government.

317. Whether tendered by the applicant or not (R. 9081-13). The fee was raised to 6 pies by R. 10573-18.

318. The copies or certified extracts from the Record of Rights required to be produced in Civil Courts [sec. 135H (4)] are free of court-fee stamps (G. of I. Notfin. F. & C. 4353 & R. 20-7-03). But this exemption does not extend to copies produced in Assistance Suits under sec. 86, which are not Civil Suits (R. 6507-18).

318-*a*. This is half the new combined form V. F. VII-VII-A-XII. The copy of the whole leaf is provided for in Article 2(*e*). The forms are supplied to Village Officers as permanent advances. R. 562/28-20-4-28.

(*ii*) This rule as to copies has not yet been extended to Tálukdári Settlement Registers, but the Commissioner, N. D., has ruled that it should be applied.

(*iii*) R. 10809-17 authorizes the levy of one anna. This is no doubt a very inadequate fee for certain exceptionally long entries (exceeding 1,000 words) to be found in Ratnágiri. But any provision for calculating such fees upon the number of words would be

less satisfactory; so, if such entries cannot be curtailed, the anomaly must remain (Ratnágiri Collector's 4372-23-8-13).

319. Copies of maps are discussed in R. 7070-76 and 2016-78. Village officers are allowed to keep map copying fees (R. 4106-85). These maps under sec. 135G are known as Pôt Hissa Atlases.

320. Translators may keep three-fourths of the fee, if the work is done out of office hours (R. 3101-83).

321. The V. P. commission and postage may be paid by affixing service stamps if they are recovered, but it is more convenient to use ordinary stamps.

321*a*. This extra fraction would be credited to Government with the main sum: but H. C. Criminal Circular 154 (2) says all surplus should be paid to copyists.

322. Even for the paper (R. 8296-13): compare High Court Criminal Circular Order 130 (*vii*) (1915).

Fees how to be paid.

142. Every fee payable in accordance with the foregoing table shall either be paid in advance or recovered in pursuance of a specific request through the agency of the value payable post. (323) [C. 10]

323. Notification and Resolution R. 8679-06.

XLIX. (1) The fees levied for making each copy may be paid to the particular copyist by whom each document is prepared, (324) or all the fees for copies collected in an office during the month may be distributed at the end of the month, at the discretion of the head of the office, amongst the persons employed by him as copyists.

(2) Copies should not be made by paid members of the office establishment, unless no other persons competent to make them are available. The fees for copies so made and all comparing fees should be credited to Government and the work done in office hours.

(3) The price of forms and papers supplied should be credited to Government under Account rules—see p. 199, Rev. Accounts Manual:

Provided that in the case of copies granted by village officers all the fees permitted under rule 142 *shall be retained by them* (325). [C. 11]

324. (*i*) (R. 11542-12). Fees held in deposit must be kept in a separate box under seal of the Record Kárkun in the Treasury if there is one: or in the Presidency Town, in a secure place provided with a Police Guard: or, in Sind, in charge of a Munshi who has given security (R. 4305-08).

(*ii*) When copies are multiplied by carbon paper (on a typewriting machine or otherwise) or by any other process the copyist is paid a double fee only, and the copying fees for extra copies are credited to Government (R. 8151-00).

(*iii*) Save with the special sanction of Government, no person receiving salary may take fees for section writing paid by Government; but after office hours he may take fees from private persons (G. of India in R. 4018-72, 2030-75).

325. But they will be required to pay in turn for printed forms supplied to them. A good method of simplifying procedure and accounts is to supply blank forms, overprinted in case of V. F. VI and VII as intended "For copies" in books of 20 for 4 annas a batch—a margin for waste—to the village accountants who use them. No further account is needed. They are now being so issued [R. 877-14, 3387-14, (Order) R. 1489-15 and 4825-16.]

V.—Miscellaneous.

144. Every application(326) must be made in writing and except in the case of an application for inspection made to a village accountant must be duly stamped. The application may contain a request that the copy, extract, or translation be forwarded by value payable post (unregistered book packet) to any Post Office which is also a Money Order Office [C. 12].

Application how to be made.

326. A printed form is in the Revenue Accounts Manual under T. F. XVII, and now in use.

L. When an application for transmission of copies by V. P. Post is received by the Accountant of a village in which there is no Money Order Office, he should send the copies with the application to the Mámlatdár for posting and recovery of the dues. [C. 12]

LI. Every such application shall be numbered and filed by the receiving officer and shall be endorsed with the date on which it was presented or received, the amount of fees, if any, received either at the time of presentation or subsequently at any time, and the date and manner in which the application was disposed of. Copies, extracts and translations shall ordinarily be ready for delivery or be forwarded within fifteen days of the presentation or receipt of the application. But see rule 137 (3). [C. 13]

LII. In considering any application purporting to be made under secs. 90 and 91 of the Indian Registration Act, 1877, or under sec. 213 or under any other law which grants to any person a right of inspection, special care must be taken to see that the public document, with respect to which such application is made, is one to which the law relied upon is applicable, and that the applicant is a person entitled to inspection (and therefore, if he requires it under sec. 76 of the Indian Evidence Act, to a copy) before granting the application as a matter of right. [C. 14]

145. Nothing in these rules affects the provisions of the Stamp Act (II of 1899) or Court Fees Act (VII of 1870). The stamp duty or court-fee with which an application, copy or extract made or furnished under these rules may be chargeable (327) is in addition to the fees prescribed herein and care is to be taken that the requirements of the Stamp Act and Court Fees Act are properly fulfilled in respect of every such application, copy or extract. [C. 15]

Stamp duty or court-fee payable in addition.

327. Applications to village accountants for copies from the Record of Rights and the Mutation Registers are exempt from court-fees (R. 8356-03) when the copies are required for production in Court or for any other purpose (R. 1421-16). Applications to higher officers are exempt under G. of I. Notfn. 4353 S. R.—20-7-03 only when copies are for production in Court.

Copies of "Village Settlement Records" and applications for the same are exempt from court-fee duty (G. of I. Notfn. 5650 at p. 807, *B. G. G.* of 19-9-89).

Applications for the return of documents (or of certified copies) are free of C. F. stamps (*B. G. G.* I-368-1887). But if the period of appeal is not expired, copies may be retained at applicant's expense (R. 4492-98).

FORM A (Rule 17).

"NOTIFICATION OF SETTLEMENT FOR THE BOMBAY PRESIDENCY EXCLUDING SIND."

(Notice under sections 102 and 103, Land Revenue Code, 1879.)

For Revised Settlements.

(For original settlements and revised settlements when the basis of classification is changed see notes below.)

Whereas the Governor of Bombay in Council has been pleased to sanction, under section 102 of the Bombay Land Revenue Code, 1879, the levy of assessments for the revised Settlement, which have been fixed under the provisions of sections 100 and 101 of the said Code in the case of such lands as are now actually used for the purposes of agriculture alone and in the case of unoccupied cultivable lands (but excepting lands classed as *pot kharab*) within the village of of the taluka it is hereby declared under section 102 of the said Code that the said assessments calculated as noted below shall henceforth be leviable *in accordance therewith and shall be fixed for a term of years from* to

Class of land.	Approximate increase or decrease in the rupee of existing assessment.	
	annas.	pies.
Dry-crop		
Rice, etc.		

2. Notice of the same is hereby given under section 102 of the said Code to all holders of land in respect of which the assessments have been *sanctioned* [approved].

3. By this notice the Revised Settlement shall be deemed to have been introduced in the aforesaid village.

4. But in the case of land which may hereafter be brought under irrigation by the use of water the right to which vests in Government or which is supplied from works constructed and maintained by, or at the instance of, Government, or in the case of land which may be supplied with an increased amount of water from works constructed, repaired or improved at the cost of the State, Government reserve the right of imposing an extra cess or rate, or of increasing any existing rate, for the use of water supplied or increased by such means, whether under the provisions of the Bombay Irrigation Act, 1879, or otherwise.

5. In addition to the fixed assessment, a cess not exceeding such rates as may be allowed by law will be levied under the Bombay Local Fund Act, 1869, or other law for the time being in force, for the purpose of providing funds for expenditure on objects of local public utility and improvement.

6. The reservations respecting the right of Government to trees as made by any general notification at the time of, or after the Survey Settlement and reproduced in the margin, or as made by any express order at the time of Survey Settlement and recorded in the Settlement Records, are hereby continued. All other rights over trees are conceded to occupants.

Note 1.—In cases of original settlements the following changes should be made in the above form :—

(1) Substitute "original" for "revised" occurring in line 3 of paragraph 1 and in line 1 of paragraph 3.

(2) After the word "assessments" in line 7 of paragraph 1 add "as shown in the accompanying Akarband" and omit "as noted below."

(3) For the words "Approximate increase or decrease in the rupee of existing assessments" in paragraph 1 substitute "Maximum Rates.

Rs. as. "

(4) Substitute the following for paragraph 6 :—

"6. The right of Government to trees standing in lands which are now occupied is hereby conceded to the occupants thereof subject to the general exceptions entered in the margin and the special exceptions inscribed in the Settlement Records."

Note 2.—In cases of revised settlements in which the classification basis is altered the following changes should be made in the above form :—

(1) *After the word* "assessments" *in line 7 of paragraph 1 add* "as shown in the accompanying Akarband" *and omit* "calculated as noted below."

(2) *For the words* "approximate increase or decrease in the rupee of existing assessment" *in paragraph 1 substitute* "Maximum Rates.

Rs. as. "

Note 3.—This form was finally confirmed in R. 3012-20.

"FORM AA (Rule 17).

NOTIFICATION OF SETTLEMENT FOR SIND.

(Notice under sections 102 and 103 of the Bombay Land Revenue Code, 1879.)

For Revised Settlements.

Whereas the Governor in Council has been pleased to sanction, under section 102 of the Bombay Land Revenue Code, 1879, the levy of assessments for the revised settlements in the case of such lands as are now actually used for the purpose of agriculture alone and in the case of unoccupied cultivable lands within the village of in the Taluka of the District. Now, it is hereby declared under section 102 of the said Code that the

said assessments as noted below shall hereafter be leviable in accordance therewith and shall be fixed for a term of years commencing with the revenue year and ending with the revenue year .

Class of cultivation.	Sanctioned rates per acre.		
	Flow.	Lift.	Combined Flow and Lift.
	Rs. a.	Rs. a.	Rs. a.
Rice			
Sugarcane			
Cotton			
Tobacco			
Other Kharif			
Rabi Wheat			
Rabi Oil-seeds			
Leguminous crops (Kharif or Rabi) ..			
Huris			
Gardens			
Watered Dubari			
Unwatered Dubari			
Adhawa			
Barani			
Cultivation on river side of bund			

2. Notice of the same is hereby given under section 102 of the said Code to all holders of land in respect of which the assessments have been sanctioned.

3. By this notice the revised settlement shall be deemed to have been introduced in the aforesaid village."

(G.R., R.D., No. 557-B dated 5-7-32.)

FORM B [Rule 29 (1)].

A FORM OF NOTICE UNDER SECTION 37 (2), AND SUMMONS UNDER SECTIONS 189-190.

To

A. B.

Whereas (*here describe the property or right in or over any property*) is claimed by Government (or by C. D. against Government) notice is hereby given that an enquiry will be held by me in order to decide the said claim.

You are hereby required to attend before me either in person or by a duly authorized agent at o'clock of the noon (at the site in dispute or) at my office (camp at in the taluka) on the day of 19 at which time and place an enquiry into the same claim will be made.

And you are hereby required to produce before me at the above-named time and place any documents or evidence you may wish to be heard.

If you fail to attend in person or by a duly authorized agent in pursuance of this notice the abovementioned claim will be decided in your absence and you will not afterwards be entitled to be heard with respect thereto, except in an appeal* filed within 60† days or in a suit civil if filed within one year from the date of my decision.

Dated this day of 19 .

(Signed)

Designation of Officer.

*R. 6884—15 transfers the powers of hearing appeals from the decisions of a Survey or Enquiry Officer (which would otherwise lie to the Superintendent of Land Records, his immediate superior) to the Collector. Appeals from the decision of an Assistant or Deputy Collector or a Collector lie as usual.

†90, if the officer issuing the notice is the Collector or Superintendent of Survey, or higher officer (sec. 205).

FORM C [Rule 29 (2)].

Whereas in accordance with a notice duly issued and served under rule 29 (1) of the Land Revenue Rules an enquiry was held by me on and an order was passed on

Notice is hereby given to all persons concerned and to (*here specify the person to whom this notice is directed*) that my decision and order* is that :—(*here summarise the order, and define the property or right to which it relates*).

You are not entitled to be heard by me in respect thereof. After my decision has been communicated to you, there remain only two ways by which you can get it altered if you are dissatisfied with it, namely :—

(*i*) You must within 60† days of the date of my decision‡ appeal to (specify the proper appellate authority), and again to the next higher revenue authority, or

(*ii*) within one year from the date of my decision you may (without recourse to the appeals above detailed) and notwithstanding anything contained in section 11 of the Bombay Revenue Jurisdiction Act 1876, file a suit in the proper Civil Court.

A suit filed more than a year from the date of my decision or from the date of the decision of the last of the appeals if you make them cannot be entertained by any Court.

Dated this day of 19 .

(Signed)

Survey Officer,
or
Collector.

*Wording confirmed by Government Memo. R. 284-B/24—17th September 1927.

†90, if the officer issuing the notice is the Collector or Superintendent of Survey or higher officer (sec. 205).

‡Notice form amended by R. 284/B-24—16th September 1927.

FORM D (Rule 32).

FORMS OF SANAD FOR REVENUE-FREE GRANTS OF LAND FOR RELIGIOUS, CHARITABLE OR EDUCATIONAL EDIFICES OR INSTITUTIONS.

(SANCTIONED BY R. 7010—05.)

(To be used where the land is granted by Government.)

To

A. B.

Whereas you, Government have been pleased to grant revenue-free to *A. B.*, the possession of the below-mentioned piece of land situated in the village of in the taluka for the purpose of (namely)—

All that piece of land bounded on the North by on the South by , on the East by , and on the West by , and measuring from North to South , and from East to West , comprising square in superficial area, be the same more or less, and bearing No. in the Land Records.

It is hereby declared that the said land shall be continued for ever / for a term of years free of all claim on the part of Government for rent or land revenue to whoever shall from time to time be the lawful holder or manager of the said , [(*a*) on the condition that neither the said land nor any building erected thereupon shall at any time, without the express consent of Government, be diverted either temporarily or permanently to any other than the aforesaid purpose, and that no change or modification shall be made of such purpose, and that in the event of any such unauthorized diversion, change or modification being made, the said land shall thereupon, in addition to the assessment to which it becomes liable under section 48 of the Bombay Land Revenue Code, 1879, become liable to such fine as may be fixed in this behalf by the Collector under the provisions of section 66 of the said Code, or other corresponding law for the time being in force relating to the recovery of land revenue, as if the land, having been assessed for purposes of agriculture only, had been unauthorizedly used for any purpose unconnected with agriculture (*a*)] and in any such event as aforesaid, or in the event of the land being notified by Government for acquisition under Act I of 1894, it shall be lawful for Government, on causing six months' previous notice in writing to be given to the said holder or manager, to take one of the two following courses (namely), either—

(1) to require that the said land be vacated and delivered up to Government free of all claims or incumbrances of any person whatsoever,

or (2) to resume and take possession of the said land and any buildings erected or works executed thereon, free of all claims and incumbrances of any person whatsoever, on payment of compensation not exceeding the following amount, namely :—

(*a*) the amount (if any) paid to Government for this grant, and

(*b*) the cost or value at the time of resumption, whichever is the less, of any buildings, or other works authorizedly erected or executed on the said land by the said grantee.

**

This grant is made subject to the reservation of the right of the Secretary of State for India in Council to all mines and mineral products and of full liberty of access for the purpose of working and searching for the same, with all reasonable conveniences.

This sanad is executed on behalf of the Secretary of State for India in Council by order of His Excellency the Governor of Bombay in Council, by the Collector of , this day of 19 .

Seal of the Collector.

(Signed)

Collector.

**If there be any further conditions, add here the words "and subject to the following further special conditions namely :—"

The Commissioners suggest a further condition :—

"that an open space shall be kept free from any building whatever, as marked on the plan hereto appended as land not to be built upon."

FORM E (Rule 35).

(To be used where the land is not granted by Government.)

To

A. B.

Whereas, in consideration of your having built (or undertaken to build, *as the case may be*)* on the piece of land hereinafter described, which is your property, Government have been pleased, at your request, to exempt the said piece of land from liability to rent or land revenue.

It is hereby declared that the said land shall be continued $\frac{\text{for ever}}{\text{for a term}}$ of years free of all claim on the part of Government for rent or land

*The nature of the building and the extent of the public interest in it should be clearly set forth, as for instance "a temple with a Dharmashala attached, for the use of the Digambar Jain community."

FORM D (Rule 32).

FORMS OF SANAD FOR REVENUE-FREE GRANTS OF LAND FOR RELIGIOUS, CHARITABLE OR EDUCATIONAL EDIFICES OR INSTITUTIONS.

(SANCTIONED BY R. 7010—05.)

(To be used where the land is granted by Government.)

To

A. B.

Whereas Government have been pleased to grant revenue-free to you, *A. B.*, the possession of the below-mentioned piece of land situated in the village of in the taluka for the purpose of (namely)—

All that piece of land bounded on the North by , on the South by , on the East by , and on the West by , and measuring from North to South , and from East to West , comprising square in superficial area, be the same more or less, and bearing No. in the Land Records.

It is hereby declared that the said land shall be continued for ever / for a term of years free of all claim on the part of Government for rent or land revenue to whoever shall from time to time be the lawful holder or manager of the said , [(*a*) on the condition that neither the said land nor any building erected thereupon shall at any time, without the express consent of Government, be diverted either temporarily or permanently to any other than the aforesaid purpose, and that no change or modification shall be made of such purpose, and that in the event of any such unauthorized diversion, change or modification being made, the said land shall thereupon, in addition to the assessment to which it becomes liable under section 48 of the Bombay Land Revenue Code, 1879, become liable to such fine as may be fixed in this behalf by the Collector under the provisions of section 66 of the said Code, or other corresponding law for the time being in force relating to the recovery of land revenue, as if the land, having been assessed for purposes of agriculture only, had been unauthorizedly used for any purpose unconnected with agriculture (*a*)] and in any such event as aforesaid, or in the event of the land being notified by Government for acquisition under Act I of 1894, it shall be lawful for Government, on causing six months' previous notice in writing to be given to the said holder or manager, to take one of the two following courses (namely), either—

(1) to require that the said land be vacated and delivered up to Government free of all claims or incumbrances of any person whatsoever,

or (2) to resume and take possession of the said land and any buildings erected or works executed thereon, free of all claims and incumbrances of any person whatsoever, on payment of compensation not exceeding the following amount, namely :—

(*a*) the amount (if any) paid to Government for this grant, and

(*b*) the cost or value at the time of resumption, whichever is the less, of any buildings, or other works authorizedly erected or executed on the said land by the said grantee.

**

This grant is made subject to the reservation of the right of the Secretary of State for India in Council to all mines and mineral products and of full liberty of access for the purpose of working and searching for the same, with all reasonable conveniences.

This sanad is executed on behalf of the Secretary of State for India in Council by order of His Excellency the Governor of Bombay in Council, by the Collector of , this day of 19 .

Seal of the Collector.

(Signed)

Collector.

**If there be any further conditions, add here the words "and subject to the following further special conditions namely :—"

The Commissioners suggest a further condition :—

"that an open space shall be kept free from any building whatever, as marked on the plan hereto appended as land not to be built upon."

FORM E (Rule 35).

(To be used where the land is not granted by Government.)

To

A. B.

Whereas, in consideration of your having built (or undertaken to build, *as the case may be*)* on the piece of land hereinafter described, which is your property, Government have been pleased, at your request, to exempt the said piece of land from liability to rent or land revenue.

It is hereby declared that the said land shall be continued $\frac{\text{for ever}}{\text{for a term}}$ of years free of all claim on the part of Government for rent or land

*The nature of the building and the extent of the public interest in it should be clearly set forth, as for instance "a temple with a Dharmashala attached, for the use of the Digambar Jain community."

revenue to whoever shall from time to time be the lawful holder or manager of the said , [Insert "(*a*)..... (*a*)" as in Form D.] [If there be any further special conditions, here add: "and subject to the following further special conditions, namely":—]

The piece of land herein referred to is situated in the village of in the taluka, and is bounded on the North by , on the South by , on the East by and on the West by , and comprises about square in superficial area, be the same more or less, and bears No. in the Land Records.

This sanad is executed on behalf of the Secretary of State for India in Council by order of His Excellency the Governor of Bombay in Council by the Collector of this day of 19

(Signed)

Collector.

FORM F (Rules 37, 43 and 52).

FORM OF AGREEMENT* TO BE PASSED BY PERSONS INTENDING TO BECOME OCCUPANTS.

To the Mamlatdar of

I, *A. B.*, inhabitant of in the taluka, hereby accept the right of the occupation of the land comprised in Survey No. (or of the building site hereinbelow described, or otherwise as the case may be), in the village of in the taluka, and I pray that my name be entered in the Government records as the occupant of the said land.

The said land has been granted to me subject to the provisions of the Bombay Land Revenue Code, 1879, and of rules in force thereunder, in perpetuity†, from the day of 19 ; ‡ and I undertake to pay the land revenue from time to time

*This agreement is (so far as it is an application) exempt from Court fee; item C-2 of Notification of the Govt. of India, 4650, 10-9-89. It is also exempt from stamp-duty item A-9 of Notification of the Govt. of India, 3616-Exc., 16-7-09; R. 8022, 17-8.

†When not granted in perpetuity delete the words and insert "until the day of 19 ".

‡When land is sold for a fixed period free of land revenue the agreement should end here, and the second endorsement may be omitted.

lawfully due in respect of the said land (or I undertake, whenever Government shall see fit to discontinue the exemption of the said land from payment of land revenue, to pay such revenue as may be lawfully imposed
thereupon under the orders of Government or otherwise as the case may be).

Dated the day of 19 at

Written by (Signed) *A. B.*

We declare that *A. B.*, who has signed this agreement, is to our personal knowledge the person he represents himself to be, and that he has affixed his signature hereto in our presence.

(Signed) *C. D.*
(,,) *E. F.*

We declare that to the best of our knowledge and from the best information we have been able, after careful inquiry, to obtain the person who has passed this agreement is a fit person to be accepted by Government as responsible for the punctual payment of the land revenue from time to time due on the above land.

(Signed) *G. H.*, Patel.
(,,) *I. J.*, Village Accountant.

"FORM F-1 [Rule 37 (4)].

FORM OF AGREEMENT TO BE PASSED BY PERSONS INTENDING TO BECOME OCCUPANTS OF LAND ON IMPARTIBLE TENURE.

To the Mamlatdar of

I, *A. B.*, inhabitant of in the taluka, hereby accept the right of occupation of the land comprised in survey No. , in the village of in the taluka and I pray that my name be entered in the Government records as the occupant of the said land.

The said land has been granted to me in perpetuity from the day of 19 , subject to (1) the provisions of the Bombay Land Revenue Code, 1879, and of the rules in force thereunder and to (2) the further condition that I, my heirs, assigns and legal representatives shall not at any time by partition, inheritance, lease, mortgage or otherwise

howsoever transfer the said land except as a whole or allow any portion of it to be cultivated, used, or occupied by any other person so as to divide it.

If I fail to perform any of the aforesaid conditions I shall be liable without prejudice to any other penalties that I may incur under the said Code, and the rules made thereunder, to have the said land summarily forfeited by the Collector, and I shall not be entitled to claim compensation for anything done or executed by me in respect of the said land.

*And I undertake to pay the land revenue from time to time lawfully due in respect of the said land (or I undertake, whenever Government shall see fit to discontinue the exemption of the said land from payment of land revenue to pay such revenue as may be lawfully imposed thereon under the orders of Government or otherwise, as the case may be).

Dated the day of 19 .

Written by

(Signed) *A. B.*

We declare that *A. B.*, who has signed this agreement is to our personal knowledge the person he represents himself to be, and that he has affixed his signature hereto in our presence.

(Signed) *C. D.*

(„) *E. F.*

We declare that, to the best of our knowledge and from the best information which we have been able after careful enquiry to obtain, the person who has passed this agreement is a fit person to be accepted by Government as responsible for the punctual payment of the land revenue from time to time on the above land.

(Signed) *G. H.*, Patel.

(„) *I. J.*, Village Accountant."

*When land is sold for a fixed period free of land revenue the agreement should end here, and the second endorsement may be omitted.

(R. 4702/24-III of 12-3-1931.)

"In Sind the Collector is empowered to allow division of a survey number if in view of any special circumstances, he considers it necessary to do so."

(G.R., R.D., No. 4702/24-III, dated 8th March 1932.)

FORM G-1 (Rule 39) (as amended by G. 11514—11).

RECLAMATION LEASE.

Form of lease to be granted to an occupant who takes up land on special terms.

This is to certify that, with the previous sanction of the Commissioner (in Sind, *or as the case may be*), of has been granted the right of occupation of survey No. in the village of in the taluka for a term of years from the day of 19 , subject to the payment of land revenue as follows (viz.) :—

(*a*) for the first years, A.D. 19 to 19 , nil;

(*b*) for the next years, A.D. 19 to 19 , a reduced assessment of Rs.

The reason for the grant of the said land on the favourable terms aforesaid is that the lessee has undertaken, at his own expense, within a period of from the day of 19 , to carry out to the satisfaction of the following work, whereby the cultivation of the said survey No. will be improved (or rendered feasible *or otherwise as the case may be*), viz. :—

(*Here describe as accurately as possible the work to be executed.*)

The conditions on which this lease is granted are :—

(1) that the lessee shall completely execute the work aforesaid to the satisfaction of the said within the period above mentioned ;

(2) that he shall keep the said work when executed in good order and repairs to the satisfaction of the said until the expiry of this lease ;

(3) It shall not be lawful to the lessee to partition, bequeath, alienate, assign, mortgage or otherwise charge or encumber any portion of the said land less than the area hereby fixed by the Collector as the economic holding, nor shall any such portion of the said land be liable to seizure, sequestration, attachment, sale or partition by process of a court ;

(4) that if the lessee shall fail to perform any of the aforesaid conditions he shall be liable, notwithstanding anything hereinbefore written, to pay the full assessment of the land comprised in this lease amounting to Rs. , for the year or years during which such failure shall take place and it shall be open to the Collector either to cancel the remaining portion of the lease and re-enter upon the land, or to levy full assessment from the lessee for every subsequent year of the term of this lease ;

(5) that provided the lease shall not have previously determined under the last preceding condition, the lessee shall be entitled, on the expiry of this lease, to retain the occupation of the land herein comprised, subject to the payment of the full assessment from time to time fixed thereupon under the law and rules in force in this behalf, on his executing an agreement in the form prescribed for persons who intend to become occupants.

This lease is executed on behalf of the Secretary of State for India in Council, by order of Governor of Bombay in Council, by the Collector of and under his seal of office, this day of 19 .

Seal.

(Signed)

Collector.

I the aforesaid lessee do hereby accept this lease in the terms and conditions therein mentioned.

Signed by

Lessee.

in the presence of—

FORM G-2 (Rule 40).

RECLAMATION LEASE.

THIS INDENTURE MADE THE day of 19 BETWEEN THE SECRETARY OF STATE FOR INDIA IN COUNCIL (hereinafter called the Lessor) of the one part and inhabitant of (hereinafter called the Lessee) of the other part WITNESSETH that the Lessor doth hereby lease unto the Lessee all the Salt Marsh Lands situated in the village of in the Registration Sub-district of and in the taluka the Survey Numbers, Area and Boundaries of which are set forth in Schedule A hereunder written which said Lands were late in the occupation of and are now in the occupation of and are delineated in the Plan attached hereto and signed by the Collector of (hereinafter referred to as the Collector) TO HOLD the said Lands unto the Lessee for the term of 999 years from the day of 19 , paying during the said term unto the Lessor for the said lands save such portion as may be

appropriated for Public Roads which portion shall be exempt from payment the yearly Rents following that is to say for the first ten years of the said term the Rent of One Pie if demanded and for the next 20 years, *viz.*, from the day of 19 , till the day of 19 a yearly sum equal to Four annas *per* Acre in such Instalments on such Dates and to such Person as may be from time to time prescribed and designated by the Collector and for such Period if any as shall intervene between the day of 19 , and the date of the first settlement of Assessment hereinafter provided for the yearly sum hereinbefore lastly reserved payable in the manner hereinbefore mentioned AND from and after the first settlement of Assessment hereinafter provided for such sum of Land Revenue as under the Laws or Rules having the force of Law for the time being in force in respect of Lands held under Government by ordinary Occupants shall from time to time be found to be payable AND the Lessee hereby covenants and agrees with the Lessor in manner following that is to say FIRST that the Lessee shall at his own expense and with due deligence completely reclaim the lands hereby leased so as to be in a state fit for use for agricultural purposes AND shall so reclaim at least one half of the said lands within ten years and the whole thereof within twenty years from the day of 19 , respectively and shall maintain such Reclamation during the residue of the term hereby granted AND shall not until the whole of the said Lands shall have been completely reclaimed and rendered cultivable assign or underlet the said Lands or any portion thereof or charge or receive any TAX or Fee for Cattle-grazing upon any portion thereof without the previous consent in writing of the Collector. And that the lessee shall not at any time partition, bequeath, alienate, assign, mortgage or otherwise charge or encumber or allow to be cultivated, used or occupied by any other person, any portion of the said land less than the area—hereby fixed by the Collector as an economic holding in respect of the said lands nor shall any such portion of the said land be liable to seizure, sequestration, attachment, sale or partition by process of a court. PROVIDED that if any Officer of Government duly empowered in this behalf by the Government of Bombay shall certify in writing that any portion of the said Lands is unreclaimable such portion shall be excluded from the operations of the covenants hereinbefore contained. Provided further that the lessees shall be at liberty during the first ten years to relinquish any portion of the said lands which he cannot reclaim: and such portion shall thereupon be excluded from the operation of the covenants herein contained (R. 372-B—17th April 1923) SECOND that the Lessee shall at his own expense (*a*) keep open the several Roads mentioned and described in Schedule B hereunder written and delineated in the Plan hereunto annexed (*b*) provide and keep in good order to the satisfaction of the Collector such water-ways in and along the Lands hereby leased as may from time to time be required by the Collector (*c*) erect such new Boundary-marks upon the said Lands as may from time to time be required by the Collector and maintain and keep in good repair to the

satisfaction of the Collector all such new Boundary-marks as well as all those at present existing thereon, THIRD that the said Lessee shall pay the rents hereinbefore respectively reserved at the times and in manner hereinbefore provided for payment of the same respectively and that whenever any Instalment of the said Rents respectively shall be in arrear, it shall be recoverable from the Lessee as an arrear of Land Revenue under the provisions of the Law for the time being in force in that behalf AND the Lessee shall also pay all Rates, Taxes and other Outgoings (if any) which shall at any time during the continuance of this Lease be payable in respect of the said Premises or any part thereof FOURTH that from and after the day of 19 the Lands hereby leased shall be liable to be from time to time surveyed and assessed to the Land Revenue under the Laws or Rules having the force of Law for the time being in force in respect of Lands held under Government by ordinary occupants and thenceforward during the residue of the term hereby granted the Lessee shall hold the said Lands subject to all the provisions of such Laws and Rules and subject also to such of the Covenants and Provisions of this Lease as shall then be capable of continuing effect PROVIDED ALWAYS AND IT IS HEREBY AGREED that if and whenever there shall be a breach by the Lessee of any Covenant, Condition or Provision herein contained the Lessor may re-enter upon the said Lands or upon part thereof in the name of the whole and thereupon this Lease shall determine AND that in case default shall be made in reclaiming the half or the whole of the Lands within the periods respectively hereinbefore prescribed in that behalf the Lessor may re-enter upon the said Lands and determine this Lease under the power in that behalf hereinbefore contained AND that if in the opinion of the Collector (whose decision shall be final) the reclamation is not carried on with due diligence during the two years ending on the day of 19 the Lessor may on or after the said day re-enter upon the said Lands and determine this Lease under the power in that behalf hereinbefore contained AND that notwithstanding anything hereinbefore contained if at any time any portion of the said Lands (other than such portion as may be appropriated for Public Roads) is after being reclaimed used for any purpose unconnected with agriculture, such portion shall be liable to such assessment or altered assessment as may be leviable under the Law or Rules having the force of Law for the time being in force in respect of land which is held for agricultural purposes and subsequently used for purposes unconnected with agriculture and such assessment or altered assessment shall be leviable notwithstanding that any of the periods hereinbefore specified shall not have elapsed AND that the right of the said Lessor to all Mines and Mineral Products and of full liberty of access for the purpose of working and searching for the same with all reasonable conveniences shall be reserved.

AND IT IS LASTLY AGREED that the word "Lessor" in this Lease shall mean the Lessor and his Successors and Assigns and the word "Lessee" shall mean the Lessee and his Legal Representatives.

IN WITNESS WHEREOF

Esq., Collector of , has, by order of the Governor of Bombay in Council, hereunto set his hand and affixed his official seal on behalf of the said Secretary of State in Council, and the Lessee has hereunto set his hand the day and year first above written.

Schedule A above referred to :

Schedule B above referred to :

Signed by the above named

in the presence of

Seal of the Collector.

Signed by the above named

in the presence of

FORM H (Rule 43)

ALTERNATIVE FORM OF AGREEMENT TO BE PASSED BY PERSONS INTENDING TO BECOME OCCUPANTS, IF THE COLLECTOR SO REQUIRE

Agreement.

To

The Mamlatdar of

I, A. B., of in the said taluka, agree on behalf of myself and my assigns to occupy the land specified in the Schedule appended hereto on the conditions stated below, and I pray that my name may be entered in the land records as occupant of the said land.

Conditions.

1. I will pay the land revenue from time to time lawfully due in respect of the said land, to wit: as assessment the sum of Rs. (being at the rate of per) for the period of years commencing on , and thereafter I will pay such assessment for such further periods as may from time to time be fixed by lawful authority.

2. Within a period of two years from the date hereof, or within such further period as may be fixed by lawful authority, I will erect on the said land a building (or buildings) of a substantial and permanent character, and of the following description, and such building (or buildings) will cover not more than one-fourth of the total area of the said land.

(Here enter description.)

3. The provisions of the Bombay Land Revenue Code, 1879, and all rules and orders for the time being in force thereunder, shall apply to my occupation of the said land, so far as the same may be applicable and not inconsistent with these conditions.

4. Subject to the foregoing conditions I shall be entitled to occupy the said land in perpetuity, but if I contravene any of the foregoing conditions the Collector may declare the said land forfeited to Government and may dispose of the same in any way he may deem fit, free from any claim by me or by any person holding through or under me.

The Schedule.

Dated the day of 19 .

(Signed)

Written by.

[Declaration, if necessary.]

Then follows the Plan.

Note.—This agreement is exempt from Court-fee under item C (24) of the Notification of the Government of India, 4650—10-9-89.

It is also exempt from the payment of stamp duty, under item A-9 of Notification of Government of India, No. 3616-Exc.—16-7-09.

FORM HH.

FORM OF AGREEMENT TO BE PASSED BY PERSONS INTENDING TO BECOME OCCUPANTS OF LAND INCLUDED IN A DEVELOPMENT SCHEME OR IN OTHER SPECIAL CASES (*vide* RULE 43).

Agreement.

The Special Mamlatdar,
The Mamlatdar, ——— taluka Bombay Suburban District,

I, A.B., of agree on behalf of myself and my heirs, executors, administrators and assigns to occupy the land specified in the schedule appended hereto (hereinafter referred to as the said land) on the conditions stated below, and I pray that my name may be entered in the land records as occupant of the said land :—

Conditions.

(1) I will pay the land revenue from time to time lawfully due in respect of the said land to wit : as assessment the sum of Rs. (being at the rate of per or at such lower rate as is leviable under the rules for the time being in force and applicable to such land) for the period of years commencing on and thereafter, I will pay such assessment for such further periods as may from time to time be fixed by lawful authority.

(2) *Use.*—I will use the said land only for building purposes of the nature specified in condition (3) of this agreement.

(3) *Building.*—I will erect and complete on the said land* of a substantial and permanent description ; I will in regard thereto duly comply in every respect with the building regulations contained in clauses , etc.,of the second schedule hereto ;† (and I will not use, or permit the use of, any of the buildings erected or to be erected on the said land as a shop, or carry on in any of the said buildings any trade or business, other than).

‡(4) *Reservation of margin.*—If at any future date the Collector shall give me notice in writing that a strip from the margin of the said land not more than feet in depth is required by Government for the purposes of a road, I will, at the expiration of one month after the receipt of such notice, quietly surrender and hand over possession of such strip to the Collector in consideration of receiving from Government in exchange and as full compensation therefor a sum equivalent to ( ) times the assessment proportionately payable upon the strip so surrendered.

Provided that, where the materials of any gate, wall, pavement or other such authorised erection or construction on such strip cannot in the opinion of the Collector be removed without appreciable loss, such further compensation on this account shall be paid to me as the Collector may deem fit.

---

*Here insert description of the buildings such as "a residential bungalow and out-houses."

†To be scored out in areas where business premises are permitted.

‡To be omitted where not required.

(5) *Liability of rates.*—I will pay all taxes, rates and cesses leviable in respect of the said land.

(6) *Penalty clause.*—The Collector may, without prejudice to any other penalty to which I may be liable under the provisions of the Bombay Land Revenue Code, 1879 (hereinafter referred to as " the said Code "), direct the removal or alteration of any building or structure erected or used contrary to the provisions of this agreement within a time prescribed in that behalf by the Collector, and on such removal or alteration not being carried out within the prescribed period, may cause the same to be carried out and may recover the cost of carrying out the same from me as an arrear of land revenue.

(7) *Code provisions applicable.*—The provisions of the said Code and all rules and orders for the time being in force thereunder shall apply, to my occupation of the said land, so far as the same may be applicable and not inconsistent with the conditions of this agreement.

(8) Subject to the foregoing conditions I shall be entitled to occupy the said land in perpetuity, but if I contravene any of the foregoing conditions, the Collector may declare the said land forfeited to Government and may dispose of the same in any way he may deem fit, free from any claim by me or by any person holding through or under me.

MAP.

Schedule I.

Length and Breadth		Total Superficial Area	Boundaries				Remarks
North to South	East to West		North	South	East	West	

Schedule II.

(The number of the conditions which are applicable should be entered in condition 3 of the grant; and special conditions should be inserted in continuation.)

1. Buildings may be erected only within the area marked on the map annexed and the remaining area of the said land shall be left as an open space.

2. Three-quarters of the said land shall be left open to the sky.

3. No latrine, cesspool or stables shall be constructed on the said land in any place which shall not have been approved for such purpose by the Collector or an officer authorised by him.

4. No building shall be erected in the said land with more than a ground floor and one upper storey.

5. The building erected on the said land shall be used for residential purposes only.

6. No building erected on the said land shall be used as a factory or as a place for carrying on an offensive trade.

7. The grant shall be subject to the following special conditions :—

(*a*)

(*b*) , etc., , etc.

Dated the day of at

(Signed) A. B.

We declare that A.B., who has signed this agreement, is to our personal knowledge the person he represents himself to be, and that he has affixed his signature hereto, in our presence.

(Signed) E. F.

G. H.

N.B.—1. This document need not be registered.
2. This document is exempt from stamp duty.

FORM I [Rules 37 (3) and 43 (3)].

CLAUSE FOR INALIENABLE TENURE ADDITIONAL TO FORMS F AND H OR OTHER AGREEMENTS.

In cases where the land is granted subject to the condition that the occupant shall not transfer it in any way to another person without the sanction of the Collector, the following clause should be added in the agreement to be taken from him :—

"The said land has been granted to me subject to the condition to which I hereby assent, namely, that I, my heirs, executors, administrators and approved assigns may not at any time lease, mortgage, sell, or otherwise howsoever encumber the said land or any portion thereof without the previous sanction in writing of the Collector."

"FORM I-1 [Rules 37 (4)].

FORM OF AGREEMENT TO BE PASSED BY PERSONS INTENDING TO BECOME OCCUPANTS OF LAND ON THE INALIENABLE TENURE.

To the Mamlatdar of

I, A.B., inhabitant of in the taluka, hereby accept the right of occupation of the land comprised in survey No. in the village of in the taluka, and I pray that my name be entered in the Government records as the occupant of the said land.

The said land has been granted to me in perpetuity from the day of 19 subject to the conditions hereinbelow mentioned and to the provisions of the Bombay Land Revenue Code, 1879, and of the rules in force thereunder;

*And I undertake to pay the land revenue from time to time lawfully due in respect of the said land (or I undertake, whenever Government shall see fit to discontinue the exemption of the said land from payment of land revenue, to pay such revenue, as may be lawfully imposed thereon under the orders of Government or otherwise, as the case may be).

The said land has been granted to me subject also to the further condition to which I hereby assent, namely, I, my heirs, assigns and legal representatives shall not at any time—

(1) partition the said land;

or

(2) lease, mortgage or otherwise howsoever encumber the said land or any portion thereof without the previous sanction of the Collector, which shall not be given except in respect of the whole land.

If I fail to perform any of the aforesaid conditions I shall be liable without prejudice to any other penalties that I may incur under the said Code, and the rules made thereunder, to have the said land summarily forfeited by the Collector, and I shall not be entitled to claim compensation for anything done or executed by me in respect of the said land.

Dated the day of 19

at

Written by

(Signed) A. B.

* When land is sold for a fixed period free of land revenue this paragraph should end here, and the second endorsement may be omitted.

We declare that A. B. who has signed this agreement is to our personal knowledge the person he represents himself to be, and that he has affixed his signature hereto in our presence.

(Signed) C. D.
(„) E. F.

We declare that, to the best of our knowledge and from the best information which we have been able after careful enquiry to obtain, the person who has passed this agreement is a fit person to be accepted by Government as responsible for the punctual payment of the land revenue from time to time due on the above land.

(Signed) G. H.,
Patel.
I. J.,
Village Accountant.

(R. 4702/24-III of 12-3-1931.)

In Sind the Collector is empowered to allow division of a survey number if in view of any special circumstances, he considers it necessary to do so. (G.R., R.D., No. 4702/24-III dated 8th March 1932.)

FORM J (Rule 46).

FORM OF AGREEMENT* FOR EXCHANGE TO BE EXECUTED BY VILLAGERS REMOVING TO A NEW VILLAGE-SITE.

Agreement executed the day of 19 by *A. B.* resident of in the taluka:

Whereas Government have been pleased to sanction a change being made in the position of the site of the village of in the registration sub-district of , and in pursuance of such sanction the following plot of ground has been allotted to me in the new site in exchange for the ground held by me in the old site, namely, the piece of land bounded as follows, that is to say on the North by , on the South by , on the East by , on the West by , measuring in length from North to South, and in length from East to West, and comprising about square in superficial area and bearing No. in the Land Records.

I do hereby agree, in consideration of the allotment to me of the new piece of land foresaid, as follows, namely:—

(1) That all my right, title and interest in any land whatsoever, situate within the old site of the said village, shall be deemed to be, and is hereby, surrendered to Government, together with the trees standing thereon and all rights over or other benefits arising out of or enjoyed by me in respect of the said land:

*The stamp duty for this agreement is reduced to four annas; item 10 of Notification of the Government of India, 3616-Exc., 16-7-09, R. 7317-09.

(2) That I shall hold the piece of land aforesaid in the new site from the date of this agreement on the same terms and with the same rights and subject to the same liabilities as would apply to my tenure of the ground held by me in the old site, if I continued to be the holder thereof.*

In witness whereof I have hereto set my hand the day and year aforesaid.

Written by (Signed) *A. B.*

Signed and delivered by in our presence.

FORM K (Rule 54).

FORM OF WRITTEN PERMISSION TO OCCUPY LAND TO BE GIVEN BY A MAMLATDAR UNDER SECTION 60.

Permission is hereby given to *A. B.*, inhabitant of in the taluka, to occupy Survey No. (*or* the building-site hereinbelow described *or otherwise as the case may be*), in the village of in the taluka, in accordance with the Sanad granted (*or*, upon the conditions sanctioned by the Collector in his order No. dated).

Dated the day of 19 at

Seal.

(Signed)

Mamlatdar.

FORM KK (Rule 54 Bombay Suburban).

Permission is hereby given to you AB, inhabitant of , to occupy the building site hereinbelow described in the village of in the taluka in accordance with the conditions sanctioned by the Collector and accepted by you in the agreement dated the day of 19 subject to which this permission is given.

Description of Land.

Plot No. in the Suburban Scheme No.

Dated the day of 19 ,
at

Seal.

(Signed)

Mamlatdar.

---

*In omitting a clause reserving the right to impose land revenue if hereafter thought fit, Government nevertheless do actually reserve that right, R. 9021 and 10096-85—see Note 27 to Rule 14.

FORM L (Rule 74).

FORM OF NOTICE* OF RELINQUISHMENT.

To the Mamlatdar of

I, A. B., inhabitant of in the taluka, the occupant holder, of Survey No. (or sub-division No.) or the building-site hereinbelow described (*or otherwise as the case may be*), in the village of in the taluka, hereby give notice under section 74 of the Bombay Land Revenue Code, 1879, that it is my intention to relinquish and I hereby do relinquish the said Survey No. (or building-site, etc.,) at the end of the current year,† subject to any rights, tenures, incumbrances or equities lawfully subsisting in favour of any person (other than Government or the occupant holder).

Dated this day of 19 at

Written by

(Signed) *A. B.*

FORM M.

FORM OF SANAD IN CASES WHERE THE ASSESSMENT ON LAND APPROPRIATED TO BUILDING PURPOSES IS ALTERED UNDER SECTION 48.

WHEREAS application has been made to the Collector of (hereinafter referred to as the Collector which expression shall include any officer whom the Collector shall appoint to exercise and perform his powers and duties under this grant) under section 65 of the Bombay Land Revenue Code, 1879 (hereinafter referred to as "the said Code" which expression shall where the context so admits include the rules and orders thereunder) by inhabitant of being the registered occupant of Survey No. in the village of in the taluka (hereinafter referred to as "the applicant" which expression shall where the context so admits include his heirs, executors, administrators and assigns) for permission to use for building purposes the plot of land (hereinafter referred to as the "said plot") described in the first schedule hereto and indicated by the letters on the site plan annexed hereto, forming part of Survey No. and measuring be the same a little more or less.

*No Court-fee is chargeable, *vide* Court-fees Act VII of 1870, section 19 (XI).

†These notices must be given before the 31st March, or such other date as Govt. prescribe under sec. 74 for each district.

When used under rule 51 for land already occupied for agricultural purposes within certain surveyed cities the period for which the assessment is leviable will be ordered to coincide with the expiry of 99 years' period running in that city. R. 9508/24—23-8-27.

Now this is to certify that permission to use for building purposes the said plot is hereby granted subject to the provisions of the said Code, and on the following conditions namely :—

(1) *Assessment.*—The applicant in lieu of the assessment heretofore leviable in respect of the said plot shall pay to Government on the day of in each year an annual assessment of Rupees (Rs.) during the thirty (30) years commencing on the day of 19 , or in composition therefor a lump sum of Rupees (Rs.) being twenty times the said annual assessment; and on the expiry of the said period of thirty years, such revised assessment as may from time to time be fixed by the Collector under the said Code.

"Provided that where the applicant is a Co-operative Housing it shall be entitled to such exemption from the payment of assessment in whole or in part as is permissible under proviso clause (*a*) of rule 86. (G.R., R.D., No. 620/28, dated 14-10-32.)

(2) *Use.*—The applicant shall use the said plot only for purposes of the nature specified in condition (3) of this sanad.

(3) *Building Time Limit.*—The applicant shall within thr years from the date hereof, erect and complete on the plot* of a substantial and permanent description shall in regard thereto duly comply in every respect with the by regulations contained in clauses etc., of the second sch hereto.

"From the date of permission" has been suggested by one Commissioner: but there *ought* not to be any material difference and the "permission" can only date from its formal expression in the Sanad. Government did not accept the suggestion. (R. 1432/24—3-1-25.)

(4)† *Reservation of Margin.*—If the Collector shall give the applicant notice in writing that a strip of land from the margin of the said plot not more than feet in depth, is required by Government for the purposes of a road, the applicant shall, at the expiration of one month after the receipt of such notice, quietly surrender and hand over possession of such strip of land to the Collector in consideration of receiving from Government in exchange and as full compensation therefor a sum equivalent to ( ) times the assessment proportionately payable upon the strip so surrendered.

*Here insert description of the buildings such as "a residential bungalow and outhouses."

†Omit this condition if not required. And see Note 1.

An agreement *executed* before 1913 was by compromise modified and recast in R. 9955—9-2-24.

Provided that, where the materials of any gate, wall, pavement or other such authorized erection or construction on such portion cannot in the opinion of the Collector be removed without appreciable loss, such further compensation on this account shall be paid to the applicant as the Collector may deem fit.

(5) *Liability for Rates.*—The applicant shall pay all taxes, rates and cesses leviable on the said land.

(6) *Penalty clause.*—The Collector may, without prejudice to any other penalty to which the applicant may be liable under the provisions of the said Code, direct the removal or alteration of any building or structure erected or used contrary to the provisions of this grant within a time prescribed in that behalf by the Collector, and on such removal or alteration not being carried out within the prescribed period, may cause the same to be carried out and may recover the cost of carrying out the same from the applicant as an arrear of land revenue.

(7) *Code provisions applicable.*—Save as herein provided, the grant shall be subject to the provisions of the said Code.

(8) *Execution.*—The applicant shall bear all costs incurred in the preparation, execution, stamping and registration of these presents.

(*Map.*)

Schedule I.

Length and Breadth.		Total superficial area.	Forming (part of) Survey No. or Hissa No.	Boundaries.				Remarks.
North to South.	East to West.			North.	South.	East.	West.	

Schedule II.

(The numbers of the conditions which are applicable should be entered in condition 3 of the grant: and special conditions should be inserted in continuation.)

1. The applicant may build on the area marked on the map annexed and shall leave the remaining area of the said plot as an open space.

2. of the said plot shall be let open to the sky.

3. Any latrine, cesspool or stables constructed on the said plot shall, if any place shall have been set apart in the map annexed for such purpose be constructed in such place and not elsewhere.

4. No building shall be erected in the said plot more than feet in height.

5. The building erected on the said plot shall be used for residential purposes only.

6. No building erected on the said plot shall be used as a shop or a factory or as a place for carrying on an offensive trade.

7. The grant shall be subject to the following special conditions :—

(*a*)

(*b*) etc., etc.

IN WITNESS WHEREOF the Collector of has hereunto set his hand and the seal of his office on behalf of the Secretary of State for India in Council; and the applicant has also hereunto set his hand this day the of 19 .

(Signature of applicant.)

(Signatures and designations of witnesses.)

(Signature of Collector.)

(Signatures and designations of witnesses.)

(Seal of Collector.)

We declare that *A. B.*, who has signed this notice, is, to our personal knowledge, the person he represents himself to be, and that he has affixed his signature hereto in our presence.

(Signed) *E. F.*

G. H.

N.B.—1. This document need not be registered [sec. 90 (1) (*d*), Act XVI of 19 unless condition 4 is retained [sec. 17 (1) (*b*) *ibid*].

2. This document is exempt from stamp duty (Rule 7, G. of I. Notfn. 3 Exc.-16-7-09) unless condition 4 is retained when it should be sta under Article 55 of Schedule 1 to Act II of 1899. See also R. 743 Form was sanctioned in R. 1291-20.

FORM N [Rule 87 (*b*)].

FORM OF SANAD IN CASES WHERE THE ASSESSMENT ON LAND APPROPRIATED TO NON-AGRICULTURAL PURPOSES OTHER THAN BUILDING IS ALTERED UNDER SECTION 48.

WHEREAS the land hereinafter described by measurement and by the boundaries specified in the schedule (and delineated in the map hereto appended) and forming (part of) Survey No. in the village of in the taluka of , entered in the name of and at present held by , resident of , has been hitherto assessed for purposes of agriculture at the rate of ; AND WHEREAS the said land has been used for a non-agricultural purpose, to wit for (*describe purpose*) (but not for building) and such assessment has thereby become liable under section 48 of the Bombay Land Revenue Code, 1879, to be altered and fixed at a different rate :

Now this is to certify that under the provisions of the said Code and rules in force thereunder the assessment of the amount to be paid annually as land-revenue on the said land has been fixed for a term of years from the day of 19 , at the sum of Rs. (*figures*) [Rupees (*words*)] payable in each year of the said term in one instalment due on* in each year.

On the expiry of the said term, and at such further intervals as may be from time to time directed by Government in this behalf, the assessment aforesaid will be liable to revision in accordance with the said Code and the rules and orders for the time being in force thereunder.

Schedule hereinbefore referred to.

Length and Breadth.		Total superficial area.	Forming (part of) Survey No. or Hissa No.	Boundaries.				Remarks.
North to South.	East to West.			North.	South.	East.	West.	

In witness whereof the Collector has hereto set his hand and the seal of his office this day of 19 .

Seal.

Collector.

Note.—In such Sanads also the Collector has full power to impose conditions, which will be inserted after the schedule.

*Here insert the usual date of the Land Revenue first instalment or such other date as the Collector may fix (Rule 116).

"FORM N1 [Rule 87 (*b*)].

FORM OF SANAD IN CASES WHERE THE ASSESSMENT ON LAND TEMPORARILY APPROPRIATED TO NON-AGRICULTURAL PURPOSES OTHER THAN BUILDING IS ALTERED UNDER SECTION 48.

WHEREAS the land hereinafterd escribed by measurement and by the boundaries specified in the schedule (and delineated in the map hereto appended) and forming (part of) Survey No. in the village of in the taluka of entered in the name of, and at present held by , resident of , has been hitherto assessed for purposes of agriculture, at the rate of ; and whereas the said land has been used for a non-agricultural purpose, to wit for _____ (describe purpose) (but not for a permanent building) and such assessment has thereby become liable under section 48 of the Bombay Land Revenue Code, 1879, to be altered and fixed at a different rate :

Now this is to certify that under the provisions of the said Code and rules in force thereunder, the assessment of the amount to be paid as land-revenue on the said land, has been fixed for a term of from the day of 19 , at the sum of Rs. (figures) [Rupees (words)] payable in one instalment on .

On the expiry of the said term the assessment aforesaid will be liable to revision in accordance with the said Code and the rules and orders for the time being in force thereunder.

In case of a breach of any of the conditions of this Sanad the Collector may, without prejudice to any other penalty to which the holder of the said land may be liable under the provisions of the said Code, direct the removal or alteration of any structure erected or used contrary to the provisions of this Sanad within a time prescribed in that behalf by the Collector, and on such removal or alteration not being carried out within the prescribed period, may cause the same to be carried out and may recover the cost of carrying out the same from the holder as an arrear of land revenue :—

Schedule hereinbefore referred to

Length and Breadth.		Total superficial area.	Forming (part of) Survey No. or hissa No.	Boundaries.				Remarks.
North to South.	East to West.			North.	South.	East.	West.	

In witness whereof the Collector has hereto, set his hand and the seal of his office this day of 19 .

Seal.

Collector.

Note.—The Collector has full power to impose any conditions he thinks fit. Such conditions will be inserted after the schedule for the erection of temporary structures."

FORM O (Rule 104 and Rule 113).

RECORD OF RIGHTS.

A double page form with sufficiently wide columns for (or cards in V. F. VII-XII ruled to contain) the following particulars :—

1. Serial Number.
2. Survey Number (if inam, the kind of inam).
3. Area.
4. Ordinary or Special Assessment and Judi.
5. Sub-division Number.
6. Area.
7. Assessment.
8. Judi or Special or Non-agricultural Assessment payable.
9. Occupant of Khalsa Land or Holder of Alienated Land.
10. Nature and origin of Title.
11. Other rights or encumbrances with names of right-holder or encumbrancer.
12. References to Mutation Diary, Form P.
13. Remarks.

FORM P (Rule 104).

Mutation Register.

A single page form with columns showing the following particulars :—

Serial No. of entry.	Nature of right.	Survey and anti-division Nos. affected.	Initials or remarks by testing officers.
1	2	3	4

FORM Q (Rules 104 and 108).

REGISTER OF DISPUTED CASES.

Serial No.	Number in Form O or P.	Survey No. and Hissa No. (or part).	Date of receipt of objection.	Particulars of dispute with names.	Orders of Mamlatdar or Collector.
1	2	3	4	5	6

FORM R (Rule 113).

(Now combined with V. F. XII (Form 6) in card form.)

FORM S (Rule 118).

NOTICE TO A DEFAULTER.

To *A B* residing at

Your are hereby required to take notice that the sum of Rs. a. p. due by you on the as the* instalment of land revenue on the land held by you, of which full details can be obtained from the Village Accountant (or otherwise as the case may be), in the village of in the taluka of has not been paid, and that, unless it is paid within ten days from the date of this notice together with the sum of annas, being the fee chargeable for this notice, compulsory proceedings will be taken according to law for the recovery of the whole of the revenue still due by you on the said land, together with an additional penalty not exceeding one-fourth of the said arrears under section 148 of the Land Revenue Code.

Dated the day of 19 .

(Signed) Mamlatdar (or Aval Karkun).†

* "First" or "Second", as the case may be.

† Authorised by R. 2459—83 ; 9263—11.

FORM T (Rule 120).

FORM OF AGREEMENT TO BE PASSED WHEN FORFEITED LAND IS RESTORED ON NEW TENURE.

Agreement.

To

The Mamlatdar of

I, *A. B.*, inhabitant of in the Taluka hereby accept the right of occupation of the land comprised in Survey Number in the village of in the Taluka and I pray that my name may be entered in the Government records as the occupant of the said land.

The said land which has been forfeited for arrears of land revenue has been regranted to me subject to the provisions of the Bombay Land Revenue Code, 1879, and of the Rules in force thereunder in perpetuity* from the day of 19 ; and I undertake to pay the land revenue from time to time lawfully due in respect of the said land.

The said land has been regranted to me after forfeiture, subject to the condition to which I hereby assent in consideration of the regrant, namely, that I, my heirs, executors, administrators and approved assigns may not at any time lease, mortgage, sell or otherwise howsoever encumber the said land or any portion thereof without the previous sanction in writing of the Collector.

Dated the day of 19 at

Written by

(Signed) *A. B.*

We declare that *A. B.*, who has signed this agreement, is to our personal knowledge, the person he represents himself to be, and that he has affixed his signature hereto in our presence.

(Signed) *C. D.*
E. F.

We declare that to the best of our knowledge and from the best information we have been able, after careful inquiry, to obtain, the person who has passed this agreement is a fit person to be accepted by Government as responsible for the punctual payment of the land revenue from time to time due on the above land.

(Signed) *G. H.*, Patel,
I.J., Village-Accountant.

*When not granted in perpetuity delete the word and insert "until the day of 19 ".

FORM U (Rule 129).

(*Standard form R. M.* 20)

FORM OF PROCLAMATION AND WRITTEN NOTICE OF SALE OF ATTACHED PROPERTY.

(Under Section 165, L. R. C.)

WHEREAS the property of hereinunder specified has been attached on account of the Government assessment Rs. due by the said ; and whereas it is necessary to recover the said amount by sale of the said property, together with all lawful charges and expenses resulting from the said attachment and sale :

Notice is hereby given that on the day of 19 at o'clock A.M. A. B. the Mamlatdar of (or other person appointed) will, at in taluka in this district, sell by auction to the highest bidder and upon such conditions as to upset price and other conditions as are set out in the subjoined Schedule of Conditions of Sale, the right, title and interest of the said in the property hereinunder specified, and every power of disposing of the same or any of them or of the profits arising therefrom which the said may now consistently with the law exercise for his own benefit.

Movable Property.

(This table only should be omitted when the form is to be used under rules for the execution of decrees.)

1	2	3	4	5	6
Lot No.	Number and description of articles.	Where attached.	Where now placed.	When to be viewed.	Whether the sale is subject to confirmation or not.

Immovable Property.

Lot No.	2 Description of Lot, including local situation, supposed or estimated rent or annual value, and if leased, for how long, on what terms, and to whom.	3 Survey number, municipal number and other cadastral designation.	4 Government Revenue, including any Local Cess and any other known fiscal charge resting on the Lot.	5 Present occupant.	6 7 8 (Here enter any other particulars the Collector may see fit.)	9 (This column should be used for particulars which the Collector may see fit to enter under the rules for the execution of Civil Court decrees.)

N.B.—No guarantee is given of the title of the said or of the validity of any of the right charges or interests claimed by third parties.

(Signed)

Collector.

A printed *schedule* setting forth the conditions of sale according to the Code and Rules shall be appended.

FORM W (Rule 129).

Form of Proclamation and Written Notice of Sale of Right of Occupation of Un-occupied Land.

Notice is hereby given that the right of occupation of the undermentioned unoccupied land, situate in the village of in the taluka will be put up to public auction at on the day of 19 , at or after o'clock A.M. / P.M.

The written (or printed) conditions of sale signed by *[may be seen on application during office hours, on any office day before the day of the auction, to the Mamlatdar of or, at the time of the auction, to the officer who conducts the same] and intending bidders are warned that they should ascertain the said conditions before bidding,

*[*or* " are subjoined to this Proclamation "].

Description of the Land.

Here give a full description of the land, *viz.*, the Survey Number or Numbers, if it has been surveyed, if not, its boundaries; the class of land, *i.e.*, whether it is dry-crop land, garden land, or a building-site, etc., the area of the land, adding " be the same more or less "; the assessment, if any, at present payable for the land, and the term for which that assessment has been fixed.

(Signed)

Dated the day of 19 . Collector (or other competent officer).

FORM O-A (Order XVI).

REGISTER SHOWING THE RESULTS OF INQUIRIES MADE AS TO THE SUFFICIENCY OF THE SECURITY FURNISHED BY REVENUE OFFICERS IN THE DISTRICT OF

Consecutive number.	Name and designation of officer required to give security.	Amount of security given.	Nature of security given.	Names of securities, if any, and dates of their bonds.	Names of new sureties, if any, substituted for former ones who have died or withdrawn, or whose fitness is considered doubtful and dates of their security bonds.	Amount of security, if any, for which each surety is liable on account of other officers, whether in the same or in any other Department.	Opinion of the head of office as to sufficiency of present security and date on which such opinion was recorded.	Date of receipt of Surety's notice of withdrawal.	Commissioner's Inspection notes.
1	2	3	4	5	6	7	8	9	10

APPENDIX O-B (Order XIX).

Advance Notice of Proposed Settlement.

I.—Form of notification for the Presidency proper.

It is hereby made known to the people of the undermentioned villages of taluka , district that the revision of the survey assessment of the lands of the said villages is about to be effected and that it is proposed to divide the said villages into the following groups, the existing and proposed maximum rates of each village being as shown against its name in the following list :—

Number.	Name of village.	By former settlement.				By revision settlement.		
		Maximum rates				Maximum rates.		
		Number of Group.	Dry crop.	Rice.	Garden.	Dry crop.	Rice.	Garden.
1	2	3	4	5	6	7	8	9
	Group I ..							
	Group II ..							
	Group III ..							

Reasons for alteration in the rates—

Reasons for alteration in the grouping—

The result so far as the village of is concerned is that the rates in the village are $\frac{\text{raised}}{\text{lowered}}$ by annas in the rupee.

A copy of the Settlement Officer's report has been deposited at the office of the Mamlatdar of and is open to the inspection of any one interested.

For a period of two months from the date of the publication of this notification the Collector will be prepared to receive objections made by any village community to the proposed grouping of their village and the maximum rate thereof, which objections must be presented in writing by the revenue patel of the village as the representative of such village community.

Collector of

Note.—When the Settlement is not revision but original omit such words as 'Revision' and 'existing' rates cols. 3 to 6 and words implying 'alteration.' For the 3rd Clause below the form read "The result is that the Mamul or old revenue payments made by the village are $\frac{\text{raised}}{\text{lowered}}$ by annas in the rupee."

II.—*Form of notification for Sind.*

It is hereby made known to the people of the undermentioned villages of taluka , district , that the revision of the survey assessment of the lands of the said villages is about to be effected and that it is proposed to divide the said villages into groups as detailed in the subjoined statement, the existing and proposed rates of each village being as shown against its name :—

Number.	Name of village.	By former settlement.					By revision settlement.			
		Number of group.	Rates according to different modes of irrigation.				Rates according to different modes of irrigation.			
1	2	3								
	Group I .. Group II .. Group III .. Group IV ..									

Reasons for alteration in the rates—

Reasons for alteration in the grouping—

A copy of the Settlement Officer's report has been deposited at the office of the mukhtiárkar of and is open to the inspection of any one interested.

For a period of two months from the date of the publication of this notification the Collector will be prepared to receive objections in writing from any zamindar to the proposed grouping of his village and the revised rates proposed therefor.

Collector of

APPENDIX O-C (Order XXIII).

FORM OF REGISTER OF ALIENATIONS.

Register of Alienated Villages and Lands in the *District kept under section 53.*

Serial Number.	Name of village.	Name of the present Alienee.	(2) Particulars of the Sanad.							Duration of tenure i.e., whether containable permanently or hereditarily for more lives than one, or for life only, or for what period.	Particulars of the villages or land alienated.				(5) Land Revenue payable to Government.				
			(1) Class of Alienation.	Number.	Date, Month and Year.	Name and Office of the Officers signing it.	Name of the holder.	Name of the Taluka which it is originally entered.	(3) Number of Form of the Sanad annexed to the Register.		Entire village.	If part only of the village, the Survey No.	Area.	Survey assessment.	(4) Amount of old judi or salami.	Rate.	Additional Quit-rent, if any, payable under the Sanad. Amount.	Total.	Land Revenue alienated.
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20

Notes :—

(1) This column should show the class of alienation, as detailed in the Revenue Accounts Manual under Classes I to VI (*b*) and VII. If the alienation does not come under any of these classes it should be appropriately described.

(2) In these cases in which no sanad has been granted, the number and date of the decision confirming or continuing the alienation should be written across cols. 5-10.

(3) To avoid copying out a sanad *in extenso* in each entry, a sample form of every kind of sanad should be annexed under the Collector's signature to the register, and numbered, and the number of the form should be entered in col. 10.

(4) Column 9. Many villages were originally in other Talukas or districts.

(5) If the amount of judi actually paid has been less than the maximum amount fixed by the Inam Commission or otherwise, the former amount should be entered in column 16, and the latter, with an explanatory note in column 21.

(6) When columns 16-18 are inapplicable, the amount of land revenue payable should be shown in column 19 only.

APPENDIX O-D (Note 63 (V) under Rules 30-36).

FORM OF STATEMENT OF ALIENATIONS TO BE SUBMITTED MONTHLY (R. No. P/196 OF 6-4-1926).

Name of grantee.	Village.	Taluka.	District.	Area.	Value.	Rule or order under which grant is made.	Orders sanctioning the grant.

APPENDIX O-E

LEASE FOR LANDS GRANTED TO CRIMINAL TRIBES (R. 12176—16 and 8509—19-7-23).

A—For Agricultural purposes.

The land comprised in survey No. area acres gunthas, assessment Rs. a. p. in the village of in the taluká is hereby granted on lease to—

(1)

(2)

inhabitant (s) of in the taluká [hereinafter called "the lessee (*s*)"] on payment of an occupancy price of rupees in perpetuity* from the day of 19 , subject to the provisions of the Bombay Land Revenue Code, 1879, and to the rules from time to time in force thereunder and to the following conditions, namely :—

(1) That the lessees, their heirs or assigns shall not at any time lease, mortgage, sell or otherwise howsoever encumber the said occupancy or any portion thereof without the previous sanction in writing of the Collector of or of any Assistant or Deputy Collector to whom the said Collector may delegate this power.

* [or if the grant is not in perpetuity but merely for a term, delete the word "in perpetuity" and insert here "to the day of 19 ".]

(2) That the lessees, their heirs and assigns shall pay the land revenue and other dues from time to time lawfully due in respect of the said occupancy.

(3) That if within 20 years of the date of the grant of this lease the lessees or their heirs or any of the male issue of the lessees or their heirs living jointly with them be convicted of any offence punishable under the Indian Penal Code or any other Act for the time being in force and sentenced to imprisonment for a period of not less than six months, the said occupancy may be forfeited at the discretion and under the order of the Collector of or of any Assistant or Deputy Collector to whom the said Collector may delegate this power and such order of forfeiture shall be final.

This grant is made on behalf of the Secretary of State for India in Council by order of the Governor of Bombay in Council by, and under the hand and seal of, the Collector of this day of 19

Seal of the Collector.

Collector of

In the presence of—

*

*_____

This grant is hereby accepted, on the terms and conditions therein mentioned, by—

†_____

†_____

†_____

In the presence of—

*_____

*_____

* Signature of witnesses.

† Signature of the lessees.

B—For sites for houses or huts.

The building site described below, in the village of of the tàluka of the District is hereby granted on lease in perpetuity to—

(1)

(2)

inhabitant(s) of in the village of in the tàluka of in the District (hereinafter called " the lessees ") for the purpose of building a house or hut thereon, subject to the provisions of the Bombay Land Revenue Code, 1879, and to the rules from time to time in force thereunder and to the following conditions :—

(1) That the lessees, their heirs and assigns shall pay such land revenue (if any) from time to time as is lawfully due in respect of the said land. Also that the lessees, their heirs and assigns shall pay annually as ground rent for the said site the sum of (being at the rate of per) for the period of years commencing on and thereafter pay such ground rent for such further period as may from time to time be fixed by lawful authority.

(2) That one or more permanent buildings shall be constructed on the said site within years from the date of this lease.

(3) That the lessees, their heirs or assigns shall not at any time lease, mortgage, sell or otherwise howsoever encumber the said site or any portion thereof without the previous sanction in writing of the Collector of or of any other officer to whom he may delegate this power.

(4) That if within years of the date of the grant of this lease the lessees or their heirs or any of the male issue of the lessees or their heirs living jointly with them be convicted of an offence punishable under Chapters XII and XVII of the Indian Penal Code and sentenced to imprisonment for a period of not less than six months this site, together with all the buildings erected thereon, and all rights and interests connected therewith, may be forfeited at the discretion and under the orders of the Collector of or of any other officer to whom he may delegate this power and such order of forfeiture shall be final.

The building site referred to herein is bounded as follows :—

On the North by

On the South by

On the East by

On the West by

and is of the following size and measurements :—

This grant is made on behalf of the Secretary of State for India in Council by order of the Governor of Bombay in Council by, and under the hand and seal of, the Collector of this the day of 19..

Seal of the Collector.

Collector of

In the presence of—

* _____

* _____

This grant is hereby accepted, on the terms and conditions therein mentioned, by—

† _____

† _____

† _____

In the presence of—

* _____

* _____

"APPENDIX O. F. (1) (Rule 39, Note 104.)

AGREEMENT TO COVER CASES OF LANDS IN THE KAIRA DISTRICT WITH VALUABLE BABUL AND OTHER TREES WHEN GIVEN ON IMPARTIBLE TENURE.

To

The Mamlatdar of in the Kaira District,

I, A.B., inhabitant of in the Taluka, hereby accept the occupancy of the land described in schedule A hereto appended (hereinafter referred to as the said lands) and I pray that my name may be entered in the Land Records as the occupant of the said lands.

2. The occupancy of the said lands has been accepted by me subject to—

(*a*) the provisions of the Bombay Land Revenue Code, 1879, and of the Rules in force thereunder;

(*b*) a (*present*) payment in cash of Rs. (*and a deferred payment of Rs. on account of the value of trees standing on the said lands*); and

(*c*) the conditions hereinafter mentioned.

3. The conditions on which I have accepted the occupancy of the said lands are as follows, and I agree on behalf of myself, my heirs, executors, administrators and assigns to abide by them subject to any modifications therein that may hereafter be ordered by Government consistently with the general tenor of this agreement:—

(1) That I shall regularly pay from time to time the annual land revenue lawfully due in respect of the said lands according to the rate of assessment as may be fixed from time to time under the law and rules in force in this behalf.

(2) That I, my heirs, assigns and legal representatives shall not at any time by partition, inheritance, lease, mortgage or otherwise howsoever transfer the said land except as a whole or a portion thereof of not less than an economic holding.

(3) That I shall bring under cultivation to the satisfaction of the Collector of Kaira—

(*a*) at least one-fourth of the said lands within a period of three years, i.e., A.D. 19 to 19 ,

(*b*) at least half of the said lands within a period of five years, i.e., A.D. 19 to 19 ,

(*c*) the whole of the said lands within a period of eight years, i.e., A.D. 19 to 19 ,.

subject however to the exclusion of such fallows not exceeding one-fifth of the total area of the said lands as are essential for agricultural purposes, and the *kharaba* areas included in survey numbers and vacant strips of land required to be left uncultivated by the sides of fields.

(*Explanation.*—Cultivation means raising of crops, not of grass.)

(4) That if I fail to perform any of the aforesaid conditions, I shall be liable at the discretion of the Collector notwithstanding anything hereinbefore contained—

(*a*) to pay the full assessment of the said lands for the year during which such failure takes place together with all authorised and unauthorised arrears of land revenue due from me,

(*b*) to have the whole of the said lands including such portions thereof as have been transferred, mortgaged, leased or otherwise howsoever incumbered by me to any other person summarily forfeited; and neither I nor such other person shall be entitled to claim compensation for anything done or executed by me or by him in respect of the said lands, and

(*c*) in case of forfeiture of the said lands to pay Rs. as the deferred payment of the value of the trees standing on the said lands and granted to me.

(5) That I shall not have the right at any time during the period of eight years commencing from A.D. 19 to relinquish a portion only of the said lands without the previous sanction in writing of the Collector; the whole may, however, be relinquished by me at any time.

(6) That I shall have the right to transfer, mortgage, or lease the whole of the said lands or portion thereof of not less than an economic holding, subject to the conditions mentioned herein, specially subject to the right of forfeiture by Government in case of my failure to keep the land undivided, as mentioned in condition (2) above or to bring the land under cultivation as required by conditions (3) and (4).

(7) That I shall furnish, before I take possession of the said lands, security to the extent demanded by the Mamlatdar in the form of either a cash deposit or a personal bond with sureties as may be required by the Collector to secure the due fulfilment and enforcement of the conditions of this agreement.

(8) *That I shall, on the due and satisfactory fulfilment of the conditions mentioned in sub-clause* (3) *of clause* (3) *of this agreement or at such earlier date at which I shall have brought into cultivation the whole of the said lands subject to the exceptions provided for by sub-clause* (3) *of clause* (3) *be entitled to a remission of the deferred payment of the value of the said trees referred to in sub-clause* (*b*) *of clause* (2) *and in condition* (4) (*c*) *of clause* (3) *above.*

(9) *That subject to the conditions abovementioned the full ownership over the trees comprised in the said lands shall belong to me and I may dispose of them as I think fit.*

(10) That I shall not take into my possession any part of the said lands which has been set apart for public purposes, viz. for roads, waterways, etc., and I shall respect all rights and easements vested in the public over such parts.

(11) That subject to the due and proper fulfilment of the conditions hereinbefore agreed to I shall be entitled on the expiry of eight years or at such earlier date at which I shall have brought under cultivation the whole of the said lands [subject to the exceptions provided for by sub-clause (3) of clause 3], to retain the occupancy on the unrestricted but impartible tenure of the said lands subject to the payment of the full assessment from time to time fixed thereupon under the law and rules in force in this behalf, on my executing an agreement in the form prescribed for persons who intend to become occupants of land on impartible tenure [Form F (1)].

(12) In case of forfeiture of the whole of the said lands under clause 3 of this agreement or in case I exercise the option given to me above to relinquish the whole of the said lands, I shall be permitted to retain possession of such portion of the said lands as I may have brought under cultivation provided—

(*a*) I ask for the permission to retain such portion within a fortnight from the date on which I receive the order of forfeiture or on which my relinquishment is duly excepted by the Mamlatdar, and

(*b*) I pay to Government as occupancy price ten times the assessment of the said portion without taking into consideration any amount that I may have paid before taking possession of the said lands in accordance with the terms of this agreement.

Dated the day of 19 at

(Signed)

We declare that who has signed this agreement is to our personal knowledge the person he represents himself to be and that he has affixed his signature hereto in our presence.

(Signed)

(Signed)

We declare to the best of our knowledge and from the best information we have been able, after careful enquiry, to obtain that the person who has passed this agreement is a fit person to be accepted by Government as responsible for the punctual payment of the land revenue from time to time due on the above land.

(Signed)
Patel.

(Signed)
Village Accountant.

Schedule A.

Taluka.	Village.	Survey number.	Area.	Assessment.	Trees valued at Rs.	Remarks.

(G.R., R.D., No. 4702/24 dated 13-7-32.)

APPENDIX O. F. (2).

AGREEMENT TO COVER CASES OF LANDS IN THE KAIRA DISTRICT WITHOUT VALUABLE BABUL AND OTHER TREES WHEN GIVEN ON IMPARTIBLE TENURE.

To

The Mamlatdar of in the Kaira District.

I, A.B., inhabitant of in the Taluka, hereby accept the occupancy of the land described in schedule A hereto appended (hereinafter referred to as the said lands) and I pray that my name may be entered in the Land Records as the occupant of the said lands.

2. The occupancy of the said lands has been accepted by me subject to—

(*a*) the provisions of the Bombay Land Revenue Code, 1879, and of the Rules in force thereunder;

(*b*) a payment in cash of Rs. ; and

(*c*) the conditions hereinafter mentioned.

3. The conditions on which I have accepted the occupancy of the said lands are as follows, and I agree on behalf of myself, my heirs, executors, administrators and assigns to abide by them subject to any

modifications therein that may hereafter be ordered by Government consistently with the general tenor of this agreement :—

(1) That I shall regularly pay from time to time the annual land revenue lawfully due in respect of the said lands according to the rate of assessment as may be fixed from time to time under the law and rules in force in this behalf.

(2) That I, my heirs, assigns and legal representatives shall not at any time by partition, inheritance, lease, mortgage or otherwise howsoever transfer the said land except as a whole or a portion thereof of not less than an economic holding.

(3) That I shall bring under cultivation to the satisfaction of the Collector of Kaira—

(*a*) at least one-fourth of the said lands within a period of three years, i.e., A.D. 19 to 19 ,

(*b*) at least half of the said lands within a period of five years, i.e. A.D. 19 to 19 ,

(*c*) the whole of the said lands within a period of eight years, i.e. A.D. 19 to 19 , subject however to the exclusion of such fallows not exceeding one-fifth of the total area of the said lands as are essential for agricultural purposes, and the kharaba areas included in survey numbers and vacant strips of land required to be left uncultivated by the sides of fields.

(*Explanation.*—Cultivation means raising of crops, not of grass.)

(4) That if I fail to perform any of the aforesaid conditions, I shall be liable at the discretion of the Collector notwithstanding anything hereinbefore contained—

(*a*) to pay the full assessment of the said lands for the year during which such failure takes place together with all authorized and unauthorized arrears of land revenue due from me.

(*b*) to have the whole of the said lands including such portions thereof as have been transferred, mortgaged leased or otherwise howsoever incumbered by me to any other person summarily forfeited; and neither I nor such other person shall be entitled to claim compensation for anything done or executed by me or by him in respect of the said lands, and

(*c*) in case of forfeiture of the said lands to pay Rs. as the deferred payment of the value of the trees standing on the said lands and granted to me.

(5) That I shall not have the right at any time during the period of eight years commencing from A.D. 19 to relinquish a portion only of the said lands without the previous sanction in writing of the Collector; the whole may, however, be relinquished by me at any time.

(6) That I shall have the right to transfer mortgage, or lease the whole of the said lands or portion thereof of not less than an economic holding, subject to the conditions mentioned herein, specially subject to the right of forfeiture by Government in case of my failure to keep the land undivided, as mentioned in condition (2) above or to bring the land under cultivation as required by conditions (3) and (4).

(7) That I shall furnish, before I take possession of the said lands, security to the extent demanded by the Mamlatdar in the form of either a cash deposit or a personal bond with sureties as may be required by the Collector to secure the due fulfilment and enforcement of the conditions of this agreement.

(8) That I shall not take into my possession any part of the said lands which has been set apart for public purposes, viz. for roads, waterways, etc., and I shall respect all rights and easements vested in the public over such parts.

(9) That subject to the due and proper fulfilment of the conditions hereinbefore agreed to I shall be entitled on the expiry of eight years or at such earlier date at which I shall have brought under cultivation the whole of the said lands [subject to the exceptions provided for by sub-clause (3) of clause 3], to retain the occupancy on the unrestricted but impartible tenure of the said lands subject to the payment of the full assessment from time to time fixed thereupon under the law and rules in force in this behalf, on my executing an agreement in the form prescribed for persons who intend to become occupants of land on impartible tenure [Form F (1)].

(10) In case of forfeiture of the whole of the said lands under clause 3 of this agreement or in case I exercise the option given to me above to relinquish the whole of the said lands, I shall be permitted to retain possession of such portion of the said lands as I may have brought under cultivation provided—

(*a*) I ask for the permission to retain such portion within a fortnight from the date on which I receive the order of forfeiture or on which my relinquishment is duly excepted by the Mamlatdar, and

(*b*) I pay to Government as occupancy price ten times the assessment of the said portion without taking into consideration any amount that I may have paid before taking possession of the said lands in accordance with the terms of this agreement.

Dated the day of 19 at

(Signed)

We declare that who has signed this agreement is to our personal knowledge the person he represents himself to be and that he has affixed his signature hereto in our presence.

(Signed)

(Signed)

We declare to the best of our knowledge and from the best information we have been able, after careful enquiry, to obtain that the person who has passed this agreement is a fit person to be accepted by Government as responsible for the punctual payment of the land revenue from time to time due on the above land.

(Signed)
Patel.

(Signed)
Village Accountant.

Schedule A.

Taluka.	Village.	Survey number.	Area.	Assessment.	Trees valued at Rs.	Remarks.

(R. 4702/24 dated 13-7-1932).

APPENDIX O-H [Rule 51 (1), Note 133].

FORM OF 99 (50) YEARS' LEASE.

[ROYAL ARMS.]

THE SECRETARY OF STATE IN COUNCIL

TO

WHEREAS
has purchased from Government the right of occupation for a term of years, *subject to the conditions hereinafter mentioned of a plot of ground situated in † the Division of † the city (or town *as the case may be*) of being registered No. in the Map marked Sheet No. , and containing about square yards, and of the following shape, and about the following dimensions :—(*here insert sketch or tracing*).

AND WHEREAS the said
has paid the purchase money for the said land for the said term, viz., Rupees‡ I, Collector, hereby lease on behalf of Government to the said (hereinafter called "the Lessee") the right of occupancy of the said plot of ground for the term of years*, subject to the following conditions that is to say :—

I. The Lessee shall pay to Government an annual rent of Rupees in respect of the said plot of ground.

II. The Lessee shall pay the said rent in advance in one annual payment on the 1st of August in each year. If the said rent be not paid within three months from the said 1st of August in each year, interest at the rate of nine per cent. per annum shall be charged upon the said rent in arrear from the expiration of the said three months until payment, and if the said rent, together with such interest thereon as shall be due, be not paid within a year from the said 1st of August in each year, payment of such rent and interest shall be enforced by proceeding in any of the modes prescribed by any of the Regulations, or Acts of the Legislature, now or hereafter to be in force relating to the realization of Government land revenue; and if the said rent, together with all interest thereon, be not paid within two years from the said 1st of August, this Lease and all rights thereunder shall become forfeited to Government.

III. The Lessee shall within from the date of this Lease erect on the said plot of ground one or more buildings of a permanent character and construction.

IV. No roofs, or exterior or party walls, of wood, bamboos, thatch or similar combustible materials shall be erected on the said plot of ground.

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*See Supplement A for list of towns in which the period is 99 years and in which it is 50.

†Omit these words if unnecessary.

‡To be entered in words and figures.

V. No building of any kind whatsoever shall project over the edge of the public footpath or prescribed line of road nearest the limits of the said plot of ground.

VI. No building shall be less than feet in height from the level of the footpath or road to the top of the wall plate, inclusive of a plinth feet high.

VII. The said plot of ground and all buildings thereon shall be subject to Municipal taxation, and to any taxation for local purposes which is now or may hereafter be imposed and shall also be subject to any Tax affecting the said plot of ground or any of the buildings thereon, of the nature contemplated in the second paragraph of section 45 of the Bombay Land Revenue Code, 1879, which may hereafter be imposed by the Legislature.

VIII. If the Lessee shall fail to observe or fulfil the conditions of this Lease or any of them, he shall forfeit to Government all right and title under this Lease to the said plot of ground and buildings thereon, and it shall be lawful for the Collector, on such default as aforesaid, to enter upon the said plot of ground and take possession of the same and of all buildings thereon, and hold the same to the use of Government freed and discharged from all incumbrances created thereon by the Lessee:

PROVIDED that the Collector may in lieu of such resumption and without imposing any further penalty, order the removal within a prescribed period of any building or structure erected contrary to any of the Conditions III to VII of this Lease and on such removal not being carried out within the prescribed period may cause the same to be carried out at the expense of the Lessee, or may resume the said plot of ground and all buildings thereon in the manner authorised by this condition and it shall be in the sole, absolute and unfettered discretion of the Collector, subject to the orders of the Governor of Bombay in Council or the Commissioner, to adopt either one or other of the above remedies as may seem desirable to him under the circumstances.

IX. The Lessee will be at liberty, subject to the above conditions, to sell, assign or otherwise transfer his right under this Lease; but such transferee shall in every case take subject to the above conditions and to the obligation of observing and fulfilling the same, provided always that the liability of every transferor under this Lease shall continue until a written notice of such transfer signed by the transferor or his duly constituted agent, shall have been served upon the Collector or other officer authorized by the Collector to receive the same.

X. If the said term should not become forfeited under any of the preceding clauses of this Lease, but should expire by affluxion of time, the Lessee shall have a renewal of the said Lease for such further period as Government may then fix on his consenting to pay the annual rate which may be assessed on the said land at a general revision of assessment at the commencement of such period; as also a premium to be fixed by Government for the continuance of the right of occupancy for such period and if the Lessee shall not assent to comply with such terms, Government shall at the expiration of the then expiring period

of years, enter upon and take possession of the said demised premises, and the said heirs, successors, legal representatives and assigns, shall at the expiration of the said term, or within six calendar months after Government shall have given notice of the terms on which it is willing to renew the Lease, clear off all buildings and erections that may be upon the said demised premises unless the Collector and the said heirs, successors, legal representatives and assigns, shall in the meantime agree upon a valuation to be put upon the said buildings and erections, and the Collector shall assent to take them at such valuation.

XI. In this Lease the words "the Lessee" shall include the Lessee, his heirs, successors, legal representatives or assigns; and the words "the Collector" shall include the Collector of the District for the time being and any other officer whom the Governor in Council may at any time appoint to exercise the powers of Collector under this Lease.

This Lease is executed on behalf of the Right Honourable the Secretary of State in Council by order of His Excellency the Governor of Bombay in Council, by and under the hand and seal of the Collector of the District, this day of one thousand nine hundred and A.D.

Seal

(Signed)

Collector.

In the presence of

APPENDIX O-I [Rule 51 (2), Note 137].

FORM OF SHORT-TERM LEASE.

THE SECRETARY OF STATE IN COUNCIL

TO

THIS IS TO CERTIFY that
inhabitant of
(hereinafter called "the Lessee") has, subject to the provisions of the Bombay Land Revenue Code, Act V of 1879, and the Rules thereunder and subject to the conditions hereinafter specified, been allowed by the Collector of

hereinafter called " the Collector " acting on behalf of the Secretary of State for India, to occupy for a period of years* commencing from the day of 19 (hereinafter called " the said term "), a plot of ground situated in† the Division of† the city (*or* town *as the case may be*) of . being registered No. in the Map marked sheet No. , and containing about square yards, and of the following shape and of about the following dimensions :—

The Conditions of this Lease are as follows :—

I. The Lessee shall pay to Government for the said plot of ground on the first day of August every year in advance in one annual payment an annual rent of Rs. together with Rs. , being the amount of Local Fund Cess thereon.

II. The Lessee shall not erect any permanent building upon the land, and shall at the end of the said term without any objection, without claiming any compensation and without retaining any claim over it, clear and deliver over the said plot of ground to the Collector in the same condition in which he took it.

III. The said plot of ground and all buildings thereon shall be subject to Municipal taxation, and to any taxation for local purposes which is now or may hereafter be imposed (in the whole district), and shall also be subject to any tax affecting the said plot of ground or any of the buildings thereon, of the nature contemplated in the second paragraph of section 45 of the said Land Revenue Code, which may hereafter be imposed by the Legislature.

IV. Failure to comply with any of the above conditions of the lease or with any provisions of the said Land Revenue Code or of the Rules thereunder shall render this lease liable to cancellation by the Collector, who may thereupon resume the land and summarily evict the Lessee without notice or payment of any compensation whatever :

Provided that the Collector may, in lieu of such resumption and without imposing any further penalty, order the removal within a prescribed period of any building erected contrary to Condition II of this lease, and on such removal not being carried out within the prescribed period may cause the same to be carried out at the expense of the Lessee, or may resume the said plot of ground and all buildings thereon in the manner authorized by this condition : and it shall be in the sole, absolute and unfettered discretion of the Collector, subject to the orders of the Governor of Bombay in Council or the Commissioner, to adopt either one or other of the above remedies as may seem desirable to him under the circumstances.

V. In this lease the words " the Lessee " shall include the Lessee, his heirs, successors, legal representatives or assigns ; and the words " the Collector " shall include the Collector of the District for the time

*This period may not exceed seven years.

†Omit these words if unnecessary.

being and any other officer whom the Governor in Council may appoint to exercise the powers of the Collector under this lease.

This lease is executed on behalf of the Right Honourable the Secretary of State in Council by order of His Excellency the Governor of Bombay in Council, by and under the hand and seal of the Collector of the District, this day of one thousand nine hundred and A.D.

Seal.

(Signed)

Collector.

In the presence of

APPENDIX O-J (Rule 55, Note 143).

SANAD FOR PLANTING TREES IN WASTE LAND.

WHEREAS resident of Mouze Taluka in the District of has applied to plant and rear trees in Government land in Reserved Forests in charge of the Revenue Department and lands set apart for common village use; No restriction on kind and number.

AND WHEREAS the aforesaid application has been duly sanctioned under the authority of Government Resolutions No. 4118, dated 14th June 1901, and No. 4 of 2nd January 1913;

Now, this sanad is hereby granted to the said authorising him, his heirs and executors to plant and rear trees within in the marginally noted Government lands or reserved forest in the village of Taluka in the District and to enjoy the produce thereof without any question on the part of Government any assessment or rent otherwise leviable under the Land Revenue Code or any other similar law in force from time to time on account of the land occupied by or under the trees subject to the below-mentioned conditions:— Enter extent, situation and boundary.

(i) No right over the land shall be granted to the permit holder.

(ii) The permit holder shall be allowed to erect any fence which may be necessary for the purpose of protecting the trees planted by him.

(iii) The usufruct and the timber of trees, *i.e.*, the leaves, twigs, flowers, fruits and branches of the trees, and the trees themselves when fallen or felled shall be given entirely free to the permit holder.

(*iv*) Power to remove the trees when necessary without claim to compensation shall be reserved to Government, trees so removed being given free to the permit holder under clause (*iii*).

(*v*) The permit shall be subject to cancellation if the trees are not planted in accordance with the permit within a reasonable time to be fixed in the permit, and thereafter if they are not in the opinion of the Mamlatdar or Mahalkari properly tended and kept. When a permit is cancelled any tree that may be on the land shall be given to the permit holder under clause (*iii*) or shall be forfeited to Government as the Mamlatdar or Mahalkari shall direct.

2. The concessions granted to the permit holder shall be continued to his legal heirs without any restriction with regard to succession or transfer.

This Sanad is executed on behalf of the Secretary of State in Council by order of the Governor in Council of Bombay by and under the hand and seal of
Esquire, Assistant Collector of
this day of

(Signed)

Form O-JJ for brick kilns and brick making in unoccupied unalienated land—*vide* rules 55 and 56 (R. 1417/24-II of 30th April 1929)

Form of Sanad

A sanad granted this the day of one thousand nine hundred and by the Secretary of State for India in Council (hereinafter referred to as "the Secretary of State" which expression shall include his successors in office and assigns) of the one part to inhabitant of (hereinafter referred to as "the applicant" which expression shall include his heirs, executors, administrators and assigns) of the other part.

2. Whereas the applicant has applied to the Collector of for permission to occupy for a period of $\frac{\text{years}}{\text{month}}$ commencing from the day of 193 (hereinafter called "the said term") a plot of ground situated in the village in the taluka of in the District, being registered No. and containing about $\frac{\text{Square yards}}{\text{acres gunthas}}$ and marked A B C D in the sketch hereto annexed (hereinafter referred to as "the said plot") for the purpose of

3. And Whereas the Collector has been authorised to grant under section 62 of the Bombay Land Revenue Code, 1879 (hereinafter referred to as "the said Code") the permission applied for, subject to the provisions of the said Code and the rules and orders thereunder and to the terms and conditions hereinafter contained.

4. Now it is hereby agreed between the Secretary of State and the applicant that permission to occupy the said plot for the purpose of shall be and it is hereby granted to the applicant for the said term subject to the provisions of the said Code and the rules and orders thereunder and on the following terms and conditions, namely:

(1) The applicant shall pay to Government during the said term for the said plot on the first day of August every year in advance in one annual payment an annual rent of together with the local fund cess payable thereon at the rate for the time being in force;

(1) (In the case of short-term leases) the applicant shall pay to Government for the said plot the rent of before entry on the said plot together with the local fund cess payable thereon.

(2) The applicant shall also pay fees at the prescribed rates for earth, kankar, etc., removed from the said plot, the quantity removed being measured from the pits made or bricks manufactured.

(3) Earth shall not be excavated by the applicant to a depth of more than feet below the general level of the said plot and the excavation shall be carried out by him in such a manner as not to make the said plot unfit for cultivation after the expiry of the said term.

(4) The surface of the said plot shall be made level; and all bricks, kilns and other materials used for the purposes of the manufacture of the bricks shall be removed from the said plot before the expiry of the said term; and in default thereof the Collector may cause such levelling or removal to be carried out at the expense of the applicant, which shall be recoverable as an arrear of land revenue, without prejudice to any other penalty to which the applicant may by reason of such default become liable under the provisions of the said Code or the rules or orders thereunder.

(5) The applicant shall not excavate earth within a margin of ten feet along and inside the perimeter of the survey No.

(6) Failure to comply with any of the above conditions of the grant or with any provisions of the said Code or the rules thereunder shall render this grant liable to cancellation by the Collector, who may thereupon resume the land and summarily evict the applicant without notice or payment of any compensation whatever.

In this sanad the words "the Collector" shall include the Collector of the District for the time being or any other officer whom the Governor in Council may appoint to exercise the powers of the Collector under this sanad.

Sketch

* * *

In witness whereof the Collector of , hath, by order of His Excellency the Governor of Bombay in Council, set his hand and seal of his office for and on behalf of the Secretary of State for India in Council and the

applicant has, in token of his acceptance of the conditions hereinbefore set forth, set his hand this the day of one thousand nine hundred and A.D.

Signed, sealed and delivered
by the abovenamed

Collector of

In the presence of—
1
2

Signed and delivered
by the abovenamed

In the presence of
1
2

APPENDIX O-K.

Form of agreement under section 67, L. R. C., in cases of use of agricultural lands for the manufacture of bricks.

Cancelled by R. 1890/28 of 1-2-29 For form of agreement see Appendix X of Land Revenue Code.

APPENDIX O-L [Rule 87 (*b*), Note 221].

ALTERED ASSESSMENT SANAD WHEN LAND WAS AGRICULTURALLY ASSESSED BY ERROR.

Sanad A.

WHEREAS under Government Notification No. , dated , Government have declared fixed for a term of years commencing with the revenue year and ending with the revenue year the assessment upon such lands only as were used at the date of the said Notification for the purposes of agriculture alone and whereas the land described by measurement and by the boundaries specified in the schedule and delineated in the map hereto appended and forming non-agricultural survey number in the village in the taluka of and delineated in the map hereto appended and forming non-agricultural survey number in the village in the taluka of registered in the name of and at present held by was used for non-agricultural purposes before the date of the aforesaid notification.

Now this is to certify that the amount of non-agricultural assessment to be paid annually as land revenue on the said land has been fixed for a term of 50 years from the day of 19 at the sum of rupees (Rs.) payable in each year of the said term on the 1st January annually.

On expiry of the said term and at such further intervals as may from time to time be directed by Government in this behalf, the assessment aforesaid will be liable to revision in accordance with the Bombay Land Revenue Code, 1879, and the rules and orders for the time being in force thereunder :—

Schedule hereinbefore referred to.

Length and Breadth.		Total superficial area.	Forming (part of) Survey No. or Pot No.	Boundaries.				Remarks.
North to South.	East to West.			North.	South.	East.	West.	

In witness whereof the Collector has hereto set his hand and the seal of his office this day of 19 .

Seal.

Collector.

APPENDIX O-M [Rule 87 (*b*), Note 221].

ALTERED ASSESSMENT SANAD WHEN LAND WAS LEFT AGRICULTURALLY UNASSESSED.

Sanad B.

WHEREAS the assessment upon the land hereinafter described by measurement and by the boundaries specified in the schedule and delineated in the map hereto appended and forming non-agricultural survey number in the village of in the taluka of district registered in the name of and at present held by has to be assessed by the Collector in accordance with section 52 of the Bombay Land Revenue Code, 1879.

Now this is to certify that the amount of assessment to be paid annually as land revenue on the said land has been fixed for a term of 50 years from the day of 19 at the sum of Rs. (Rs.) payable in each year of the said term on the 1st January annually.

On expiry of the said term and at such further intervals as may from time to time be directed by Government in this behalf, the assessment aforesaid will be liable to revision in accordance with the said Code, and the rules and orders for the time being in force thereunder :—

Schedule hereinbefore referred to.

Length and breadth.		Total measurement superficial area.	Forming (part of) Survey No. or Pot No.	Boundaries.				Remarks.
North to South.	East to West.			North.	South.	East.	West.	

In witness whereof the Collector has hereto set his hand and the seal of his office this day of 19 .

Seal

Collector.

APPENDIX O-N

(Referred to under section 67, Rule 87 (*b*), Note 214.)

(These forms were sanctioned by R. 1188—04.)

FORM A.

(To be used where applicant applies for permission to use for building land hitherto used for agricultural purposes.)

THIS AGREEMENT made this day of one thousand nine hundred and between the SECRETARY OF STATE FOR INDIA IN COUNCIL (hereinafter referred to as "the Secretary of State") on the one part

and inhabitant of (hereinafter referred to as "the applicant") on the other part.

WHEREAS the applicant being the occupant of of Taluka has applied to the Collector of (hereinafter referred to as "the Collector") under section 65 of the Bombay Land Revenue Code, 1879, for permission to use for building purposes the plot of land indicated by the letters on the site plan hereto annexed*, forming part of the said and measuring square yards, be the same a little more or less;

AND WHEREAS the Collector has been authorized by Government to grant, under section 67 of the said Code, the permission applied for subject to the provisions of the said Code, and rules and orders thereunder and to the terms and conditions hereinafter contained.

NOW IT IS HEREBY AGREED between the Secretary of State and the applicant that permission to use for non-agricultural purposes the plot of land indicated by the letters on the said site-plan (which plot of land is hereinafter referred to as "the said plot of land") in the particular manner shown in the said site-plan, namely:—

(A) an area of square yards indicated by a colour and the letters for the purpose of† or for the purpose of an open compound only:

(B) an area of square yards indicated by a colour and the letters for the purpose of‡ or for the purpose of an open compound only:

(C) an area of square yards indicated by the uncoloured portion of the said plot for the purpose of an open compound only:

shall be and is hereby granted subject to the provisions of the said Code, and rules and orders thereunder, and on the following special terms and conditions, namely:—

(1) The applicant in lieu of the present assessment leviable in respect of the said plot of land shall pay to Government without deduction on the day of in each and every year an annual assessment of Rupees (Rs.) during the fifty (50) years commencing on the day of 19 , and ending on the day of 19 , or in composition therefor a lump sum of Rupees (Rs.) being twenty-five (25)§ times the said annual assessment and thereafter such revised assessment as may from time to time be fixed by the Collector under the said Code and the rules and orders thereunder:

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* Care must be taken that this is duly annexed.

† Here insert the particular purpose for which the building is to be erected, such as "a residential bungalow and attached outhouses other than a stable or privy."

‡ Here insert the particular "purpose" for which the building is to be erected, such as "a shop" or "privy."

§ For composition for less period see Note 223.

(2)* The applicant hereby gives up, resigns and relinquishes to Government without claiming any compensation therefor all interest in, and the Collector on behalf of Government is hereby permitted without further notice to the applicant to enter upon and take possession of the following pieces of land, that is to say :—

(*a*) for the purpose of widening and forming part of the road on the side of the aforesaid plot a strip of land containing by admeasurement square yards, be the same a little more or less, indicated by a colour and the letters on the site-plan hereto annexed ; and

(*b*) for the purpose of being used as a sweeper's passage (and not as a public thoroughfare) a strip of land situate along and within the boundary of the aforesaid plot and indicated by a colour and the letters on the said site-plan and containing by admeasurement square yards, be the same a little more or less ;

2 (*c*) " In the case of any municipal water gas or electric scheme requiring the laying of pipes or wires in or through the said land; the lessees shall permit the laying thereof without making any claim to compensation or rent. R. 1063/28—27th August 1928.—

(3) The applicant is hereby prohibited under the last paragraph of section 48 of the said Code from using, without the previous permission in writing of the Collector, and part of the said plot of land for any purpose other than that for which permission to use it is hereinbefore granted to the applicant :
Provided that :—

(*i*) nothing in the above shall be deemed to prohibit the applicant—

(*a*) from erecting or constructing, without such previous permission, in the portion (C) (*i.e.*, used for the purpose of an open compound only), boundary walls not exceeding four feet in height, garden-fountains, uncovered steps and similar structures, not being projections from a building, such as verandahs, balconies, eaves or shopboards ;

(*b*) from constructing, without such previous permission, wells or tanks in any part of such portion (C) that does not lie within a margin consisting of a strip feet broad along and inside the perimeter of the said plot of land ;†

(*c*) ‡ from using, without such previous permission, for any non-agricultural purpose, other than that of a shop, a stable or a

* Omit this clause when no such surrender is made.

† Here insert any special exception or reservation that may be necessary, such as " save on the sides indicated by the lines C. D. E. F., on the said site-plan, where the existing margin as shown therein is allowed to remain.—

‡ Omit this sub-clause (*c*) if applicant has not agreed to pay full assessment in respect of the portion (C) so as to be entitled to this concession.

privy, to an extent not exceeding in total admeasurement square yards, any part of such portion (C) that does not lie within the aforesaid margin.
and

(ii) where any such prohibited use is permitted by the Collector the applicant shall,* *except in the case of a use of any part of the land measuring square yards and specified in sub-clause (c) of proviso (i) above*, be liable to pay from the date of the use in respect of the land so used such enhanced assessment not exceeding† Rupees (Rs.) per hundred (100) square yards as the Collector may deem fit to impose, and in any such case the total amount payable under clause (1) of this Agreement shall be modified accordingly;

(4) If at any future date the Collector gives the applicant notice in writing that any portion of the margin specified in sub-clause (*b*) of proviso (*i*) to clause (3) of this Agreement is required by Government for the purposes of a road, the applicant shall, at the expiration of one month after the receipt of such notice, quietly surrender and hand over possession of such portion to the Collector on behalf of Government in consideration of receiving from Government in exchange and as full compensation therefor a sum equivalent to thirty (30) times the assessment proportionately payable upon the portion so surrendered, namely, an assessment at the rate of Rupees‡ (Rs.) per hundred (100) square yards:

§Provided, that, where the materials of any gate, wall, pavement or other such authorized erection or construction on such portion cannot in the opinion of the Collector be removed without appreciable loss, such further compensation on this account shall be paid to the applicant as the Collector may deem fit:

(4a) "The applicant shall, at his own expense, within one month from the date of this Agreement, place proper and substantial land marks on the boundaries of the said ground to the satisfaction of the Collector (if such land marks do not at the time of this Agreement exist) and shall if so required by the Collector enclose his site by means of such wall or wire or other fencing as may be approved by the Collector, and will carefully preserve such land marks, and such wall or fencing as the case may be and shall renew the same at his own expense as often as the Collector shall deem such renewal to be necessary, and in case of any neglect so to do after due notice in that behalf shall have been given by the Collector, it shall be lawful for the Collector, to cause proper land marks or walls or wire or other fencing as the case may be to be placed on the ground at the sole expense of the said applicant, which expense the said applicant hereby agrees to reimburse by paying to the Collector

* Omit the words in italics if sub-clause (*c*) has been omitted.

† Enter the amount calculated at five times the rate of assessment on the land permitted to be built over under the agreement (paragraph 4 of R. 6411-03).

‡ Enter the amount calculated in accordance with paragraph 1 of R. 1188-04.

§ Proviso added by R. 5088-04.

such amount as the Collector (whose order shall be final) shall fix in that behalf". (R. 1063/28—29th August 1928).

*(5) The applicant shall within three (3) years from the date of this Agreement, that is before the day of 19 , erect and complete on the said plot of land† of a substantial and permanent description, and shall in regard thereto duly comply in every respect with the building regulations contained in the Schedule hereto annexed:

(5) (*a*) The applicant shall not, without special permission erect in the said plot of land any structures having more than [ ] upper floor (s) in addition to the ground floor.

[*Omit this clause if not considered necessary.* (*R. 5124--18*),]

‡(6) The applicant shall remove the existing indicated on the site-plan hereto annexed by a colour and the letters within a period of from the date of this Agreement:

(7) Nothing in this Agreement shall affect the applicant's liability to any payment which may be required under any law for the time being in force for the construction and maintenance of roads and drains:

(8) The Collector may without prejudice to any other penalty to which the applicant may be liable under the provisions of the said Code, or rules or orders thereunder, direct the removal or alteration of any building or structure erected contrary to clause (3) or § (5) *or not removed in accordance with clause* (6) of this Agreement within a time prescribed in that behalf by the Collector, and on such removal or alteration not being carried out within the prescribed period may cause the same to be carried out at the expense of the applicant:

(9) AND IT IS HEREBY LASTLY AGREED between the parties hereto that in this Agreement the words "the Secretary of State" shall include the Secretary of State, his successors and assigns, and the words "the applicant" shall include the applicant, his heirs, executors, administrators and assigns and the words "the Collector" shall mean the Collector of for the time being or any other officer whom the Governor of Bombay in Council or the Commissioner, Division, or the Collector, directs to exercise the powers or perform the duties of the Collector under this Agreement. And also that the applicant shall bear and discharge all the costs and expenses incurred in the preparation, execution, stamping and registration of these presents.

||IN WITNESS WHEREOF the Collector of has by order of the Governor of Bombay in Council hereunto set his hand and the seal of

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*As to retention or omission of this clause, *vide* R. 7496-06.—Also see note to form M on p. 82.

†Here insert description of the buildings, such as "a residential bungalow and outhouses."

‡Omit this clause when there are no existing buildings to be removed.

§Omit the words in italics when clause (6) is omitted.

||Two copies should be executed, one to be kept by the Collector, and the other to be handed to the applicant.

his office, on behalf of the Secretary of State for India in Council, and the applicant has also hereunto set his hand the day and year first above written.

Signed by

in the presence of

Signed by (Applicant's signature).
Collector of

in the presence of (Collector's signature).

Seal

APPENDIX O-O [Rule 87 (6), Note 221].

FORM B.

(To be used where applicant has already used Land for building purposes without permission and applies for permission to continue so to use it).

[1st clause—the same as in Appendix O-N.]

WHEREAS the applicant being the occupant of of Taluka has used for building purposes without the permission of the Collector of (hereinafter referred to as "the Collector") being first obtained as required by section 65 of the Bombay Land Revenue Code, 1879 (hereinafter referred to as "the said Code") the plot of land indicated by the letters on the site-plan hereto annexed* forming part of the said and measuring . square yards, be the same a little more or less, and has thereby become liable to the penalities prescribed by section 66 of the said Code;

AND WHEREAS the applicant has applied for permission to remain in possession of and to continue to use the aforesaid plot of land for building purposes;

[The rest as in Appendix O-N.]

* Care must be taken that this is duly annexed.

APPENDIX O-O (1).

FORM OF SHORT TERM LEASE OF PLOTS OF LAND IN THE BOMBAY SUBURBAN DISTRICT (*vide* RULE 43-A).

THE SECRETARY OF STATE FOR INDIA IN COUNCIL

To

This is to certify that
inhabitant of (hereinafter called 'the lessee' which expression shall unless excluded by or repugnant to the context include the lessee, his heirs, successors, legal representatives and assigns), has, subject to the provisions of the Bombay Land Revenue Code, 1879 (Bom. V of 1879) and the rules thereunder and subject to the conditions hereinafter specified, been allowed by the Collector of the Bombay Suburban District (hereinafter called 'the Collector' which expression shall include the said Collector and any other officer whom the Governor in Council may appoint to exercise the powers of the Collector under this lease) for and on behalf of the Secretary of State for India in Council, to occupy for a period of
years* commencing from the day of
192 (hereinafter called 'the said term'), a plot of ground situated in the and containing about square yards, and of the following shape and of about the following dimensions :—

The conditions of this lease are as follows :—

1. The lessee shall pay to Government for the said plot of ground on the first day of August every year in advance in one annual payment an annual rent of Rs. together with Rs. being the amount of local Fund cess therein.
2. The lessee shall not erect any permanent building upon the said plot of ground, and shall at the end of the said term without any objection, without claiming any compensation and without retaining any claim over it clear and deliver over the same to the Collector in the same condition in which he took it.
3. The said plot of ground shall only be used as a site for a and for no other purpose,
4. The lessee will bear, pay and discharge all local and municipal rates, taxes, assessments, duties and charges and any Land Revenue levied under the second paragraph of section 45 of the said Land Revenue Code which at any time during the said term may be or become due or payable in respect of the said plot of ground or of any building or work built or executed thereon.

* This period may not exceed seven years.

5. The right of Government to all mines and mineral products is reserved and Government shall have full liberty of access for the purpose of working and searching for the same with all reasonable conveniences.

6. The lessee shall permit the officers, servants or agents of Government at all reasonable times to enter upon and inspect any part of the said plot of ground or premises.

7. The lessee shall not sublet, assign, mortgage or otherwise encumber the said plot of ground or any portion thereof or any buildings thereon.

8. If at any time before the expiration of this lease the said plot of ground or any portion thereof shall be required by Government, the lessee shall surrender the same or such portion thereof free from all incumbrances on Government giving notice in writing of such requirement: and the lessee shall not be entitled to any compensation on this account.

9. Failure to comply with any of the above conditions of this lease or with any provisions of the said Land Revenue Code or of the rules thereunder shall render this lease liable to cancellation by the Collector, who may thereupon resume the land and summarily evict the lessee without notice or payment of any compensation whatever.

Provided that the Collector may, in lieu of such resumption and without imposing any further penalty, order the removal within a prescribed period of any building erected contrary to condition 2 of this lease, and on such removal not being carried out within the prescribed period may lease the same to be carried out at the expense of the lessee or may resume the said plot of ground and all buildings thereon in the manner authorised by this condition: and it shall be in the sole, absolute and unfettered discretion of the Collector, subject to the orders of the Governor in Council or the Commissioner, to adopt either the one or the other of the above remedies as may seem desirable to him under the circumstances.

This lease is executed on behalf of the Secretary of State for India in Council by order of the Governor of Bombay in Council, by and under the hand and seal of the Collector of the Bombay Suburban District, this day of one thousand nine hundred and twenty.

(Sealed)

(Signed)

Collector.

In the presence of

APPENDIX O-P [Rule 87 (6), Note 221].

FORM C.

(To be used where applicant has used Land for building purposes wit permission, but is willing to comply with the terms of this Agreemen in order to gain the benefits thereof.)

[1st clause—the same as in Appendix O-N.]

WHEREAS the applicant being the occupant of of Tàluka District has used to building purposes with the permission of the Collector of (hereinafter referred to as " the Collector ") granted under section 65 of the Bombay Land Revenue Code, 1879 (hereinafter referred to as " the said Code "), the plot of land indicated by the letters on the site-plan hereto annexed,* forming part of the said and measuring square yards, be the same a little more or less ;

AND WHEREAS the applicant has applied, in lieu of the said permission of the Collector, for permission to use the aforesaid plot of land for building purposes on certain special terms and conditions :

[The rest as in Appendix O-N.]

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†*Schedule of Building Regulations.*

Definitions. 1. In these rules—

(i) " dwelling " means any building or part of a building used or intended for use as a dwelling for human beings, horses, or cattle ;

(ii) " window " includes an open space running right through a wall so as to admit of the entry of air.

Plinth. 2. Every building intended to be used as a dwelling for human beings, or as a privy or kitchen, shall have a plinth at least two feet above ground level.

Ventilation. 3. (i) Every room that is a dwelling shall be at least eight feet high at every point.

(ii) Every such room shall have a window opening directly into the air outside the house.

(iii) In every such room the total area of such outside windows shall be not less than one-tenth of the floor area.

(iv) In every such room every window shall be so constructed that at least its upper half is open or can be opened.

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* Care must be taken that this is duly annexed.

† (1) These regulations are common to the three (A, B, C) forms given above.
(2) For cases in which this schedule is to be replaced by other model regulations, see R. 7496-06.

5.

Privies.

(i) No privy shall be built within five feet of any dwelling or within twenty feet of any kitchen, public road or place of public resort, or within thirty feet of a well or other source of water-supply;

(ii) for every twenty persons a house is intended to accommodate there shall be at least one privy.

(iii) Every privy shall be provided with a movable receptacle for night-soil with a capacity of not more than two cubic feet.

(iv) Every privy shall be so constructed that the bottom of the receptacle for night-soil, urine or ablution-water shall be at a level at least two feet above ground level.

(v) There shall be ventilation-holes at the bottom both of the door of the privy and the door of the chamber for the night-soil receptacle and also as near the top of the privy as practicable, these latter topholes aggregating at least two square feet in area.

(vi) The sides and floor of the chamber for the receptacle shall be constructed of hard smooth stone, brickwork plastered with cement, or other non-absorbent material; and the floor shall be so sloped that any liquid discharged on it shall rapidly and easily flow to an outlet.

(vii) The door of the said chamber shall occupy the whole height and width of the chamber and shall open outwards on to a space screened in behind the privy and so arranged that a sweeper may conveniently do his work there without being seen by anyone outside.

(viii) Arrangements shall be made to allow of the receptacle for night-soil being so fixed that it projects on all sides at least one inch beyond the space vertically below the aperture through which night-soil falls.

(ix) Every privy shall be so constructed that urine, and such ablution-water as is not actually used for ablution can be disposed of without entering the receptacle for night-soil.

Cesspools.

5. (i) No cesspool shall be built within twenty feet of a dwelling or kitchen, or within thirty feet of a well or other source of water-supply.

(ii) Every cesspool shall be constructed of good masonry, at least one foot thick, plastered inside with cement, and shall be perfectly water-tight.

(iii) The bottom of every cesspool shall be at a level not lower than one foot below ground level.

(iv) The sides of every cesspool shall project above ground sufficiently to prevent the inflow of surface drainage.

(v) Every cesspool shall be entirely open to sun and air and shall have a superficial area of at least two square feet.

Urine, sullage water, etc.

6. (i) Every outlet for the passage of urine, sullage water or other filthy liquid from any building shall be at a height of at least two feet above ground level.

(ii) Arrangements shall be made for all such urine, sullage water or other filthy liquid either—

(*a*) to flow rapidly without touching the walls of the building or the ground through drains of glazed earthenware or other hard, impervious

material to points at least twenty feet from the nearest point of every dwelling or kitchen ; or

(*b*) to fall without touching the walls of the building into a water-tight removable receptacle entirely above ground level and open to light and air.

(iii) Every such drain that is not open to the air shall be trapped at the end nearest the building from which it runs.

Prevention of stagnation.

7. All land within one hundred yards of any dwelling shall be so cleared and sloped as effectually to prevent the formation of pits or hollows in which water may stagnate, other than cesspools satisfying rule 5.

APPENDIX O-Q [Rule 114, Note 256 (ii)].

Rules Relating to Revenue Money Order for the Bombay Presidency (G. N. 402—16-1-11 & 6050—26-6-11 and 9465—28-11-23, R. D. and Sind (G. N. 582—18-1-15).

Note.

Chapters V-A, VI and any word or expression put in brackets [ ] do not apply to Sind. So also for Sind throughout this Appendix :—

read	"Mukhtiarkar"	*for*	'Mámlatdár'
	"Head Munshi"	,,	'Aval Kárkun'
	"Tapadár"	,,	'Village Accountant'
	"Deh"	,,	'Village'

CHAPTER I.

Section A.—*The object and the use of R. M. O.*

1. R. M. O. are a special class of Inland Money Orders by means of which holders of land paying land revenue to Government may remit the amount due by them to the Mámlatdár through the village accountant of the village in which the land on account of which the amount is payable is situated. They may also be used for payment of principal and interest due in respect of Tagávi loans. The system is chiefly intended for the benefit of absentee land-holders and others in order to enable them to pay instalments due on lands belonging to them, or in which they are interested, in due time.

2. In these rules, the term "Mámlatdár" includes a "Mahálkari" and an "Aval Kárkun" who performs the duties of a sub-treasury officer, that is, who supplies funds to, and receives remittances from, the post office at his headquarters. The term "village accountant" includes Talátis, Kulkarnis, and Shanbhogs (in Kánara).

3. R. M. O. must be used for two purposes only : (1) for the remittance of land revenue and cesses and of any other item which is due on account of land or is ordinarily payable with land revenue ; and (2) for payment of principal and interest due in respect of Tagávi loans.

4. If a holder holds or is interested in lands covered by different khátás in the same revenue village, he may remit the land revenue due on all such khátás by a single R. M. O. but the amount paid in respect of each such kháta should be *separately* entered. Amounts due for different villages may not be included in one order.

5. (*a*) The system described in these rules is restricted to the payment of land revenue due to the Government of Bombay on land situated within the territorial limits of the Bombay Presidency and of principal and interest due in respect of Tagávi loans granted by that Government.

(*b*) The use of the system is optional and no land-holder or grantee of a Tagávi loan is compelled to resort to this system of payment unless he wishes to do so.

(*c*) These rules do not confer the right to pay the land revenue direct into the táluka treasury (without the intervention of the village accountant) on any class of land-holders who are not already in the enjoyment of such right.

(*d*) These rules do not permit a land-holder or other person to use this system for remittance of land revenue due to any Native State or to any [Khot or] proprietor of whole villages situated in the territorial limits of the Bombay Presidency.

6. R. M. O.'s are payable only to the Mámlatdár of the táluka, but they will be delivered in the first instance without cash, to the village accountant of the village in which the land is situated through the post office by which the village accountant's village is served. The village accountant will, after crediting the amount of each R. M. O. in the village accounts, forward the R. M. O. to the Mámlatdár with his next remittance to the sub-treasury, treating each R. M. O. as cash for the amount for which it is issued. The Mámlatdár will present these R. M. O.'s at the post office (head or sub) at his headquarters for payment by book transfer.

Section B.—*Description of the R. M. O. form.*

7. The R. M. O. form is printed on brick-red paper in black ink and is bigger in size than ordinary inland money order form. It is divided into three parts :—

(1) The money order.

(2) The coupon or the memorandum of particulars of remittance.

(3) The acknowledgment.

8. The money order portion of the form is almost exactly like the corresponding portion of the ordinary inland money order form and will be partly filled up by the remitter as in the case of the latter. The coupon which is considerably larger than the coupon of an ordinary money order, contains headings on one side for the entry of full particulars of the remittance, to be filled up by the remitter, for the information of the village accountant and the Mámlatdár. The acknowledgment, which is returned to the remitter through the post office, duly signed by

the village accountant, is also larger than the acknowledgment of an ordinary inland money order and contains headings on both sides for the entry of full particulars of the remittance to be filled up by the remitter.

9. No corrections will be allowed in a R. M. O. If a form is presented with corrections in it, the remitter must be required to fill in a fresh form.

10. No restrictions should be placed in the way of supplying R. M. O. forms to any persons who require them. On the contrary, the forms should be freely distributed among revenue payers and grantees of Tagávi loans.

11. Every postmaster (head, sub and branch) will be personally responsible that a sufficient supply of R. M. O. forms is always available in his office. In case of emergency, supplies may be obtained by telegraph direct from the Stock Depôt, Postmaster-General's Office, Bombay. Divisional Superintendents and Inspectors when visiting post offices will specially see that a sufficient supply of R. M. O. forms is available.

CHAPTER II.

Issue of Revenue Money Orders.

12. R. M. O. may be issued from any head, sub or branch post office under the rules which govern the issue of ordinary Inland Money Orders.

R. M. O. cannot be remitted by telegraph.

13. R. M. O. must, in every case, be drawn on a post office (head or sub) at the headquarters of the Mámlatdár named in the money order, whether such post office is the office by which the village accountant's village named in the money order is served or not. In other words, the payee of a R. M. O. is the Mámlatdár of the taluka although the money order is actually delivered to the village accountant of the village in which the land on account of which land revenue is remitted is situated. If the post office at the headquarters of the Mámlatdár is a branch office, R. M. O. must be drawn on its account office.

14. R. M. O. will be forwarded from the office of issue in the same way as ordinary money orders to the office of payment.

15. The rule prohibiting the inclusion of pies (fractions of an anna) in the amount of R. M. O. does not apply to R. M. O., which may contain any fraction of an anna not less than one pie. Remittances containing fractions of a pie, such as $3\frac{1}{2}$ pies, $5\frac{3}{4}$ pies, or $6\frac{1}{4}$ pies are not allowed.

16. The office of issue will help the remitter in making the required entries and, if necessary, will make entries for him in the R. M. O. form; but no fee or any other gratification whatsoever is to be demanded or accepted, either directly or indirectly, by an official of the Postal

Department for this service. Disregard of this order will be punished with dismissal of the official in fault, who will, moreover, render himself liable to any further penalties provided by law.

17. The office of issue is responsible that no R. M. O. is issued in which the coupon or the acknowledgment is not completely filled up.

Note.—The post office has no means of ascertaining the correctness of the information supplied by a remitter. All that it is required to do is to see that entries are made against every printed item in the coupon and the acknowledgment.

18. The name of the remitter and his full address as given by him on the acknowledgment will be noted by the money order clerk or sub-postmaster in red ink on the back of the copy of the money order receipt retained in the office.

19. The letter "R" will be prefixed to the number in the M. O. receipt and this mode of distinguishing R. M. O. will be adopted wherever the number is entered.

20. The number assigned to a R. M. O. by the head or sub-office of issue will also be entered by the money order clerk or sub-postmaster in the appropriate place at the top of the coupon and the acknowledgment.

21. In addition to the stamps that have to be impressed on money orders under the Manual rules, the office of issue will impress its date stamp in the places provided for the purpose on the reverse of the coupon and acknowledgment.

22. R. M. O. refused by the Mamlatdar will be received in the office of issue for repayment to the remitter. Such R. M. O.'s will be entered in the "Register of money orders received" in red ink and sent out for payment in the usual course.

CHAPTER III.

Delivery of Revenue Money Orders.

SECTION A.—*Procedure to be followed in the office of payment of R. M. O.*

23. (*a*) *The office of payment* of a R. M. O. is the office (head or sub) on which the R. M. O. is drawn and which gives the Mamlatdar a R. M. O. voucher in exchange for the R. M. O. This office will always be the office at the headquarters of the Mamlatdar or its account office if the office at the headquarters of the Mamlatdar is a branch office.

(*b*) *The office of delivery* of a R. M. O. is the office (head, sub or branch) by which the village accountant's village named in the R. M. O. is actually served and which delivers the R. M. O. to the village accountant *without cash.*

Note.—There may be cases in which the office of payment may also be the office of delivery.

24. R. M. O. received in the office of payment will be dealt with like other money orders received for payment but they will be sorted into three groups as under :—

(*a*) Those which are to be delivered direct from the office of payment ;

(*b*) Those which are deliverable from branch offices in account with the office of payment ;

(*c*) Those which are deliverable from post offices other than (*a*) and (*b*).

These R. M. O. will be entered in the " Register of money orders received " in red ink in three groups.

25. As regards R. M. O. included in group (*a*) the instructions given in section B of this chapter will be followed. Those included in group (*b*) will be sent to the branch offices concerned invoiced in branch office slips. Those included in group (*c*) will be forwarded by the office of payment to the head or sub-office by which the village accountant's village mentioned in the R. M. O. is served in a postal service cover, the words " Revenue Money Order Nos." being written in red ink on the top of each cover. If the office of delivery is a branch office, the R. M. O. will be sent to its account office and the account office will send the order to the branch office entered in the branch office slip. Post offices which receive R. M. O. for delivery from the office of payment will follow the procedure laid down in Section B of this chapter.

SECTION B.—*Procedure to be followed in the office of delivery of R. M. O.*

26. If the office of delivery is a head or sub-office, the R. M. O. received will be stamped on the date of receipt with the date stamp in the place provided for the purpose on the reverse of the coupon, and particulars of the orders will be entered, in red ink, in the " Register of money orders received."

27. The R. M. O. received for delivery will then be made over under the usual receipt *without cash* to the postman or village postman, as the case may be, for delivery to the village accountant of the village named in each R. M. O. Postmen or village postmen will enter the particulars of R. M. O. in red ink in the postman's book or village postman's register. The letters " R. M. O." will be prefixed to the number of each R. M. O. and the amount of R. M. O. will not be included in the total of M. O. taken out for delivery.

28. The postman or village postman will deliver the R. M. O. to the village accountants concerned without cash under receipt in the postman's book or village postman's register and bring back to the post office only the acknowledgment relating to cash R. M. O. duly signed by the village accountant. The acknowledgment will be made over to the money order clerk or sub-postmaster under receipt in the postman's book or village postman's register. The money order clerk of the

sub-postmaster will affix his initials in the "Register of money orders received" against the entry of each R. M. O. on the date on which the acknowledgment appertaining to it is received.

29. If the office of delivery is a branch office, the R. M. O. received will be forwarded to it through its account office in the manner described in rule 25. If the account office is not the office of payment, it will stamp the money orders on the date of receipt with its date stamp in the blank space intended for the postmarks of the offices of posting and destination, and particulars of the order will be entered, in red ink, in the "Register of money orders received" in a separate group. The branch office will stamp the R. M. O. received on the date of receipt with its date stamp in the place provided for the purpose on the reverse of the coupon and enter the particulars of them on the receipt side of the branch office journal in red ink. The orders will then be delivered in the manner prescribed in rules 27 and 28 above. Branch postmasters who perform the duties of a postman or village postman will obtain the village accountant's receipt for the R. M. O. delivered to him in a village postman's register which will be maintained for the purpose. Acknowledgments for R. M. O. will be forwarded immediately they are received by branch offices to their account offices invoiced on the reverse of the branch office daily accounts. But before they are sent to the account office the date of delivery of each R. M. O. will be noted in the branch office journal by the branch postmaster.

30. Head and sub-offices will, once a week, examine the entries of R. M. O. in the register of M. O. received; and if, in any case, the acknowledgments for the R. M. O. sent to a branch office for delivery have not been received after a reasonable time, they will be called for.

31. The branch office daily accounts received from branch offices will be scrutinized by account offices to see that the particulars of R. M. O. sent to them for delivery are not included among the money orders remaining unpaid shown in the column of branch office liabilites. The numbers of R. M. O. remaining undelivered will be shown by branch offices on the reverse of the branch office daily account below the entries of registered articles, etc., in deposit.

32. R. M. O. acknowledgments will be disposed of in the office of delivery and ultimately in the office of issue as per instructions laid down in Chapter VI of these rules.

33. R. M. O. in which omission of the remitter's signature or any particulars of the remittance is noticed will not be taken delivery of by village accountants and such R. M. O. will be forwarded by the office of delivery to the office of issue in a postal service cover for supply of omission and return.

34. If the period of currency of a R. M. O. expires before delivery to the village accountant the period of its currency should be extended in accordance with the rules in the Post Office Manual relating to the extension of the period of currency of ordinary money orders, and it should then be delivered in the usual course to the village accountant.

SECTION C.—*Procedure to be followed by the village accountant in regard to R. M. O. delivered to him.*

35. R. M. O. will be delivered to the village accountant by the branch postmaster, postman or village postman, as the case may be, *without cash.* The village accountant will see that the amount of each order as entered in the money order portion corresponds with that entered in the coupon and in the acknowledgment. If there is no discrepancy he will sign the acknowledgment portion of each R. M. O. detach it, and make it over to the post office official who delivered the money order. The village accountant will then grant a receipt for each R. M. O. delivered to him in the postman's book or village postman's register which will be presented by the post office official along with the R. M. O.

36. If either the coupon or the acknowledgment of a R. M. O. is not completely filled up by the remitter or if the remitter has omitted to affix his signature on the coupon, the village accountant will return the R. M. O. to the post office official and will not grant a receipt in respect of such R. M. O.

37. The village accountant will then have the amount of each R. M. O. (which is in order and for which he has granted a receipt to the post office official) passed through his accounts, treating the R. M. O., in every respect, as cash or currency notes. But the village accountant will, on no account, detain the post office official who must be sent away immediately the acknowledgment portion of each R. M. O. is detached and given to him.

38. The coupon of each R. M. O. will then be detached and carefully filed in monthly bundles by the village accountant.

39. If the amount of a R. M. O. falls short of the amount payable to Government by the land-holder concerned, the amount must still be credited in the village accounts. If, on the other hand, the amount is in excess of the demand, the excess amount should be credited to his account and a report made to the Mamlatdar.

40. Every one of the R. M. O. taken delivery of will be signed by the village accountant and when the day for making the next remittance to the sub-treasury arrives, all the R. M. O. will be sent to the Mamlatdar along with other collections duly entered in a list (form $\frac{\text{R. M. O.}}{2}$).

41. The list will be received back from the Mamlatdar duly signed by him or the accountant. The list will be filed by the village accountant with the coupons of the R. M. O. entered in it.

42. For the purpose of culculating any penalties prescribed by the Revenue Law the date of issue of a Money Order shall be taken as if it were the date of the actual payment to the village accountant.

43. R. M. O. taken delivery of by the village accountant the amounts of which cannot be credited in the village accounts owing to an irregularity in the remittance or any other cause, will be detailed on the

reverse of the list and sent to the Mámlatdár without the coupon being detached. The total amount of such R. M. O. will not be included in the amount of remittance made to the Mámlatdár.

CHAPTER IV.

Payment of Revenue Money Orders and Adjustment of Accounts between the Revenue Department and the Post Office.

SECTION A.—*Procedure to be followed in the office of the Mámlatdár in regard to R. M. O. received from village accountants.*

44. R. M. O. delivered to village accountants under Chapter III of these rules will be received in the táluka office duly signed by the village accountant and invoiced in a list (form $\frac{\text{R. M. O.}}{2}$). Any R. M. O. in which the omission of the signature of the village accountant is noticed will be sent back to the village accountant for supply of the omission and immediate return. If the amount of any R. M. O. has not been credited in the revenue accounts, owing to any irregularity in the remittance, the R. M. O. will be treated as "Refused" and sent by the Mámlatdár to the postmaster or sub-postmaster at his head-quarters under receipt. All R. M. O. which have been duly signed by the village accountant will, if their amounts have been credited in the revenue accounts, be signed by the Mámlatdár and presented daily, at a convenient hour, at the post office (head or sub) at his head-quarters for payment by book transfer.

45. The postmaster or sub-postmaster at the head-quarters of the Mámlatdár will in exchange for the R. M. O., give the Mámlatdár a treasury voucher representing the value of all the R. M. O. presented to the former by the latter, under the usual procedure prescribed for drawing from the treasury or sub-treasury. The words "Revenue Money Orders" will be written in red ink at the top of the voucher. On the reverse of the voucher the following entry will be made by the postmaster or sub-postmaster under his signature:—"Please debit the amount of this voucher to the post office by book transfer." The amount of the voucher will be entered, like other drawings from the treasury or sub-treasury, in the treasury pass-book, but in the column headed "Amount drawn by transfer for revenue or other official money order payments," this entry will be attested by the treasury or sub-treasury officer. The amount of R. M. O. voucher will not be charged against the letter of credit of the postmaster or sub-postmaster.

46. The amount of the R. M. O. voucher will, on the day it is given by the post office, be shown in the Mámlatdár's accounts on the receipt side as amount received on account of land revenue by book transfer and on the disbursement side as amount paid to the post office by book transfer.

47. The list in which the R. M. O. received from the village accountant are invoiced will be signed by the Mámlatdár or other officer and sent to the village accountant from whom it was received for record.

48. If the post office at the head-quarters of the Mámlatdár is a branch post office, the Mámlatdár will forward the R. M. O. received by him from village accountants to the Mámlatdár of the adjoining táluka where there is a head or sub-post office, with a covering letter in a registered cover, requesting the latter to credit the total amount of such orders in his accounts. The Mámlatdár who thus receives R. M. O. in registered covers will present the M. O. duly countersigned by him at the post office (head or sub) at his head-quarters for payment under the rules in this section and pass the amount of the R. M. O. voucher through his accounts in the manner prescribed in rule 46. He will also send an intimation to the táluka to which the revenue properly belongs where the revenue should be entered in detail in the accounts.

SECTION B.—*Procedure to be followed by the Post Office at the head-quarters of the Mâmlatdâr.*

49. R. M. O. delivered to the village accountants will be presented by the Mámlatdár daily, at a convenient hour, at the post office at the head-quarter of the Mámlatdár for payment by book transfer.

50. "Refused" R. M. O., the amounts of which have not been credited in the village accounts, will be forwarded by the Mámlatdàr separately and the postmaster or sub-postmaster will acknowledge their receipt. Such R. M. O. will be entered in the "Register of money orders received" in red ink and forwarded to the office of issue in a *postal service* cover for repayment to the remitter.

51. R. M. O. the amounts of which have been credited in the revenue accounts, will bear the signatures of the village accountant and of the Mámlatdár. Any R. M. O. in which the omission of the signature of any of the officers mentioned above is noticed, will be returned to the Mámlatdár uncashed for supply of omission and presentation afterwards.

52. The postmaster or sub-postmaster will then give the Mámlatdár, in exchange for the R. M. O. which are in order, a treasury voucher under the rules for drawing funds from the treasury or sub-treasury for the total value of the R. M. O. Sub-offices will use a separate book of treasury voucher for payment of R. M. O. The words "Revenue Money Order" will be written in red ink at the top of the voucher and the letters "R. M. O." will also be prefixed to the entry of the transaction in all other documents in which the entry occurs. In the body of the voucher the amount will be shown as received by book transfer, and on the reverse of the voucher the following entry will be made by the postmaster or sub-postmaster under his signature:—"Please debit the amount of this voucher to the post office by book transfer". In the treasury pass book and in the "register of transactions with the treasury"

the amount of the voucher will be entered under the head "Amount drawn by transfer for Revenue or other official money order payments". This amount will not be charged against the letter of credit.

53. R. M. O. in exchange for which a R. M. O. voucher is given will be treated like other paid money orders and entered in the journal of money orders paid intended for the Audit Office concerned in a separate group at the end of that day's transactions. Separate totals will be made for R. M. O. and other money orders; the total of both the items will be the amout of money orders paid for that day.

Note—See Rule 56.

54. . . . . .

55. Head offices will scrutinize the entries in the "Memorandum of reasons for excess cash balance" received from sub-offices to see that the particulars of R. M. O. remaining undelivered are not included among the Ordinary Money Orders remaining unpaid.

56. R. M. O. presented by the Mámlatdár at the office of payment after the expiry of the period of currency will be paid like other R. M. O. and then dealt with in accordance with the rules in the Post Office Manual relating to the payment of ordinary money orders the period of whose currency has had to be extended.

CHAPTER V.

Procedure to be followed in regard to Revenue Money Orders payable to the Collector of Land Revenue, Bombay.

57. In Bombay City there are no village accountants and R. M. O. must be made payable to the Collector of Bombay, at whose office they will be delivered by the Bombay General Post Office.

58. The accountant attached to the Collector's office to whom R. M. O. are so delivered will follow the procedure prescribed for village accountants in rules 35 to 39, Section "C" of Chapter III of those rules.

Note.—Revenue Money Orders received for payment to the Collector of Bombay which cannot be delivered to the accountant at or before 3 p.m. of the day of receipt, should be detained till the next day.

59. The Collector of Bombay, or any other officer authorised by him, will follow the procedure prescribed for Mámlatdárs in Section A of Chapter IV.

60. The Bombay General Post Office will follow the procedure prescribed for the post office at the head-quarters of the Mámlatdár in Section B of Chapter IV. The entry of the transaction in the treasury pass book will be attested by the Collector of Bombay.

61. The Collector of Bombay will credit the amount of the voucher to Land Revenue by "book transfer" and show the amount the same day on the disbursement side as amount paid to the post office by book transfer.

CHAPTER V-A.

Procedure to be followed in regard to Revenue Money Orders remitted by Talukdars.

61-A. In Tálukdári villages there are no Government village accountants and Revenue Money Orders remitted by Tálukdárs will be delivered direct at the office of the Mámlatdár of the Táluka by the post office at his head-quarters.

61-B. In the case of money orders remitted by Tálukdárs the word "Tálukdári" must be entered by the remitter after the name of the village entered on the Revenue Money Order from and against the item "On what account remittance is made," and the word "Tálukdár" should be substituted for the words "registered occupant" on the coupon and acknowledgment.

61-C. The accountant attached to the Mámlatdár's office, to whom the Tálukdári Revenue Money Orders are delivered, will follow the procedure prescribed for village accountants in rules 35 to 39 of Section C, Chapter III of these rules.

61-D. The Mámlatdár and the post office at his head-quarter will follow the procedure prescribed for them in Sections A and B of Chapter IV.

CHAPTER VI.

Disposal of Revenue Money Orders Acknowledgment.

62. The acknowledgments appertaining to R. M. O. received by the office of delivery from the village accountants through the postmen or village postmen will be sorted separately for each office (head or sub) of issue and despatched in envelopes (form $\frac{\text{R. M. O.}}{3}$) addressed to the postmasters of those offices, the serial numbers of the money orders to which the acknowledgments appertain being detailed on the back of the envelope.

63. On arrival in the office (head or sub) of issue, the envelopes will be opened and the acknowledgments contained in each envelope compared with the entries on the back thereof and with the entry on the back of the money order receipt relating to each (see rule 18). The entry on the money order receipt will be initialled in token that the acknowledgment relating to the R. M. O. has been received. The acknowledgments will then be sorted for distribution to postmen and village postmen or for despatch to branch office. Acknowledgments for delivery from branch offices should be sent to them entered in the branch office slips. The numbers of all acknowledgments to be given to each postman and village postman will be entered by the sub-account clerk or sub or branch postmaster in the postman's book or village postman's register. The acknowledgments will then be handed over to the postman or village postman.

64. The postman or village postman will deliver the acknowledgments and obtain the signature of the remitter or his agent in each case in the postman's book or village postman's register.

65. Acknowledgments which cannot be delivered in consequence of the remitters not being found will be returned by the postman or village postman to the money order clerk or sub or branch postmaster (as the case may be) and his signature obtained in the postman's book or village postman's register.

66. Undelivered acknowledgments will be kept in the office of issue (if a head office) for a period of 12 months and if still unclaimed will be destroyed.

67. In sub and branch offices, undelivered acknowledgments will be retained for a period of three months and if still unclaimed be forwarded to the head office entered on the daily account. Such acknowledgments will be kept in the head office for a further period of nine months, and if still in deposit will be destroyed.

68. Postmasters, sub-postmasters and branch postmasters of the offices of issue will be responsible that acknowledgments are delivered to remitters of R. M. O. without any unnecessary delay and free of charge. It will be useful to make enquiries as to the punctual and free delivery of acknowledgments from the persons who may call at the post office to have R. M. O. issued.

1.
R. M. O.

On Postal Service.

INDIAN MONEY ORDER.

Land Revenue.

[*Authorised only for remittance of land revenue payable to the Government of Bombay on lands situated within the territorial limits of the Bombay Presidency and of principal and interest due to the Government of Bombay in respect of loans granted by that Government under Acts XIX of 1883 and XII of 1884.*]

To

The Postmaster,

* _____

Fold here

N.B.—*This blank space should be used for the post-marks of the offices of posting and destination.**

Fold here

[*This space may be utilized by the Village Accountant for any remarks he may wish to make.*]

Date stamp of office of issue of m.o.

Date stamp of office of delivery of m.o.

Fold here

---

*This will be the post office at the headquarters of the Mámlatdár mentioned on the reverse by the remitter or its account office if the office at the headquarters of the Mámlatdár, is a branch office.

Particulars of Remittance.

(To be entered by remitter.)

Name in full of occupant to whose credit the remittance is to be entered. _____

Name of village táluka and district in which the lands are situated. _____

Revenue year for which the payment is intended. _____

†On what account remittance is made. _____

Date of remittance _____

Month stamp | Oblong M. O. stamp on issue. | A. O. stamp.

No. R. _____ Date _____

Rs. a. p. (in words) _____

For _____

M. O. Clerk. | Issuing Postmaster.

Received the sum specified above.

Seal.

Signature (in ink) of Mamlatdar.
Date _____ 19 .

Signature (in ink) of Village Accountant.
Date _____ 19 .

Round M. O. stamp authorising payment

Signature of paying postmaster. | Oblong M. O. stamp on payment.

†The remitter should state whether the remittance is for land revenue or loan account, s is also advised, if possible, to give the survey number and Khata number.

Remitter to fill up all entries below (except "Money Order No." and the entries on the *right side* of the Coupon and Acknowledgment) and all entries on the reverse of the Acknowledgment.

Amount (in words). _____

Name and address of the payee (in full). Mamlatdar of _____ Taluka. _____ District.

Name of village in which remitter's land situated. * _____

Date _____ Signature of remitter.

COUPON *to be detached and retained by Village Accountant.*

Money Order No._____ Date_____19 .

Name of remitter in full_____

Name in full of the occupant to whose credit the remittance is to be entered. _____

Name of village, taluka and district in which the lands are situated. _____

Revenue year for which the payment is intended_____

Amount remitted (in figures) Rs._____a._____p._____

(in words)_____

On what account remittance is made†_____

Date of remittance_____

Signature of remitter

Address of remitter_____

Signature of Village Accountant with date of receipt of Money Order.

Date on which the Money Order is sent to Mamlatdar.

ACKNOWLEDGMENT (On Postal Service).

Money Order No. R._____

Amount remitted (in figures) Rs._____a._____p._____

(in words)_____

Name and full address of remitter. _____

Date stamp of office of despatch of advt.

Name stamp of the office of issue.

Received a Money Order for the sum specified above on _____19 .

Signature (in ink) of Village Accountant.

---

*If this village is a hamlet the name of the major village to which it is attached should also be mentioned.

†The remitter should state here whether the remittance is for land revenue or loan account; he is also advised, if possible, to give the survey number and Khata number.

[*Note.*—**This form will be printed and supplied to Village Accountants by the Revenue Department.**]

R. M. O.—2.

List of Revenue Money Orders sent to the Mamlatdar at_____
by_____Village Accountant of Village_____
on the_____as part of the land revenue.

Number of each Money Order	Amount of each Money Order			Remarks
	Rs.	a.	p.	
Total amount ..				

Signature of Village Accountant.

Received_____Money Orders amounting to Rupees_____
as per list above.
*Dated the*_____19 .

Mamlatdar.

List of Revenue Money Orders the amounts of which have not been credited in the village accounts owing to the irregularities in the remittance and not included in the_____.

Number of each Money Order	Amount of each Money Order			Nature of the irregularity
	Rs.	a.	p.	
Total ..				

Signature of Village Accountant

Received_____Refused Money Orders amounting to Rupees_____
as per list above.
*Dated the*_____19 .

Mamlatdar.

[*Note.*—Forms R. M. O. 3, 4 and 5 not re-printed as they are Postal Departmental Forms.]

APPENDIX O-R [Rule 120, Note 276 (*iii*)].

FORM OR PROCLAMATION AND WRITTEN NOTICE UNDER SECTION 153.

WHEREAS residing at has not paid a sum of Rs. due by him for Land Revenue and Local Fund Cess on the land specified in the margin, in the village of in the Taluka of

Year.	Survey Nos.	Consolidated Land Revenue.
Total ..		

Notice is hereby given that on and after the day of 19 , unless the arrears are sooner paid, the Collector proposes to declare the holding to be forfeited.

Dated

Collector.

APPENDIX O-S [Rule 120, Note 276 (*iii*)].

With reference to the attached Notice under section 153 of the Land Revenue Code , residing at is informed that the Collector proposes, after declaring his holding forfeited, to regrant it to him subject to the condition that the occupant shall not transfer it in any way to another person without the sanction in writing of the Collector.

Dated

Collector.

APPENDIX O-T (R. 4204 of 20-3-22.)

FOR COMMUTATION OF SERVICE RIGHTS OF THE INFERIOR VILLAGE SERVANTS IN BELGAUM AT 5 ANNAS JUDI, THE LAND REMAINING WATAN.

Form of Sanad

Whereas in the District of the following lands are entered in the Government accounts of the year as held on service tenure described below :—

Name of Watan	Name of		Watan Land				Judi levied in lieu of service	Total Judi payable to Government	Balance value of watan holding
	Taluka	Village	Survey No. or Pot No.	Area	Assessment	Mamul Judi if any			

And whereas Government have decided to accept a fixed annual payment in lieu of service;

It is hereby declared that the said land shall be continued hereditarily by the British Government on the following conditions:

(1) That the said holders and their heirs shall continue faithful servants of the British Government and shall render to the same the following fixed yearly dues:—

Mamul Judi, if any	
Commutation Judi in lieu of service ..	
Total ..	

(2) that the lands shall be continued without demand of service and without increase of the judis over and above the fixed amounts, to the said holders and their male heirs whether lineal, collateral or adopted, but subject to the same restrictions on each successive holder's power to mortgage, alienate or lease the same beyond the term of his natural life, as are imposed on watandars under Section 5 (1) of the Bombay Hereditary Offices Act, 1874, as amended by Bombay Act V of 1896.

This sanad is executed on behalf of His Majesty's Secretary of State for India in Council, by order of the Governor in Council of Bombay, by an order the hand and seal of the Collector of this day of 19 .

Collector of

No. 46

Page 224, *Appendix O-V, Form of license*—

Line 3—

Substitute "Governor of Bombay" *for* "Secretary of State India in Council".

Lines 4, 11, 20, 22, 26, 29—

Substitute "Governor" *for* "Secretary of State".

Page 225—

Lines 6 *and* 12—

Substitute "Governor" *for* "Secretary of State".

Line 16—

Delete the words "in Council" occurring after "Bombay".

Lines 17 *and* 18—

Substitute "Governor of Bombay" *for* "Secretary of State for India in Council".

(Government Circular No. G.D. 9794 of 17th December 1936.)

district and bearing No. (hereinafter referred to as the said land)

AND WHEREAS the licensee has constructed a balcony in the wall of his house situate at in the said taluka of the said district and bearing No. projecting over the said land.

AND WHEREAS the licensee desires the Secretary of State to grant him permission to project the said balcony over the said land and the Secretary of State has agreed to grant such permission on the conditions hereinafter mentioned.

Now This Indenture Witnesseth that in consideration of the rent hereby reserved and of the conditions hereinafter contained and on the part of the licensee to be performed the Secretary of State hereby grants to the licensee permission to project the said balcony over the said land subject to the following conditions:—

(1) that the licensee shall pay to the Secretary of State at the office of the the annual rent of rupees on the first day of in each and every year; the first of such payments to be made on the day of ;

(2) that the licensee shall not, without the previous permission in writing of the Collector of , extend or add to the said balcony;

(3) that the permission hereby granted shall not in any way be deemed to convey to the licensee any right to or over, or any interest in, the said land or any easement thereof, or any right to put up posts or supports on the said land for the said balcony;

(4) that in case the licensee's house to which the said balcony is attached falls down, or is destroyed by fire, earthquake, storm, or as

a result of civil commotion or by any cause whatsoever or is reconstructed this license shall immediately determine and the licensee shall not be entitled to claim any right to put up a balcony or any similar easement in respect of any building which may be constructed in lieu of the house destroyed as aforesaid;

(5) the Secretary of State may cancel this license at any time by giving to the licensee one month's notice in writing of such his intention and at the expiration of such period this license shall cease and be void;

(6) during the subsistence of this license the said balcony shall be deemed to have been constructed and continued by the consent and permission in writing of the Secretary of State so that the right of the licensee to project the same over the said land shall not become absolute or indefeasible by lapse of time.

In witness whereof the Collector of hath by order of the Governor of Bombay in Council set his hand and the seal of his office for and on behalf of the Secretary of State for India in Council the day and year first above written.

Seal

Signature of the Collector of

I accept the above conditions.

Signature of Licensee.

SUPPLEMENT A.

NON-AGRICULTURAL LAND AND ITS TENURES AND RATING.

1. This supplement attempts to give a complete summary of the history and law of the rating and tenures of *non-agricultural land*. Most of its contents have been touched upon disjointedly in the main volume of Rules and Notes: in bringing them together here some repetition is unavoidable: more has been avoided by giving references to the Notes in which particular topics are exhausted. But the main feature is that all the material is here grouped together in a connected and, it is hoped, complete survey. It excludes not only all agricultural land (until it becomes N-A) but also—

(1) land sold under Rule 33 revenue-free in perpetuity (strips of land near houses or on roads granted under Rule 49 are incorporated in the grantee's holding, whatever its tenure; and thus would not be perpetually exempt if of class B);

(2) alienations made under the Code and Rules for public, charitable, etc., purposes; and land vesting in a Municipality and not reserved under Rule 53;

(3) assignments of land for public use under section 38, su burial grounds;

(4) land held for reclamation to non-agricultural uses under sp leases, or for Salt manufacture;

(5) land within a Cantonment not in control of Revenue Depa ment; when such land is again excluded from the Cantonment may fall within the ordinary Rules: or it may have to be dealt wit specially, in view of tenures or unexpired rights created while i was under the Cantonment Regulations (R. 8891–09) (instances a Satara, Dharwar, Kaira, Dapoli, Sholapur, Shikarpur and other places).

In abandoned Cantonments, the Collector cannot dispose of land held on old Cantonment Tenure (R. 7876–18, 10226–19) but in case of Sholapur was empowered in paragraph 3 of G. 9907–19.

[Such waste (unoccupied) and Nazul (Kiraya, or Government revenue-yielding) lands as have been made over, with their revenue, present and prospective, to *Municipalities* in consideration of their paying for City Surveys, *e.g.*, Hubli, Dharwar, Bijapur (two tikkas), etc., are discussed under class C *infra*.]

2. At the dawn of history, the Raja in Vedic India levied a share of the produce of all land: either as owner landlord or for the maintenance of himself and the benefits of his Government. The texts lean to the latter view that it was a tax for Governmental purposes. Through many stages the British Government inherited this right. The most modern theorists in economics maintain that the community, by its representative the Government, is entitled to the rent of land, more especially that of non-agricultural land, which is less earned than any rent. This right is not based upon the theory of ownership.

3. The proprietary right of Government over all land is discussed in R. 4239 and 5293–73, and that right was reserved in Government Circular R. 3361–73. It is also discussed in a well-informed letter in the *Times of India* of 26-6-08. The doctrine that the land belongs to the State as Crown property was repudiated in the Despatch of the Court of Directors dated 17-12-1856, and it was there claimed that the land assessment should be treated as taxation and not as rent. The same position was re-affirmed in a Despatch of Sir C. Wood in 1864. Again in paragraph 31 of the Despatch of Lord Lytton's Government to the Secretary of State dated 8-6-1880 in reply to Sir J. Caird's Repo on the Condition of India, we find a similar disclaimer of the assert of a general proprietary right. But nevertheless the right to im taxation upon all land in India was no less firmly maintained ir there is no practical difference. When land has once become oc Government is no longer in a position to sell or otherwise dispose right of occupation. And if it can tax even up to the ex taking all the unearned rent, then the distinction between o and right of taxation is purely academic. For land of occupancy has been granted since the establishment of t

Government, of course, the proprietary right is unquestioned and justifies the Proviso to sec. 68, L. R. C.; such land forms a very large proportion of the existing cultivated area.

4. Municipalities and other Local Bodies are empowered to "tax houses and lands" for Municipal purposes but are not permitted to tax the land so as to extrude the rights of Government. This was recognised in the old orders of Government, to which we shall presently refer, in which, while granting land free from Government taxation, they have expressly stipulated that this involved no exemption from Municipal taxation upon the house or the land.

5. Non-agricultural land falls into the following categories :—

A.—Occupied, but according to custom not subjected to taxation; though not necessarily exempt if Government choose to assess under secs. 45, 52 (see Note 27) (iii).

B.—Occupied upon leases entered into in past years, under Rules or Orders not now in force.

C.—Occupied and assessed on ordinary N-A tenures and agreements according or approximating to Rules now in force. This class requires no special discussion.

D.—Unoccupied and at the disposal of Government;

E.—Alienated under some *grant or title* to exemption, whole or partial (not the same as B which is merely exempt by customs and sufferance).

F.—Occupied land which was converted from agriculture but before its change of use—

(i) was assessed for agriculture;

(ii) was exempted or omitted from assessment in respect of agriculture (whether as ordinary S. N. or as Pardi, Udafa or Wada Nos. [Note 27 (x) and R. 616–59 or as Pot Kharab];

After its change of use (iii) was assessed for agriculture (by mistake) by a Survey Officer, and its assessment guaranteed *prior* to the issue of R. 4267–96 (R. 5344–93): Appx. VI, L. R. C. (Sathe). This assessment can be revised like F (i) on expiry of the guarantee (R. 1393–17 which contains Adv. General's opinion upon the effect of the settlement guarantee notification).

6. The Historical Summary which accompanied the Bombay report to the Government of India in R. 1291–20, with amplifications and notes is here reproduced.

Lands under head A.

7. Cities, towns and villages have not been dealt with separately because in general the principles and rules laid down were the same for all such land, wherever situated, and the differences introduced for large and small places were, until comparatively recently, matters of detail.

Pre-British.

8. The Presidency proper came under British control piecemeal between 1805 and 1827; and Sind in 1847. Under pre-British rule, house-tax or ground-rent was levied in various places.

9. In the Peshwa's Daftar in the Poona Alienation Office, the custom is proved beyond doubt; the rates varied generally from annas 8 to Rs. 1-8-0 per house according as the house was owned by a poor or rich man. Village sites were also granted free of charge or on ground-rent.

10. In A.D. 1740–41 (shortly after the seat of the Peshwa's Government was first transferred to Poona) orders were issued to the Havildar of Tarf Haveli Pal to assess houses at Rs. 1-8-0 per house, the houses of the poor being assessed at annas 12 each; from this tax the Adhikaris, Kulkarnis, Khot-Patels, Bhopes, and Mahars were exempted.

11. In 1741–42 A.D. an officer was deputed to take a census of the houses in Pargana Ghosala. In 1742–43 A.D. the Bhandaris of Revdanda who used to pay *ground-rent* at rates of annas 4, 3, 2 and 1 per month were exempted from payment of Rs. 256-8-0 at their request. In 1743–44 the Prabhus of Pargana Nasrapur, Berali and Chavne were exempted from house-tax at their request and in 1776–77 all Prabhus in Konkan. In 1748–49 instructions in Prant Rajpuri were issued to grant exemption from house-tax for the first three years to people coming to live from other countries. These remissions could of course only be given when the general practice was to levy the tax. In 1777–78 it was ordered that house-tax should be recovered in Ashwin (*i.e.*, about October).

12. In 1779–80 three bighas of Government Sheri land was given for village site to the villagers of Gorhe Bk., Tarf Karyat Maval and an assessment of Rs. 4-8-0 was ordered to be recovered from them. In the Taleband of Mandad, Parganne Haveli of Mamla Tale, Prant Rajpuri annas 8 per house were charged on 48 houses.

13. Mountstuart Elphinstone in his report (as Commissioner) of 25-10-1819 (*vide* Bom. Judicial Selection, p. 164, Secretariat file of 1826, Vol. IV) after referring to the "Ain Jama" mentions another regular source of revenue "Shiwai Jama"; *viz.*, some 30 different taxes levied on almost every conceivable object—some falling on the cultivators only, some on the traders, and some on both indiscriminately. Among the latter he mentions the *Gharpatti or Ambersaree* a house-tax levied on all but village officers.

British Pre-survey.

These taxes naturally continued under British rule in the early days.

14. Mr. (now Sir George) Curtis in a monograph on Pardi lands (in connexion with Sadashiv A. Bhat *vs.* Secretary of State—Mangaon

Khoti suit, 1908) quotes particular instances from the Secretariat File, p. 175 and 37 :—

(*a*) In the village of Bhal in Ambarnath Mahal of Kalyan Subha, in the account of 1817-18 is an item of Rs. 9-3-0 for Tucker or House-tax assessed at different rates.

(*b*) In Gahyagaon in the accounts of year 1827-28 there is an entry of Rs. 43-2-0 for the Patel, mahars, Potdars, and three widows.

15. In Gujarat previous to the advent of the British rule a house-tax known as "Jhopdi Vero", or a cess of one rupee upon each hut was levied from non-agriculturists, such as fishermen or owners of liquor shops. With the introduction of British rule this tax was forgone (*vide* paragraph 6 on p. 8 of Selection CXXXV). In the account of the founding of the town Dhulia about 1825-7, we find that the settlers had been exempted from Pandra Patti or house-tax *for five years* (Secretariat Vol. 141-1901, p. 144).

16. It is quite natural that those who were already paying taxation or rent for their cultivated lands should be given some indulgence in respect of the sites of their residences, cattle stalls, etc. *Cf.* the Gujarati Mafi Kaccho, Note 185 (ii) and (iii), and there are evidences that the exemption of village site lands had its origin in this concession. In the days when population was sparse and the devastation of wars frequent, measures to attract settlers and get land cultivated held a large place in the administration.

17. Next in Section 2, clause 2 of Reg. XVII of 1827 and in every subsequent Act up to Section 45, clause 2 of L. R. C. as revised in 1913, the power of Government to tax *all land* whenever it thought fit to do so has always been safeguarded and reserved, even when the land is admitted to be the property of private persons. House-tax was abolished by Act XIX of 1844, but it still remained a common practice to assess land held by non-agriculturists. Land occupied by houses and farm buildings of agriculturists was free. The Narwadars in Gujarat long refused to surrender their right to levy house-rent from non-Narwadars : and many Inamdars (*e.g.*, in Surat District) still levy such house-tax on sites not held by cultivators paying land revenue. The records show that as late as in 1872 the principle that land held by non-agriculturists was liable to assessment was affirmed, and its application sanctioned.

Post-Survey.

18. The right to tax such lands (subject to a very few exceptions above detailed) having been thus maintained at all times, we should expect instances of its assertion. In the case ending with Secretary of State's Despatch No. 36-31, 12-79, it had been proposed to tax a few sites for special reasons (R. 4344-86) but it was objected that under a Taxing Statute a Government cannot apply its powers arbitrarily to tax some plots and omit others : and the Secretary of State deprecated any general taxation of village sites at that time. The right however remains (R. 3042-83, 4099-84, 9656-16). It will be shown hereafter that in most cases of unoccupied land, and all cases of agricultural land,

converted to N-A uses since the advent of British rule, we are making this arbitrary distinction: taxing one plot at one rate; another at another; and exempting a third, not because of different use or different value: but only because, at different times in the past, different rules and customs have been followed, and (though we have the legal power) we have not undertaken the task of unifying. It is perhaps legitimate to assume that if in those days the non-agricultural values of land had reached their present height, and if theories of public finance had then been better considered, and if it had been realised that the more valuable house sites would eventually be held by persons who were not cultivators, and not engaged in agriculture, this policy would not have been adopted.

19. However this policy of exempting village house sites has been followed during British rule subject always to the consistent reservation (until R. 10347-09) of the right of levying such taxation. For declaration by Government of their intention to reserve this right, see R. 858-72, 5413-76. ("It is most important to assert this right on all occasions") (R. 3042-83; 4099-84; and 4511-00).

Moreover if in a town planning scheme "gaothan" free land is pooled with others the tax-free tenure cannot be transferred to the other land without *Government* sanction (G. 3627-9-7-23). From the law herein quoted it seems doubtful whether Government has power to turn any more land into "gaothan", in the sense of tax-free house-sites.

20. In what proportion assessments imposed in those early days exist to-day amongst assessments imposed at a later date cannot be stated. But it may be remarked that at the survey of Broach and other cities of Gujarat about 1868 many cases of land paying rent were found, and these rents must apparently have been originally so imposed. Unfortunately large redemptions in perpetuity of these rents were allowed.

21. Almost as important as the laws and rules regulating the disposal and assessment of non-agricultural land, is the machinery for ensuring their uniform and complete application. As early as 1865 it was becoming realised that up to that time the importance of properly assessing non-agricultural land had not been sufficiently recognised that not only had the regulations regarding it been vague, but also they had not been effectively put into operation; that very many sites in cities and towns had been encroached on, and were held free of assessment without authority, and that the same thing would continue in future unless machinery was designed and set to work to prevent it. The obvious means was a survey of all non-agricultural land, whether occupied or not, within the sites of the cities and towns, together with an investigation into the titles of all occupied sites.

22. Under Act IV of 1868, city survey accompanied by an enquiry into titles of all occupied non-agricultural land was made in ten of the chief cities of the Presidency (*viz.*, Ahmedabad with its suburbs, Broach, Surat, Rander, Bulsar, all in Gujarat; Dharwar and Hubli in the Southern Mahratha Country; and Karachi, Hyderabad and Sukkur in Sind). Speaking broadly, an occupant had to prove his title to

exemption, whether complete or partial, by documentary evidence, or by occupation for a period of not less than five years before the application of Bombay Act I of 1865 or this Act to such town or city. If an encroachment was of less than 12 years' standing, the Collector could remove it; otherwise he could assess it. All land which could not prove a title to exemption was assessed. For the future, encroachments without detection became impossible. Thus at this early date, the control and assessment of non-agricultural land in these ten towns was rendered easy and secure for the future; except that by making no provision for strict maintenance Government left a large loop hole and resurvey has disclosed numerous and large encroachments which the former surveys at least made easy to discover.

23. The orders issued at the close of the survey regulating the period and nature (leasehold) of tenure of future grants and the rates of rent to be fixed were in old Rule 36. Only in the case of the five Gujarat cities have the orders then made remained fixed till to-day. In the seven cities in the Presidency proper unoccupied land was ordered to be disposed of by auction on leases which run out 99 years from a fixed date (the same for all land in each city) at a yearly rent of 2 pies per square yard, and that order still holds good of the five Gujarat cities (*vide* old Rule 36, new 48-52). In the three cities in Sind leases for various periods up to 99 years were adopted.

24. The meaning of this fixed period is that if at the beginning of the period in 1870 a lease is granted for 99 years it runs till 1969, but if in 1900 a second plot is given out under the same rule, it is granted on lease also up to 1969 only. Even in 1950 the lease would be granted only for 19 years. As a lease for building purposes, this is obviously unreasonable; its inconvenience is discussed in R. 9787-17; but we may assume it would be corrected by a practical understanding that in 1969 they would all be renewed on reasonably revised rentals, and possibly renewal premia. The future value of these enhanced rates and premia was weighed as justifying Government in bearing part cost of the Survey (R. 584-73; New Series Selection CXXXV). Government have also affirmed their power to raise the rates for short-term leases above the one anna per yard originally fixed (R. 14802-17).

Land leased for short terms without occupancy price paid 10 pies per anna to the Municipality out of the rent in lieu of occupancy price.

These ten towns were municipal, and as the surveys were done largely at municipal expense, special terms sanctioned by the Government of India in R. 5115-71 were made with the Municipalities in consideration of the outlay they incurred (R. 3044-63). Occupancy price and rent or both of unoccupied non-agricultural land were alienated wholly or partially to the Municipalities.

After a long discussion as to rights of Sukkur My. over lands "informally transferred before 1869" and transferred as waste or vacant in 1873-6 and 1878 (which are resumable on payment of compen. for buildings only) and after it was held by Adv. Genl. that Govt. have full right to all L. R., Govt. have then waived that right for all land

already leased. The ruling applies to Karachi also; but here also Govt. have waived the right to very large revenues (R. 2032-13-11-26).

25. The Sanads given in these 10 cities under this Act, confirming (only to those who *applied for* the Sanads) revenue free holdings, constitute "alienations" (R. 7097-89) confirmed by Section 128, L. R. C. and such land is beyond the reach of all taxing laws, except the " emergency provision " in Sec. 45 (2). [As to L. F. see Note 27 (VIII)]. The very fact that it required a special Act and a provision in the subsequent L. R. C. to give such immunity is evidence of the inherent right to levy such a tax. It may be urged that the contribution of the Municipal tax-payers towards the cost of the City Surveys was a consideration, however inadequate, for these grants of exemption. But a similar exemption purports to have been granted by Sanads in Form H under the L. R. C. *since* 1879 though there has been no further "consideration" since Municipalities no longer pay for City Surveys (F. 968-13 and R. 685-16).

26. After 1875, Bijapur was surveyed in about 1884, under Act V of 1879, which repealed and practically incorporated Act IV of 1868. Here rates ranging from $\frac{1}{2}$ pie to 2 pies a yard proposed by the Collector as Survey Officer (sections 100 to 102 of Act V of 1879) were fixed and guaranteed for 99 years from 1-8-1895. These were not leaseholds but tenures (R. 6365-84, 8063-94, 6515-95, 1086-03). 47 acres of land largely unoccupied and comprised in two wards or tikkas, C 4 and C 7, were assigned to the Municipality, both occupancy prices and rents, and they have *leased* most of these lands at a full rental paying to Government only an agricultural assessment (R. 4254-86).

27. Thereafter there was a lull in City Survey activity up to 1909, when the work was again taken in hand. Since that year 88 cities and towns (not counting Bombay City) have been completed. These surveys have been done under Act V of 1879. In the inquiry into title, right to exemption from assessment must be established by documentary proof of title [section 128, Land Revenue Code, (1) and (3)], or by proof of possession for 60 years adverse to Government; and then it is recognised by the sanad. A sanad is issued to every occupant containing an exact map of his property, and giving full details of the tenure on which he holds. The periods and nature of tenure are as stated above. A City Survey Manual has been written by Mr. F. G. H. Anderson, I.C.S., Director of Land Records, and published in 1918.

There are in the Bombay Presidency (including Sind but excluding Native States) 67 towns containing more than 10,000 inhabitants. Up to 1928 December 63 towns (excluding a few cantonments, villages and suburbs) have been city surveyed with enquiry into titles.

Also of the 11 cities surveyed before 1909, all have now been resurveyed. Ahmedabad which cost 4 lakhs and took 12 years to survey under the old methods has been resurveyed (after the complete destruction by fire of all the old papers in April 1919) at a cost of less than $2\frac{1}{2}$ lakhs, and within $2\frac{1}{2}$ years—though wages now paid are much more than double those paid in 1870.

SCHEDULE OF SURVEYED CITIES.

(i) Surveyed and Titles investigated under Act IV of 1868 (though in many cases Enquiry began before the Act was passed).

(All Resolutions are of R. D.)

With 99 years' lease, and an assessment of 2 pies per square yard.

—	Order for Survey.	Date of Survey.	Order fixing rates.	Date from which leases run.	Assignments to Municipalities.	Authority.
Ahmedabad (with Sarasper).	2044-63	1863-75	862-67. G. N. 11-3-69 in *B. G. G.*	1-4-68 (R. 722-82).	All occupancy price of waste lands and 10 pies in each anna of rents for short periods R. 801-66 (many kiraya lands sold in perpetuity)'	Government of India sanctioned in R. 1515-71.
Dariapur-Kajipur Group.	Referred to in 6960-97	..	1895-97 ..	1-4-97.		
Kalpur Hirpur Group.	..	..	4563-98 ..	1-4-97.		
Asarwa ..	..	..	1879 ..	4563-98.		
Kochrab, Chhadavad.	8370-05	..	....	1-4-97.		
Chandlapur and Pardi.	5484-08	..	....	(4270-05).		
Surat ..	1539-63	1863-73 (had been surveyed in 1817).	R. 862-67	1-8-67..	All occupancy price of waste lands and 10 pies in each anna of rents for short periods R. 801-66 (many kiraya lands sold 'in perpetuity)'	R. 862 of 28-2-67.
Bulsar ..	1643-65	1864-71	1696-68, 858-73 1 pie per yard for 10 years* from 1872.		Do. ..	R. 1696 of 29-4-68.
Broach ..	2269-65	1866-74	1148-72 (Kiraya or Nazul 2234-67, 4782-73.		Do. ..	R. 2234 of 10-6-67.
Rander ..	G. N. of 15-6-69	1869-73	4598-73, Notification of 21-9-71.		Only ¼ occupancy prices.	R. 4598-73

* Though not revised raised to 2 pies by old rule 36.

The *rate* of 2 pies a yard (R. 5223-05) is Rs. $50\frac{5}{12}$ per acre, which capitalised at 4 per cent. corresponds upon the half rental value principal [Rule 82 Note 204 (iii) to a revenue-free value of Rs. $2{,}520\frac{5}{6}$ per acre, or a little over Rs. 0-8-4 a yard. But since occupancy prices can also be charged on new grants (and are usually assigned to the Municipality), and again on expiry of the leases (reserved to Government), Government practically levies the *full* Non-agricultural value of all such lands.

(ii) Without fixed lease periods or rates (Rule 36 not applied).

	Order of Survey.	Date of Survey.	Assignments to Municipalities.
Karachi	.. ..	Started Dec. 1873 ..	See para. 28.
Sukkur	.. (R. 6015—75, 83—76)	....	
Hyderabad	.. (R. 6—75) ..	....	
Dharwar	.. (R. 71—71)	.. Nov. 1871 to 1886 ..	See para. 30.
Hubli	.. 4342—73, 908—74	.. 1872 to 1886 ..	

(iii) Under Act V of 1879.

Bijapur: see para. *26*.

With 99 *years' lease.*

	Order for Survey.	Date of Survey.	Order fixing rates.	Date from which leases run.	Assignments to Municipalities.
Ahmednagar	6258-09 ..	25-4-09—31-8-11.	10910-09 ..	[200 sq. yd. rule not applied].	
Igatpuri ..	1368-09 ..	15-2-10—24-6-11.	7284-11 ..	(?) 1-8-11 ..	*Nil.*

[All class (ii) and (iii) have been resurveyed recently.]

With 50 *years' lease (before City Survey Manual) under old Rule* 36.

N. D.	Order for Survey.	Date of Survey.	Order fixing rates.	Date from which leases run.	Assignments to Municipalities.
Godhra ..	11953-07 ..	1907-14 ..	4617-02 ..	1-8-03 (1086-03).	Same terms as Rander (461-02).
Bandra-Danda.	3030-08 ..	1908-15 ..	7149-08 ..	1-8-13 (as notices were then issued).	No land disposed of.
Thana ..	R. 7460-13	Finished Nov. 1915.	....	....	Rule 36 not applied.
Viramgam ..	R. 11847-14	Finished April 1916			
C. D.	*S. D.*	*Sind.*			
Barsi ..	Bagalkot ..	*Shikarpur*	....	....	Do.
Dhulia ..	Belgaum ..	....	....	....	Do.
Poona ..	Gadag-Bettigeri.	....	....	....	Do.
Sholapur					

On the new City Survey Manual methods (Rule 36 not applied).

N. D.	*C. D.*	*S. D.*	*Sind.*
1. Ahmedabad.	1. Wambori.	1. Athni.	1. Karachi.
2. Prantij.	2. Sangamner.	2. Nippani.	2. Sukkur.
3. Modasa.	3. Dhulia.	3. Bijapur.	3. Hyderabad.
4. Kaira.	4. Shirpur.	4. Guledgud.	4. Jacobabad.
5. Nadiad.	5. Nandurbar.	5. Dharwar.	5. Larkana.
6. Kapadwanj.	6. Nawapur.	6. Hubli.	6. Rohri.
7. Anand.	7. Lonavala.	7. Navalgund.	7. Garhi-Yasin
8. Umreth.	8. Satara.	8. Nargund.	8. Malir.
9. Borsad.	9. Karad.	9. Ranebennur.	9. Ganio-Takar.
10. Jhalod.	10. Wai.	10. Byadgi.	
11. Dohad.	11. Panchgani.	11. Indi.	
12. Halol.	12. Pandharpur.	12. Alibag.	Total .. 83
13. Kalol.	13. Jalgaon.	13. Pen.	
14. Vejalapur.	14. Bhusaval.	14. Panwel.	
15. Broach	15. Raver.	15. Roha.	
16. Ankleshwar.	16. Yawal.	16. Uran.	
17. Jambusar.	17. Amalner.		
18. Hansot.	18. Chopda.		
19. Surat.	19. Erandol.		
20. Rander.	20. Dharangaon.		
21. Bulsar.	21. Nasik.		
22. Kalyan.	22. Trimbak.		
23. Shahapur.	23. Bhagur.		
24. Bhiwandi.	24. Igatpuri.		
25. Murbad.	25. Yeola.		
26. Bassein.	26. Manmad.		
27. Dahanu.	27. Malegaon.		
28. Umbergaon.			
29. Nargol.			
30. Chinchani.			
31. Tarapur.			

28. In Broach, Bulsar and other cities, rather sweeping redemptions in perpetuity of the ground rent of "Kiraya" and other lands were allowed in R. 4599-69. In Karachi, Sukkur (R. 6015-75, 83-76) and Hyderabad (R. 6-75), though Rule 36 was not applied when framed in 1881, all the waste and Nazul lands were transferred (but the "proprietary right" was not alienated) with their revenue in practical perpetuity to the Municipality, subject only to the right of resumption (delegated to the Collector: R. 11221-12) for public purposes (R. 6072-73, 6914-85 and G. I. letter 575 of 14-7-73, also 1441 of 17-6-67, p. 131, Selection CXXXV). In Karachi such leases (certificates) as existed prior to 1874 were all called in and regranted for various periods (21, 51 and 99 years) [R. 4765-74].

The leases regranted (in 1874 and subsequently) were in the form of City Sanads and prescribed that the Collector's sanction was needed for sub-division. This enables the Collector to impose as a condition of sanction to a partition any terms he thinks reasonable (R. 3214-20). There were in 1859, 683 leases at a rental of Rs. 7,346 all non-renewable under R. 1480-60. In Karachi it seems the quit rents (on land leased prior to 1873) were reserved to Government (Cumming's Municipal Act, p. 499).

In R. 2032 of 13-11-26 after a long discussion Government have "waived" the rights they had under these grants to resume land from

the Municipality or its lessee when wanted for public purposes; and other rights.

29. Besides the cities under old Rule 36, special contracts were made with Dharwar and Hubli. The alienations were made after the passing of 22 and 23 Vict. c. 41 (Government of India Act of 1859) though before the Statutory Rules of 1894 were framed, and some were made even after G. 132-80 (see also Rule I in R. 5978-73) which positively prohibits further concessions of revenue to Municipalities.

30. Dharwar (partly surveyed in 1855-57) and Hubli (first surveyed in 1842 by Mr. Springer) were granted the following, if within the limits to which the City Survey was extended (the original Municipal limits) (R. 71-71, 4342-73, 908-74):—

(*a*) the occupancy prices and future assessments upon all waste land; subject to the right of resumption for public purposes without compensation (Rule IV, R. 4342, 5978-73);

(*b*) future increments in revenue from Nazul land (i.e., both agricultural and N.-A. held from and paying revenue to Government). This had been either assessed or leased by Government before 1874 (Query: when will these N.-A. rents or assessments be due for revision?);

The assessment upon (*a*) when it was to be given for occupation and upon (*b*) whenever it becomes liable to re-assessment within 99 years from 1-8-71 was fixed at 2 pies.

(*c*) all the increments in quit-rents of Inam lands in excess of the quit-rents then being paid (R. 2065-80 and 3135-87).

(*d*) It was ordered that no fines under sec. 65 should be paid to any Municipality (R. 8486-82). This was rescinded by R. 1288-03 for Dharwar and Hubli.

(*e*) In R. 8542-97, out of the old abandoned Dharwar Cantonment 5 acres $15\frac{5}{16}$ gunthas were also granted to the Municipality, after having been unauthorizedly appropriated and sold by them.

The assessments on these lands were originally collected by the Municipality, but ordered to be collected by the Collector in R. 2883-90. Then for many years items (*a*), (*b*) and (*d*) were wrongly credited to Government and adjusted in R. 1288-03.

Within city survey limits there was little "waste" land, except the unassessed "Gurcharan" in the locality now known as Gibb Town: there 2 pies a yard was found to be an "absurdly" high rate, and an altered assessment, on conversion to building, of Rs. 3 an acre, was fixed for 50 years (R. 2981-03): in addition to an occupancy price which would capitalise the residual value. Both items fall to the Municipality under (*a*).

The above contracts affect the destination within City Survey limits of rents, Judi and occupancy prices, but do not deal with the question what rates shall be imposed or for what period when the Revision (to which Government frequently referred) of the Nazul N.-A. lands takes place. For land of class (*a*) evidently there will be no Revision till 99 years have expired. The tenure of these holders is still a tenure under Government, as only the revenue was assigned, and no proprietary right

(R. 2065-80) which remains vested in Government, and a Sanad was directed to be issued to the Municipality to express these reservations.

31. There are other grants of unoccupied land to Municipalities, and connected rulings, some of which are here collected.

The Gadag Muny. was allowed in consideration of their town planning enterprise to redeem in perpetuity at 25 years' purchase the agricultural assessment on land it had purchased from its holders (R. 1145-74). Then they were allowed to convert it to building sites without paying any N-A assessment, and they have sold or leased it for the profit of the Munl. fund. In Jalgaon and in Sholapur we find similar grants, land being held from Government, on very moderate or reduced N-A assessment, but again sub-leased to the great profit of Munl. revenues. Such grants or concessions could not apparently now be made without Government of India's sanction in view of Rule 5 (5) of the Rules in Financial Notfn. 2292-6-8-16. Since Land Revenue is no longer a head divided between the Local and Imperial Governments, it is uncertain how far these restrictions are still valid.

An old alienation of N-A revenue Rs. 3,010 per annum to Local Bodies in Kanara has been allowed to continue by Government of India orders in R. 1732-18 only pending the settlement of the more general questions raised in R. 10381-16.

To Sholapur Municipality certain land is granted free of occupancy price in R. 7621-19, of which part may be let by them on leases, with rent periodically revised, on condition that a Town Planning Scheme is executed within 10 years.

When Jalgaon Municipality took certain unoccupied Government land on ordinary N-A assessment and tenure and then disposed of it, contracting with the purchasers that they should not be liable for any enhanced N-A assessment on their plots it was held that the Municipality made itself liable (without recourse to its assignees) for any enhancement which under the law might be imposed. Government could not give up their right to revise assessment because of the Municipal guarantee (R. 8262-18).

Belgaum Municipality were granted some land which Government had acquired: for 10 years no assessment was demanded: then the 10 years' arrears were demanded in lump. Some concessions were given (1) an exemption for 5 years; (2) a reduction of the rate (in violation of G. 132-80); but the principle that the Municipality must pay was upheld (R. 2059-20): and so too with Byadgi Municipality, R. 4578-18. All Collectors were directed to see that no Municipality escaped its proper liabilities in this matter.

32. It was found that a mistake was made in not providing a machinery for keeping the old surveys up to date. This has now been remedied. A skilled maintenance staff has been provided in every surveyed city and town, whose duty it is to keep the maps and records completely up to date. Under Chapter X-A of Act V of 1879, a complete record of rights and liabilities is maintained for every separate property. By law every person acquiring a right must report it to the

City Survey Officer under penalty; also the municipality, if any, reports any change which comes to its notice. Details of registered transactions affecting the city-surveyed area are received monthly from the Registration office concerned. All this is supplemented by a periodical review of every property by the maintenance staff by inspection and enquiry on the site; the whole area being covered once every three years. Not only is any encroachment on Government rights thus rendered impossible, but Government have at hand the most complete information obtainable for revising or fixing the "standard" rates of assessment (*vide* Rules 24 and 56) in any town or part of a town.

33. Meanwhile in towns which have not been city-surveyed, and in villages, it is the duty of revenue officers of all grades—a duty which Government never ceases to impress on them—to see that no non-agricultural land is occupied without proper authority. Further than this, the sites of 15 villages have been surveyed by way of experiment, and Chapter X-A [*vide* Rule 104 and Note 243 (iii)] of the Land Revenue Code applied to them with a view to seeing whether survey and maintenance for village sites can be carried out at a cost which would justify it. The experiment has proved a success, and 11 more village sites have thus been surveyed. There is thus within sight a complete and accurate record of rights and liabilities for all non-agricultural land in the Presidency. In R. 351/28 of 30-8-29 G. have sanctioned the proposal to introduce city surveys in towns and villages and at the same time to dispense with the R. of R. and its maintenance, and then revise the survey every 25 years.

Land of Class B.

34. The Collector will often have to deal with leases or grants made long ago under various rules and orders.

When he finds a lease "during the pleasure of Government," "so long as the rent is paid," "so long as a building is standing" or "till Government require the land," he should take steps to terminate it as early as possible, and replace it by a tenure or lease on sanctioned terms. When there is no documentary evidence to the contrary, any grants of unoccupied land made prior to 28-6-05 may be presumed to be *leases*, and therefore terminable with complete reversion of all the land and fixtures to Government.

35. If leaseholders put forward leases granted upon terms which were never allowed by Government (*e.g.*, upon a rent fixed in perpetuity and granted by an officer such as a Mahalkari who was never empowered so to dispose of N-A land), then the Collector should take advice as to whether he should observe conditions or terms which seem plainly unauthorized. For a case of leases converted to rayatwari tenures see R. 431-21. Where no documents or papers are produced, but there is only an entry in Village or Taluka accounts, it must be presumed that the grant was made upon the regular standard terms then current, where the wording of the entry in the accounts is obscure or ambiguous. In

the absence of precise and authorized expression, the assessment must be held liable to revision and (there being no guarantee) it should be revised at the first convenient occasion. Between 1865 and 1879 no power to fix an assessment for more than 30 years was conferred, except in surveyed cities under old Rule 36.

No doubt, if the Collector finds in his own records clear evidence that definite terms have been fixed, he must in equity not insist upon the obligation of the claiming party to produce his documents: but where he has no such unmistakable and authentic record, he will of course adopt the position that until the contrary is proved he must be guided by the ordinary law. For officers deemed to have had authority in the past to make grants of land for the purposes of sec. 128 (3) see note 27 (vi); these officers were defined in Government of India's Resolution I-142 of 6-2-72 but a copy has not been obtained.

36. It is the common law that when in a lease with an yearly rent no terms is fixed for its expiry, the lessor can, by a year's notice, either terminate the lease or enhance the rent. This right was always exercised by Government prior to the Acts of 1865 and 1879 (R. 2992-54). Also we must remember as to all grants made between 1827 and 1865, that in Regn. XVII of 1827, sec. 4, cl. 3, Government expressly reserved the right at all future times to institute by regulation new and specific rules regarding assessment.

37. Nothing of course is to be done in respect of leased land until the period of the notice expires. It would then be subject to revision of rent and apparently would fall into the category of unoccupied land, though the Collector would probably not put the occupancy up to sale, but would renew it at a premium or "fine." Some Hill Station leases contain a definite provision for renewal which must be observed: others only a vague provision which is satisfied by one renewal for the same period; see Notes on p. 255-256. If Rule 52 applies, the Collector will fix those rates upon renewal, as it is undesirable that he should rate adjacent land on different principles though he would take a larger premium if rentals have much risen. When Rule 52 does not apply, Rule 43 (*i*) (*c*) similarly provides that the rate of assessment for new grants and for altered assessments on old occupancies shall be the same, and renewed N-A assessments on old (lapsing) leaseholds will likewise be the same, and the period fixed in all such cases would now be 30 years.

Land of Class D—Waste or unoccupied.

38. Land unoccupied at the commencement of British Rule was necessarily at the disposal of Government, and if possession of it has at any subsequent time been given for non-agricultural purposes, it ought to have been given under the laws and rules from time to time in force. If when given it was recorded to have been given subject to any rent or assessment (using the term "rent" when the tenure is leasehold and terminable; and "assessment" when the tenure is statutory and perpetual) plainly it will not fall within the category of lands held "free from

taxation" ; the custom and right to levy revenue is not for a moment in question. We may however find land which though undoubtedly first occupied since the commencement of British rule still has been paying no rent or assessment: we may also find land paying some land revenue which has nevertheless long remained unchanged. We may ask: (1) if held hitherto free, is it no longer capable of being taxed ? (2) if for a long time free from enhancement, is it now legally protected from enhancement ?

39. Both these questions are answered substantially by the rule laid down by Lord Stowell (quoted in I.L.R. 9 Bom. 483) "that the prerogatives and rights and emoluments of the Crown being conferred upon it for great purposes and for the public use, it shall not be intended that such prerogatives, rights, and emoluments are diminished by any grant beyond what such grant *by necessary and unavoidable construction* can take away." It is further laid down in the same case that "the expenses incurred as well as the benefits conferred by Government increase with the progress and development of the community and, it is not only legal, but politic and just, to increase assessments in accordance with the increased value of the land, so far as that increase is caused, not by the exertions of the holders, or the improvements made by them, but by the growth of general prosperity under the influence of good administration." In fact the economic doctrine of Henry George.

40. The first enactment under British rule was Regulation XVII of 1827 by which "uncultivated land not exempted from assessment may be disposed of with the Collector's sanction for the benefit of the revenue." This would plainly bar revenue-free grants but could cover grants on redemption of the revenue. In practice in the earliest times land when unoccupied was sold by auction subject to a ground-rent when that rent was customary ; but when other houses in the vicinity paid no rent (Government letter 2812-42) the occupancies were apparently disposed of without fixing any rent [see Note 27 (iii) and paragraph 43].

In R. 3031-45 it was decided that any conditions imposed should be embodied in formal stamped documents which must therefore be produced to prove the title (R. 3482-83).

In R. 4681-57 Collectors were directed to dispose of such land by outright sale, reserving only Treasure Trove and liabilities to Municipal taxation. In R. 2304-57 it is laid down that grants to Civil Officers can be made only on 30 years' leases at fixed rents: thus anticipating the recent recommendation of the Decentralization Commission and new Rule 87. It was a common condition that land so disposed of should be laid out in proper streets and blocks of suitable and sanitary shape (*e.g.*, Dhulia under Capt. Briggs) ; also a condition was usually imposed that a building should be erected within a specified period (R. 2160-55).

41. If therefore we find any land held under an old British grant and yet not paying revenue, or claiming the right to pay not more than it has in the past been paying, this grant or exemption must in every case be strictly proved. The burden of production and proof of the right to levy revenue cannot be thrown upon Government.

42. In 1865 the Regulation of 1827 was supplemented not superseded by the more elaborate "Bombay Survey and Settlement Act" under which rules were framed for the disposal of land. But the importance of carefully regulating the assessment and grant of land for non-agricultural use was not yet recognised. Section 36 of this Act grants for agriculture a permanent transferable tenure subject to periodical revisions of assessment but this was not expressly applied to N-A grants. The first Rules are dated 5-2-69 (R. 496-69), and continued in force practically up to 14-2-77 (R. 621 and 1031-77). They made no distinction between non-agricultural and agricultural land and simply directed disposal "subject to the full assessment" (sci. "agricultural assessment"). The Rule so obviously does not apply to N-A land that one is forced to suppose that in practice the present proviso to sec. 68, L. R. C., was observed and land was leased according to the orders of 1857.

43. At any rate the idea that the Collector can fix an assessment in perpetuity and then sell the land cannot be supported. The "full" assessment must imply revision from time to time. Even ground rents fixed without specified duration in sale deeds before 1879 can probably be revised: see I.L.R. 9 Bombay 485; 26 Bombay 339 (R. 690—19). Land sold in 1849 without mentioning any assessment or rent is still liable now to be assessed: no limitation runs against this right; and it could only be met by production of proof that freedom from assessment in perpetuity was expressly conferred. [R. 714-20, relying on Sec. 2 (1) Regn. XVII of 1827: Sec. 45, L. R. C.; I. L. R. 27 Mad. 17 and a similar ruling as to "farokht khats" at Bagalkot (R. 2131-20)]

44. A special provision for non-agricultural land appeared first in the rule No. 26 of 14-2-77 which authorised the grant of unoccupied land for non-agricultural purposes "on such conditions as may be prescribed" by Government or by the Commissioner or (if none prescribed) then on any terms the Collector thought reasonable. Naturally the terms of disposal of non-agricultural land under this Act were far from uniform but it was repeatedly ordered by Government that in all grants the proprietary rights of Government should be expressly reserved. (See Note 66.)

45. When Government have granted land otherwise than on a terminable lease, or have altered its assessment and have not specified at what intervals the assessment shall be revised, it must not be interpreted as permanent settlement, which is *ultra vires*. But the rental or assessment should be revised after a reasonable interval (*i.e.*, when the agricultural settlement has expired?) [See Note 27 (*v*)].

46. In 1879 Act I of 1865 was superseded by Act V of 1879 (the Bombay Land Revenue Code) which with amendments is the law in force to-day. By the rule No. 25 framed under this Act on 6-12-81 some precision and uniformity were introduced. The period of occupancy as well as the period of assessment was fixed at 99 years from the date of the grant. Land was to be disposed of in general by auction, and the ground rent fixed was to be regulated by the value of the site, but no definite share of net rental or capital value was prescribed. The rent might be redeemed for the period for which it has still to run by a lump payment.

It was further prescribed that:—

"(1) when, as in the case of building sites at hill stations, Government have sanctioned special rules, such rules shall be followed;

"(2) the occupancy of land near a railway station or in any situation where it is likely to become valuable or to be required for any public purpose, shall not be disposed of for long periods."

And there were rules directing the marking out of building sites in places where there was a keen demand for land into convenient lots for disposal and for regulating the style and size of the buildings to be erected. See also Notes 118, 125 and 216.

A form of lease granted under these rules (R. 7898 and 9316-83) is printed in Mr. C. N. Mehta's report on Cantonment Tenures in R. 8891-09.

47. Since 28-6-05, by a change in the rules (old rule 24 now 43) occupancy is in perpetuity, the assessment is fixed as explained in those rules and the assessment is to be revised after 50 years from the date of the original grant (Form B), and therefore unfortunately will all fall due for revision on different dates.

48. These rules provide amongst other things for the fixing by Government of standard rates of assessment, and this device has been the chief means adopted of fixing assessments in or in the neighbourhood of towns, Collectors being encouraged to propose standard rates wherever they think them necessary. As the rules show, these standard rates used to be before 1920 a percentage of the difference between the full market value for the purpose to which the land is to be put, and the agricultural value, the percentage being fixed by Government on a consideration of the prevailing rate of interest: but since 1920 the rate is 6 (and now 5) per cent. on half the "full market value" (see Notes 204 and 207). (R. 965-20).

Specially favourable rules originally devised for Salsette were subsequently extended to some other places where it was considered advisable to encourage building development and the provision of open spaces around buildings. But see Notes 213 and 26 (ii) they now continue in Bombay Suburban District only.

49. When an agricultural Settlement is introduced and guaranteed for a term of years any unoccupied land within the area for which this assessment is declared fixed may at the same time be assessed and guaranteed against enhancement for the Settlement period: though there be no person with whom the guarantee-contract could have been concluded. When, however, the use is changed, then this assessment is *altered* under sec. 48, rather than newly assessed under sec. 52. For land left unassessed, the assessments imposed under sec. 52, whenever it is granted for occupation, are under Rule 43 to be fixed at the same (as the altered) rates. Even when an assessment is placed on *N. A. lands* under sec. 100-102, and guaranteed for a term of years (a course which has been really adopted: R. 7831, 8486-82), it is no longer regarded as applying to unoccupied lands. The proviso to sec. 68 see Note 33 (i) removes the legal obstacle, but not the inexpediency of granting such lands for any

other periods or for any other rates in individual cases. In Bijapur city, the only clear instance of such an assessment, subsequent grants of waste land (outside the Municipal Tikkas) have been made with the assessments fixed to expire 99 years *from date of grant*. See Note 33 (ii).

50. Lands acquired in blocks for industrial development would fall here. See Kurla (and other South Salsette) acquisitions to be assessed at Rs. 2 per 100 sq. yds. *plus* an occupancy price equal to the cost of acquisition: at the end of 50 years assessments to be recalculated on the then market value (R. 13066-19). Also Note on the Koregaon Road Estate, 125 (v).

51. In certain places, for unoccupied lands, Government have fixed rates (reserving a power to vary them in special cases) at which they should be *leased* (R. 8063-94), but these are not *assessments* in the ordinary sense but *rents* and the occupancy is not given *in perpetuity* but under a terminable lease *for a fixed period* at the end of which the land with its buildings reverts to Government, and the fixed rates cease to be operative, but can be either renewed or altered. It is left entirely open whether these leases should be renewed or not upon expiry (this is not the case in all Hill Station leases under Rule 44), and there is no provision for compensation for standing buildings.

Class E.—Alienated.

52. In Bombay by "alienated" we mean land on which some part or the whole of the land revenue otherwise leviable is granted or remitted in favour of some person, on certain terms, by a grant of confirmation: whether the property in the soil itself is alienated or not is not connoted by the term. Even when wholly alienated it would still be liable to Local Fund as if there had been no alienation of land revenue, though see Note 27 (viii). Each such alienation would require to be classed under the proper class of Inams, and brought to account in V. F. III and T. F. III. But if it was *sold* free in perpetuity by a valid sale, then it would be classed as 'free of revenue' (free or specially reduced) and would not be liable to L. F. as the revenue has been redeemed by the purchase: R. 7887-93).

53. Sec. 134 renders liable to an extra tax of 2 annas in the rupee of the normal N-A assessment, all alienated land converted from agriculture since 17-7-79 ('hitherto') (R. 681-20) [But the provision was also in Act I of 1865, so the liability almost certainly applies to conversions as far back as 1865] (*a*) within the site——, and (*b*) summarily settled. The Summary Settlement can legally have been applied (sec. 127) to lands within a city site.

Under sec. 126 the Collector could not extend the sites of those cities with retrospective effect: since all rights legally pre-subsisting are protected.

When part of a S. N. is thus found liable to an enhanced rate, it should be made into a separate S. N.

The grant of any part of this Judi to a Municipality was negatived finally in R. 1150-67: but a share was subsequently granted to Dharwar and Hubli Municipalities (R. 2065-80).

54. Except as above, the Summary Settlement is applicable to lands in N-A use; there are no other Rules or orders regulating the Enquiry and Settlement of such alienations except the proviso to sec. 52; but they would be dealt with like other alienations of agricultural land not brought under the Inam Commission by the Summary Settlement.

Class F.—Occupied land converted from agriculture.

55. There still remains the large class of cases in which land already occupied for agriculture was converted to a non-agricultural use.

In the old orders practically no trace of any rules regarding such conversion can be found, though there is no doubt that all farm buildings were exempted from non-agricultural taxation from the earliest times by the British Government. In 1853 the Bombay Government ruled that conversion to building could be made without permission; but if assessment were desired to be remitted, then permission should be got (R. 3053-53).

56. Indeed up to 1865 it appears that the tenure of unalienated agricultural land was not regarded as a vested right, and if wanted for building, it could be resumed and treated as unoccupied, if not Miras or Inam, merely writing off the assessment, "without compensation except for visible and valuable improvements" (R. 2320-49) even if wanted not by Govt. but by a Muny. (R. 723-56). Greater liberality was shown in R. 4483-58 which allowed a minimum of 5 times and a maximum of 10 times the assessment to be paid for disturbance of tenancy, and for improvements; and in case of Miras land, 20 times (R. 1306-59). If not wanted by Govt., then conversion to building could be made without permission (R. 3053-53), but if assessment was desired to be remitted, then permission should be got. Also whenever an occupant used any of his land for building any Dharamshala, temple, or any other *public* building, the agricultural assessment was removed and *nothing* was charged (R. 3053-53).

57. Section 35 of Act I of 1865 prescribed the need of permission and the payment of a fine and a written agreement to pay the assessment (sci. agricultural assessment) for the settlement period and thereafter as revised. If permission was not obtained, then the occupant had to pay such special assessment and accept such conditions as might be *agreed* with the Collector.

58. In Sir T. Hope's Rules of 1867 it was required that on such conversions an occupancy price or premium should be levied as though the occupancy were being newly granted. The fines were a sort of premium on transfer of tenure, like the fines of Manorial Courts. Gradually the idea has grown up that this urban development is only a natural ground for revision of assessment, and that instead of fines, N-A assessments should be imposed. There have been cases in which persons have paid fine for converting land to N-A use; afterwards they have claimed that N-A assessment should not be levied, and have been allowed by Government to treat the fine as a sort of composition for the future revenue, and

have deducted from the full N-A assessment an amount equal to the interest at 4% on the fine (see para. 6 of Mr. Orr's 8325-01 in R. 1072-02 and R. 10255-94). This was a proper concession at the transition period. A muddle at Viramgam was cleared up on similar lines (R. 9514-16), the concession being allowed for 50 years. Extention of this treatment has been since refused in R. 2156-10. Fines were abolished in favour of assessments in R. 991-00 and 4738-01.

All such assessments are liable to revision, after the varying periods fixed (see paragraph 39): but no fresh conditions can be imposed.

59. The Rules of 1877 were superseded by the rules under Act V of 1879 (Land Revenue Code) brought into force in 1881, which remained little changed till 1921, as quoted on pages below. They provided for altered assessments within certain multiples of the agricultural assessment or within certain prescribed maxima, whichever be the greater. But in places where there was a keen demand for building sites or special reasons apply, Government might order that the assessment be altered in proportion to the *situation* value (as estimated by the Collector), or Government might prescribe standard rates of assessment. Where standard rates of assessment are so prescribed they apply equally to unoccupied land.

Permission under Sec. 65 (read with Rules 82 and 99) when granted on condition of the surrender of any land for roads, etc., must be registered (R. 2926-09) and are not exempt from stamp duty (R. 6411-03).

For the retrospective levy of N-A assessment and fines on land converted see Note 184 and for withdrawal of permission once granted see Note 237.

60. The Rules of 1921 and 1928 in this volume abandon the multiples of the agricultural assessment, and abandon the artificial 'situation value' (difference between full market and agricultural value) and adopt "full market value" as the only basis of assessment: they prescribe a uniform period of 30 years for revision of assessment and make some distinction between residential and industrial uses, abolishing fines except as penalty for conversion without permission. This full market value is discussed hereafter under "Principles of assessment." Within a surveyed city land is exempt from City Survey so long as its use is agricultural. As soon as it changes its use and becomes N-A land, it will then in a City-surveyed area fall under the City Survey which is, as it were, lying in wait for it. Its assessment will be altered (or, when as for exempt pardi Nos. or Pot Kharab there is none, an N-A assessment will be imposed) under Rule 81, 82, or 52 as the case may be. The altered assessment will be fixed for 30 years under Rule 82; and probably for the same period as the rents under Rule 52 (old 36), where that Rule applies: though it would be imposed as an assessment (i.e., upon a perpetual tenure) and not as a rent. This land would then become liable to be measured, mapped, and to pay Sanad fees.

61. Wadgi land in Poona City ostensibly used for agriculture but "attached to houses" was not exempted from agricultural assessment

unless below one acre. Claims to exemption on larger areas and on areas detached from houses were ordinarily to be investigated under the Summary Settlement Act (R. 722-76). It seems that these Wadgi lands were not actually so settled but were put in the Akarband as assessed for agriculture, but the assessment was not collected; when now used for N-A purposes they appear to be liable. Some notion of the confusion and amorphous opportunism of the various orders can be gathered from note 27 (xi).

62. The historical summary appended to R. 1291-20 closed with a reprint of all the then existing rules and the rules which had at different times preceded them. These we do not now reproduce. Students can easily find them in Sathe's Land Revenue Code and Rules and in previous editions and Gazettes. The summary also gives a synopsis of the Sind rules and practice, which are almost destitute of principles or theory of rating and also a useful summary of the Bombay City and Island system, which is outside the scope of this volume. But the following Chronological Table of the rules affecting N-A land will be useful in determining what rule was in force on the date when a particular grant was made. The dates given afford a clue to the Gazette, which is in every District Library, in which the authentic text will be found.

Chronological Table showing the currency of Rules under successive Land Revenue Acts.

	From	Government order	To	
Joint Rules of 1848	1848	Territorial Department 5593 of 22—9—48	4—2—69	Page 19 of Selection DXXXII, New Series.
Redemption of Revenue Rules.	1865	R. 5017-65	....	Page 127 Nairn.
Rules under sec. 35, Act I of 1865.	1—11—65	R. 4507-65	3—9—77	Page 123, Nairn's Hand Book, 1872.
Rules under sec. 28, Act I of 1865.	5—2—69	R. 496-69	....	Page 109, Nairn's Hand Book, 1872.
Revised Rules, Act I of 1865.	14—2—77	R. 1031—77	3—9—77	Page 127 of B. G. G. of 15—2—77.
Amended Act I of 1865.	4—9—77	R. 5407—77	7—6—78	Page 798 of B. G. G. of 6—9—77.
Again revised Rules.	8—6—78	....	5—12—81	Page 245 of old Survey Settlement Manuals, Volume I.
Rules under Act V of 1879.	6—12—81	Notification 7368 of1881.	28—6—05	Page 792 of B. G. G. of 1881.
Record of Rights ..	27—11—03	Notification 8356 of 1903.	25—1—21	Page 1487 of B. G. G. of 1903.
Re-revised Rules ..	28—6—05	Notification 5223 of 1905.	25—1—21	Page 757 of B. G. G. of 1905.
Rules for N-A use of Alienated land.	5—6—07	Notification 5641 of 5—6—07.	25—1—21	Page 902 of B. G. G. of 1907.
1921 edition ..	26—1—21	Notification B-205 of 26—1—21.	....	Page 377 of B. G. G. of 1921.
New edition reprinted up to.	31—21—28	R. 1945/B.28.	14—12—28	Amended in various particulars as detailed under each rule.

PART II.—THE THEORY OF LAND REVENUE AND PRINCIPLES OF ASSESSMENT.

"It must be clearly understood that Government do not endorse the commentator's views or accept responsibility for the accuracy of all the matter in the commentaries" (*para.* 3 *of R.* 55-21).

From the legal point of view Land Revenue is not rent; 'rent' arises out of a contract—or agreement between parties. L. R. cannot be identified with rent (I. L. R. 25 Bombay 556). But in economics L. R. is a share of the rent or rental value.

Students of the Bombay Land Revenue System, or officers newly appointed in the Land Revenue Department will find practically nowhere, and I have not myself ever discovered any discussion or any formulation of the theory upon which our Land Revenue assessment is based. Not even in the "Land Revenue Policy" of the Government of India published in 1920 reprinting Lord Curzon's Resolution of 1902 (*Gazette of India*, 18-1-02). I therefore venture to put forward the theory which I consider true; and to point out where our actual practice agrees and does not agree with this theory. If it sounds too much like a school essay, in apology I would urge that it is just because no such elementary theory has been simply expressed and commonly accepted that we are so often confused, contradictory and undecided. If my theory is wrong, the elementary way in which it is exposed will surely be a help to a sounder theory. And it is certain that until we do get a sound and accepted theory we shall never get intelligent and consistent application in practice.

2. It is frequently asserted but not sufficiently explained that our Land Revenue in Bombay is not taxation, but the natural revenue of the community. It takes nothing from the cultivator or from the farm labourer, but only from the landlord. If Government did not collect this revenue, the cultivator and labourer would be no better off. The State claims a portion not exceeding half of the rent which is unearned and which is a just asset of the nation and *not of the private owner* (see paragraph 11 below and paragraph 39, p. 133).

3. So long as Land Revenue does not take more than half the rent, it still leaves to the landlords the other half. The landlords usually get rather more than half, as well as all "alienation". Their revenue in Bombay must therefore largely exceed 5 crores. For every additional rupee Government levies, they must get one rupee less. Hence they are solid in opposing any increase of the land taxation; and in the case of cities and towns the landlords being usually more vocal are still more opposed to the levy of a proper non-agricultural assessment. Where the Government does not itself take the full state share, but leaves it to be collected by talukdars, inamdars and other grantees, these landlords in accordance with ancient Indian custom—the Tanka of Malik Amber was one-third gross produce (not rent), the Kamal of the Marathas was nearly two-thirds of the gross produce!—collect a far higher proportion than Government demand. Between them and their tenants no secondary landlord class can exist. But between Government and its rayatwari tenants there is a

substantial class of " landlords ". Wherever there is any landlord above him, the cultivator, unless a privileged tenure makes him a secondary or tertiary landlord, has to pay the full competitive rent for his land, and his welfare is in no way concerned in the contest as to how this rent should be disposed of. Champions of the landlords often argue that if Government takes more of the rent, then it would press hard upon their tenants, vaguely described as the " poor cultivators ". In fact " poor cultivators " do not pay the revenue ; only those cultivators pay it who are also landlords, and they do not pay in their capacity as cultivators. The Curzon Resolution also confuses these entirely different characters.

4. When by laxity or intentional leniency, Government leave to the landlord more than the standard share, investors are tempted to expect a continuation of this leniency and thus proposals to raise the demand to its legitimate level can have an appearance of confiscation. But our revenue must be continuously adjusted to prices. Rents and sales of land form an incontrovertible basis for land settlement, because they are based on the valuations made by the people themselves.

The following note is designed to make clear the foundations on which these assertions rest, for agricultural and non-agricultural land and also for minerals.

5. At the earliest dawn of agriculture the first tiller of the soil chose that portion of land which to him seemed most suitable and convenient. He had only to find tools and seed and expend labour and then to provide patience or the ability (supported by hunting, sheep raising, etc.) to wait until the crop ripened. Now it is certain that unless the crop repaid him for the seed and labour and the time he lost from his other occupations and some appreciable surplus, he would not have continued cultivating even his own land, and this is the most fundamental law of agriculture that unless it yields the *standard return* for cultivation in replacement of seed and payment of labour, no land will be cultivated. For each day spent in agriculture, can I get more or less food than for each day spent in hunting, or tending sheep, or in any other way ?

6. Fortunately land can readily be made to yield more than this. But no two plots are quite alike. The first plots chosen will be those which promise best. When agriculture begins population increases. Later more and more people want food, and it then begins to be necessary to cultivate some plots which at first were deemed too troublesome or too distant. The people who must have food as they increase find hunting and fishing less and less adequate. They must then spend more time and labour in agriculture. Sometimes the greater labour consists rather in the distance of the land from the homestead and the market. There may be no real difference in its fertility, but it may be two miles farther away. The growth of demand for the products brings more land and less favourable land into cultivation. But as soon as the public demand makes it necessary to cultivate the inferior plots, at the same time and for the same reason it has increased the value of the return to the man who cultivates the easier plot. Here we get " rent " first made manifest. At first plot A yielded sufficient to justify its cultivation but plot B did

not, and was left waste. Then it became necessary to expend on the average, more labour per bag of corn; the price of corn measured in labour rose throughout the community. The cultivator of plot A could then either work less than his fellows, and waste or use his leisure in some other way; or else labour as they did and get a greater return. This is rent in the form of less labour or more corn. The leisure time could be bartered for corn or food in some form. So in all cases rent can be reduced to terms of "more corn per unit of toil"; that is, on better land this "unearned windfall" of more corn for each hour of labour e ables the tiller to enjoy (or pay to others) a rent which being deducted leaves him *no worse off* than the tillers of inferior land.

7. Undoubtedly skill also counts. Two men labour with equal strength and equal hours on land of equal quality. Yet one by better judgment and knowledge gets a better result. This is the rent of skill and in no way affects the rent of the soil, which is determined not upon the results achieved by skill but by the average man. The cultivator of plot A had done *nothing whatever* to justify this bigger return. It fell into his lap in consequence only of the greater need of his fellow men.

8. Other persons then saw that plot A gave a better return than plot B. They would try to get it away from the cultivator. Excluding the alternative of violence, and admitting the principle of private ownership their only recourse was to offer some payment for letting them have his plot. If the cultivator owner of A accepts it, he becomes a landlord deriving profits from "tenants". If he does not accept, but goes on himself cultivating then he is deriving (*a*) the profits of cultivation as a cultivator, or as is said above, the standard return for his seed, labour and time, and also (*b*) the rent of a landlord in that he continues to pocket the extra profit which accrues to himself *unearned*.

9. When a great many plots of land have been brought into cultivation and still the demand for produce rises, more can be secured only after the expenditure of considerable labour and trouble (or we may say capital) on clearing and improving plots hitherto entirely waste. Capital so spent *earns* the rent which it adds to the improved land.

Another resource of early peoples was war; the violent seizure of the better fields of their neighbours. War was probably just as costly an operation as the expenditure of capital on land improvement; and it may often have had the ironic defect that by causing a considerable reduction of the population it made the land when seized *worthless to the seizer*. But when more land cannot easily be secured many persons desirous of earning the livelihood of cultivation enter into competition for the existing plots by offering to accept a lower return for their labour and time than cultivators have up to that time been willing to accept. They offer a larger proportion of the total produce as rent, reducing their standard of living.

10. Thus growth of population (agricultural as well as non-agricultural) and pressure upon the means of subsistence increase rents, while a high general standard of living of the cultivators decreases them. So we may

define rent of each field as a surplus measured by the interval between the standard of living of the cultivator and the gross value (not amount) of the produce. Part of this rent is earned and part unearned; an early ground of contention between landlord and tenant arises out of attempts of the landlord to appropriate fruits of the tenants' improvements.

11. As between the State and the landlord or cultivating owner, the unearned rent is the natural property of the State; the portion left to the landlord is a grant or concession by the community. If the Government of the State is largely controlled by those who are not landlords, it will resist every effort of the landholding class to withhold any part of the unearned rent: if the control is with the landlords they will see the Public Treasury empty before they will agree to any reduction in the share left to the landlord. When we think of land revenue as a tax taken from the holders of land we do wrong: it is the share of the rent retained by the landords which is *a tax levied by them upon the community.*

12. We are now in a position to define "marginal land" as that land which—being inferior (in fertility, or in position, or in invested improvements) to land previously in cultivation—is most recently brought into cultivation as the rental tide rises, and yields the bare return to its cultivator, but no rent. The marginal land of one generation may be in another generation able to pay a rent: or *vice versa.* Just so the tide rises and falls in a creek, and there is always a strip of land at the edge of the water where there is no depth of water. The tide level from time to time stands for the value per unit of the produce of all fields. The floor or bed of the creek is the cost of cultivating each unit of produce, which cost varies with the fertility, etc., of each field, and with the standard of living of the cultivators. The rent is then represented by the depth of water at each point; land above water is uncultivable: land at the edge is on the margin of cultivation: the deepest water is over those parts which are the easiest and most fertile of all.

13. The marginal plot can pay no rent. Yet under any system of rents paid in produce it has to pay the same share, say, half or one-third of the crop, as other land. What is the economic effect of crop-sharing? The marginal land is driven out of cultivation, and thus makes food scarce, while it also deters improvements: and, on the other hand, it takes rather less than the full unearned rent from the best lands, thereby creating a small class of land-holders interested in upholding the system, against the larger mass of landless labourers and struggling tenantry on the poorer farms who are obliged to adopt a very low standard of living or else abandon their homes and birth places. The standard of a share of gross produce was abandoned (about 1864) in Madras because "while it favoured the more fertile, it pressed with extreme severity upon the poorer lands." (Curzon Resolution, paragraph 16.) A properly graded rent will fall to zero on the marginal fields: while it will rise even higher than half the gross produce upon the best fields. It therefore enables the marginal land and the best land alike to remain in cultivation and to support all the cultivators alike at the same standard of living, modified only by their own qualities.

A recognition of this point is faintly discernible in the Curzon Resolution (paragraph 10) "a proportion of *rent or of produce* which would leave a wide margin of profit in one part might be vexatious elsewhere": of *produce* this is quite true; of *rent* it seems quite untrue.

14. Our Land Revenue Code (sec. 107) says that "in revising assessments regard shall be had to the value of land, and, in the case of land used for the purposes of agriculture, to the profits of agriculture." And it also exempts any improvements made by the owners since the Land Revenue law came into operation. The language is vague and unsatisfactory. The value of land includes both its unearned and its earned rent. It would have been much more definite to say that the assessment should be proportionate to the unearned rental value of the land. In assessing Income Tax we do not "have regard to" the assessee's income but take an *exactly definite* percentage of it. If the term "profits of agriculture" is meant to include any portion of the standard remuneration of the cultivator, and the replacement of his expenditure, or any "earned" rent, then we have no right to tax it. The proper object of taxation is the unearned rental value independent of the cultivator's remuneration. We find in the Government of India (Army Department) No. 10218, dated 1st August 1920, "In estimating the clear income from any grant .....due attention should be paid to the estimated cultivating profits from such land as is retained by the grantee in his own hands and not let out to the tenants." What is obviously meant here is that when the land is not let to tenants a rental value should nevertheless be assessed upon it, and this rental value drawn by the grantee over and above the standard remuneration of tillage should be deemed to be his annual income from that land. That is quite right and true though not perspicuously expressed.

15. It would be easy to elaborate all these ideas by the descussion of partnership between the landlord and tenant, excessive sub-divisions of land, export and import of corn, the competition of pastures and woodland, and so on, and the problems of insurance against famine. But leaving all this to the reader's intelligence let us pass to the main propositions which we need to establish and keep before us:—

(*a*) No land is cultivated if the cultivator cannot, for the time he spends upon it, get his subsistence according to his proper standard of living.

(*b*) There must always be some marginal land incapable of rent.

(*c*) Rent when not the fruit of improvements is the surplus value created by public demand. It is never earned by the cultivator or by the landlord.

(*d*) If no landlord or Government takes the rent then it must be consumed (in produce or in laziness) by the cultivator, in addition to his standard return.

(*e*) If the State takes part of the rent, it takes it only from the landlord, or from the cultivating owner only in his capacity of landlord.

(*f*) The State is in theory entitled to all the unearned rent for the use of the community which creates it. If it pitches its demand unduly low, it abandons public wealth to individuals, who have neither earned nor purchased it. In demanding a portion, not exceeding half, it amply respects all existing vested interests and rights.

Such are the principles which actually underlie the Land Revenue policy of the Government of India and the mysteries of agricultural Settlements.

16. When Government sell unoccupied land *subject to its own demand for revenue* it is selling the surplus unearned rental hitherto accrued. Except the State, there is no one else to receive it. If there be no rental value above the assessment the land cannot find a purchaser: the money so invested earns its annual interest or return in the portion of rent Government does not take. Sales of unoccupied (unimproved but at the same time not derelict or deteriorated) assessed land are the best test of the ratio which the assessment bears to the total rents. No future increase of assessment can confiscate any part of the purchaser's investment so long as its *ratio to the total rental* is unchanged.

17. In Bombay (and in all the 'rayatwari' tracts in India) the standard assessment (see paragraph 10 of the Curzon Resolution, 1902) ever since 1855 at latest is a share not exceeding half the unearned (sec. 107, cl. 2) rent. To this has to be added 6¼ per cent. as local cess: and certain small charges at irregular intervals for survey fees and expenses on transfer which may be averaged at 3¾ per cent. more. In theory therefore out of a total unearned rent of 100 the maximum State demand is 50+3·125+1·875=55. But in practice it rarely reaches this level. It more usually ranges from 35 to 45 per cent. inclusive of all cesses and fees.

18. The principles of assessment of **water charge,** under section 55, L.R.C., of the Irrigation Act for Canal water are discussed in Govt. Memo. P. W.-I. 955 of 18–1–21. It is plain that when land comes under the command of a canal its cultivators can grow better crops, and more valuable crops, at a less expenditure than if they had to raise water from wells, or cart it in barrels from a river. Their expenses of cultivation, standard cost of living, and their rents are drawn out of the gross value of the produce. The canal increases the gross produce more than it increases their expenses, even though they have to pay water rates, and apply more manure, hired labour, etc. Consequently the rent rises even after the cultivator has paid the rates: the lower the water rates the greater the rents which will accrue. Those fields which do not, but still could, take water increase in rental value in the market without the slightest effort of their holders or cultivators. This increase in the unearned rent is the direct result of public expenditure. It is a rent earned by the State. To leave even half of this income in the pockets of the land-holder is generosity at the expense of the tax-payer who has already had to pay for making the canal, and who also provides the funds out of which rent is drawn by paying for the produce. A rupee of rent left to the landlord

as a result of canal rates being low enough to admit an enhancement of rent is thus a double tax on the community for the benefit of the individual.

2. The sound basis for canal rates is to attack the unearned increase of rent directly by taking every year and always, whether water is used or not used, by any particular field, not less than half, though perhaps not more than $\frac{3}{4}$th of the enhanced rental of the commanded area; and indirectly by charging at least enough for the water actually taken on each field to give the Irrigation Department a hold over persons who waste water and to pay for the supervising and collecting staff. But these rates will not aim at reimbursing the whole cost of the canal. The aggregate of the *direct* rate upon rent, and the addition to cultivation expenses would probably give in almost every case a higher return upon the cost of construction of the canal than now. It would be taking not more than a legitimate share of unearned rental from the land-holder. Even if it exceeded 100 per cent. per annum upon the cost of the canal still it is even better justifiable than our ordinary Land Revenue. The rental value out of which ordinary dry-crop revenue is claimed is indirectly created by the unconscious act of the community: but the increment in rental under canals is consciously and directly created. If therefore ordinary Land Revenue can be justified, still much more ought we to demand canal rates on the basis of rental and not merely upon the cost of administering the canal.

19. Now let us consider land not used for cultivation but for building houses, or shops, or for growing timber, or for fish-curing yards, or any other **non-agricultural purposes.** Yet here too there is rent, and that rent may consist of earned and unearned portions. Here too there is the 'marginal plot' for which no rent is offered. Usually the rent begins with an unearned portion. The functions of a cultivator are dimly represented by the manager who perhaps negotiates with builders and with tenants and gets houses and shops planned and erected, and arranges for different amenities and conveniences. To that extent the owner deserves such portion of the rent as the amount of labour he has spent might properly earn. And of course any improvement on which he spends money is outside the scope of taxation. The rent on non-agricultural land is produced by the public demand. The nearer the land is to the business centre of big cities the keener the competition and the higher the rent. The non-agricultural rent grows up along-side of, and independent of, the agricultural, and not until it becomes higher than the agricultural will the manager owner consent to the diversion of the land from agriculture. The agricultural rent then disappears. It is submerged like a rock by a rising tide and has no further effect upon the height to which that tide may rise. The 'crop' of non-agricultural land is the rent which it yields. When land is sold in an unimproved state the price paid is the capitalised value of the estimated unearned rents. The State asserts its claim to a substantial portion of the total rent. It is plainly even better entitled than in the case of agricultural rent. This increment rests almost entirely upon *situation.*

20. Suppose V is the holder of a plot which he wishes to sell, and thus can be called the Vendor. P is a person who wishes to buy, and become the Purchaser. G is Government standing by, in the interest, now-a-days, of the general public, to assert its claim to a substantial share of the *unearned* rent. P first comes to V with an estimate in his mind of the total rent he can derive from that land. Part of that rent he may have to earn by spending money, building houses, or wells, or platforms, or whatever else it may be (or by purchasing existing improvements) but he expects more than that earned rent. If it were not so, he would not offer to pay *for the land.* V comes to meet P knowing that he has been able to get a small rent from agriculture, or (if he cultivated in person) that he got both wages of cultivation and also the rent. If he gives up the land he can get those wages of cultivation (approximately unchanged) by cultivating some other land somewhere else but it may not be easy to find a farm and it may be far away from his tribe and so be uncongenial. But he will not leave his land until it is made profitable. It is only when P is prepared to offer a larger rent than the agricultural that V will consent to move his agriculture elsewhere. P generally offers the increased rent in the form of a sum capitalising his future expectations of unearned rent. No doubt in ordinary business his offer will represent not quite the full capital value of the unearned portion of the rent he expects. He will not include in his offer to V the value of that rent which he proposes to earn by spending capital.

21. In this frame of mind P approaches V, knowing, let us say, that the maximum capitalised unearned rental he can reasonably expect is Rs. 5. He will not however think of doing business at Rs. 5. It would leave him no margin of safety. But he might possibly go up to Rs. 4, or even Rs. 4½. If V asks for Rs. 10, P walks away. It is a common error to suppose that high prices are caused by the excessive demand of V. P can never possibly offer more than the capitalised value of the rents he foresees, and those rents he certainly did not create and V did not create, but the public has created, and therefore when V and P meet, the maximum price P can possibly pay has been *determined beforehand* by public demand. The bargain would not be affected by the fact that V had himself purchased his expectation of the unearned rent: even if he had rashly paid Rs. 8 for what P now estimates is worth Rs. 4½, he will have to sell for 4½ and cannot stand out for 8.

22. Perhaps already V is paying some small agricultural assessment. When he sells, P becomes responsible; and he therefore will deduct the capitalised value of that assessment from his offer. But P knows that when he builds houses, and improves the land and so realises the rent, hitherto latent and potential, he will be reassessed and so the deduction he makes will always be of the capitalised value of the expected (and not the existing) assessment. Therefore the capitalised value of the full unearned rent is the first main element in his calculation and the capitalised value of the expected assessment is the second main factor. P wants to know this in advance: after he has closed the bargain, and V has walked away with the money, if G steps forward, and demands an assessment greatly

in excess of what P expected he is ruined; because he *cannot possibly get from his tenants more rent on the ground of the higher assessment* asked by G. The rents are what public demand has made them. No doubt P will take all he can, but more than what the public will pay he cannot get. He cannot turn to G and say, "there goes the man V to whom I have just paid the money. He has carried off the capitalised value of the extra assessment which you now want: pursue him and take it." V has divested himself of the land; there is no longer any one but P to whom G can look, unless we reshape our fiscal nets.

23. In Mr. Lloyd George's once famous Land Taxation Act of 1910, the tax was levied in a *capital* sum *from the vendor*. We need not here discuss the breakdown of this scheme: in theory it was entirely right. In Bombay we tax the purchaser and let the vendor go off unchallenged with his price. This point is brought out strongly in the Consulting Surveyor's valuable memorandum in R. 1291-20. In taxing the purchaser, and not the vendor, of agricultural land for building purposes, we are getting hold of the wrong person. The tax ought to be on the sale value: but now we let the agricultural holder sell to the builder for the highest price he can get, and then we tax the purchaser in addition saying "Since you were able to pay him a great sum, now also you shall pay us a great assessment." If we could be certain that the knowledge of this impost would keep down the purchaser's bids, and curtail the vendor's demand to the full extent of our tax, it would be defensible, since it would take no more than part of the "unearned rent": but for every rupee paid in excess in ignorance or miscalculation of the probable tax we then proceed to tax the unremunerative investment made by the builder, and so stifle development.

24. Therefore the fair and proper course for G to take is to stand forward *before the commencement of the bargain*, and say definitely that it wants an exactly fixed proportion of the total unearned rent. Suppose it fixes the proportion at one-half (which is much too low considering that it is already the declared standard for the assessment of agricultural land in which the unearned nature of the rent is not so conspicuous) (see Note 204). G then says to P, after paying V for any improvements he has made, for every further rupee you pay to V you must also pay me one rupee, or (since we do not want the revenue in lump) every year 5 per cent. upon every rupee of capital price which you are going to pay to V. Then the price which P can offer V is at once limited to half the capitalized unearned rent, because G will take the other half. The expected assessment is now known. It will be 5 per cent. (the present standard rate on Government Securities) upon whatever P pays after deducting the price of improvements. In these conditions if P and V close the bargain at 100 (excluding improvements) then they declare their opinion that the gross capitalized value of the future unearned rents is not less than Rs. 200. The capitalized value of the assessment which G will take is 100 and P has no unexpected profit, but just enough rents to reimburse his expenditure. The transaction between P and V will be put down as a current market sale for 100. That then is the current value of the land, in open bargain between a willing vendor and a willing purchaser, each trying to

get the best bargain he can and finally meeting at a price which represents the universal opinion of the market. But the gross charge which P has contracted to meet is 200; 100 paid to V and 100 to G in the form of an assessment. The principles are still awaiting settlement by the Government of India (see R. 10381-16) but the subject being now Provincial may possibly not be taken up by the Central Government. In R. 965-20 (replying to that reference) and in the orders in R. 8693/24—22-10-28 Government have laid down the standard as 5% on "*half the full market value*". Had that expression meant that 100 (in our last illustration) is the "full market value" (being the price paid to V in the market) then they would have taken 5% upon the whole of it; but on the other hand it undoubtedly means that the *full* market value estimated by P was 200 of which he has paid 100 (the expressed market value) to V and reserved 100 for meeting the Government demand, then 5% on half of 200 is a proper assessment. Government explicitly accepted the views of the Commissioners in their Joint Report (printed in R. 1291 of 1920) which *left no doubt of this intention.* But it is not quite clearly expressed in the order what the "*full* market value" means. Nor has any allowance been explicitly made for the "earned" portion of the price paid. If money has been spent by V on improvements, or the purchase of improvements, any assessment which takes part of that investment before it is exhausted is confiscatory and oppressive.

25. In the Resolution it is stated that the full market value will be determined by the sales of unoccupied land for the same purpose in the vicinity. Unoccupied land pays no assessment but is liable to it; also it may be assumed to be unimproved. The assessing officer will have regard only to what we may call the prairie value of the unimproved ground (R. 2890-00, R. 4730-01). A better term than full market value would be "full revenue-free (or free-hold) value". Unless the formula is plainly before the purchaser, his task of estimating the value is unenviable. The point has been urged in the papers printed in R. 906-21 but not settled. In para. 4 of the order a rate for converted lands under rule 82 (iii) is fixed at 6 per cent. on the full market value which here would not seem to mean "free-hold value"; it seems to be a slip.

26. After a certain number of years Government will revise their demand. If rents have risen the demand will be enhanced in proportion to the rise. This will involve no loss to P unless in his calculation of the price to be paid to V he already foresaw and included the increase of rent but was not prudent enough to deduct and reserve the corresponding increase in assessment. There need be never any hesitation in revising these assessments even at short periods, when there has been a proved rise in rents. What in actual fact an investor requires is not a fixation of assessment for 100 or 1,000 years, but an assessment fixed throughout the period in accordance with a known proportion of the *rent*, so that whether rents rise or fall his assessment will rise or fall with them. He also requires an assurance that he will not be evicted from the land (see para. 32 below) until the building has lived its life, usually 100 or 150 years for buildings of good class. The true motive of the clamour for

assessment (upon agriculture or upon office-blocks) fixed in perpetuity or for long periods is the ardent hope that rents will rise but Government or the public will be bound by its pledge and will have to stand by and see the landlord getting rich on ever growing rents. It has been the fixed policy of Government to secure for the public at least half of this income; and this *cannot be done* unless the periods for revision of assessment are short, say, 15 years at the most. Long intervals would entail both very large differences at each revision, and (when rentals rise) large sacrifices of legitimate public revenue pending revision. In London the period is 10 years, and indeed there is quinquennial re-valuation of all properties with a view to these revisions. The Government of India has expressed its opinion that 30 years should be the *maximum* period. But the Bombay Government has adhered to the 50 years period up to 1928: nearly twice as long as agricultural settlements though N—A rents vary more. Now at last we have in R. 8693/24—22-10-28 came to a *minimum* of 30 years.

27. To sum up, throughout it is fundamental that—

(*a*) whatever portion of the gross rent G does not take the landlord will take (see the Report of Mr. J. P. Orr, C.S.I., I.C.S., para. 30 (*i*) in R. 1071—02); and

(*b*) no relaxation of G's demand will cause a pie of reduction in the rents offered by, and collected from the tenants (G. 9137—15, and para. 4 in R. 991—00).

(*c*) A [the gross or free-hold value of the capitalized unearned rents] is B [the market price paid by P to V] less C [the purchase price of existing improvements] *plus* D [the capitalized value of the Government assessment].

(*d*) if the State desires to levy half the unearned rent the standard market rate of interest (now-a-days 5 per cent.) must be levied on the *current market price* B—C, or else upon *half the gross value* A (which is equal to B—C+D). As soon as this standard is established, in all market sales B—C will become equal to D.

28. In R. 72—21 (after the above quoted orders) we have been given an actual calculation: see p. 3, Appx. I to that Resolution. Here we find the proposed new assessment does not take half but less than ⅓rd of the gross expected rental. The Government demand was not announced before the sale, or was probably assumed at Rs. 12. So P may have made a ruinous mistake. Also the agricultural assessment is wrongly taken into the calculation and capitalized at the low rate of 4 per cent. It well exemplifies the need for clarifying our principles and practice. This has been at last done in 1928.

29. Besides G another party sometimes claims a share in the gross rent. That is the Municipality or other Local Authority whom we may call M. M's demand is sometimes based on the rental value as from time to time assessed: sometimes upon estimated capital value (which rightly regarded is a multiple of the rental value and so has the same base) and sometimes (*e.g.*, the Local Fund cess) upon the demand of G. (the N. A. assessment). Wherever there is this demand of M we must in the above

discussion substitute for G the combination G+M. This is an important point which is very frequently dropped out of sight.

30. The methods of assessment recognized *by the Rules* are :—

(1) Rules 52 (old 36). In about eight cities land is leased all at one fixed rate. It is impossible to suppose that adequate regard was had to the value of these lands, the value of which is certainly not uniform in all parts of one city, or one city with another.

(2) Assessments on occupied or unoccupied lands have in one case been imposed under sections 100—102. This practice is obsolete and has very rarely been employed.

(3) Altered assessments and assessments on unoccupied land (which are always to be the same, Rule 43) are in all other cases (*i.e.*, practically everywhere) imposed according to two Rules :—

(*a*) Class I and II of revised Rule 81 (Classes I to V of the Rule 72). These rates scarcely pretend to have regard to the value of the lands, except in a very general and perfunctory way. They result in the most varied percentage rates upon capital or annual value.

(*b*) The Standard Rates under old Rule 56—II (now 82) have a much closer regard to value, and are a direct percentage of a certain value. (But this value under the old Rules up to 1920 was not the total value contemplated by the Code, but the peculiar entity termed the " situation " value, or in other words " the total market value minus the assumed value of the rights of the holder for agricultural purposes (para. 2, R. 1071—02).

Government did not adopt Mr. Orr's definition of situation value, but that here given, and also laid down the principle of great import, if strictly applied, that the State is entitled to the *full* amount of the situation value (or to fair interest on it) ; and Government reserve the right to levy this full demand whenever desirable to do so (also para. 7, R. 991-00, which is the best enunciation of correct theory we had until 1928).

In the Gordon Sanads for Nadgir Watans in Ranebennur city (and presumably other Karnatic towns) it is prescribed that they shall pay 3-8ths of the rent they from time to time receive from their tenants (a very sound basis of taxation).

31. Since 1928 the standard is fixed at 5 per cent. on " half the full market value " discussed above. These Standard Rates are the nearest approach to a compliance with the principles of the Code. In many localities they were vitiated by concessions to induce holders to use their lands in a sanitary manner which further divorce the assessment from the value (see Note 213). One of the ways in which Government may exact their portion of the total value is by imposing such sanitary regulations as curtail the possible income and thereby depress the total N-A value (para. 19 of Mr. Orr's Report in R. 1071—02), though perhaps at the same time spreading the N-A demand over a wider area.

32. We must be careful to distinguish between the duration of the tenur itself (which is now practically always perpetual) and the period

for which the assessment is fixed between each Revision. The chief divergence from sound principle seems to be in the periods for which the assessments (or valuations) are *fixed* some of which run for 99 years (even where they have not been made perpetual) and some—the majority—for 50 years. R. 8241-18 makes an important amendment in this respect in the Sanad forms (Schedule H ; L. R. C.).

33. The rules and declarations as to the limit of enhancement of agricultural Settlements have never [except for a short time in Matheran: see Note 120 (iii)] been applied to the non-agricultural (Secretary of State in R. 7904-11). A whole village or town cannot be a unit area for a uniform assessment: and while the improvements of occupants must be exempted it should be expressly provided that improvements made by Government or by local authorities, such as new railways, roads, bridges or drainage, should be taken into account. This is, however, effected by the new rules which prescribe the correct basis of assessment, the full market value of the unimproved 'unmarried' land in the locality (see para. 3 of R. 991-00).

In R. 1291-20 Government urge the need of expert assessing officers to carry out periodical revisions.

34. Turning now from agricultural and industrial surface rentals to rents or royalties for **minerals**, whether surface stone and clay or deep rock-oil, gold or ores, let us see how far the same analogy holds. Where is the unearned rent? The cultivator's or builder's standard wage? The return for capital spent in improvements? Where is the insurance against famine? Every element is still really there: only we give it another name.

35. As before, the most fundamental truth is that no mineral is got without labour: in extraordinarily favourable cases hardly more than the effort of picking it up and carrying to the market is required. It is a sort of wild crop: in other cases the mineral is got with extraordinary labour and risk, as in deep coal mines. No mineral can or will ever be mined unless the value of the product at least repays the labour of extraction and marketing, together with the market rate of return on such capital as must first be spent. For some minerals it is very uncertain whether any paying result will be obtained. Several shafts have to be sunk and much money spent before oil is struck. Therefore in all the outlay of capital there must always be a very substantial element of insurance against risk of failure. Enterprises run on a large scale require adequate wages for management and supervision. No tax, assessment or royalty which leaves no return for this labour and expenditure can possibly be levied without immediately putting a stop to the mining, just as cultivation ceases if the rent is put too high.

36. In one mine, for an expenditure of 100, products worth say 110 are got, and in the expenditure we have included depreciation, insurance, interest on capital and all that. The unearned surplus profit is therefore only 10, but in another mine for the same expenditure of 100 the products may be worth 1,000, so that the unearned profit is 900. If those two

mines are offered for sale the first is worth 10 capitalized, and the second 900 capitalized. Now what creates the value of 900? It is *not in any way* due to the enterprise of the digger even if he foresaw its success to some extent. It is simply due to the fact that the public demand for that product is such that the quantity produced yields in one case 110, and in the other 1,000. If the second and richer mine can supply the whole demand, it might lower its price, say from 1,000 to 800, and then the product of the poorer mine will sell for only 88 and that mine will have to shut down and *cease producing altogether*. But if the world wants the product of the poorer (or marginal) mine as well as the product of the richer mine, then it must continue to pay the poorer mine something more than 100, and therefore the richer mine will be *obliged, even against their inclination*, to accept the profit of 900, since we cannot, in the same market at the same time, have two different prices for the same thing.

37. The unearned profit is the proper object of taxation. The State being the owner of all minerals ought to take at least 80 per cent. of it; even so leaving the handsome margin of 20 per cent. to the lucky discoverer, to the man who had the foresight, to the smart prospector as an ample inducement to develop more such mines, and so perhaps ultimately bring down the price of the mineral. At 80 per cent. on the unearned profit, we levy upon the richer of the two mines we have discussed, 720; and on the poorer, 8, still in each case leaving to them a sufficient profit to enable them to continue producing. But suppose we levy our dues or royalty on the quantity raised: we should then often be levying taxation where there are practically no profits [exactly like the fixed crop-share rent] and compel those sources of supply to drop out, which would mean that the world would get less than it now consumes and probably would have to pay a higher price for the remainder. Again it is still more impossible to levy a rate per acre on the area mined. Where perhaps we are only dealing with surface scratching, or the removal of a layer of surface clay, it may seem that a flat, general acre rate is roughly justifiable; but it is not so, because even there in some cases there is practically no unearned profit, therefore the taxation will kill the industry: in others the unearned profit is quite independent of the area worked, and to levy a rate per acre is much the same as levying Income Tax according to the girth of a man's waist. The connexion between the two will not bear statistical investigation. There is some justification for levying a dead rent (which would not be less than the agricultural assessment) on all land appropriated for the extraction of minerals in order to prevent its being held up and withdrawn from agriculture or other uses, and not used at all. If the taxation is only upon the profit, then a mine which is closed down but still held pays nothing. It may be closed only with the object of forcing the market up through scarcity of supplies, or it may be through neglect or abandonment. In either case the levy of a dead rent to prevent the wasteful hold-up of land is justifiable; but it should not exceed these objects.

38. In a Committee recently held in Central Provinces to investigate the taxation of minerals the lame conclusion was reached that it is "impossible to suggest rates (based on tons of output) for lime-stone

elsewhere than in the Katni tract (where conditions were fairly uniform) or for other minerals." Thus the unsound principle of attempting to tax the gross value or the gross quantity of produce breaks down at once when we attempt to generalise it. The acre-rate for brick making in Thana [Note 208 (iv)] is thus also unsound. Other attempts to fix acre-rates for stone quarrying are equally r nsuccessful: Note 208 (iii).

39. How then are we to find out whether a gold, oil, diamond, or clay extraction enterprise is yielding unearned profit or not? We find it out just in the same way as in the case of agricultural lands or non-agricultural lands; *e.g.*, by offering it for sale and noting the bids. But how can we offer Messrs. XY's mine for sale annually or otherwise? The whole mine is not offered annually. But every day some share in it is on the market, and from these we can infer at all times the open market estimate of the real value of its unearned profit based upon its results. [See the quotation for Burma Oil Company shares, and their declared annual profit of about £ 5,000,000 (1921)]. Therefore the soundest method in the case of clay, sand, and other important deposits worked with small or no capital for short periods is to put the right up for auction (under Rule 77): for more complicated industries like gold and oil fields the proper method of taxation is *upon the profits* having regard to the value of the shares. If the shares are going up we are undertaxing; when they go down we should reduce our annual demand, and in the end the State will secure the full and true amount of its just rights over the unearned profits. When a £1 oil share mounts up to £250, £249 is the market valuation of the unearned profit and the state has omitted to levy a very large revenue justly due.

40. If in an unoccupied field held for agriculture or for industrial use some mineral is found, and the holder seeks permission to work it, this will involve the abandonment of part of that field as agricultural or industrial land. The right of extracting the mineral does not vest in the holder of the land but it should be offered for auction, subject to the payment to the holder of the value of his agricultural rights and to the reimbursement of any expenditure he may have incurred in developing or searching for the mineral. The holder should be allowed only a right of pre-emption, that is to say, that if he is himself willing to give as much as other people, then he should have the first right to work the mineral. If however this working is sufficiently important to justify the formation of a Company or Syndicate whose accounts and revenue are *susceptible of exact audit* then this form of development should be allowed, subject to the payment Government of 80 per cent. of the profit on the mineral after reimbursing the expenditure at a standard percentage upon the capital and outlay: and a tax of 80 per cent. or more on the price the occupant or land-vendor or concessionaire gets for his right.

41. The principle for taxing minor minerals in the Bombay Presidency (where except perhaps for manganese and cement the major mining industry does not exist) was under discussion in R. 3425-20. In the above note an effort has been made to sketch the true theory of the taxation of minerals on exactly the same lines as we already follow when

taxing agricultural and non-agricultural lands. I have discovered since these lines were first printed that in Parliamentary Blue Book Cd. 4750. p. 273 [Report on land taxation in all countries] the same view is upheld.

42. Thus it emerges that if we solidly establish these principles, the assessment of all lands and minerals can be made with no less precision than the assessment of Customs revenue: *i.e.*, upon the dealers' invoices (subject to investigation when these are suspicious or abnormal). No longer need it be left to the caprice of individual estimates or that most arbitrary standard of "what they can afford to pay".

SUPPLEMENT B.

LEASES, AGREEMENTS AND SANADS.

There is a bewildering number of these documents applicable to many circumstances. It will therefore be useful to summarise the whole of them in one place, so that it can be seen at a glance which are appropriate to particular circumstances and where they can be found.

A *Lease* (L) is for a fixed term (sometimes open to renewal as noted in the schedule) and on special conditions and reserve a *rent* with complete reversion to Government on expiry of the term; an *Agreement* (A) accepts a tenure in perpetuity on conditions *lawfully annexed* to the tenure. The scope of such conditions was much enlarged by section 67 of the amended Code of 1913; and strictly speaking no bilateral agreement is now needed; these grants are also by Sanad. A *Sanad* (S) confers special permission or concessions, or confirms a pre-existing title.

Standard forms, old and new	Character of tenure	Sanctioning Resolution	Old Rule and Appendix (Sathe)	New Rules, Notes and Appendix		
				Rule (or Order)	Note	Appendix
	Agricultural.					
(R. M. 355) R. L. S. 12.	Eksali or one-year tenancy leases.	R. 10361-05 5976-14.	Rule 21 ..	41	113	....
	Melon Bed Leases ..	No special Form.	Rule 31 ..	41	113(*iii*)	See also Rule 52.
	In certain Munl. areas ..	....	Rule 36V ..	53	..	....
(R. M. 210-A) R. L. S. 8.	Ordinary survey tenure, in perpetuity or for a term (A).	....	Rule, 32, Appendix B.	37(2)	97	F
(R. M. 210) R. L. S. 7.	The same on the inalienable tenure; adding a clause to the above.	R. 6210-83, 2293-02.	....	37 (3)	99	I
(R. M. 337) R. L. S. 11.	Waste land in Thana and elsewhere; regulating lopping of trees (Tahal) (A).	R. 2154-09, 6368-09.	Rule 19 ..	39	104	G-I
	Waste land in Kaira—I with valuable babul, II without babul (A).	R. 5602-14, 8931-14.	....	39	104	O-F

Standard forms, old and new	Character of tenure	Sanctioning Resolution	Old Rule and Appendix (Sathe)	New Rules, Notes and Appendix		
				Rule (or Order)	Note	Appendix
	Agricultural—contd.					
	Leases for waste lands in Ahmedabad.	R. 7837-17.	....	41	104	....
	For Criminal Tribes (L) Form A (agricultural).	R. 12176-16. superseding 9358-12.	....	39	..	O-E
(R. M. 62) R. L. S. 1.	For improvements of jungle or bad land, or for clearance of prickly-pear (L).	R. 11514-11. Destandardised R. 8008-23.	....	39	104	G-1
(R. M. 83) R. L. S. 2.	For reclamations from the sea (L).	R. 3208-82, 7033-84, 3345-88, 2641-98, 3875-01, 682-10.	Rule 20 ..	40	109	G-2
(R. M. 211) R. L. S. 13.	For planting trees in open spaces, etc. (S).	R. 4118-01, 8966-01, 4-13.	Rule 29, Appendix XVI.	55	143	O-J
	For Babul plantations in Ahmedabad (S).	R. 3293-83.	Rule 29 ..	55	143	....
	Alienations Classes I to VI—(1) of land on the basis of its agricultural assessment. Sanads for such grants are issued according to forms sanctioned by Government and dealt with by Alienation Office (the alienee may use for agriculture or for non-agricultural uses as he pleases).	Destandardised in R. 5376-11, item 533 *et seq.*	Rule 58, Appendix F. to Sathe's Rules.	32(2), L. R. O.XXIII		....
	For Shetsanadi grants, or for Saranjams, or Personal Inams for one life (S).	No form ..	Rule 14 ..	34	86	....
	For alienations in Kanara (S).	Forms. A. B. and C., R. 5599-15.	....	..	..	....
	Alienations, Class VII—					
	(2) For non-agricultural uses wholly or partly revenue-free grants (ordinarily agriculture would be an infraction of the grant.	....	....	..	..	....
Sanad (41) R. L. S. 14.	I. When the occupancy is granted by Government in perpetuity or for a term (S).	R. 7010-05	Rules 11 and 12, Appendix K. to Sathe's Rules.	32(2)	94(*a*)	D
Sanad 42 (destandardised by R. 5376-11).	II. When the occupancy already belongs to the grantee (S).			35 (*a*)	94(*a*)	E

Standard forms, old and new	Character of tenure	Sanctioning Resolution	Old Rule and Appendix (Sathe)	New Rules, Notes and Appendix		
				Rule (or Order)	Note	Appendix
	For Educational Buildings.	R. 7010-05 and then a trust deed under Grant-in-Aid Code is executed in favour of Government.	Rule 16 ..	32	74	..
	For *Sales* Revenue-free in perpetuity.	No form ..	Rule 10 ..	33	84, 85	..
	To enter upon occupation of land.	R. 4976 of 30-8-22.	....	Rule 54	..	K. K.
	Non-agricultural					
(R. M. 210-A) R. L. S. 8.	*Grants of Government waste land—*					
	Ordinary mofussil occupancies in villages class I to V; agreements like those for agricultural waste land on ordinary.	R. 7440-01, 8610-01.	Rules 24 and 26 and old Append I x B.	43	118	F
	Or inalienable tenure (A).	R. 6210-03, 2293-02.	....	43(3)	99	I
(R. M. 358) R. L. S. 23.	Non-Municipal towns and large villages: a special form as alternative to the above (A).	R. 10002-15, 7782-16, (Vernacular)	....	43	119	H too elaborate R. 922-20.
	For Sholapur ..	R. 4980-09, 7610-09, 7011-10.				
	For B. Suburban District.	R. 4976-30-8-22.		43(2)	119	H. H.
(R. M. 224) R. L. S. 3.	*For Hill Stations: Leases*—*					
	Panchgani, Sakarpathar, etc.	R. 1293-05,	31 (1) ..	44	120	O-G‡
	Mahableshwar (2 clause added to the Panchgani form).	R. 4816-05, destandardised R. 8003-23.				
(R. M. 224) R. L. S. 3.	Matheran (after numerous amendments.)	R. 7987-13, standarised R. 10278-13, and amended R. 1663-20.	....	44	120	The 30 year's lease† may be renewed for *one* period of 30 years. The 99 years' lease may *not* be renewed.
	Kasara ..	R. 5338-05, destandardised 5976-14.	....	44	120	..
	Bandra ..	R. 6751-11	....	..	..	..

*Lessee has first refusal (on 6 months' notice) of a renewal, for a period to be settled by Government and can renew either in the old form (R. 3098—74) where so stipulated R. 728—02; otherwise in the new form (G. 6259—15). The form is now supplied only quinquennially on special indent.

†The limit of 33⅓ per cent. upon each future enhancement in the case of his lease is also removed.

Standard forms, old and new	Character of tenure	Sanctioning Resolution	Old Rule and Appendix (Sathe)	New Rules, Notes and Appendix		
				Rule (or Order)	Note	Appendix
	Non-agricultural—contd.					
	Grants of Government waste land—contd.					
	Special leases for certain surveyed cities :—					
(R. M. 227) R. L. S. 4.	For building ..	R. 1086-03.	36(IV) ..	51(1)	133	O-H May be renewed *only* on payment of a premium* (occupancy price and for a period to be then settled by Government.†
(R. M. 228) R. L. S. 5.	For short term uses ..	R. 1086-03	36(V) ..	51(2)	137	O-I
	For Criminal Tribes' Huts (L) Form B.	R.12176-16, R. 408-21 R. 8509-23 superseding 9358-12.	....	55	91	O-E
(R. M. 315) R. L. S. 10.	For Brick Manufacture or Salt pans, etc.	.....	....	47, 55	143	..
	Reclamation for non-agricultural purposes (L).	(R. 3208-82)	Rule 20 ..	47	94	No renewal.
	Temporary leases in B. S. D.	R. 9545 31-7-24.	....	43A	119a	O-O-I
	Non-agricultural land already occupied					
(R. Sanad 46*e*).	City Survey Sanads ..	R. 482-10 ..	Schedule H to the Code.	..	..	..
(R. L. S. 18*e*)	A. Revenue paying ..	....	These confirm tenures but do not grant them and can be varied to suit any case.	Sec. 133	38	Code Schedule H.
(R. Sanad 47*e*) R. L. S. 19*e*	B. Revenue free ..	R. (order) 12163-14.	(R. 5000-16).			
	Exchange of village sites	R. 10096-85	Rule 26, Appendix A to Sathe's Rules.	46	122	J.

*Which is reserved to Government, and not assigned to the Municipality [p. 91 and 139, Selection CXXXV, para. 2 (R. 54—73)].

† This condition will also apply to all the *leases* given for fixed or indefinite periods under Rules or Orders prior to 1881. All leases "during the pleasure of Government" should be called in and converted to one of the sanctioned tenures upon payment of occupancy price or premium.

Standard forms, old and new	Character of tenure.	Sanctioning Resolution	Old Rule and Appendix (Sathe)	New Rules, Notes and Appendix		
				Rule (or Order)	Note	Appendix
	When occupied land is converted to non-agricultural uses.					
(R. Sanad 43*e*) R. L. S. 15.	For ordinary alterations in Classes I to V concurrent with Survey Settlement—	....	The practice was to issue no Sanad; but it seems one should have been given in this form (Sathe's Appendix E.)	80	198	M.
	A. When assessment (imposed by error, but not protected by a gaurantee given before R. 4267–96) is altered (S).	R. 4637-12 standardised R. 12128-14.	Rule 32 (1), old Appendix E.	87(*b*)	221	O-L.
	B. When assessment is not altered but newly imposed under sec. 52 (the land having been left unassessed at Revision Settlement (S).			87(*b*)	221	O-M.
	These have now been replaced for grants since 1920 by new forms with a 50 years' tenure.	R. 1291-20	....	87(*b*)	221	
R. L. S. 15 ..	(*i*) for building ..	Standardised R. 2090-21.	E. E.	87(*b*)	221	M.
	(*ii*) for other uses ..					N.
	Under section 67 for important places and Hill stations (A).—					
(R. M. 232) R. L. S. 9. R. M. 233, R. M. 234 (forms 233-34 destandardised by R. 5376-11).	A. With permission ..	R. 1188-04. 508 8-0 4. 749 6-0 6 1254-10, 2857-14.	Appendix XX to Sathe's L.R.C.	84	214	O-N.
	B. Without permission					O-O.
	C. With permission but when special concessions are made.					O-P.
	To the above is added a schedule of building regulations. This is to be replaced by model regulations in Notified Arrears, etc.	G. 3543-06	....	..	214	....
	In cities under rule 52, old, Rule 36 (A).	....	Rule 37 ..	51(1)	133	No form but O-N to O-P would be modified.
(R. M. 315) R.L.S. 10.	Brick manufacture ..	R. 8823–06 4016–07.	Appendix XVII to Sathe's L.R.C.	82—V(3) No. rene	221(*iii*) wal provi	O-K. ded.
	For reconversion to other N-A uses or back to agriculture (A).	....	....	90—91	226–230	No form
	For commutation of Service Rights by 1-V. servants in Belgaum.	R. 6784-21-12-22.	....	..	..	O. T.

For assignments for public purposes and transfers to other Departments (in which no right of Government is alienated) a written order suffices. For some exchanges see Notes 86—88.

5th September 1921. F. G. H. ANDERSON.

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Abbreviations :—R. = Rule, N. = Note, O. = Order, F. = Form, A. = Appendix.

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