

may be selected from the proceedings of a case in Court, from reports or petitions addressed to Civil or Military authorities, from letters passing between natives of India in the ordinary course of business or from private correspondence. They should not be written with the clearness of a printed book nor yet in a very cramped or crabbed hand, but in such a manner as fairly and honestly to represent the written characters generally employed.

- (d) Conversing with the examiners or with natives of India with fluency and with such correctness of pronunciation, grammar and idiom as to be at once intelligible. In Sanskrit the colloquial and manuscript portions must be omitted

10. The following are the subjects for the High Proficiency Examination :—

- (a) Construing *ex a voce*, with readiness and accuracy, from the undermentioned books .—

Maráthi	{ Navnit Venisunhár Náta.
Gujaráthi	{ Kávyá Dohan. Jaya Kumári Vijaya Náta.
Kánárese	{ Katha Manjari Ráwan Diggvijaya. (Chun Basweshavar Purán (7 to 10 cantos)
Sindhi	{ Nandráam's History of Sind by Mahomed Massoom. Sasvohini and Panhu. (Khewatrám's) Sookree Galeconjeecon.
Arabic	{ Nafhat-u'l-Yaman. Selections from Alf Laila.
Persian	{ Gulistán. Bostán. Mirza Hairat's translation of Malcolm's History of Persia, Vol. II.
Sanskrit	{ Hitopadesh. First nine cantos of Raghuvansa (expurgated edition by Ishwar Chandra Vidyásagar).

- (b) Translating into English, with accuracy, a passage in narrative style not taken from the text books and selected in all languages, except Sanskrit, from the current literature of the day.

- (c) Translating with accuracy of idiom and neatness of expression into the language in which the examination is held an English paper in narrative style.
- (d) Translating in like manner a paper of English sentences
- (e) Conversation in the language (except in Sanskrit)
- (f) Reading and translating at sight manuscript in the language
- (g) Dictation in the language of a translation made at sight from a paper in English placed before the candidate
- (h) A paper of grammatical questions
- 11 The following are the subjects for the Honour Examination. —

- (a) Construing *ecce ecce*, with readiness and accuracy, from the undermentioned books. —

Marathi	{ Kekkavali }	by Moropant
	{ Bhuat }	
	{ Satasayamwari, by Waman Paudit.	
Gujarathi	{ Desbodh }	by Dalpatram Pranjivan.
	{ Compilation of Dayāram's Poems }	
	{ Narmā Kavita }	
Kannarese.	{ Sakuntala Nāṭik, by Jayram Bharat }	by Jayram Bharat
	{ Rāmāyana }	
	{ Akhāṭikā Jalāli }	
Persian	{ Inshā Abul Fāz }	Shah Narmad one volume, or about one fourth of the whole
	{ Shih Narmad one volume, or about one fourth of the whole }	
	{ Diwan of Hāfiz }	
Arabic	{ Hamāsah, 1st two books, pages 1—109, Calcutta Edition }	Timm Narmad
	{ Timm Narmad }	
	{ Makamat of Humā, 1st half. }	
Sanskrit	{ Saba Muṭṭakāt }	1st and 2nd Adhyāyas of the 1st Ashtaka of the Rīgveda Samhitā
	{ 1st and 2nd Adhyāyas of the 1st Ashtaka of the Rīgveda Samhitā }	
	{ Cantos I to VI and XI to XVIII, inclusive, of the expurgated edition of the Kīrātārjunya of Ishwari Chandra Vidyāsagar. }	
	{ Sakuntala Nāṭak }	

- (b) A written examination in the books, the paper set to include questions in grammar and prosody.
- (c) Translating into English with accuracy two passages, one in prose and the other in poetry, selected from some difficult work not being a text book. The passage in

prose will, in all languages except Sanskrit, be selected from the current literature of the day.

(d) Translating a difficult passage from English with accuracy, elegance and neatness of expression and perfect correctness of grammar and spelling.

(e) Conversing with accuracy and fluency (except in Sanskrit).

(f) Reading and translating at sight a manuscript in the language.

(g) Dictation in the language of a translation made at sight from a paper in English placed before the candidate.

12. The Honour Examination will be of a searching nature, and the exercises both oral and written must be performed with such excellence as distinctly to establish a claim to eminent proficiency.

13. Successful candidates for the Degree of Honour shall be arranged in two divisions according to the number of marks obtained. For the first division 80 per cent. of the marks must be obtained in all subjects and not less than 60 per cent. in any one paper; for the second division 60 per cent. must be obtained in all subjects and not less than 45 per cent. in each paper. The reward and diploma will be granted only to those passing in the first division, and their names only will be published in the *Gazette of India*. Those passing in the second division, will be deemed to have passed for the purposes of leave and travelling allowance rules, but they will not be allowed the benefit of those rules on a second occasion should they elect to compete again for the reward of a degree of Honour.

Detailed List of authorized Text Books.

Maráthi	{	Navnit.	} by Moropant.
		Venisunhár Náta.	
		Kekáwali	
		Bhárat	
		Sitáswayamwar, by Wáman Pandit.	
Gujaráthi ...	{	Dásbodh.	}
		Kávyá Dohan.	
		Jaya Kumári Vijaya Náta.	
		Compilation of Dayáram's Poems.	
		Narma Kawita.	
		Sakuntala Náta by Dalpatráam Pránjiwan.	
Kánarese ...	{	Katha Manjari.	}
		Ráwan Digwijaya.	
		Chan Basweshwar Purán.	
		Jaymini Bhárat.	
		Rámávan.	

Sindhi.....	Nandirám's History of Sind by Mahomed Massoom. Sasvohin and Panhu. Khewatrám's Sukrea Galeeonjeeon. Ikd-i-Gul. Ikd-i-Manzúm. Gulistán. Bostán.
Persian	Mirza Hairat's translation of Malcolm's History of Persia, Vol. II. Akhalák-i-Jaláli. Lushá-i-Abúl Fazl. Sháh Námah, one volume, or about one-fourth of the whole. Diwán of Háfiz. Nafhat-u'l-Yaman. Selections from the Alif Laila. Hamásah, 1st two books, pages 1—109, Calcutta Edition.
Arabic.....	Timur Námah. Makamát of Hariri, 1st half. Saba Muallakát. Riju Pátha. Hitopadesh. 1st nine cantos of Raghuwansa, expurgated edition by Ishwar Chandra Vidyásagar.
Sanskrit	1st and 2nd Adhyáyas of the 1st Ashtaka of Rigveda Samhita. Cantos I. to VI. and XI. to XVIII., inclusive, of the expurgated edition of the Kirátárjuniya of Vidyásagar. Sakuntala Nátak.

EXTRACTS FROM THE CIVIL LEAVE CODE.

Examination Leave.

The following extracts from the Civil Leave Code are given for purposes of easy reference:—

Section 76.—"The following Rules regulate the grant of leave to enable officers to appear at examinations:—

- "1. (a) A Covenanted Civil Servant or a Military Officer subject to Civil Rules, who is a candidate for a reward by the Higher Standard in Persian or Sanskrit, or by the High Proficiency Standard in the vernacular languages or Sanskrit, or by the Degree of Honour Standard in the vernacular languages or Sanskrit, is entitled to Joining Time to and from the place of examination, besides leave for the day or days of examination.

- (b) A candidate for a reward by the Higher Standard in Arabic or for High Proficiency in Arabic or Persian, may be allowed leave for one month, and, if he passes the examination, for two months.
 - (c) The maximum leave for two months authorized by clause (b) may be prefixed to the examination if the candidate undertakes to spend it in study under professional tuition at a Presidency town.
 - (d) An officer who is a candidate for the Degree of Honour in Arabic or Persian may be allowed, instead of the leave for two months provided in clause (c), leave for three months to Persia for Persian; and to Arabia, Mesopotamia, Egypt or Syria for Arabic.
2. An officer on leave under Rule 1 has a lien on his appointment, substantive or officiating, and is entitled to Leave Allowances, as if he were on Privilege Leave, for an aggregate maximum period of twelve months."

Section 77, Rule 3.—"Examination Leave may be prefixed to Privilege Leave; and Privilege Leave may be (1) prefixed to the three months' Examination Leave admissible under Clause (d), Rule 1, Section 76, on condition that it is spent in one of the appropriate countries mentioned in that clause; and (2) affixed to the one month's Examination Leave which may be prefixed to the Examination Leave under Clause (b) of that rule: otherwise it may not be combined with any other leave granted under that section. Except as herein provided, no kind of leave, except Furlough on Medical Certificate, may be granted in continuation of Examination Leave."

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29. Travelling allowances.—For all examinations that are compulsory, travelling allowance is granted to officers who have to leave their stations at the rate of eight annas a mile for that part which is not by railway, and three annas a mile for the part which is by railway. Subordinate officers get four annas a mile and an anna and a half a mile respectively.

Travelling allowance is inadmissible for more than two examinations by each standard.

The Local Government may withhold the travelling allowance if a candidate has obviously and culpably neglected the duty of preparing himself.

Any one who is in receipt of permanent travelling allowance may draw either that or the mileage allowance for examination absence but not both.—*G. of I. Dec. 12, 1872.*

Mámlatdárs and Kárkuns attending the Magistrates' examination may draw their permanent travelling allowance for the time they are absent, or batta at daily rates if not entitled to the permanent allowance, but no separate travelling allowance can be given to those on whom the examination is not compulsory.—*G. R. No. 738, March 1, and No. 2156, June 18, 1878.*

In the case of the native Magistrates' examination candidates are not allowed travelling allowance unless they get at least one-third marks in each paper.—*G. R. No. 1783, March 11, 1880.*

CHAPTER XXVIII.

ACQUISITION OF LAND FOR PUBLIC PURPOSES.

Until 1857 there was no law for enabling Government to take possession of land. But the following extract shows the principle that was formerly observed, on the assumption that all land is the property of Government :—

“The right of Government to appropriate all lands that may be required for public purposes should be strictly upheld, but this right should in no case be exercised to the detriment of any private person, without fully and fairly reimbursing him for the loss, as well as the inconvenience he may sustain by removal. And if there be an owner of land so taken up, the ownership should be purchased at its full market value, or land of fully equal value should be given in exchange.”—*G. R. No. 2320, March 31, 1849.*

On this principle Act VI. of 1857 was passed. This was superseded by Act X. of 1870, which is still in force. Some of the orders passed under the old Act are given as likely to be useful.

1. Rules under Section 59, Act X. of 1870.

(1) Whenever it shall appear to the Collector desirable that the Government revenue or *kaks* of any kind shall be remitted in payment or part payment of the compensation to be awarded for land taken under this Act, he shall estimate the value of such revenue or *kaks*, and deduct it from the estimated compensation to be awarded to the owner of the land.

(2) If the land has been surveyed and assessed under Act I. of 1865, or when it bears an assessment according to existing practice, the value of the Government claims shall be calculated at not less than twenty-five times the survey assessment; but houses, trees, crops, wells, and improvements, shall be estimated separately on the best information available to the Collector.

(3) When the land to be taken has not been surveyed and assessed under Act I. of 1865, or does not bear an assessment according to existing practice, the Collector shall assess it on the best information he can procure, and the value of the Government

claims on such lands shall be calculated at not less than twenty-five times the assessment fixed by the Collector, with the approval of the Revenue Commissioner.

(4) When making an award of compensation under Section 42 of Act X. of 1870, the Collector or Court shall record separately the compensation under the first clause of Section 24 of the Act which concerns the market value of the land, and the compensation under the 2nd, 3rd, and 4th clauses.

(5) The procedure required for a reference under Section 15 shall be applicable to a reference under Section 43.

(6) When the amount of compensation to be awarded under Section 43 (for temporary occupation of land) has been fixed, and there is dispute as to the division of the amount among the persons interested, the Collector shall refer such dispute to the Court for decision and the procedure prescribed by Section 39 shall be applicable.

(7) Any informality in the proceedings of the Collector or Court under this Act shall not vitiate the award unless the interests of any party or parties are injuriously affected thereby — *Govt. Gazette, March 13, 1873*

2 Instructions as to Act X of 1870 — No provision is made in the Act for the delegation, by the Collector, of any of his powers to a Deputy or Assistant Collector: no such delegation is lawful.

* * * * *

‘4 When land is required for public purposes in any other case, the officer requiring it should, in the first instance, consult the Collector of the district, and obtain from him the fullest possible information as to the probable cost of the land, per acre or otherwise, together with the value of buildings, &c, situated on the property, and for which compensation will have to be paid. Upon the information thus obtained, an estimate should be framed by the said officer, and submitted through the proper channel for sanction. When sanction to an estimate, framed as above directed, has been obtained, the said officer should commit the matter to the Revenue officer, who will take the necessary preliminary action for the appropriation of the land under the Act, or for its acquisition by private negotiation, subject to the instructions which he may receive from the Revenue authorities to whom he is subordinate.

'The sanction will be communicated by Government to the chief officer of the Department through which the reference has been made, and also to the Revenue Commissioner, and Controller of Public Works Accounts, or the Accountant General, as the case may be; and the Government order will also state against what particular item of the budget the expenditure is to be charged.

'5. When the estimate originally framed and sanctioned is likely, when the land comes to be acquired, to be materially exceeded, the Revenue officer shall refer the matter again to the officer concerned to ascertain whether the object sought cannot be otherwise secured, either by obtaining some other plot of land in lieu of that originally proposed for acquisition, or in some other manner. When such a reference is made, the said officer should, in personal communication with the Revenue officer, consider the case, and, if it is found impossible to obtain the land required without materially exceeding the original estimate, should submit a revised estimate for sanction.

'6. Whenever it is thought necessary or expedient that steps should be taken for the acquisition of the land under the Act, an application to that effect should be submitted, with the reasons for the same, by the Collector, through the ordinary channel, to Government in the Revenue Department.'

* * * *

In ordinary cases, the demarcation and measurement required by Section 8 of the Act will answer all the purposes which the provisions of Sections 4 and 5 are designed to serve under peculiar circumstances. Should any such circumstances exist, they should be reported to Government by the Collector, or Head of the Department, with a view to the publication of a notification under Section 4; and, upon such publication, the following rules will be observed:—

(8) The conduct of the preliminary investigation will, unless otherwise specially ordered, fall into the hands of the chief local representative of the Department or Company, for the use of which the land is required. In the case of lands required for Local or Municipal purposes, the Collector of the district, or one of his Assistants or Deputies, will be the representative of the Municipality or Local Fund Committee.

(9) The officer entrusted with the preliminary investigation should first prepare a draft notification in form A. for issue under

Section 4 of the Act, and submit it to Government, through the Collector.

(10) After publication of the notification in the *Government Gazette*, due notice of the substance of such a notification will be publicly given by the Collector at convenient places in the locality, and he must invariably apprise the officer entrusted with the preliminary investigation of the issue of the public notice prescribed by Section 4. It is illegal for such officer to commence his investigation until he is certified of such issue of the notice.

(11) After having been informed of the issue of the public notice from the Collector, the officer entrusted with the preliminary investigation will proceed to examine the land according to Section 4, and to prepare a map or plan of the land in accordance with prescribed rules, and make it over to the Collector, who shall prepare the draft declaration under Section 6. He will take care to tender payment for all damage under Section 5.

(12) The investigation to be made by the Collector in cases referred to him under Section 5 is a summary one. He must be guided by the result of a local inquiry, which he may make either in person or by deputy. He will himself, however, be held responsible for the award made by him, and if the claim be for any sum exceeding Rs. 300, the inquiry should be conducted by an Assistant or Deputy Collector, but the award must be made by the Collector himself.

(13) When no preliminary investigation is considered necessary under Section 4, the Collector, on being applied to by the Consulting Engineer for Railways, or other responsible executive officer, and on being furnished with the plan of the land required, and other requisite particulars, shall prepare the draft declaration for submission to Government.

(14) Although the particular land to be acquired must be described in the declaration under Section 6, the law does not require that its precise boundaries or area should be exactly specified. The declaration should be so generally worded that no impediment may afterwards arise from its terms to the appropriation of all the land that can possibly be required. In other respects, the declaration should be as precise, and should contain as accurate a specification of the boundaries as possible.

(15) When issuing the declaration, Government will at the same time direct the Collector or one of his Assistants to take order for the acquisition of the land. The Collector in making his report should mention the name of the Assistant he wishes to take order under Section 7.

(16) After the issue of the declaration, the officer who was entrusted with the preliminary investigation, or in case no such investigation shall have been held, some officer on behalf of the Department or Company for which the land is required, such Department not being the Revenue Department, shall, if it has not already been done, mark out the boundaries of the land, and furnish the Collector with a plan or map of it, prepared according to rule. The Collector will then proceed to have the plan carefully tested by a competent Surveyor, and if error or discrepancy is apparent, shall correct it.

(17) If the land be required for the Revenue Department, the necessary demarcation and the preparation of the map will be carried out by an officer deputed for the purpose by the Collector.

(18) When the Collector or other officer vested with powers under Section 3 shall have satisfied himself that the plan is correct, he will proceed to ascertain the rates of rent paid, and will record them, and will appraise the value of the land, houses, wells, trees, or crops, or improvements upon it. The Collector may delegate to an Assistant or Deputy the inquiry here contemplated.

(19) As soon as the above operations are completed the notices described in Section 9 should be issued, and subsequent proceedings taken in accordance with the law.

(20) The Collector's attention is drawn to the 4th rule of the rules dated 13th March 1873, which directs the Court to make a separate finding, under the first head of Section 24, for the calculation of the additional compensation.

(21) An award by a Collector cannot, if made in accordance with the provisions of the law, be subsequently amended by any authority. Officers should, therefore, be most careful, before making an award, to take all precautions to avoid error or oversight.

(22) Section 16 empowers the Collector, or other officer vested under Section 3, to take possession of the land as soon as he has made an award or a reference to the Court, and the Act empowers no one else to do so. Occupation of such land by any other officer or person without written authority from the Collector, is

illegal, and the limitation prescribed by the latter clause of Section 58 will not apply to any suit that may be instituted against the offender. When the land has been taken up, possession should be given by the Collector to an officer nominated, in writing, to receive it by the Railway Company, Executive Engineer, or other authority on whose behalf the application was originally made, and to no other person.

(23) In cases of urgency, Section 17 allows occupation by the Collector, under special orders from Government, before award or reference. But the Collector must offer compensation for crops and trees on such land. This section applies to "waste and arable" land only, and not to land occupied by roads, tanks, buildings, &c.

(24) The assessor to be nominated by the Collector under Section 19 should be, as a rule, an officer of Government specially selected for that purpose.

(25) The Collector is personally responsible for the disbursement of the amount as soon as it falls due, under sections 40 to 42. If the amount to be disbursed is likely to exceed the funds at the Collector's command, he should take timely steps for obtaining the necessary supply of money before the date on which payment becomes due, but payment must, in any case, be made when due.

(26) When the lands have been held heretofore free of rent, in cash or kind, or on a quit-rent, on condition of the performance of some public service, the Collector should, if necessary, refer the matter to the Commissioner to obtain instructions for the representation before the Court making the award of the Government interest involved in the apportionment of the compensation, in respect to its lien, for the purposes of the public service.

(27) The Collector must disburse all costs of measurement under Section 8. Costs under Sections 4 and 5 will be disbursed by the officer entrusted with the preliminary investigation.

(28) The Act does not authorize the Collector, whether the award shall have been made by himself or by the Court, to make any portion of the payment in the form of an abatement of the Government revenue. But by rules passed by Government provision has been made to that effect, and the Collector must, before proceeding to determine the amount of compensation, decide, after careful consideration, whether any portion of the payment should be made in the form of such abatement, and must pay strict attention to the rules of 13th March 1873. He will be guided

in his decision by the next paragraph and, in cases referred by him to the Civil Court for adjudication, he shall communicate his decision on this point to the Court, which is bound by it.

(29) When the land is acquired for Government, the account to which the compensation money is debited should also be charged with the value of the Government revenue abated, and such amount should be credited *per contra* under the head of land revenue.

(30) When land is acquired for Municipalities and Companies, they must, in cases when compensation has been made, partly or wholly by an abatement of revenue, pay to Government, in addition to the cash compensation awarded, the value of such abatement calculated at not less than 25 years' purchase.

(31) Under Section 42, an additional compensation of fifteen per cent. on the *market value* not the total award, is to be paid to the owners of the land occupied.

(32) In temporary occupation of land, all the procedure required by para. 13 of the instructions will apply. Generally, also, the same procedure will apply as in cases of land taken permanently.

(33) The officer of any Company for whom Government may undertake to acquire land will, when authorized under Section 4, proceed according to the instructions already given. Under Section 50, the agreement must appear in the *Gazette of India* as well as in the local *Official Gazette*.

(34) The award of the Collector under Section 54 must be made on a summary inquiry, but a record should be kept. The Collector's order is final.

(35) When the case has been appealed, it will be submitted with Statement F, and will show the award as finally determined. As soon as the time for appeal has passed, the Collector shall forward to Government the information contained in Appendix G.

(36) Whenever a special officer is deputed for taking up lands for public purposes, as for a railway, canal or road, he will be supplied with funds by the Controller of Public Works Accounts, by means of credit orders, and will render to that officer monthly accounts of expenditure, as prescribed for a civil disbursing officer. In all other cases, the Collector will make the necessary disbursements from his general treasury balance, and will enter the expenditure in his cash account, under the head to which it is properly debitable for adjustment by the Accountant General.

(37) Alienations of land under this Act should be carefully noted in the village maps and registers.

(38) Under Section 13, clause 3, of the Indian Registration Act, every receipt for Rs. 100 or more of compensation paid under Act X. of 1870, must be registered. Separate receipts for less than Rs. 100 need not be registered, even though they concern one plot of ground and aggregate Rs. 100 or more.

(39) Although the Collector is vested with full power under the Act, he is to act under the general instructions of the Commissioner.—*G. R. Nos. 1108, Feb 26, 1873, and 634, Feb 6, 1879.*

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3. Land for State Railways—The rules as to acquiring land for State Railways are given in G. of I No. 21, Oct 12, 1881. They refer chiefly to the proceedings of the Engineers, and it is only necessary here to give a few of the rules, viz :—

II.—Railway officers shall not obtain possession of land whether by purchase, lease, or on simple toleration, except through the revenue authorities

VI Land to be taken up temporarily will be principally for side-cuttings and spoil banks, and will generally adjoin the land required permanently, it will as a rule be also permanently taken up by Government and subsequently disposed of when no longer required.

XIII. When land is no longer required for the Railway, it will be re-transferred to the Revenue authorities and disposed of by them. All contemplated changes in the land occupied by a railway should be reported to the Local Government; and it will be for the latter to see that the necessary steps are taken by the Revenue authorities for entering such changes in their records and for carrying out all further requisite proceedings.

XIV. In Native States all land will be obtained through the Political Agent, and the distinction of temporary and permanent need not be observed, but this will not make it the less incumbent on the officials concerned to see that all land not permanently required for the purposes of the railway is restored when no longer wanted, and to keep as complete records of the land retained for railway purposes in Native States as in British territory. Such plans and schedules as the Political Agent may require will be supplied by the Railway Engineers.

“The points upon which information is asked by ——— are (1) should compensation for temporary and permanent land be fixed separately, (2) should boundary marks be put up to distinguish the temporary from the permanent land?”

“On the first point, it must be remembered that the occupancy is only of necessity temporary in so far as the Railway is concerned. Rule VI of circular 21 Railway, of 12th October 1891 (communicated to Revenue Department by Government Resolution No. 2755 of 4th November 1881) is the guide in the matter

“The practice in other parts of India is for Government to acquire all the land permanently as a rule and subsequently when the Railway is completed, and the temporary land is surrendered to dispose of the latter.

“On the second point the practice is for the Railway to cut distinct nicks marking the limits of the permanent and of the temporary land. On the completion of the works the nick of the permanent land is replaced by a fence generally, or if the line is not fenced the nick is widened and deepened into a ditch which forms a sufficiently distinct boundary mark. This practice is found to answer perfectly well and to be sufficient”—*Gort Memo, P.W.D., No 2054, Oct 20, 1882, with G. R. No. 7683, Nov 2, 1882.*

[The following old rules appear to be in force in most respects, though it is now essential that land be not entered on until properly acquired]

4. Rules as to Railway lands —

Rules for the guidance of Revenue Officers to enable them to make over Land required for Railway purposes, and to settle other matters connected therewith

(1) After the trial survey is made and the scheme sanctioned surveyors proceed to stake out the line, in this operation the local authorities should give every assistance, and should allow them to cut such trees as are on the exact line, and also warn the villagers against removing the pegs.

(2) When the final survey is finished, the line staked out on the ground, and the plan sent in, Government sanction is given to the construction of the works and handing over the land.

(3) The land-plans furnished to the Collectors will show all fences and details, and the centre line, from which one chain (66 feet) is set off on each side, and all ground in addition that may

be permanently required, such as for stations or unusually high banks.

(4) With these plans and schedules of fields which have also been ordered, the revenue authorities can find no difficulty, with the pegs on the ground, in measuring the quantity of land occupied.

(5) If, during the construction of the works, the contractor require the temporary use of any more land, say for quarries of ballast or stone, he should be allowed to have it on application to the Collector, and he will pay for its use 15 rupees per beega.

(6) Surveyors, or others under the Collector's orders, should proceed to measure the quantity of land encroached upon, and to clear without delay from this belt of land everything of any value, such as trees, crops, houses, &c., dispose of these, and arrange the compensation with the owners; should any portion be wild and jungly, and the Collectors consider that no loss would fall on Government and the work be expedited by giving over the land at once to the contractor, he can do so, the contractor being then allowed to retain the timber, or whatever may be on the ground, to reimburse him the cost of clearing.

(7) Compensation will have also to be paid for all rights invaded and damage done, so that the Railway Company may be placed in free possession of the land; but the Railway Company will be liable for any damage done by the contractor while the work is proceeding, and afterwards, arising from bad designs, such as fields being flooded by insufficient waterway having been allowed.

(8) The Assistant Collectors should at the same time, in communication with the Resident Engineer, dispose of any reasonable demands of villagers for communications across the line; whenever banks are high enough to give headway (say 10 feet) girder openings might be left; and for level-crossings public roads to have double gates to shut across the roads and the railways; ordinary occupation crossings to have a gate on each side.

(9) Where the line crosses any watercourses irrigating much land, culverts will have to be provided, and at the same time such escapes above the crossing-places that in floods the railway may not run any risk of injury.—*G. R. No. 705, July 23, 1858.*

5. **Private arrangement.**—Even when land must be had for public purposes the compulsory process under the Act should not, unless under peculiar circumstances, be resorted to

until efforts have been made to obtain the land by private purchase.—*G. R. No. 957, March 11, 1868.*

6. Lands are not to be taken up by public officers except with the consent of the owners, otherwise than in accordance with law. Should this rule be neglected, it will be for Government to decide whether the costs of legal proceedings which may result from any illegal occupation of lands, should be borne by Government or the officer by whose order the land was taken.—*G. R. No. 1789, March 24, 1875.*

7. Matters relating to the acquisition of land for public purposes should be disposed of by the Assistant in charge of the taluka, and not through the intermediate agency of Native officials. Personal examination of the ground and a prompt tender of fair compensation would often effect a satisfactory settlement.—*G. R. No. 158, Jan. 14, 1867.*

8. When a public work is first designed and estimated for, the owners would consider themselves liberally dealt with if their land were paid for at the rate (say) of 10 rupees an acre; but after it becomes known that Government has sanctioned the work, and that it must therefore proceed at any cost, and when perhaps the demand for labour and supplies consequent on the initiation of the work has raised prices, nothing less than 30 or 40 rupees an acre suffices to satisfy the proprietors.

If greater promptitude were exhibited in settling for lands required for public purposes, before the normal position of the local market becomes disturbed by the commencement of the work, large sums might be saved to the State; and it has been suggested that district officers, as soon as the general line of a work is fixed, and before ground is broken, should be authorized in rural districts to settle then and there with the proprietors of all villages whose lands will be traversed by the work, the rate of compensation per acre, both cash and remission of revenue, to be paid for each locally well-established class of soil, for any lands that may, when the work is taken in hand, be appropriated for its purposes. Special compensation for trees, wells, or houses would still remain for careful adjustment subsequently, but even in that case the greatest promptitude should be exercised in settling all claims before the people acquire an exaggerated notion of the value of their property—*G. of I. No. 1-624, July 30, 1874.*

9. In all cases of purchases of immovable property for Government a deed of sale should be executed by the vendor. If the price of the property exceeds Rs 100 the deed must be registered. The Collector must arrange for the vendor to pay for the stamps, unless this would interfere with the transaction being concluded.—*G. R. No. 1481, March 22, 1878.*

NOTE.—A form is given with the Resolution

10. In the case of land being taken up for Government by private negotiation without money payment, it is sufficient to take a *rāzināma* in the usual form —*G. R. No 2535, May 17, 1878.*

11. **Public Works Officers** —There are only two courses open to officers of the Public Works Department in respect to the taking up of land

Either the consent of the proprietor must be obtained by negotiation, or the assistance of the Collector secured in accordance with the provisions of Act X of 1870

Any officer of the Public Works Department who unauthorizedly occupies land will do so at his own risk

In regard to land required for furnishing material for the repairs of existing roads, it is desirable that the Executive Engineers in the several districts point out to the Collectors the precise localities at which they propose to obtain the material, and the Collectors will then endeavour either to purchase the land, or to rent it in perpetuity. Executive Engineers can of course, if they prefer to do so, make their own arrangements with the proprietors.

It is the duty of the Collector and Magistrate, who is armed with ample powers, to see that lands are not unauthorizedly entered upon by railway officials or any one else —*G. R. No 2388, May 18, 1871, No. 1449, March 28, 1872, and No. 1789, March 24, 1875*

12. **Superior and inferior tenants.**—[The following order is given to show the principles as to the mutual rights of superior and inferior tenants. the rates of compensation will now only apply where the people have had but little experience of public works.]

In the settlement of compensation for alienated land taken for public purposes, it will be desirable generally to give other lands of equal value to those resumed, but in all cases the rights of the *Ināmdār* and the rights of the occupant must be separately considered and compensated.

In many cases it may be possible to compensate the Inámdár by the grant of Government land in exchange, leaving the occupancy right only to be compensated in money; in other cases both the Inámdár and occupant may receive land in exchange.

In villages wholly or permanently alienated, a sum not exceeding 20 years' purchase of the assessment lost calculated on the average receipts of the preceding ten years would be sufficient, and in partially alienated villages held under hereditary tenure the compensation would be *pro rata*.

In villages held on service tenure compensation similarly calculated might be granted

*Value of a Life Annuity of
One Rupee per annum*

Age	Value
Under 10	Rs 13
10 to 20	12½
20 to 25	12
25 to 30	11½
30 to 35	11
35 to 40	10½
40 to 45	10
45 to 50	9½
50 to 55	9
55 to 60	8
60 to 65	7
65 to 70	6
Above 70	5

In alienated village in which the holders have only a life-interest, the value of the assessment lost, to be estimated as in the first clause, might be calculated according to the scale noted in the margin, which is that according to which petty annual payments are to be commuted.

The proprietary right in appropriated inám and mirás land might be purchased at its market value, which of course will vary in different localities, but may be estimated in rural districts at 20 years' purchase of the assessment, or, if preferable, land of equal value might be given elsewhere in exchange.

In exceptional cases the sub-tenant has rights to compensation distinct from those of the Inámdár. This compensation must be separately assigned, but in such a case the rights of the occupant and Inámdár combined would as a rule be only of equal value with the rights claimable by the Inámdár alone when there is no distinct sub-tenancy. Twenty years' assessment should therefore be fixed as the valuation for both rights together, and cases in which higher compensation is considered necessary must be treated specially.

When land held on service tenure is appropriated, other land of equal value might be given in exchange, unless a cash payment for performance of the service be considered preferable.

Getkuli lands, cultivated by ryots paying assessment but possessing no proprietary interest in the soil,—mere tenants at will hold-

ing from year to year,—may be appropriated without the grant of any compensation beyond what may be required to reimburse the owner for any crop destroyed or injured by the appropriation.

Compensation to survey occupants of land taken up for the railway is to be calculated at five years' assessment as the minimum, and, except in special cases, ten years' assessment as the maximum; but it is not possible to lay down a scale perfectly just in every case. Five years' assessment may be sufficient for a man whose lease is nearly at an end, and who has done nothing to improve the value of his land; on the other hand, a ryot may have originally taken up waste land, and dug a well in it, or otherwise improved it with much trouble and at great expense, and he may be at the beginning of his thirty years' lease, so that in his case even ten years' assessment may not be enough.—*G. R. No. 2902, Sept 2, 1858, No. 4483, Dec. 31, 1858, No. 1306, April 8, 1859.*

13. Temporary occupation of land.—The rules for the temporary occupation of land during the construction of roads are as follows :—

(1) If occupied for less than six months, the assessment on the land should be remitted.

(2) If occupied for longer than six months, the local revenue officers should appoint a Committee to ascertain the loss incurred by the tenant, and to fix the amount of compensation.

(3) Public Works officers should be careful not to occupy land temporarily unless clearly necessary, and if so occupying it they should restore it to the tenant at the earliest possible date.—*G. R. No. 637, March 20, 1865.*

14. When land is taken temporarily for cholera camps, it should, if possible, be dry moorum soil unfit for cultivation. If culturable land must be taken the Collector should make an agreement with the proprietor to take temporary possession of it on payment of a fair amount for rent and damage to crop.—*G. R. No. 2749, June 28, 1865.*

15. Cost of establishment.—When Deputy Collectors already in the service of Government are specially engaged for a prolonged period in the acquisition of land for a large project, their pay and establishment charges may, if considered desirable, be treated as a portion of the cost of acquiring the land, and as an item of expenditure on the project for which the land has been

acquired. But to admit of a proper control being exercised over the charges, as well as to limit the period of the employment of the establishment, when the estimates for a project are submitted for the sanction of the Government of India it must be noted in the estimate what the actual cost of the land will amount to, distinct from the establishment and other charges attendant on the acquisition of the land, and debitable to that head.

With the estimate a separate schedule should be submitted, showing the establishment required for taking up land, and its probable cost. The amount of this schedule should be the limit for the guidance of the Controller in his audit of charges for establishment for land, any excess being dealt with under the rules relating to excess outlay.

These rules do not apply to ordinary cases of civil establishment employed in taking up land as a portion of their regular duties, in which case the cost of the establishment is adjusted as a charge of the Civil Department.—*G. of I. No. 67, Nov. 11, 1873.*

16. Appointment of Assessors.—In proceedings under the Act, revenue officers must exercise care in the selection of the assessor appointed on behalf of Government, who should be an officer whose position in the service and character afford assurance that the interests of Government will be firmly, though reasonably, maintained.—*G. R. No. 3380, Sept. 30, 1867.*

17. Exchanges of land.—In all cases of exchanges in lieu of land taken up for public purposes, the sanction of the Commissioner is necessary.—*G. R. No. 1910, March 24, 1877.*

18. Payment and registration.—In the case of land taken for public purposes the Collector should defer payment of the award until all the documents connected with the case have been duly registered.—*G. R. No. 438, Feb. 1, 1869.*

19. Application of the Act.—The declaration required by the Act cannot be made with reference to any lands which it is intended to reconvey to individuals for private buildings as this use does not come under the definition of a public purpose. The language of the Act is wide, but its provisions authorise only the

taking up of lands which it is intended afterwards to set apart for the use of the public.—*G. R. No. 2337, June 12, 1869.*

20. **Local Funds.**—Local Funds cannot be deemed to be public revenues for the purposes of Sec. 6 of Act X. of 1870. Government therefore refused to sanction the acquisition under that Act of a piece of land which it was proposed to pay for out of Local Funds.—*Leg. Rem. and Adv Genl with G. R. No 255, Jan. 14, 1882.*

CHAPTER XXIX.

LITIGATION.

The litigation in which Government is engaged chiefly takes the form of the defence of suits brought against the Collector for carrying out the orders of Government. Suits of this sort are very common in this Presidency, though in some districts much more so than in others, the difference depending chiefly on the influence of the vakils and partly also on the known idiosyncracies of district Judges. About 1872 the great increase in the litigation in which Government was concerned led to new arrangements being made, the result of which will be found in order 8 of this chapter.

A Legal Remembrancer was first appointed in this Presidency in 1842, "for the purpose of superintending the conduct of all original suits in the Mofussil Courts, and appeals to the Sadar Diwáni Adálat and the Queen in Council, to which Government may be a party either as plaintiffs or defendants"—(*G. R. No. 1322, June 16, 1842.*)

In every collectorate there is a Government Vakíl who ordinarily has charge, under the orders of the Collector, of all suits brought by or against Government in the District Court, and who is also generally the public prosecutor of the district.

Act X. of 1876 contains some important provisions as to suits against Government.

1. **Principles.**—"There is to be no misunderstanding as to the views and wishes of the Government of India with respect to litigation in which the Government is concerned. In many parts of India the union of judicial with executive functions in one chief officer of a district is still, and may long be, inevitable; and His Excellency in Council trusts that all officers who exercise this double power realize the responsibility which it throws upon them for scrupulous observance of equity in all suits to which the Government which they serve is a party. To lean towards technical pleas in favor of Government, or towards technical obstacles against a

suit which the Government defends, whenever such pleas or obstacles merely hinder a decision on the merits—to strain laws for the advantage of Government—all these things would be exactly contrary to the rule of judicial conduct which in such cases the Government desires to impose. And all officers are to understand that the interests of Government are most effectually promoted by sedulously upholding this high standard of entire impartiality.”—*G. of I. No. 832, May 14, 1873, and G. R. No. 963, Feb. 21, 1876.*

2. All officers must obtain the authorization of the Government to which they are immediately subordinate, before having recourse to the Courts, for vindication of their public acts, or their character as public functionaries from defamatory attacks. This order does not affect an officer's right to defend his private dealings or behaviour in any way that may to him seem fit; but his official reputation is in the charge of the Government which he serves.—*G. of I. with G. R. No. 214, Jan. 22, 1874.*

3. **Confidential reports.**—It should be clearly understood that all opinions and advices given by the law officers of Government for the conduct of the law business of Government, are strictly confidential.—*G. R. No. 1560, March 27, 1878.*

4. Legal Remembrancer.—

I.—Institution of Suits on behalf of Government.

Any officer wishing to institute a suit shall submit a clear and detailed report, through the ordinary channel of communication, to the Head of his Department, showing:

Report to be submitted before a suit is instituted.

- (a) the circumstances which render the suit necessary;
- (b) the exact nature of the claim for which it is to be brought;
- (c) the steps, if any, which have been taken to obtain satisfaction of the claim without bringing a suit;
- (d) what objection or excuse, if any, the defendant has urged against the claim;
- (e) the evidence, both oral and documentary, which it is proposed to adduce in support of the claim; and
- (f) the evidence which, so far as is known, the defendant will be able to adduce in his defence.

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All documents relied upon, and all the correspondence and written proceedings, whether in English or in the Vernacular, connected with the proposed suit, should accompany the report.

2.—It should be stated in the report whether or not the circumstances of the person against whom Solvency of defendant to be in- it is proposed to institute the suit quired into. are such as to render it likely that execution will be obtained of any decree that may be given against him.

The probability of the recovery of a sum at least equal to the costs should be ascertained before recommending the institution of any suit, unless, for reasons which should be explained, it is considered that the suit should be brought, notwithstanding that recovery of costs is doubtful.

3. The Head of the Department, if he thinks that all the necessary preliminary steps have been taken, and that there is *prima facie* sufficient cause for the institution of a suit on behalf of Government, shall refer the report with his opinion to the Remembrancer of Legal Affairs.

4. The Remembrancer of Legal Affairs will then thoroughly inform himself of the whole of the circumstances, calling for such further information, or additional papers, as he thinks necessary, and report his opinion to Government in detail as to the advisability of instituting a suit.

The report of the officer who proposed the institution of the suit and the opinion of the Head of the Department should accompany the report of the Remembrancer of Legal Affairs to Government; but the rest of the papers should be retained by the Remembrancer of Legal Affairs pending the orders of Government, unless for any reason he deems it necessary that any of them should be laid before Government.

5. The report of the officer who proposed the institution of the suit and all other documents accompanying the report of the Remembrancer of Legal Affairs

Report to be referred by Head of Department to the Legal Remembrancer.

Legal Remembrancer's duty on receipt of report.

Papers to be recorded in the Legal Remembrancer's office.

to Government will be returned to him with the order of Government for record in his office.

6. If the institution of the suit be sanctioned, a draft of the
 Preparation of plaint. plaint will be prepared by the
 Government Pleader of the district
 in which the suit is to be instituted, in consultation with the
 officer who proposed its institution, and will be submitted by him
 direct to the Remembrancer of Legal Affairs for approval.

II — Defence of Suits.

7. Section 424 of the Civil Procedure Code requires that suits
 Notices of actions how to be dealt with. against Government or Govern-
 ment officers should be preceded
 by a notice to be left either with
 a Secretary to Government, or with the officer concerned. When a
 notice of this kind is received by a Secretary to Government it will
 be at once forwarded to the officer principally concerned in, or cog-
 nizant of, the matter respecting which an action is threatened.

The officer receiving any such notice, whether from a Secretary
 to Government, or direct from the complainant, should give it im-
 mediate and careful attention. The complainant should be desired,
 when his complaint is vague in the statement of the alleged right
 of the alleged infringement of this right, or of the officer whose
 acts are impugned, to set these points forth succinctly and clearly,
 as the most effectual means towards obtaining such relief as may
 properly be given. Should it prove impossible to obtain a lucid
 and definite statement of the complainant's case in this way, he
 should be examined orally as to all important points, and his an-
 swers should be taken down in writing, and verified by his signature
 or by a memorandum that the paper was read over to the complain-
 ant and assented to by him. The documents above referred to
 should in every case be carefully preserved, together with any that
 the complainant may produce in support of his claim or com-
 plaint.

8. The conduct or act complained of may have been either (1)
 Examination of the grounds of complaint. wholly indefensible, (2) justifiable,
 or (3) of a mixed or doubtful
 character. In every case the
 officer receiving the notice should endeavour, without prejudice, to
 determine to which of these classes it is to be assigned.

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If it is indefensible, it is his duty to do what lies in his power to give immediate redress, or to obtain it by a full report to the proper authorities.

If the complaint is plainly groundless or if the threatened action is one which must undoubtedly be defended, if it is brought, no further notice need be taken of the complaint, but the officer concerned should at once proceed, as far as possible, to collect the information and papers which will be afterwards required under Rules 11 and 12.

The chief difficulty arises in the third class of cases; and in these the officer receiving the notice should use every possible effort to distinguish between acts which have been properly done in the discharge of a public duty and those in which, through carelessness, ignorance, or imprudence, some real cause for complaint has been given. Such analysis will, in the majority of cases, reduce these acts under one of the two heads already considered, and they should then be dealt with accordingly. Where there is a doubt as to the real intention of the Government or of a superior authority in any order, the carrying out of which has occasioned the complaint, that doubt should be cleared up by an immediate reference. When there is a doubt as to the legality of the act complained of, though in apparent fulfilment of a rule or order, issued by a superior authority, a clear statement of the case should be submitted for orders to be issued after the opinion of the law officers shall, if necessary, have been obtained.

Pending references in cases falling under either the first or third head, the complainant should be informed that some delay is requisite for the proper disposal of his complaint, and, when instructions have been received, he should be at once informed of what is to be done; but every endeavour should be made to have the matter disposed of within the period of two months from the delivery of the notice allowed by the Civil Procedure Code before the threatened action can be instituted.

9. When a suit has been instituted, if it is against Government,

Preliminary steps when summons is served on Government Pleader.

and the summons is therefore served on the Government Pleader, he shall at once procure an uncertified copy of the plaint and for

ward it and the copy of the summons received by him (with the date of its receipt by him noted on the back) to the officer who himself, or by his subordinates, is alleged to have given rise to the plaintiff's cause of action.

If the plaint relates to the acts of two or more officers, the Government Pleader shall communicate as above with the principal of such officers.

10. If, owing to the suit being against an officer in his official capacity, the summons is served on that officer personally, he shall at once forward a *vakalatnama* to the Government Pleader (unless the Government Pleader already holds a general power of attorney from him), and procure from him an *uncertified* copy of the plaint.

11. The officer to whom the Government Pleader refers under Rule 9, and any officer who is sued in his official capacity, and who desires that Government should undertake the defence of the suit, shall collect, with the least practicable delay, all the information regarding the facts of the case which he can procure.

12. He is then, within one month from the date of his being first apprized of the institution of the suit, to submit the following papers, through the ordinary channel of communication, to the Head of his Department (namely) :—

- (a) a copy of the plaint in the vernacular ;
- (b) a translation of the same into English, on half margin, the more important of the statements therein being distinctly marked with letters (a), (b), &c., and notes being added in the margin stating whether such statements are correct or not, and if not, in what respect they are inaccurate : (when the requisite explanation cannot be thus compressed, reference should be made to the para. of the accompanying statement in which the matter should be fully discussed) ;

(c) a full and detailed statement (1) of the circumstances which led to the suit, (2) of the course which it is proposed to adopt, namely, whether to admit, compromise, or defend the suit, and of the reasons for the same, and (3) if it is proposed

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to defend the suit, of the grounds on which it is proposed to base the defence, and of the evidence to be adduced ;

(d) if the case turns on documentary evidence, copies of the documents (or the originals) relied on by the plaintiff (if procurable) and by the defence ;

(e) all the correspondence and written proceedings, whether in English or in the Vernacular, connected with the subject-matter of the suit

The forwarding report should state distinctly (1) the number of the suit, (2) the date on which, and the Court in which, it was instituted, (3) the names of all the parties, (4) the amount or value of the claim, (5) the date fixed by the Court for the first hearing, and (6) whether notice of the action has been given under Section 421 of the Civil Procedure Code, and if so, the date of delivery of such notice.

13. If the suit is against an officer in his official capacity he shall instruct the Government Pleader to move the Court, from time to time, to grant an extension of the time for hearing the claim, under Section 423 of the Civil Procedure Code, until the orders of Government are received. In the case of suits against Government, the Government Pleader shall make the necessary applications to the Court for time, under Section 420 of the Code, without express instructions. If in any instance the Court is likely to decline to grant further time, it is the duty of the Government Pleader to inform the officer concerned in the defence of the suit, and in emergent cases, the Remembrancer of Legal Affairs.

14. If two or more officers belonging to different departments are sued conjointly, or if the plant in a suit against Government relates to the acts of two or more such officers, they should, with the least possible delay, communicate one with the other, and after, if possible, mutual consultation with a view to a common line of defence, arrange for the preparation of a joint report. When a joint report is not sent, a separate report should be submitted simultaneously by each officer, care being taken by the officer

principally concerned that all the requirements of Rule 12 are complied with.

15. The provisions of Rules 3, 4 and 5, relating to the institution of suits on behalf of Government, shall apply, *mutatis mutandis*, to reports submitted under Rule 12

16. If the defence of a suit against Government is sanctioned, or if Government undertakes the defence of a suit against an officer in his official capacity, the written statement to be filed in answer to the plaint shall be subscribed and verified by the Government Pleader whose duty it is, under Sections 420 and 126 of the Civil Procedure Code, to "answer to the plaint," and in the case of a suit of the latter class the Government Resolution sanctioning the defence is to be deemed to be the Government Pleader's "authority to appear and answer to the plaint," and he shall at once, on receipt thereof, move the Court to cause a note of his authority to be entered in the register, but shall not produce such Resolution in Court.

17. The written statement and the issues sought on behalf of Government are ordinarily to be in strict accordance with the opinion of the Remembrancer of Legal Affairs so far as concurred in by Government, but the Government Pleader is responsible, in communication with the officer concerned in the suit, for the correctness and exhaustiveness of the details of the defence.

III.—Conduct of Suits.

18. The responsibility for the conduct of a suit in accordance with the opinion of the Remembrancer of Legal Affairs so far as concurred in by Government, shall rest with the Government Pleader, unless special counsel is appointed on behalf of Government, and it is the duty of the Government Pleader, during the progress of the suit, to consult the Remembrancer of Legal Affairs on all matters connected with it as to which he experiences any difficulty, or doubt, and especially in respect of any interlocutory order made by the Court, or any application of the opposite party which seems to require particular instructions.

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to defend the suit, of the grounds on which it is proposed to base the defence, and of the evidence to be adduced ;

(d) if the case turns on documentary evidence, copies of the documents (or the originals) relied on by the plaintiff (if procurable) and by the defence ;

(e) all the correspondence and written proceedings, whether in English or in the Vernacular, connected with the subject-matter of the suit.

The forwarding report should state distinctly (1) the number of the suit, (2) the date on which, and the Court in which, it was instituted, (3) the names of all the parties, (4) the amount or value of the claim, (5) the date fixed by the Court for the first hearing, and (6) whether notice of the action has been given under Section 424 of the Civil Procedure Code, and if so, the date of delivery of such notice.

13. If the suit is against an officer in his official capacity he shall instruct the Government Pleader to move the Court, from time to time, to grant an extension of the time for hearing the claim, under Section 423 of the Civil Procedure Code, until the orders of Government are received. In the case of suits against Government, the Government Pleader shall make the necessary applications to the Court for time, under Section 420 of the Code, without express instructions. If in any instance the Court is likely to decline to grant further time, it is the duty of the Government Pleader to inform the officer concerned in the defence of the suit, and in emergent cases, the Remembrancer of Legal Affairs.

14. If two or more officers belonging to different departments are sued conjointly, or if the plaintiff in a suit against Government relates to the acts of two or more such officers, they should, with the least possible delay, communicate one with the other, and after, if possible, mutual consultation with a view to a common line of defence, arrange for the preparation of a joint report. When a joint report is not sent, a separate report should be submitted simultaneously by each officer, care being taken by the officer

principally concerned that all the requirements of Rule 12 are complied with.

15. The provisions of Rules 3, 4 and 5, relating to the institution of suits on behalf of Government, shall apply, *mutatis mutandis*, to

Applicability of Rules 3, 4 and 5. reports submitted under Rule 12.

16. If the defence of a suit against Government is sanctioned,

Duty of Government Pleader when defence of suit is sanctioned.

or if Government undertakes the defence of a suit against an officer in his official capacity, the written statement to be filed in answer to the plaint shall be subscribed and verified by the Government Pleader whose duty it is, under Sections 420 and 426 of the Civil Procedure Code, to "answer to the plaint," and in the case of a suit of the latter class the Government Resolution sanctioning the defence is to be deemed to be the Government Pleader's "authority to appear and answer to the plaint," and he shall at once, on receipt thereof, move the Court to cause a note of his authority to be entered in the register, but shall not produce such Resolution in Court.

17. The written statement and the issues sought on behalf of

Preparation of defence.

Government are ordinarily to be in strict accordance with the opinion of the Remembrancer of Legal Affairs so far as concurred in by Government; but the Government Pleader is responsible, in communication with the officer concerned in the suit, for the correctness and exhaustiveness of the details of the defence.

III.—Conduct of Suits.

18. The responsibility for the conduct of a suit in accordance

Government Pleader's duties whilst a suit is under trial.

with the opinion of the Remembrancer of Legal Affairs so far as concurred in by Government, shall rest with the Government Pleader, unless special counsel is appointed on behalf of Government; and it is the duty of the Government Pleader, during the progress of the suit, to consult the Remembrancer of Legal Affairs on all matters connected with it as to which he experiences any difficulty, or doubt, and especially in respect of any interlocutory order made by the Court, or any application of the opposite party which seems to require particular instructions.

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If special counsel is appointed, it is the duty of the Government Pleader, subject to the orders of the Remembrancer of Legal Affairs, to instruct him, and, when necessary, to prepare his brief, and generally to aid him in the conduct of the case.

19. In cases connected with the departments under the control of the Collector and Magistrate of the district, it is his duty, or that of any subordinate whom he may specially depute for the purpose, and in cases connected with any other department, it is the duty of the officer who proposed the institution, or who sought the sanction of Government for the defence of the suit (as the case may be), to ascertain that the Government Pleader, or special counsel, is thoroughly acquainted with the facts of the case, and with the evidence to be adduced in support of the claim, and to see that the necessary evidence, whether oral or documentary, is ready by the proper time. The Government Pleader must keep the Collector, or other officer, informed on all points on which his co-operation is necessary, and report, with the least possible delay, if any further evidence, or information, is required, moving the Court, if necessary, from time to time to postpone the case, or adjourn the hearing.

20. When a suit is under trial, some intelligent officer thoroughly conversant with the facts of the case should be deputed to be present to instruct the Government Pleader as to the truth concerning matters which arise unexpectedly and to direct his attention to the documents, or other evidence, that may become important at each stage of the trial. In important cases, and in every case in which special counsel is retained, an Assistant or Deputy Collector, or an officer of similar rank, should be deputed for this purpose.

21. Should there be a difference of opinion between the Government Pleader or special counsel and the Collector or other officer, at whose desire the suit has been instituted or defended, as to the manner of conducting the case, or should the opinion of the Remembrancer of Legal

Affairs prove unintelligible on any point, or open to objection, the Remembrancer of Legal Affairs shall at once be communicated with in order that the difficulty may be settled. Should there eventually be an irreconcilable difference of opinion between the Collector or other officer and the Remembrancer of Legal Affairs, a reference shall forthwith be made by the latter to Government.

22. The following important points relating to the conduct of all suits should be carefully attended to by Government Pleaders and all officers concerned, (namely):—

Important points respecting the conduct of suits.

(a) the averments in a plaint, or in a written statement, should generally be based in every material point on the proof which can be adduced in support of them;

(b) the evidence, whether oral or documentary, on which it is intended to rely, should be carefully scrutinized by the Government Pleader *before* it is adduced, and he should advise as to its admissibility, and probable importance, or unimportance for the purposes of the suit, and suggest what evidence, if it be forthcoming, may with advantage be substituted for that which, in his opinion, would be weak or inadmissible;

(c) all the available evidence should be assiduously collected and made ready for the day fixed for its reception, and the necessity of making applications for adjournment should, as much as possible, be avoided, and such applications on behalf of the opposite party should, unless they are made for sufficient reasons, be resisted as tending to prolong the litigation, and to give opportunities for the fabrication of false evidence;

(d) all documentary evidence should be ready and be produced at the first hearing of the suit (*i.e.*, the day fixed for the settlement of issues), as required by Section 138 of the Civil Procedure Code, and when a suit is instituted, the documents sued upon should be produced in Court when the plaint is presented, together with copies thereof, as required by Sections 59 and 62 of the Code, and the list of other documents relied upon as evidence, which is required by Section 59 to be annexed to the plaint, should be very carefully prepared. Applications to the Court to accept any document in evidence at any subsequent stage of the trial should, unless under special circumstances, be avoided, as such applications cannot be

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granted without the grant of similar indulgence to the opposite party, which may place Government at a disadvantage, and should be resisted, as holding out a temptation to forgery ;

(e) documents filed by the opposite party should be carefully examined at the earliest opportunity, and compared with originals in the Government records, or with other papers which tend to establish, or subvert, their authenticity ;

(f) the *production* of documents in the possession of Government or of any Government Officer, when lawfully required by the Court, or by the opposite party, should not be resisted unless for good and sufficient reasons, such as are recognized by law ; but the question of the *admissibility* of the documents, when produced, should be carefully considered, and argued, it being borne in mind that the opinions of individual officers contained in official correspondence (which is so often called for by persons engaged in litigation with Government in order to establish their case) are, as a rule, *not admissible* in evidence ;

(g) the object of Government in sanctioning either the institution, or defence, of any suit is simply to establish the truth ; and whilst Government expect the utmost vigilance and care on the part of those entrusted with the conduct of litigation on their behalf in asserting and protecting their just interests, they would impress upon pleaders who have the charge of cases that they will not countenance any attempt to snatch an unfair advantage by the withholding of important evidence, or by any disingenuous proceeding whatever.

23. As soon as a suit is decided, the Government Pleader shall communicate the nature of the decision to the Collector, or other officer concerned, giving, in important or interesting cases, a brief statement of the grounds thereof. A duplicate of the Government Pleader's report shall be at once forwarded by him direct to the Remembrancer of Legal Affairs.

24. The Government Pleader shall then obtain with as little delay as possible two copies, one certified and the other uncertified, of the Court's judgment, and one certified copy of its decree.

Decision to be reported at once by Government Pleader.

Government Pleader to obtain and forward copies of judgment and decree.

The certified copies of the judgment and decree he shall forward to the Collector or other officer concerned; the uncertified copy of the judgment he shall forward to the Remembrancer of Legal Affairs direct.

25. If the decision is entirely in favour of Government, the copies may be forwarded by the Government Pleader according to the last rule without comment, and the Collector or other officer shall communicate the result of the suit to the Head of his Department, sending him a copy of the judgment, or not, as under the circumstances of the case he thinks fit. The result need not be communicated by the Head of the Department to Government unless he is of opinion that for special reasons it is desirable to do so, in which case he shall submit his report to Government through the Remembrancer of Legal Affairs.

The general results of all litigation will be communicated to Government by the Remembrancer of Legal Affairs in his annual report.

IV.—*Appeals.*

26. If the decision is either wholly or partially adverse to Government, the Government Pleader, when forwarding copies of the decree and judgment to the Collector or other officer concerned, shall state his opinion, with reasons, as to whether an appeal should be brought.

27. The Collector or other officer, after perusing the judgment, shall call upon the Government Pleader to send him uncertified copies of such of the exhibits recorded in the case as he deems necessary to explain the grounds of the decision so far as it deals with the merits of the case (or, in important cases, of *all* the material exhibits), and shall forward them, together with the certified copies of the judgment and decree already received from the Government Pleader, with a report, stating his opinion as to whether the decision should be acquiesced in or appealed against, direct to the Remembrancer of Legal Affairs.

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28. This report must be despatched so as to reach the Remembrancer of Legal Affairs within *fifteen days* after the date of the decree, in cases in which an appeal lies to the District Judge, and within *one month* after the said date, in cases in which an appeal lies to the High Court.

29. A copy of the report shall be sent simultaneously to the Head of the Department, who, if he concurs in it, will merely file it, but if he differs from it, or considers it otherwise necessary to address Government on the subject of it, shall submit a separate report on it without delay to Government through the Remembrancer of Legal Affairs.

30. The Remembrancer of Legal Affairs, after calling for such further information, or additional papers, as he thinks necessary, shall report his opinion to Government as to whether an appeal should be made, or not, or as to what other course should be pursued. His report must be despatched in time to enable the orders of Government upon it to be acted upon, if necessary, within the period prescribed by law for filing an appeal.

The report of the Collector or other officer, and, if any have been received, that of the Head of the Department also, should accompany the report of the Remembrancer of Legal Affairs to Government; but the rest of the papers should be retained by the Remembrancer of Legal Affairs pending the orders of Government, unless for any reason he deems it necessary that any of them should be laid before Government.

31. The report of the Collector, or other officer, and of the Head of the Department, if any, and all other documents which accompany the report of the Remembrancer of Legal Affairs to Government will be returned to him with the order of Government for record in his office.

32. If an appeal be sanctioned, the Collector, or other officer, will instruct the Government Pleader in the District Court, or in the High Court, accordingly, at the same time sending him a *vakilatnāma* (unless the Government

Pleader already holds a general power of attorney from him), if the suit is against him personally. If the appeal has to be made to the District Judge, the Remembrancer of Legal Affairs will return the copies received by him, under Rule 27, to the Collector, or other officer, who shall make them over to the Government Pleader for his use in the appeal. If the appeal has to be made to the High Court, the said copies shall be sent by the Remembrancer of Legal Affairs direct to the Government Pleader in that Court, and it shall be the duty of the Collector, or other officer, in consultation with the District Government Pleader, to send to the Government Pleader in the High Court, with the least practicable delay, copies of all the remaining material exhibits and other papers connected with the suit for his information and guidance.

33. Appeals are ordinarily to be based strictly on the grounds recommended by the Remembrancer of Legal Affairs and concurred in by Government; but when Preparation of memorandum of appeal.

an appeal is sanctioned generally against a decision, the Government Pleader is responsible for availing himself of all legitimate grounds on which the decree may be open to objection, notwithstanding that any of them may have escaped the notice of the Remembrancer of Legal Affairs, or not have been mentioned by him.

In important or intricate cases the memorandum of appeal should be submitted to the Remembrancer of Legal Affairs for approval before being filed in Court.

34. If an appeal is brought by the opposite party against a decision either entirely, or partly, in favour of Government, a notice of the appeal will be served by the Procedure when an appeal is brought by opposite party.

Court either on the Government Pleader or on the officer concerned. In the former case the Government Pleader shall at once obtain an *uncertified* copy of the memorandum of appeal, and forward it and the notice received by him (with the date of its receipt noted on the back) to the Collector or other officer concerned, or to the principal of the officers concerned. In the latter case the officer concerned shall at once send the Government Pleader a *vakólutnáma* (unless the Government Pleader already holds a general power of attorney from him), and obtain from him an *uncertified* copy of the memorandum of appeal.

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35. The Collector or other officer concerned shall then carefully

Collector or other officer to report as to the defence.

compare the grounds of appeal with the Court's judgment, and after consultation, if necessary,

with the District Government Pleader, report his opinion as to whether the appeal should be defended, and make any explanation or remarks that may be needed with reference to the grounds of appeal. His report should be submitted to the Head of his Department, and be accompanied by the same documents as are required to accompany a report under Rule 27.

36. The Head of the Department shall refer the report, with

Report to be referred by Head of Department to Legal Remembrancer.

his own opinion, to the Remembrancer of Legal Affairs, and the provisions of Rules 30, 31 and 32 shall then apply, *mutatis*

mutandis, to the said report and its accompaniments, and to the Remembrancer of Legal Affairs with regard to his duty in respect thereof, and to the instruction of the Government Pleader, if the defence of the appeal is sanctioned by Government.

Applicability of Rules 18, 19, 20 and 21 to appeals.

37. The provisions of Rules 18, 19, 20 and 21 apply equally to the conduct of appeals as to

the conduct of original suits except—

(1) that a discretion must be exercised by the Government Pleader in meeting new points raised for the first time in appeal, but that he should apply for an adjournment to enable him to advise with the officer concerned, or with the Remembrancer of Legal Affairs, if necessary, on any such points in which he may not have been fully instructed, or to which he is not able to furnish an immediate reply ;

(2) that it is only necessary to depute an officer to be present to assist the Government Pleader in the High Court when express orders are received from Government to that effect.

38. When two or more officers of different departments are

Procedure when two or more officers are concerned in an appeal case.

concerned in a case in which an appeal is desired on behalf of Government, or in which an appeal is brought by the opposite

party, the foregoing duties will devolve on the principal of such officers, subject, as far as may be, to the provisions of Rule 14.

39. When an appeal has been decided by a District Court, the provisions of the Rules 23, 24 and 25 shall be observed so far as they are applicable, just as in the case of the decision of an original suit.

Applicability of Rules 23, 24 and 25 to decisions in appeals.

V.—Second Appeals.

40. When an appeal from an original decree has been decided by a District Court, either wholly or partially adversely to Government, the same course is to be pursued with respect to the bringing of a second appeal as in the case of an appeal from an original decree, provided that if the Remembrancer of Legal Affairs is clearly of opinion that the case is one in which the law allows no second appeal, it shall not be necessary for him to refer it for the orders of Government, and the result of the first appeal need not be communicated to Government unless the Head of the Department, or the Remembrancer of Legal Affairs, is of opinion, for special reasons, that it should be. If the Head of the Department communicates the result of an appeal to Government under this rule, he shall submit his report to Government through the Remembrancer of Legal Affairs.

41. When a second appeal is brought against an appellate decree either wholly or partly in favour of Government, the same course shall be pursued as when an appeal is brought in the High Court against a similar original decree.

Procedure when a second appeal is brought against an appellate decree in favour of Government.

42. When an appeal has been decided by the High Court, whether against an original or appellate decree, the Government Pleader shall communicate the nature of the decision, as soon as it is pronounced, to the Remembrancer of Legal Affairs, giving, in important or interesting cases, a brief statement of the grounds of the decision.

He shall then obtain, with as little delay as possible, two *uncertified* printed copies of the Court's written judgment, if any, and

High Court's decision in an appeal how to be reported.

whether against an original or appellate decree, the Government Pleader shall communicate the

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forward one to the Remembrancer of Legal Affairs, and one, with the papers in the case, to the Collector or other officer concerned. If the Court records no written judgment, the Government Pleader shall inform the Collector or other officer to that effect and return the papers. The Collector, or other officer, shall inform the Head of his Department of the result of the case, sending him a copy of the written judgment, if any, or not, as he deems necessary.

The Remembrancer of Legal Affairs shall communicate the result of any such appeal to Government only when he thinks necessary, in special cases submitting a copy of the written judgment also, if any have been recorded; but, as a general rule, he should confine himself to mentioning the different cases and their results in his annual report. Nor need the result of any such appeal be communicated to Government by the Head of the Department unless the decision appears to him to be specially inconvenient, or to affect the administration in some unusual manner, in which case he shall forward his report to Government through the Remembrancer of Legal Affairs.

VI.—Appeals to Her Majesty in Council.

43. Applications under Chapter XLV. of the Civil Procedure Code for permission to appeal to

Applications for permission to appeal how to be dealt with.

Her Majesty in Council whether in behalf of, or against Govern-

ment, shall be dealt with generally under the same rules as are applicable to appeals to the High Court.

44. When the High Court has granted a certificate that a case

When permission has been granted, selection of exhibits for transcript of record to be made by Government Pleader.

is a fit one for such appeal, the Government Pleader in that Court shall take steps for selecting the exhibits to be included in the

transcript of the record in accordance with No. VI. of the rules published by the High Court on the 23rd February 1870 (*vide Bombay Government Gazette* for 1870, p. 167), referring for instructions in all matters of doubt to the Remembrancer of Legal Affairs.

45. When the High Court has declared the appeal admitted under Section 603 of the Civil Procedure Code, the Government Pleader shall at once inform the Remembrancer of Legal Affairs, and, so far as permitted by the rules of the Court, shall give his careful attention to the preparation of the transcript of the record, and see that it contains copies of all the documents necessary on behalf of Government, and that it is conveniently arranged and indexed.

46. On receipt of intimation that an appeal has been declared admitted, the Remembrancer of Legal Affairs shall prepare a statement—

- (1) embodying the facts of the case ;
- (2) explaining the reasons on which further prosecution of the suit is recommended ;
- (3) setting out the principal points insisted upon for the Government in the Courts of this country ; and
- (4) adding such observations upon the past conduct of the case, and upon the judgments of the Courts in this country as will conduce to an understanding and proper representation of the Government case at the hearing of the appeal.

47. If the Advocate General has appeared in the case before the High Court on behalf of Government, the above statement shall be signed by him as well as by the Remembrancer of Legal Affairs, and shall contain their joint opinion as to the precise legal grounds on which the appeal should be argued. If the Advocate General has not appeared in the case, the Remembrancer of Legal Affairs shall forward the statement to the Solicitor to Government, who will submit it to the Advocate General for his opinion as to the soundness of the arguments relied upon for Government and for his advice generally.

48. The said statement, together with the opinion of the Advocate General, if it is recorded separately, shall then be printed under the superintendence of the Solicitor to Government, so as to be ready by the same time that the transcript of the record is likely to be transmitted by the High Court to the Privy Council.

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The Government Pleader shall keep the Remembrancer of Legal Affairs and the Solicitor to Government informed as to when the transcript will probably be transmitted.

49. As soon as the Government Pleader has ascertained that the transcript of the record has been transmitted by the High Court to the Privy Council, he shall inform the Solicitor to Government, and at the same time forward to him twenty-two printed copies of the transcript record, if the same is printed in India, under the provisions of Section 602 of the Civil Procedure Code.

50. The Solicitor to Government shall then without delay submit twenty printed copies of the transcript and of the statement (printed in accordance with Rule 48) to Government, namely, ten for the records of Government, and ten for transmission to the Secretary of State, with a view to the solicitors of the India Office being duly instructed. He shall also send one printed copy of the transcript and one of the statements to the Remembrancer of Legal Affairs for his records.

51. If the transcript of the record is not printed in India, the Government Pleader shall apply through the Remembrancer of Legal Affairs, for the instructions of Government as to the number of the authenticated manuscript copies to be prepared, in lieu of printed copies, for the purposes of the last two rules.

VII.—Execution of Decrees.

52. Whenever it has been determined not any further to contest a decision which is either wholly or partly adverse to Government, the Collector, or other officer concerned, shall at once instruct the Government Pleader to pay into the Court, whose duty it is to execute the decree, all moneys payable under the decree, care being taken that the decree is fully satisfied within the time fixed for its satisfaction under Section 429 of the Civil Procedure Code.

53. Immediately on a decree being given in favour of Government, the Collector, or other officer concerned, is to proceed, in consultation with the Government

Procedure to obtain execution of a decree in favour of Government.

Pleader, to take steps for the recovery of costs and of the amount, if any, decreed, unless for special reasons (which he should report through the Head of his Department to the Remembrancer of Legal Affairs for the orders of Government), he deems it undesirable that any such steps should be taken, or that they should be taken immediately.

54. If an appeal is instituted, and the execution of the decree is stayed by order of the Court, the interval before the decision of the appeal should be made use of in making inquiries as to the property of the judgment-debtor.

Procedure in case of appeal.

55. When the officer concerned is not the Collector, or a subordinate of the Collector, he may apply to the Collector to assist him in prosecuting the necessary inquiries as to the property of the judgment-debtor.

Collector to render assistance when any other officer is concerned.

56. The provisions of Section 545 of the Civil Procedure Code are ordinarily sufficient to prevent any fraudulent disposal of property by the judgment-debtor during the time gained by an appeal; but the Government Pleader, in communication with the Collector, or other officer concerned, shall see that the security taken by the Court is sufficient, petitioning the Court, if he considers that the security offered is not valid, or sufficient, to be allowed to execute the decree at once.

Security when execution is stayed.

57. If such application is refused, the Collector, or other officer, should endeavour to keep a watch on the property of the debtor, so as to prevent any fraudulent alienation or concealment of it.

Prevention of fraudulent disposal of property.

58. District Government Pleaders shall send to the Remembrancer of Legal Affairs, on the 1st January, 1st April, 1st July, and 1st October, through the Collector, a quarterly return, in the following form, showing the progress made in realizing amounts

Quarterly return to be sent by Government Pleaders to the Legal Remembrancer.

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due under decrees to Government in the districts to which they are respectively appointed :—

Name of Court, and Number and Year of Suit.	PARTIES' NAMES.		AMOUNT TO BE REALIZED.			AMOUNT REALIZED.			Balance yet to be recovered.	Remarks.
	Plaintiff.	Defendant.	Amount of Claim decreed.	Amount of Costs decreed.	Total.	Previously.	During the Quarter under report.	Total.		

In the column of remarks, any reasons for delay, or for want of progress in the recovery of dues, should be fully explained; and when any sums are considered to be absolutely irrecoverable, the Collector, or other officer, shall report the amount through the Head of his Department to the Remembrancer of Legal Affairs, who shall submit the same to Government for orders. If Government direct any such sum to be written off as irrecoverable, it need no longer be shown by the Government Pleader in his quarterly return.

59. Should the Remembrancer of Legal Affairs consider the progress made in the recovery of moneys due to Government under decrees unsatisfactory, he shall bring the matter to the notice of Government.

Legal Remembrancer to report to Government if satisfactory progress is not made in recovery of dues.

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

61. The practice of deputing Government servants to bid on behalf of Government at Court's auctions with a view of purchasing the property of judgment-debtors by whom money is due

Purchase of judgment-debtor's property for Government forbid-
den.

to Government is, generally speaking, objectionable, as it is likely to involve Government in much litigation of a doubtful character, and it should never be resorted to unless with the special sanction of Government, to be obtained through the Remembrancer of Legal Affairs.

VIII.—Suits by Paupers.

62. Notices of the day fixed by any Court under Section 408 of the Civil Procedure Code for receiving evidence as to an applicant's alleged pauperism, and applications under Section 414 of the Code for dispaupering a plaintiff, should be respectively received and made by the District Government Pleaders in the case of any Court situated at his head-quarters, and by the Subordinate Government Pleader appointed for the Court in the case of any other Court.

63. Government Pleaders need not busy themselves about calling evidence in every case in which a notice is served upon them under Section 408. But Government Pleaders how to proceed under Section 408. But on receipt of any such notice they should at once communicate with the Mámílatdár or Mahálkari of the taluka or máhál in which the applicant resides.

If such officer, after inquiry, informs him that the applicant is a pauper within the meaning of Section 401 of the Code, he need take no further steps in the matter. But if such officer considers that the applicant is not a pauper, he should collect such evidence as he is able in disproof of his alleged pauperism, and instruct the Government Pleader, who will then appear on the day fixed for the hearing, and oppose the application under Section 409.

Applications to dispauper a plaintiff under Section 414 will be made by a Government Pleader only under express instructions; And under Section 414. but it is the duty of Government Pleaders to communicate to the Mámílatdár or Mahálkari any fact which at any time comes to their knowledge which appears to render it desirable that such an application should be made.

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"63 A.—As soon as a Government Pleader receives from the Court a copy of a decree* directing payment of pauper costs he shall enter the particulars thereof in a Register.

Government Pleader to keep a Register of decrees for recovery of pauper costs.

"63 B.—If the party liable to the payment of any such costs or his Pleader is known to the Government Pleader and is readily accessible to him, he shall endeavour to recover the amount due from him at once, and forward the copy of the decree with a report of his proceedings to the Collector.

If the amount due, or any portion of it cannot be thus recovered, the Government Pleader shall without delay forward the copy of the decree to the Mámlatdár of the Taluka in which the person liable for the amount due has his residence.

"63 C.—On receipt of a copy of a decree under the last Rule the Mámlatdár shall make inquiries as to the property and means of the person liable, and, if possible, obtain from him the amount due, or such portion thereof as he is able to pay.

If the Mámlatdár obtains any payment either at this, or at any subsequent time, he shall inform the Government Pleader of the amount thereof.

"63 D.—If the Mámlatdár is unable to obtain any payment from the person liable for the same, or obtains only a portion of the whole amount due, he shall forward the copy of the decree together with all the information he is able to procure as to the property of the said person, and as to the probability of his being able to pay what is due by him, either at once or at any time thereafter within the period of limitation, to the Collector for orders.

Report when to be made by Mámlatdár to Collector.

* NOTE.—"Every Civil Court of Original Jurisdiction shall furnish the Government Pleader of such Court, without charge, with a copy of every decree passed by itself, or by any superior Court on appeal from a decree passed by it, which directs any party to pay pauper costs to Government."—(*High Court, under S. 652, Code, Civil Proc.*)

"63 E.—The Collector shall, thereupon, in consultation, if necessary, with the Government Pleader, issue such orders as to the making of an application in Court for the recovery of the amount due, or otherwise, as he thinks fit.

Steps to be taken by the Collector on receipt of such report.

If it shall appear altogether improbable that the person liable will be able to pay what is due by him under the decree, or the balance of what is so due by him within the period of limitation, or if for any reason the Collector shall think it inexpedient that such person should be further pressed he may at once apply to Government under Rule 58 for sanction to write off the amount still due, but as a general rule steps for the recovery of pauper costs should be unremittingly continued until the period of limitation expires, when, if necessary, application should be made by the Collector as aforesaid under Rule 58.

"63 F.—If the decree under which pauper costs are recoverable awards to the person liable for the same any money, or other property, the Government Pleader shall carefully watch the execution of such decree, and at the proper time enforce the prior right of Government in respect of any such money or other property.

General duties of Government Pleader in respect of the recovery of pauper costs.

It shall also be the duty of the Government Pleader at all times to furnish the Collector or Mámlatdár with any information which comes to his knowledge, the possession of which is likely to facilitate the recovery of the monies due to Government, and when the period of limitation for the execution of any decree is nearly expiring without such decree having been fully satisfied, he shall specially report the fact to the Collector.

"63 G.—When Government sanction the writing off of any pauper costs as irrecoverable the particulars of the Resolution shall be communicated by the Collector to the Government Pleader.

Government Pleaders' Register to be written up from time to time, and Quarterly Returns submitted under Rule 58 to contain particulars of realizations of pauper costs.

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The Government Pleader shall make the requisite entries in columns 9—13 of the Register kept by him under Rule 63 A from time to time as he himself recovers, or obtains information of the recovery, or writing off of the pauper costs due in respect of each decree entered in the said Register.

The Quarterly Return forwarded to the Remembrancer of Legal Affairs by District Government Pleaders under Rule 58 shall show separately the progress made in realizing amounts due to Government under decrees on account of pauper costs and in realizing amounts so due on any other account, and to enable the District Government Pleaders to make complete returns, each Subordinate Government Pleader shall submit to the District Government Pleader to whom he is subordinate a return in the same form and on the same dates as are prescribed in Rule 58 for the returns to be prepared by the latter.

NOTE.—The rules relating to pauper plaintiffs and pauper costs in Bombay may be found under G. R. No. 1585, March 4, 1880.

IX.—Miscellaneous.

64. Copies of documents on the Government records are often

Copies of documents on Government records when to be granted.

applied for as a means of supporting a claim either before or after the commencement of a suit

against Government. Such copies should be furnished when the documents are of a public character and are pertinent to the case for which they are required. Copies of confidential communications, as those between Government and an officer or between one officer and another dealing with particular transactions or the rights or duties of individuals, should not in general be given. Vague and fishing applications for copies should be rejected. In cases of doubt the proper criterion to apply, is that of whether, if a copy is refused, the original may properly be called for by the Court, or whether such a call may properly be resisted according to the principles of Sections 123 and 124 of the Indian Evidence Act. When there is a right to inspect, it must be borne in mind that Section 76 of the same Act gives a right to a copy. Every copy taken, or its original, should be carefully considered by the Government Pleader, for whose perusal it will be submitted by the officer making the copy.

65. When documents in the charge of a Head of a Department

are called for by a Court, he
 Production of documents against the public interest. should consider whether they

include communications made in official confidence, the production of which will be injurious to the public interest. To the production of such documents he should object, as falling within the principles of Section 124 of the Indian Evidence Act, and he will be careful to prevent his subordinates transgressing this rule upon summons directed to them personally, instead of to himself, in whom the custody of the documents is vested, and without whose orders subordinates are not at liberty to remove or otherwise deal with the documents of the department.

66. If it appears advisable to a Collector, or other officer,

to intervene in any suit to which
 Miscellaneous civil proceedings. Government have not been made

a party, or, if he shall deem it necessary to institute, or shall be called upon to defend, any miscellaneous civil proceeding on behalf of Government, the rules prescribed for regular suits in all their stages shall, *mutatis mutandis*, be deemed applicable, provided that in cases of emergency the Collector or other officer may act in anticipation of the orders of Government, but shall at once report his proceedings through the channel prescribed by the said rules.

NOTE.—No. 66 of the Rules is of general applicability, and the name of Government or of any Government officer ought not to be used in any civil proceeding without a reference being first of all made under it, whether the costs of the proceeding will eventually fall on Government or not.—(*Leg. Rem. with G. R. No. 2225, Apr. 27, 1880.*)

67. Cases which are referred to the Civil Court under Section 15

of the Land Acquisition Act X.
 Land Acquisition Cases. of 1870 need not, as a general

rule, be referred under the foregoing rules to Government, through the Remembrancer of Legal Affairs for orders, but the Remembrancer of Legal Affairs may be consulted direct on any points that may arise in respect of such cases involving legal doubts or difficulties.

68. No suit, or other civil proceeding, is to be settled out of

Court, or compromised in Court,
 Compromises. by any officer of Government,
 without the express orders of Government, to be obtained through

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the Remembrancer of Legal Affairs, after submitting full explanation of the course proposed to be adopted.

69. All correspondence and all Resolutions of Government on the subject of suits, or other civil proceedings, are to be regarded, by all officers of Government and by all pleaders into whose hands they may come, as *strictly confidential*. No public officer shall grant copies of any such correspondence or Government Resolution during the pendency of the suit or civil proceeding, or until after its final decision by the highest Court before which it is likely to be brought, for any reason whatever, and no such copies shall be granted at any time after such final decision without the previous sanction of the Head of the Department.

70. The Remembrancer of Legal Affairs is to keep in his office complete records of all the correspondence connected with every suit or other civil proceeding in which Government, or any Government Officer, is concerned. Rules 5, 15, 31 and 36 have been framed with a view of facilitating this purpose, and where the rules do not expressly make provision to that effect, it is to be understood that all original correspondence on the subject of such suits or proceedings is eventually to be returned to the Remembrancer of Legal Affairs for record.

71. Collectors and other officers, who are frequently concerned in suits, or other civil proceedings should furnish the Government Pleader in the High Court, and the Government Pleader of the District in which such suits, or other proceedings, originate, with a general power of attorney.

72. When the exhibits in an original suit, or other proceeding, are so numerous or so important as to necessitate a District Government Pleader's obtaining copies thereof for his own use, or for that of special counsel, and whenever a District Government Pleader for any reason whatever obtains copies of any such exhibit, he shall take care to have them legibly written on one side only of the paper, with a quarter margin, (the paper being of the ordinary

foolscap size in use in official correspondence) so that they may be afterwards used by counsel and others (as, for instance, for the purposes of Rules 27 and 35) in every subsequent stage of the case, and the expense of procuring fresh copies from time to time may be thus avoided.

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

In cases from the Kanarese Districts, Maratha or English translations must accompany all copies of Kanarese exhibits intended for the use of the Remembrancer of Legal Affairs or of the Government Pleader in the High Court.—*G. Rs. Nos. 6451, Nov. 9, 1878 ; 6379, Oct. 20, 1879.*

RULES REGARDING THE DUTIES OF THE LAW OFFICERS OF GOVERNMENT.

I.—The Advocate General.

3. The Commander-in-Chief, the Judge Advocate General of the Army, and, subject to the provisions of Rule 16, all Heads of Departments at the Presidency, whether such departments are under the Supreme or Local Government, have the right to require the Advocate General's opinion in any matter they may think it necessary to refer to him.

And as adviser of the Chief
Officers of Government.

4. It is the duty of the Advocate General to advise the Legal Remembrancer whenever the latter deems it necessary, in any case or matter affecting the interests of Government to consult him.

May be consulted by the Legal
Remembrancer.

5. It is the duty of the Advocate General to undertake any legal business within the range of an advocate's functions which Government may desire him to undertake in Bombay, and to represent Government in all actions and civil proceedings on the Original Side of the High Court.

Duties as Advocate.

Rules for Institution of Suits in Mofussil Courts.

6. It is the duty of the Advocate General—

- (a) to appear on the Original Side of the High Court in every suit or other civil matter in which Government require his services, whoever the nominal party in whose behalf he is called on to appear may be (but he will not

May be required to appear on behalf of Government Officers and others on the Original Side of the High Court.

appear, without the requisition of Government, for any person except the Secretary of State for India in Council);

- (b) to appear, if required by Government, on their behalf in any original case, civil or criminal, which the High Court transfers from any other Court in the Presidency for trial before itself.

And in cases transferred for trial to the High Court.

7. In any case in which it is proposed to require the services of the Advocate General on behalf of some third person not directly identified in interest with Government, Government will determine

Requisition for his services in cases to which Government is not a party to be made by Government.

whether the case is one in which they have such an interest as to render it advisable that it should be conducted on their behalf, and when it has been so determined, it is the duty of the Advocate General to afford his services as he would, if Government were directly a party to the case.

8. It is the duty of the Advocate General to prosecute as

Prosecutes in criminal cases before the High Court when required by Government.

leading counsel in all original criminal cases tried before the High Court, in which Government direct that their law officers shall prosecute.

9. In ordinary original criminal cases tried before the High

But in ordinary criminal cases exercises his discretion.

Court the Advocate General will exercise his discretion and prosecute as leading counsel, whenever he deems it desirable, in the interests of the public, that he should do so.

10. The Advocate General has also to discharge, as occasion

Statutory duties.

arises, the various duties imposed upon him by specific enactments of the English and Indian Legislatures.

II.—The Solicitor to Government.

12. The Solicitor to Government is bound to discharge all the ordinary duties of an Attorney and Solicitor to Government and to those officers of Government who are entitled to consult the Advocate General.

13. It is his duty to conduct all such conveyancing business and to draft all such instruments and other legal documents as the Supreme or Local Government, or any authorized Government officer, may require.

14. The Legal Remembrancer is entitled to the assistance of the Solicitor to Government in all matters in which the special knowledge of a solicitor may be of advantage.

15. It is the duty of the Solicitor to Government to retain counsel in criminal cases which are prosecuted by the Law Officers of Government, obtaining copies of the documents from the Public Prosecutor, and also to instruct Government Counsel generally in all cases except those in which the performance of this duty is otherwise provided for, or in which Government or the officers entitled to consult the Advocate General instruct him direct; and his duties are in every respect co-extensive with those of the Advocate General, so far as the business of an attorney and solicitor is concerned.

16. Save in cases of emergency, references for the opinion or advice of the Advocate General must be made through the Solicitor to Government. Similar references may be made by Government and the officers entitled to consult the Advocate General for the opinion or advice of the Solicitor to Government himself; and in every case it is the duty of the officer making the reference to state whether the opinion or advice of the Advocate General, or of the Solicitor to Government, is required; but in any case in which his own opinion may be asked, and which, on perusal, he may consider to be of special difficulty or importance, the Solicitor to Government should obtain and forward the opinion of the Advocate General.

Rules for Institution of Suits in Mofussil Courts.

17. The officers of Government requiring legal advice from either the Advocate General or the Solicitor to Government are responsible for placing before the Solicitor to Government all, and not more than all, the documents necessary for the proper consideration of the point on which an opinion or advice is required, and also for stating, as precisely as possible, the point on which the advice or opinion is required; but if the Solicitor to Government, in any case submitted either for his own advice or opinion, or for that of the Advocate General, finds that that real point has been missed, or incorrectly stated, or that the facts stated do not afford sufficient material for forming an opinion, it is his duty to return the case for re-submission in proper form, at the same time pointing out in what respect the reference is deficient.

Solicitor to Government is Public Prosecutor for Bombay.

18. The Solicitor to Government is also *ex-officio* Public Prosecutor for Bombay.

Duties as Public Prosecutor.

19. The duties of the Public Prosecutor for Bombay are—

(1) to prepare and watch prosecutions in trials before the High Court, to draw the briefs, and to take care that the necessary witnesses are in attendance;

(2) to communicate with, and advise Magistrates, whether in Bombay or in the Mofussil, in respect to cases committed, or to be committed, for trial in the High Court;

(3) to conduct prosecutions, under the provisions of the Criminal Procedure Code, before the High Court, subject to the Advocate General, or other counsel who appears at the time of trial;

(4) to retain counsel for the prosecution at his discretion, in any case committed for trial before the High Court, in which copy of the record is forwarded to him by the Clerk of the Crown;

(5) to originate or assume such prosecutions as he may be directed to originate or assume by Government, or by any Judge, or Magistrate, or such as, by reason of there being no private person, or public body, on whom the duty of originating them should more properly fall, or on any other account, he shall, in his

discretion, consider should be originated or assumed by him in his public capacity ;

(6) to bring to the notice of Government any special circumstances connected with any trial which seem to him to require the attention of Government.

III.—Remembrancer of Legal Affairs.

21. It is the duty of the Remembrancer of Legal Affairs to
superintend and advise on the
conduct of all litigation arising
originally in the Mofussil in which
the Government or Government officers are concerned or interested,
in accordance with the rules prescribed in this behalf.

22. All the Government Pleaders throughout the Presidency,
including the Government Pleader
in the High Court, and all Public
Prosecutors except the Prosecutor
of Bombay are under his direct control and supervision, and all
communications concerning the law business, or the Subordinate
Law Officers of Government in the Mofussil, are to be made to
Government through him.

23. The Remembrancer of Legal Affairs is appointed under
Section 492 of the Criminal Pro-
cedure Code *ex-officio* Public Pro-
secutor for the Presidency of
Bombay, except Sind and the City of Bombay. He will appear
personally only in such cases as he deems it desirable that he should
himself prosecute, or as the Government from time to time direct
him to prosecute.

25. Except as is otherwise provided in Rules 15 and 19, the
employment of special counsel,
when necessary, on behalf of
Government in any case, whether
civil or criminal, which arises originally in the Mofussil, and the
settlement of their fees, is also a part of the duties of the Remem-
brancer of Legal Affairs ; and, subject to the orders of Government,
he is to exercise a control over all expenditure incurred on account
of law charges, in connection with both civil and criminal cases in,
or arising in, the Mofussil.

* To engage special counsel, when
necessary, and settle their fees.

Rules for Institution of Suits in Mofussil Courts.

26. Government Pleaders, or local officers, who desire to engage special counsel for any case should communicate with the Remembrancer of Legal Affairs before

Procedure when special counsel has to be employed.

doing so, informing him, in criminal cases, of the nature of the case, and of the evidence to be brought forward, and stating, in every case, when and where the hearing of trial will take place, how long it is likely to last, and what pleader or other counsel they wish to employ, and at what rate they propose to remunerate him. If there is not time for this communication to be made before the date fixed, or likely to be fixed, for the hearing or trial of the case, the Court or Magistrate should be asked to adjourn it, or to fix the date in the first instance at a sufficient distance of time to enable the officer concerned to obtain sanction for the employment of special counsel. The Remembrancer of Legal Affairs, if he thinks the case a fit one for the employment of special counsel, will submit the application for the orders of Government, but in emergent cases may act in anticipation of such orders.

27. The Remembrancer of Legal Affairs is bound to advise

Duties as Government Adviser.

Government on all legal questions in connection with the administration of public affairs, or arising out of the acts of Government officers or public servants in the Mofussil which may be referred to him by Government. This duty extends to Government business of all kinds, and in all departments, whether under the Supreme or Local Government.

28. Rule 17, which applies to references for the advice or

Procedure in respect of reference to him for opinion or advice.

opinion of the Solicitor to Government, or of the Advocate General is to be held applicable, as far as may be, to all such references to the Remembrancer of Legal Affairs; but the Remembrancer of Legal Affairs will, in this as in all other branches of his duties, himself ordinarily perform all the usual work of a solicitor.

29. Heads of Departments in the Mofussil may make direct

Direct references by Government officers to him for opinion or advice not ordinarily permitted.

references to the Remembrancer of Legal Affairs for advice or opinion only in respect of suits or other civil proceedings which are

actually pending, and in which Government is concerned or interested, and of criminal proceedings which are actually pending. References on general questions, or in regard to proceedings other than the above, should be submitted to Government, who will call for the Remembrancer of Legal Affairs' report, or not, as they deem fit.

In the case of reference to the High Court under the Stamp Act, the Remembrancer of Legal Affairs will ordinarily decide whether or not the Government Pleader in the High Court need appear on behalf of Government. Whenever he has any doubt, he should take the special orders of Government.

30. Municipalities must, as a general rule, be left to defend the legality of their own proceedings, and are not entitled to the advice of the Government Law Officers.

Municipalities not ordinarily entitled to his advice.
But in cases of special importance or difficulty, a reference may be made to Government to obtain the opinion or advice of the Remembrancer of Legal Affairs for the guidance of Municipalities in their proceedings, or in the defence of actions which have been brought against them, or with which they are threatened.

31. It is also the duty of the Remembrancer of Legal Affairs to advise Government, in accordance with the rules* prescribed in this behalf in Government Resolution No. 6889, dated 17th November 1876, Judicial Department, in the matter of all proposals to appeal, under Section 272 of the Criminal Procedure Code, against the acquittal of accused persons.

* The following are the rules referred to:—

I. Every proposal to appeal under Section 272 (417 Act X. of 1882) of the Criminal Procedure Code must be forwarded by the officer making it to the Head of his Department, who, if he concurs in it, shall submit it with his own opinion to Government, through the Legal Remembrancer.

II. The Legal Remembrancer, after calling for all information or papers that he may deem necessary to enable him to arrive at a correct opinion shall forward the correspondence to Government, together with a report, stating his opinion, and, if he advises an appeal being made, the principal grounds on which he suggests its being based.

III. If Government sanction the appeal copies of the correspondence and of the Legal Remembrancer's report will be forwarded direct to the Government Pleader in the High Court from the Secretariat, with a copy of the Government Resolution empowering him to file the appeal.

IV. The appeal will then be drawn up by the Government Pleader in accordance with the orders of the Court, and after consultation with the special counsel, if any, whom Government authorize him to retain for the case.

Rules for Institution of Suits in Mofussil Courts.

Government Pleaders and Public Prosecutors.

"Government Pleader" defined. 37. The term "Government Pleader" includes—

- (1) the Government Pleader in the High Court ;
- (2) District Government Pleaders ; and
- (3) Subordinate Government Pleaders (of whom one will be nominated for every Subordinate Judge's Court or Small Cause Court not situated at the head-quarters of a District Government Pleader).

The term "Public Prosecutor" means any person appointed by Government under Section 492 of the Criminal Procedure Code to be Public Prosecutor for a district or a division of a district or for a specified class of cases in a district or division of a district ; and it also includes the Government Pleader in the High Court for the purposes mentioned in Rule 47 of these Rules, and any person appointed by a District or Sub-divisional Magistrate for the purposes mentioned in Rule 50 of these Rules.

NOTE.—See the definition in Act. X. of 1882.

45. It is the duty of Government Pleaders to appear on behalf of Government, or of any Government Officer, in any suit or other civil proceeding to which Government are a party, or the institution or defence of which is

Ordinary duties of Government Pleaders.

of Government, or of any Government Officer, in any suit or other civil proceeding to which

Government are a party, or the institution or defence of which is

V. Neither the grounds of appeal nor the arguments in support of the appeal at the hearing need be limited to those stated in the Legal Remembrancer's opinion. The Government Pleader or other counsel will be at liberty to exercise his own discretion as to the manner in which the appeal should be conducted, subject only to any special reservations which may be made in the Government Resolutions sanctioning the appeal.

VI. As soon as Government have sanctioned the institution of an appeal it will be the duty of the Legal Remembrancer and of the local officer who proposed the appeal to forward to the Government Pleader direct without delay all the material papers in their possession relating to the case.

VII. As soon as the appeal has been decided the Government Pleader will inform the Legal Remembrancer of the result. If a written judgment is recorded by the Court he will obtain with as little delay as possible two copies of it, and forward one to the Legal Remembrancer and one with the papers to the officer who proposed the appeal.

VIII. The result of the appeal will be especially reported to Government by the Legal Remembrancer only in such cases as appear to him to be important. As a general rule it will suffice if the different cases and their results are mentioned in his annual report to Government. The officer who proposed the appeal need not communicate its result to Government.

undertaken by Government, or in any suit or other civil matter, in which Government requires their services, whoever the nominal party on whose behalf they are called on to appear may be, if Government determine that the case is one in which they have such an interest as to render it advisable that it should be conducted on their behalf.

46. Whenever special counsel is employed by the Remembrancer of Legal Affairs, under Rule 25, in Bombay, for any case to be heard either in Bombay or in the Mofussil, the Government Pleader in the High Court shall take (under instructions from the Remembrancer of Legal Affairs) the usual steps for retaining such counsel. The counsel's brief will be prepared, for any case to be tried in Bombay, by the Government Pleader in the High Court, and for any case to be tried in the Mofussil by the Government Pleader of the district, or by the Prosecuting Pleader of the district or division in which the case is to be tried; and, in the latter case, the brief, when prepared, will be forwarded by the District Government Pleader, or the Prosecuting Pleader, to the Government Pleader in the High Court for submittal to the counsel.

47. The Government Pleader in the High Court is appointed Public Prosecutor for the purpose of presenting appeals to the High Court in cases of acquittal on behalf of Government under Section 417 of the Criminal Procedure Code, and for the purpose of appearing for the prosecution in criminal appeals heard before the High Court under Section 423 of the said Code, and for the Crown in other criminal cases which come before the High Court on its Appellate Side under the provisions of the Criminal procedure Code.

The Government Pleader in the High Court is empowered by Government under Section 422 of the Criminal Procedure Code to receive notices of criminal appeals to be heard before that Court.

48. The Government Pleader in the High Court, as Public Prosecutor on the appellate side of that Court, must appear for the prosecution, if called upon, in any criminal case from the

Rules for Institution of Suits in Mofussil Courts.

Mofussil which comes before that Court on that side. He will ordinarily so appear—

(a) In every case submitted to the High Court under Section 374 of the Criminal Procedure Code for confirmation; and

(b) In every appeal against an acquittal; and

(c) In every case submitted to the High Court under Section 307 of the Criminal Procedure Code, and in every appeal against a conviction heard by it under Section 423 of the said Code, if in such case or appeal the accused person (or when there are several accused persons any one of them) is represented by Counsel, whether a Barrister or a Pleader; and

(d) In any criminal case in which he may be specially instructed to appear by the Magistrate of a District, or by the Remembrancer of Legal Affairs; and

(e) In any criminal case in which the High Court or a Division Court desires him to appear, or intimates its opinion that he ought to appear.

49. Notices of commitments and appeals under Sections 218 and 422 of the Criminal Procedure

Duties of District Government Pleaders and Public Prosecutors in criminal cases.

Code will be given to the District Government Pleaders and Public Prosecutors, who will ordinarily

conduct the prosecution in every trial before Courts of Session in accordance with Section 270 of the Criminal Procedure Code, and appear for the prosecution at the hearing of any appeal before those Courts when counsel, whether a barrister or pleader, appears for the appellant, or when they are specially instructed by the Magistrate of the district under Section 492 of the Code. When so required by the Magistrate of the district, or by the Remembrancer of Legal Affairs, it is their duty also to conduct the prosecution in any trial before a Magistrate.

50. When, under Section 492 of the Criminal Procedure Code, a Magistrate of the district or

Appointment and remuneration of special prosecutors under Section 492 of the Criminal Procedure Code.

subject to his control a Sub-divisional Magistrate appoints any person in the absence of the Public Prosecutor, or when no

Public Prosecutor has been appointed, to be Public Prosecutor for the purpose of conducting the prosecution in any trial before the

Court of Sessions, such person shall be entitled to the same remuneration as would be payable under Rule 41 of these Rules.

But no such person shall be appointed by a Magistrate of the district without the concurrence of the Remembrancer of Legal Affairs, and if, for special reasons, a higher rate of remuneration than the above is deemed necessary for the person whom it is proposed to appoint, the sanction of Government must be obtained, through the Remembrancer of Legal Affairs, before any liability is incurred.

51. When the Public Prosecutor for the Presidency, or special counsel, appears for the prosecution in any case before the High Court, or any Sessions Court, the Government Pleader or Prosecuting Pleader will appear also and assist, or instruct the Public Prosecutor or special counsel, as may be necessary.

52. The duties of the Government Pleader in the High Court are ordinarily restricted to that Court, but it is his duty, also, whenever his services can be spared without inconvenience to that Court, and the Remembrancer of Legal Affairs so requires, to appear in any case, whether civil or criminal, in any Court in the Mofussil.

53. Similarly District Government Pleaders' duties are ordinarily restricted to the Courts at the head-quarters of the district for which they are appointed, and Public Prosecutors' duties are ordinarily restricted to the Sessions Courts to which they are respectively appointed; but when so required by the Collector or Magistrate of the district, or by the Remembrancer of Legal Affairs, they will appear in any case in any Court in the said district, or proceed to Bombay to instruct counsel, or to assist at the hearing or trial of any case in the High Court, or for any other such purpose; provided that in the case of Public Prosecutors such requisitions shall be confined to criminal cases.

Rules for Institution of Suits in Mofussil Courts.

54. The duties of Subordinate Government Pleaders are limited to appearing on behalf of Government in the Courts for which they are respectively appointed in any suit or other civil matter in which the District Government Pleader would appear if such suit or matter arose in any Court at the head-quarters of the district. They are to be subordinate to the respective District Government Pleaders, and whenever a District Government Pleader appears in any Court in which there is a Subordinate Government Pleader, the latter will appear with him as junior pleader.

55. It is the duty of the Government Pleader in the High Court to advise District Officers only in respect of any proceedings, whether civil or criminal, which he has or may have to conduct on behalf of Government, but his duties as hereinbefore described extend to Government business in all its departments, whether under the Supreme or Local Government.

56. It is the duty of the District Government Pleaders to advise all local officers not only in respect of any proceedings, whether civil or criminal, which they may have to conduct on behalf of Government or of any such officer, but also, to the best of their ability, on all legal matters which any such officer may refer to them concerning any Government business of any kind or in any department, whether such department be under the Supreme or Local Government.—*Govt. Notifications No. 5756, Sept. 15, 1882, and No. 1578, Mar. 6, 1883.*

17. **Copies of documents.**—It is the wish of Government that no needless restrictions should be placed on the right of inspection of public documents, which are applied for by parties to suits.

It would not be possible to define precisely what particular class of documents should be allowed to be inspected and copied, but in withholding permission the officer in charge of the records

should be guided mainly by the consideration whether or not the public interests would suffer by the disclosure. Under Section 162 of the Evidence Act, the head of the department, and not the Court, is made the judge, whether a public document is to be withheld on the ground that it relates to affairs of State. The Collector should therefore be careful, before allowing inspection or granting copies of documents from his records, to ascertain that the public interests are not likely to suffer by the disclosure. And in cases in which, though compelled to bring a document into Court, he considers it would be detrimental to the public service to produce it, he should attend personally to state his objection.—*G. R. No. 5487, Oct. 3, 1873.*

18. Pauper Suits.—

* * * *

19. The only privilege of a person who is allowed by a Court to institute a suit *in formā pauperis* is, that he is not liable for any Court fee (other than fees payable for service of process) in respect of any petition, appointment of a pleader, or other proceeding connected with the suit.

There is no law which exempts him from paying the stamp duty on any document which requires to be stamped under the provisions of the General Stamp Act.—*G. R. No. 3098, June 19, 1878.*

20. **Vakilatnámás.**—Vakilatnámás given by Collectors when such documents are necessary, are liable to the prescribed Court fee, but when Government Pleaders appear for Government (and not simply for a public officer) it is not the practice for them to file in Court any vakilatnámá. They are the recognized agents of Government within the meaning of Section 417 of the new Civil Procedure Code, and the Courts are bound to take judicial notice of their appointment, so that no vakilatnámá is necessary.

In pauper inquiries (Secs. 408, 411, 414, Civil Procedure Code) vakilatnámás are not necessary. It is enough if the Collector instruct the Government Vakil to appear.

But even if it were held that Government Pleaders are not recognized agents of Government within the meaning of Section 417, most of the Government Pleaders are furnished with a general vakilatnámá from the Collector, under Clause 4, Section 47, Regulation II, of 1827, a duplicate of which is deposited in the District

Court, and when so furnished they can appear in pauper inquiries without any fresh vakilatnámá in each case on the authority of the said regulation.—*G. R. No. 2436, May 11, 1878.*

21. **Fees.**—Government Pleaders are not entitled to fees for trivial miscellaneous duties, such as obtaining copies or searching for original papers for Government officers.—*G. R. No. 4985, Aug. 15, 1877.*

CHAPTER XXX.

In this chapter are put together a few matters which have failed to find a place elsewhere.

I.—RECORDS.

1. **Lists A and B.**—In 1857 orders were first given for the systematic classification of vernacular records with a view to the destruction of those that were useless, and Lists (A) and (B) of useful and useless papers respectively were then made. The principles on which the classification was made are explained in the following minute, but new lists were published with *G. R. No.* 1395, *March* 3, 1877.

* * * *

“In order to include nearly all papers of importance, some of the entries in the list have purposely been made very comprehensive: for instance, No. 52 includes all statements which may have been prepared regarding staple products, manufactures, &c. It would be a pity to destroy papers containing statistical information which is not required now, if that information be of a nature which is likely to prove of interest at a future time.

“In this and similar cases the Collectors will exercise their discretion, bearing in mind that it is better to give the doubt in favour of preserving papers whenever any doubt exists.

“In some districts there are papers relating to special inquiries or of local importance. These, if omitted from the present list, should also be entered by the Collector in the supplement.

“But it is hoped that the entries in the list now forwarded will be found sufficiently comprehensive to include nearly all papers which it is really desirable to preserve permanently, or at all events to form a sufficient guide in coming to a decision as to what should or should not be kept.

“The papers in list (A) are to be duly classified, catalogued, and preserved, according to the rules in force.

“Papers of older date than 1830 should all be preserved. Before that period records were not numerous; and it is better to leave undisturbed the useless papers there may be among the records of

the earlier years of the British Government than to risk the destruction of valuable documents, or to take the trouble of selecting the useless.

"If however there be accumulated useless papers of an earlier date which can easily be separated from the mass, the Collector may refer to the Revenue Commissioner for sanction to destroy them.

"In the List (B) are entered papers which are to be destroyed periodically.

"Records of this description should be put up monthly in bundles, and beyond the arrangement by months no classification is necessary, nor are lists required. The 'rumáls' in which these papers are kept should be dyed blue, and should be placed on shelves apart from the records included in List (A).

"Where records are examined it will be the duty of the revising officer to see whether, by mistake or otherwise, papers which are to be permanently preserved have been included in these bundles. No other examination of the temporarily useful records will be needed.

"No papers should be destroyed except under the immediate superintendence of the Collector, his Assistants and Deputies, or the Daftardár of the Collectorate.

"The Mámlatdár and subordinate officials are not thereby relieved from the responsibility of answering for the destruction of useful papers among those which are periodically destroyed as useless. This responsibility will be rigidly enforced.

"The periodical destruction of records in the Collector's office will take place during the monsoon after the 1st August; that of the district offices during the fair season, when the Collector, his Assistant or Deputy, visits the District Kacheris.

* * * *

"There are many papers which accumulate in the course of the transaction of miscellaneous business, but which might well be destroyed as soon as the purpose for which they were written has been fulfilled. It is impossible to give detailed instructions regarding such papers.

"There are other papers not included in the List (B) for periodical destruction, because they are, from the first, of such minor importance, that they can hardly be recognized as official documents.

* * * *

"The Collectors are requested to use their own discretion regarding the distinction of such papers.

"But whatever papers may be destroyed beyond those mentioned in List (B) it is necessary that duplicate lists, showing the nature of the papers so destroyed, be prepared at the time, duly signed, and carefully preserved.

"But for this precaution it may be alleged at some future time that papers of value have been destroyed by authority, and a record to disprove such an assertion is necessary.

"The useless papers may be disposed of by sale; but in such case before being delivered to the purchaser they should be soaked in water and thoroughly wetted, so as to efface the writing as much as possible."—*G. R. No. 4774, Nov. 4, 1857.*

With the object of enabling boys attending vernacular schools to learn to read vernacular handwriting, Mámíatdárs may supply on application by a schoolmaster of a Government school a number of B list papers, taking a receipted list thereof from the schoolmaster, who shall be responsible for them, and on duly returning them can have a fresh supply of such B list papers. Care however must be taken that no *records* are allowed to leave the Mámíatdár's kacheri. By "records" are meant those of the A. list that are to be kept, and all B. list papers lent are to be carefully returned.—*G. R. Nos. 2643 May 22, and 3099, June 19, 1878.*

2. Rules for Vernacular Official Correspondence.

(1) All correspondence should be classified under two heads *i. e.*—

(A)—Useful for record.

(B)—Of temporary utility; to be destroyed after two years.

(2) Copies are to be kept in the office where the original is *not* filed. In offices where the original comes back to be filed after disposal, it is not necessary to keep copies. But officers may use their discretion as to copying or recording an abstract of any of the papers.

(3) The officer who receives the final order will note at the foot of it that it has been obeyed when returning the correspondence, as well as enter the order in the list of unanswered references under 'orders received and obeyed.'

(4) The form of this list of unanswered references will run thus :—

(a) Orders received and obeyed.

(b) Orders undisposed of, and the reasons, which will be written in the register, of which a specimen is given in the Appendix.

(5) All (A) papers will however be either copied or registered. The register will not pretend to give the contents or substance, but simply the number, the date, and the names of the subject; but where any amplification of the register is found desirable, by additional headings or otherwise, there is no intention under this rule to prohibit the same.

(6) The substance of all (B) papers should be registered, otherwise all needful trace of them will be lost after two years.

(7) The officer, whether Mámíatdár, Assistant Collector or Collector, who gives the final order on a petition, must prepare that order in his own office, but may, for facility of delivery, transmit it through his subordinate.

(8) Every answer to a petition should contain so much of the points of a case as may be necessary to enable superior officers in case of appeal to form a judgment whether to accept or reject the petition of appeal.

(9) When the order of a subordinate is reversed or modified, the reasons are to be communicated to the subordinate. When the order is confirmed a simple intimation to that effect will suffice.

(10) The petitioner is also to be informed.

(11) The officer sending the order to his subordinate should note on it (A) or (B) according to his judgment, and the subordinate officer should class the order accordingly.—*G. R. No. 596, May 20, 1867.*

3. Destruction of old records.—The destruction of useless records is not to be allowed to fall into arrears, and is to be done by the ordinary establishments. It is of the utmost importance that the orders as to the destruction of records should be carefully and regularly carried out, as useless papers not only take up a great deal of room, but if allowed to accumulate soon get beyond the power of the ordinary establishments to put in order.—*G. R. No. 3043, Aug. 16, 1873, and No. 4491, Aug. 21, 1874.*

4. Chalu Vahivat records.—All papers in cases of 'Chálu Vahivát' (Bombay Act III. of 1876) are to be destroyed at

the end of six years, except the record of proceedings, the register book, and original deeds or authentic copies of the same.—*High Court No. 1715, Dec. 15, 1869.*

5. **Abkari records.**—Records in cases under Acts XXXI. of 1860 and III. of 1852 are to be destroyed according to the rules in force for the records of criminal cases.—*High Court No. 1365, Sept. 17, 1867, and Rev. Commr. No. 5115, Dec. 19, 1870.*

6. Rules for the custody of Village Records.

(1) The Kháta and Kird Vahis (or ledgers and day-books) of only the year current and preceding are to be retained by the Kulkarni in office, all those of older date being transferred at the close of every second year to the Mámlatdár of the táluka.

(2) All other accounts, papers, &c., prepared for official purposes by the officiating Kulkarni to be retained by him, care being taken that such papers are properly assorted and registered.

(3) These records and their Ferists (lists) to be inspected by the Collector, the Assistants, and Mámlatdárs, on every occasion of their visiting the village where the Kulkarni may reside, the date of inspection being noted in the documents by the examining officer with his signature in full.

(4) All the records referred to in Rules 1 and 2 to be duly transferred by Kulkarnis going out of office to their successors, whose receipts for them should be forwarded immediately to the Mámlatdár.

(5) In cases where the Kulkarni has the conduct of the duties of two or more villages, the records of each village are to be kept perfectly distinct.

(6) The officiating Kulkarni to be left to provide for the custody of his records in the way he may think best calculated to ensure their safety, *i. e.*, he may either deposit them in the village chávdi (where guarded), or keep them, as is now generally done, in his own house. He is, however, to be held responsible for their preservation in a clean and serviceable state, as well as for their immediate production when called for.

(7) All infringements of the foregoing rules are to be reported to the Collector without delay.

[NOTE.—The above rules are somewhat modified by Hope's Manual, pp. 6 and 7.]

7. **Shelves.**—Records are, whenever practicable, to be kept in open shelves.—*G. R. No. 3503, Nov. 29, 1842.*

8. **Protection of records.**—To protect records from white-ants the shelves should stand in saucers of a strong solution of sulphate of copper or bluestone, *morchut*, or in the case of new shelves being made the wood should first be steeped in this solution. The 'rumáls' may be dipped in a solution of corrosive sublimate, *raskápur*. Great care must in either case be taken to prevent accidents during the use of these poisonous substances.—*Inam Commr. No. 59, Sept. 6, 1851.*

[NOTE.—It must be remembered that in many districts damp is quite as destructive to records as insects.]

It has been found by experiment that a solution of Perchloride of Mercury (corrosive sublimate) and water, in the proportion of one part by weight of the former to 144 of the latter, is efficacious as a protection to books, &c., against white-ants. It should be remembered, however, that this preparation is exceedingly poisonous; and it should never be used except under the supervision of a superior officer, who should see the vessels used properly cleaned and all bottles re-corked and sealed.—*G. R. No. 1279, April 12, 1883, and 1388, April 24, 1883.*

9. **Survey records.**—On the completion of the survey of a collectorate the records are to be catalogued and made over to the Collector, who is to have a separate place prepared for them, so that they may be kept apart from his other records. Whenever any document is taken out for reference, the date of its being so taken out and returned, should be entered in a book kept for the purpose. The Kárkun who is in charge of the Collector's vernacular records should have charge of these survey records also.—*G. R. No. 5033, May 8, 1851.*

10. **Waste paper.**—Waste paper is to be sold, and the proceeds credited to Government. All charges connected with the preservation of records must be provided for in the budget.—*G. R. No. 889, Feb. 22, 1871.*

11. **Section writing.**—The Governor-General in Council is pleased to prescribe the following rules in regard to charges by public officers for section writing, that is, for copying manuscript by piece work.

(2) No officer may make a charge for section writing, unless with the previous sanction of the authority that would be needful to authorise him to employ an establishment, permanent or temporary.

(3) Whenever sanction is given to a charge for section writing, the number of words to be copied for one rupee and the rate to be charged for tabular work shall be specified.

(4) Sanction may be given to the expenditure in any office of a specified maximum sum during a year, or during any shorter period that may be fixed, and within that specified sum the charge may be passed subject to the following conditions :—

(a)—The names of the persons to whom, and number of words or the measure of tabular matter for which, the payment has been made must be stated.

(b)—No contract or periodical allowances may be charged as section writing.

(5) Save with the special sanction of the Local Government, no person in the receipt of a salary from the Government may receive payment for section writing. This applies to section writing paid for by Government, and after office hours clerks may copy for private persons at section rates.—*G. of I. No. 4018, Nov. 5, 1872, and No. 2030, March 31, 1875.*

[The rules for giving copies of documents mentioned in the Registration Act will be found in Chapter XXI. As to the propriety of giving copies of records of different sorts, see Chapter XVII. Orders 8 and 17.]

MEMORIALS TO THE QUEEN-EMPRESS OR SECRETARY OF STATE.

I.—No memorial will be received or attended to unless forwarded as hereinafter prescribed.

II.—Every memorial should be accompanied by a letter requesting its transmission to the authority to which it is addressed.

III.—Every memorial addressed to Her Majesty or to the Secretary of State for India should be forwarded through the Local Government under which the writer is residing or is employed.

VII.—No limit is fixed to the time within which an appeal from an order of the Governments in India must be preferred to the Home Government, except in the case of appeals from a judicial decision in which the judge is a political officer, and in which the appeal ordinarily lies to Government in the Political Department. Such appeals must be preferred within a period of twelve months

from the date of communication to the persons concerned of the order to which objection is taken.

VIII.—Memorials may be transmitted either in manuscript or in print, but must, with all accompanying documents, be properly authenticated by the signature of the memorialist on each sheet.

IX.—Memorials, together with their accompanying documents, should be in English. If the accompanying documents must necessarily be forwarded in the vernacular, an English translation should be appended, which should be attested by the signature of the memorialist.

N.B.—It will be well for the transmitting office to examine such translations, and if they are found to be incorrect or faulty, to notice the fact in sending on the memorial.

X.—It is not necessary that memorials should be forwarded in duplicate or triplicate. The originals will invariably be transmitted to England, a copy being made and retained by the Government of India, if necessary, for record.

XI.—As a general rule, the transmission to England of a memorial duly forwarded through the proper channel will not be delayed by the transmitting Government in India beyond a month after the receipt of such memorial.

XII.—Governments and Administrations in India are vested with discretionary power to withhold the transmission of memorials addressed to Her Majesty or to the Secretary of State in the following cases :

- 1.—When a memorial is illegible or unintelligible.
- 2.—When a memorial contains disrespectful or improper language.
- 3.—When a second memorial is presented after a decision has already been given by the authority to which it is addressed, and when no new facts or circumstances are adduced which afford grounds for a reconsideration of the case. A memorial addressed to Her Majesty by a person whose appeal to the Secretary of State has already been rejected, shall be held to be a second memorial to the same authority, and shall not be transmitted.
- 4.—When a memorial is a mere application for pecuniary assistance by a person manifestly possessing no claim.

- 5.—When a memorial is an application for employment under one of the Governments in India from a person not belonging to the covenanted service.
- 6.—When a memorial is a mere appeal from a judicial decision.
- 7.—When a memorial is addressed by an officer still in the public service, and has reference to his prospective claim to pension.
- 8.—When a memorial is an appeal against an order of the Government of India, confirming a decision of a Local Government regarding the dismissal, removal or reduction of a Government servant whose salary was not more than Rs. 250 a month.
- 9.—When a memorial is a mere appeal against the non-exercise by one of the Governments or Administrations in India of a dispensatory discretion vested in such Government or Administration by law or rule.

XIII.—The Government of India may withhold the transmission of a memorial addressed to Her Majesty or to the Secretary of State, unless the memorialist has previously memorialised the Government of India and the Local Government concerned on the same subject.

XIV.—A list of memorials withheld under the discretionary power conferred by Rule XII. will be forwarded quarterly to the Government of India in the case of memorials withheld by Local Governments under the same discretionary power, and by the Government of India in the Department concerned to the Secretary of State.—*G. of I. Nos. 707, March 29, 1878; 208, Jan. 30, and 2112, Nov. 7, 1879.*

ADDRESSES TO THE GOVERNMENT OF INDIA.

I.—An address, the sole or principal object of which is to promote or oppose a measure of Imperial legislation, or one which bears immediately upon general questions of Imperial policy, may be submitted direct to the Governor General in Council.

II.—When the object of an address is to induce the Governor General to give his assent to, or to withhold his assent from, a law passed by a Provincial Legislature, it should be transmitted through the Local Government concerned.

III.—An address intended to obtain the reversal of an executive act, or one which bears directly upon the executive action of a

Local Government, should be transmitted through the Local Government in respect of whose action complaint is made. This procedure should be followed in all cases in which the jurisdiction to be exercised by the Government of India is of an appellate character or necessarily involves a reference to the Local Government.

IV.—In the case of an address relating to a law passed by a Provincial Legislature, it will be convenient that a copy of the address should simultaneously be sent to the Governor General. In other cases it will be at the option of the writers to send direct to the Government of India duplicates of representations submitted to the Local Government.—*G. of I. No. 12-408-24, Mar. 16, 1883.*

Petitions and memorials to the Legislative Department, regarding measures pending in the Council of the Governor General, when sent in print, should be printed on foolscap size paper, and a large number of spare copies (80, if available) should be sent, as otherwise they have to be reprinted before being circulated to the Members of Council.—*G. of I. No. 1260, Nov. 18, 1880.*

MEMORIALS BY GOVERNMENT OFFICERS.

Rules.

I.—Every officer wishing to address a memorial to Government shall do so separately and not in concert with others, but this prohibition against the submission of joint memorials is not intended to apply to or affect the private interchange of individual opinions.

II.—No officer in the employment of Government may submit any memorial in respect to any matter connected with the official position which he occupies in which he is not personally interested except as the agent of some person or persons unable to act in their own behalf. The personal interest referred to in this rule may be indirect.

III.—No officer in the employment of Government shall submit a printed memorial.

IV.—No memorial shall be submitted in a form set for general adoption, but shall be couched in the memorialist's own words and in temperate and respectful language.

V.—Any memorial contravening these rules will not be taken into consideration by the authority to which it is submitted, and the officer or officers submitting such memorials will incur the serious displeasure of Government.—*G. of I. No. 1649, Oct. 19, 1876, 46-1772-98, Sept. 26, 1879, and G. R. No. 2883, Nov. 14, 1879.*

II.—PETITIONS.

12. **Petitions to Government.**—Except in the cases of parties whose rank may entitle them to correspond with Government through Vakils, petitions to Government made by or through agents will be left unnoticed.

Petitions are received either through the Post Office, or in a box which is affixed for the purpose outside the Secretariat door. When sent through the Post Office, postage must be invariably paid.

Anonymous petitions will be disregarded.

Petitions in any of the languages of this Presidency when not accompanied by an English translation will be rendered into the latter language by the Translator to Government before being placed before the Governor in Council. Petitions in English will be received by Government if couched in intelligible language, otherwise they will be returned.

Petitions will not be received by Government regarding any matters which form the subject of judicial proceedings in the Courts or which properly fall within the jurisdiction of the Courts; nor will Government receive petitions containing complaints relating to the administration of civil or criminal justice under circumstances which leave other modes of obtaining redress open under the regulations.

Applications for situations in the gift of local or controlling authorities, or for admission into the public service, will remain unnoticed by Government.

Any person having cause of complaint against the proceedings of any officer of Government, civil or military, is in the first instance to seek redress from that officer's immediate superior, who if he declines compliance is to give the petitioner a written endorsement or order setting forth the grounds upon which the request is refused. If the petitioner is dissatisfied with this order, he is at liberty to address the chief local authority, and eventually the superior civil or military authority, by whom the chief local officer is controlled, or, in the event of there being no such intermediate controlling authority, the Government.

The preceding rule is not to be interpreted as precluding chief local or controlling authorities from using their discretion regarding the presentation direct to themselves of applications and complaints

which have not been previously submitted to officers subordinate to them.

The Government however will not receive a petition on any matter unless it shall appear that the petitioner has already applied to the chief local authority, and, where such exists, to the controlling authority. The petitions to the chief local and to the controlling authorities, or copies of them, and the answers to or orders upon those petitions in original, must be annexed to all petitions addressed to Government.

The Government after passing a final order on an appeal made to them will not notice a second petition on the same subject unless new matter requiring especial consideration be introduced.

When a petition is returned owing to any informality, the number of the rule infringed will be mentioned in the endorsement.—*Govt. Notif.*, Mar. 26, 1877.

13. Channel of communication.—No communication from any individual resident in this Presidency can be considered by Her Majesty or Her Majesty's Government which is not transmitted through the prescribed channel, that is, His Excellency in Council.—*Govt. Gazette*, June 20, 1872.

14. Government of India.—Memorials to the Government of India must be in English.—*Govt. Gazette*, April 16, 1874.

III.—STATIONERY.

15. Rules regarding Indents.

(1) Indents for stationery for the use of public officers must be prepared on printed forms which may be obtained at the office of the Superintendent of Stationery, Bombay, otherwise they will be returned uncomplished with.

(2) No articles will be supplied other than those entered in the printed forms of indent.

(3) In offices for which a standard allowance of stationery has been sanctioned, that allowance must not be exceeded without the express sanction of Government.

(4) When there is no standard allowance, indents will be passed according to the numerical strength of the office esta-

blishment. Certain articles are supplied in the following proportions:—

Per Head per Annum.

Blotting paperSheets	12	} Either of the three.
Quills No.	100	
Steel pens	{ Nibs...	... „	50	
	{ Magnum Bonums „	... „	25	
Black ink powder	...	Bundles	6	
Black lead pencils	...	No.	4	
India-rubber, pieces	...	„	1	

(5) Should any extraordinary demand for stationery be anticipated, timely notice must be given to the Superintendent to enable him to obtain the necessary supplies from England.

(6) On the arrival of stores, the packages must be opened and their contents counted in the presence of the head of the department, or one of his assistants or deputies, and also, if possible, in the presence of a responsible officer from the Commissariat Department.

(7) If the contents correspond with the quantities entered in the receipt, the receipt should be at once signed and returned. Should there be any deficiency, the condition of the box must be carefully examined and the result reported.

(8) Slight breakages and such as entail no extra cost need not be reported.—*Supt. of Stationery No. 570, Aug. 5, 1867.*

16. All the offices supplied from the Stationery Office are put into divisions, and the indents of each division are to be made in a particular month, and in that month only.

All officers to note during what month they will be supplied with stationery, and the date on which their indents must be received in the Stationery Office.—*G. R. No. 2589, Sept. 15, 1871.*

17. From Jan. 1, 1879, indents are to be made on the individual and consolidated departmental system, and not as hitherto on the individual indent system.

As regards the future supplies on individual indents, no change will be made in the system of their present supply. Individual officers should note the month of their supply during 1879 in the Statement *A*, and provide in the indents for 1878 sufficient stationery to carry them on to the month of their supply in 1879.

As regards the future supplies of Consolidated Departments, the following instructions must be attended to:—

(1)—All the officers subordinate to, or connected with, the departments given in column 1 of the statement, are to send in their individual indents to the officers named in the said column.

(2)—These indents will be the same as now in use, and with regard to date of despatch should be forwarded to their head office in accordance with the instructions received therefrom.

(3)—On the receipt of these individual indents by the head of the department or office of consolidation, they are to be carefully examined, and the quantities compared and tested in accordance with the printed rules herewith sent and marked *B*.

(4)—The whole of the individual indents are then to be incorporated into the consolidated indents, a form of which will be supplied to the heads of departments or offices of consolidation with a separate letter.

(5)—The consolidated indent is then to be sent with all the individual indents to the Stationery Office in Bombay, and the supplies will then be sent direct to the various officers, and the consolidated indent will be filed there.

A list showing the dates of supply to different departments was sent with the above order. The indents are to be sent to the Stationery Office on or before the first of the month of supply.
—*Superintendent's Circular No. 1355, Sept. 29, 1877.*

18. Consumption of Stationery.

A copy of these Rules to be inserted on the first page of the Stationery Book—

(1)—The charge of stationery in each department is to be entrusted, under the head of the department, to one individual, who shall be held responsible for it.

(2)—The Head Clerk, or one whose knowledge of the duties, and whose character points him out as fittest for the duty, is alone authorized to sign orders for stationery expressly required for the public service by any of the other Clerks, and every order shall specify the name of the person requiring stationery, the quantity and description, the date, and the specific purpose for which it is to be used. These orders shall be filed by the Clerk in charge of the stationery.

(3)—Knives, inkstands, rulers, and other durable articles, shall only be issued on an order countersigned by the Head of the Office or Senior Assistant present, which must specify that the worn-out article has been produced, or must otherwise account satisfactorily for the demand.

(4)—Ink should be prepared and distributed in a small tin-pot ; a sheet of paper folded must never be used for this purpose.

(5)—Instead of the larger sized papers, such as imperial, royal, medium, and demy, which are required chiefly by the Account Department, foolscap should be used whenever practicable.

(6)—On the last day of each month, entries are to be made in the stationery book, from the orders filed by the Clerk in charge of stationery, of the total quantity issued during the month, and the balance in hand is to be checked with that shown in the book. The book is then to be signed by the head of the office, or one of his assistants or deputies.—*Supdt. of Stationery No. 570, Aug. 5, 1867, and Sept. 29, 1877.*

19. **Economy.**—Every care is to be taken to check waste and economize expenditure in stationery. It is not easy to lay down general rules, but it is within the power of all heads of offices, by means of issue-books, and a periodical audit and examination of expenditure and stock in hand, to keep a control over the matter and prevent waste or peculation.—*G. R. No. 2264, June 7, 1872, and Superintendent No. 820, May 1, 1878.*

20. In all departments stationery is to be economized as much as possible, and postage saved by the use of small paper when practicable, and envelopes no larger than is necessary.—*Court of Directors, Dec. 16, 1835, and G. R. No. 2204, Sept. 15, 1870.*

21. **Acts.**—Public officers requiring extra copies of Acts or other publications of Government are to apply to the Collector of Bombay.—*G. R. No. 1748, Sept. 19, 1868.*

22. **Woollen cloth.**—Cloth for clothing peons and for covering desks is supplied by the Superintendent of Stationery to certain Government officers, such as Collectors, District Judges, &c. The Stationery Department supplies the cloth only, leaving the other materials to be procured by the different indenting officers.

Indents for Peons' clothing.—Indents for woollens for peons' clothing are prepared every second year, and they should in all cases be

submitted for compliance through the Accountant General.—*G. R.* 1126, *June* 15, 1868, and *No.* 3340, *September* 1, 1882.

Peons in the Mofussil are generally allowed cloth at the rate of $2\frac{1}{4}$ yards per head for a coat without any extra cloth for edging, while those at the Presidency town are supplied with 2 yards per head for a coat and 6 inches for edging it. To Chob-dars and Court Criers cloth is supplied at the rate of $2\frac{1}{2}$ yards per head.—*G. R.* 94, *January* 18, 1862, 694, *March* 22, 1870, *G. R.*, *Judicial Department No.* 2405, *April* 12, 1881.

Peons borne on temporary establishments are not to be supplied with clothing at the expense of Government.—*G. R.* *No.* 780, *March* 1, 1881.

Menial servants other than Peons are not to be supplied with clothing at the expense of the State.—*G. R.* *No.* 1100, *March* 29, 1880.

Indents for covering Office Desks.—Indents for woollens for covering office desks are complied with at the end of every seven years, and they should, as in the case of Indents for peons' clothing, be submitted through the Accountant-General for compliance.

Superfine cloth is supplied for covering the desks of officers and coarse for those of clerks.

Cloth for covering old desks made to be fitted with cloth should only be supplied from the stationery stores. Plain desks need not be covered with cloth.—*G. R.* *No.* 1294, *April* 6, 1882, and 1619, *May* 2, 1882.

IV.—MEDICAL ATTENDANCE.

23. **Civil Surgeons.**—Civil Surgeons attend personally all uncovenanted officers living at the head-quarter station whose appointments are notified in the Gazette by the Government of India or by any Local Government or Administration.

In any station where there is an Apothecary, Sub-Assistant Surgeon, or Hospital Assistant, they are to attend at their own residences the upper subordinate grades of public servants, including clerks whose appointments are not gazetted. For Government servants of inferior grade dispensaries and general or civil hospitals are provided at most stations, and the servants of Government *employés* should also be treated at these hospitals or dispensaries. In all cases of emergency or great danger or difficulty the attendance of the Civil Surgeon is to be given when applied for by the subordinate medical officer.—*G. of I.* *No.* 2217, *Sept.* 20, 1869.

24. The ordinary civil work of civil medical officers, which they perform without any extra allowance (except travelling allowance under special circumstances), includes attendance on the ordinary civil or *quasi*-civil officers, on all the civil establishments, on all strangers passing through the district if in Government employ in some other district, and on all isolated officers or small parties of officers employed in or travelling about the district. Thus if a party of convicts is sent to work at out-door labour at a distance from the jail, the Civil Surgeon is bound to visit them at all reasonable times without charge, except under certain circumstances, for travelling allowance.

When the Civil Surgeon's presence may be required beyond a distance of five miles from the limits of his station, he will in future draw travelling allowance.

It however seems questionable whether attendance at a distance of five miles should in all cases be required of a medical officer. Service of this nature should not be considered compulsory except under extraordinary circumstances, and where journeys of this distance are frequent, provision should be made for the services of a Sub-Assistant Surgeon.

When an uncovenanted officer requiring medical aid lives at a distance of more than two miles from the official residence of the medical subordinate, and the latter has to hire a conveyance for the journey, the expense so incurred should be defrayed by the officer concerned.—*Govt. Gazette, May 9, 1872.*

25. **Post-mortem Examinations.**—A medical officer, not being a Civil Surgeon or an officer in medical charge of a civil station, shall be entitled to a fee of Rs. 16 for conducting a *post mortem* examination, and to a fee of Rs. 10 for conducting a *medico-legal* examination other than a *post-mortem* examination, in cases not falling within the ordinary discharge of his duties, whether or not he is required to give evidence in a court of justice in connection with such examination. It is, however, to be distinctly understood that when such an officer is required, under these circumstances, to give evidence in a court of justice, he shall not be entitled to any remuneration in addition to the fee above sanctioned other than the usual expenses paid to a witness."—*G. R. No. 368, Aug. 22, 1882.*

The ruling of the Government of India regarding the grant of fees for *post-mortem* examinations cannot be regarded as sanctioning the

grant of fees for conducting *post-mortem* examinations to officers on civil duty, part of whose duty it is to make such examinations.—*G. R. No. 4353, Nov. 2, 1882.*

25. **Gratuitous attendance.**—Government officers who are entitled to gratuitous medical advice at their own stations are equally entitled to it at any station where there may be a medical officer of Government.

Gratuitous medical aid cannot be granted to the families of any public servants, and the amount of remuneration for such aid and attendance is in every case left to private adjustment.—*G. of I. Notif., Sept. 29, 1857, and G. R. No. 2528, Oct. 27, 1869.*

26. Government servants in whose covenant there is the condition that they are to receive medical aid and supplies at Government expense shall in case of need be supplied with medicines from the Government hospital nearest their respective residences.—*Govt. Gazette, Sept. 8, 1870.*

27. **Medicines.**—Medicines are supplied gratis from civil hospitals up-country to all public servants: but at Bombay, Poona, and other places, where there are chemist shops, only to those whose pay is Rs. 50 a month and less: to others on payment.—*G. R. No. 468, Feb. 13, 1871, and No. 396, Feb. 9, 1874.*

28. District officers going on tour are supplied with medicines from the civil hospital of their station, and also such *Mámlatdárs* as Collectors think will make a good use of them.—*G. R. No. 468, Feb. 13, 1871, and No. 3942, Nov. 19, 1873.*

29. It is the duty of the Civil and Presidency Surgeons to examine candidates for public employment, and to certify to their fitness or unfitness without receiving any gratuity or fee. In the *Mofussil* the Civil Surgeons should fix a particular day, hour, and place at which they will receive candidates weekly for examination.—*G. R. No. 1853, May 3, 1872.*

In the Town and Island of Bombay the following medical officers examine candidates: namely, the Surgeons of the Marine Battalion and other Native Regiments in Bombay, of the European General Hospital (also the Assistant Surgeon), and of the Gokuldas Tejpal Hospital, the 1st and 2nd Surgeons, J. J. Hospital, the Ophthalmic and Obstetric Surgeons, the Superintendent of the Lunatic Asylum, and the three Presidency Surgeons. Candidates for the public service should be examined by the medical officer nearest to the office in

which they are employed, from the head of which they must bare a letter or memo.—*G. Notif. No. 3265, Nov. 25, 1879, and G. R. No. 3370, Nov. 8, 1880.*

30. All the heads of departments under Government may officially apply to the Chemical Analyzer at the Presidency for such chemical analyses and opinions as may be required by them for the proper discharge of their duties.—*G. R. Aug. 15, 1855.*

31. **Private practitioners.**—Fees to Medical practitioners not in the service and the cost of medicines privately purchased cannot be repaid by Government to public servants who are entitled to the gratuitous attendance of a Government Medical officer or to medicines from a Government dispensary.—*G. of I. No. 2067, July 28, 1877.*

32. Government cannot lay down any distinct rules for payment to Medical practitioners not in Government service for attendance on Government servants. They recognise the propriety of affording relief in cases of real necessity, and must rely on the discretion and judgment of local officers that the liberality of Government is not abused. Bills incurred under this authority must be sanctioned by Government before payment.—*G. R. No. 2840, July 7, and No. 3112, July 27, 1876.*

33. **Local Fund servants.**—As Local Fund employes come under the same rule as Government servants as regards leave, pay, and allowances, they are also entitled to the privilege of medical attendance free of charge.—*G. R. No. 544, Feb. 16, 1878.*

RULES FOR THE TRANSMISSION BY POST OF ARTICLES FOR ANALYSES.

(1.) The suspected *viscus* or other portion of the body to be sent for examination should be enclosed in a glass bottle or jar, fitted with a stopper or sound cork.

(2.) If liable to decomposition it should be immersed in methylated spirits of wine, which should be used in the proportion of one-third of the bulk of the material

N B.—The use of spirits of wine in packing viscera should be invariable, whether the season is hot or cold, and care should be taken that common bazar spirit is not used.

(3.) The stopper or cork should be carefully tied down with bladder or leather and sealed. To ascertain that it has been

securely closed, the bottle or jar should be placed for some minutes with its mouth down.

(4.) The glass bottle or jar should then be placed in a strong wooden or tin box, which should be large enough to allow of a layer of raw cotton, at least three-fourths of an inch thick being put between the bottle or the jar and the box.

(5.) The box itself should be encased in common gúrah cloth, which should be sealed in accordance with the usual rules of the Post Office as to parcels.

(6.) Despatching officers will be held personally responsible that these instructions are carefully followed. Whenever practicable, such parcels should be packed under the immediate supervision of the District Civil Surgeon.

(7.) At all stations where there is a District Civil Surgeon the parcels should invariably be sent to the Post Office by that officer and not by a subordinate officer; but where there is no Civil Surgeon, they may be sent through the sub-divisional officer.

(8.) A declaration of contents to the officials of the Postal Department is unnecessary, and should not be made.—*Chemical Analyser with G. R. No. 813, Mar. 19, 1880, and G. of I. 14, 1001-12, Sept. 14, 1880.*

V.—REWARDS FOR THE DESTRUCTION OF WILD BEASTS.

34. **Principles.**—On the general question as to the best means of securing the destruction of noxious animals and poisonous snakes, the Government of India passed the following Resolution, dated September 11, 1871:—

“The papers now before the Government of India conclusively establish the fact that the evil under consideration is a very serious one. The loss of life, though probably not quite accurately reported, is certainly enormous. Nowhere is the destruction of life by wild beasts so great as in the Lower Provinces of Bengal. In other provinces, as cultivation and civilization have advanced, wild beasts have diminished in number. In the Punjab and in most parts of the Bombay Presidency the presence of the more dangerous species is now stated to have become exceedingly rare.

“This serious mortality could be very largely reduced by the extirpation of those animals in the neighbourhood of human habitations. This should be first attempted, and every reasonable means taken to secure their destruction whenever they make their appearance near