

BRITISH KUMAON

**THE LAW
OF THE
EXTRA-REGULATION TRACTS
SUBORDINATE TO THE GOVERNMENT, N.W.P.**

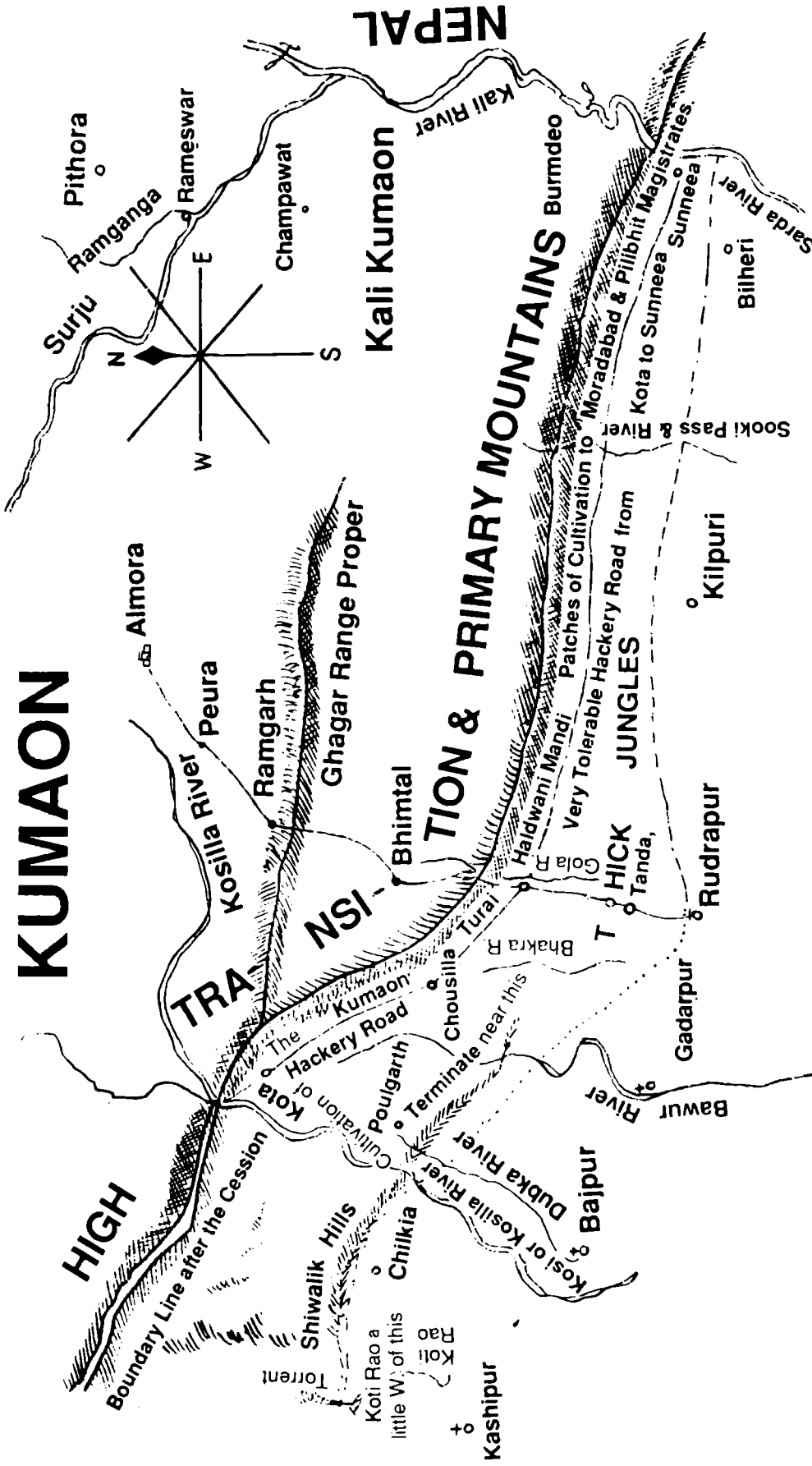
P. WHALLEY

P. Whalley's

BRITISH KUMAON



KUMAON



(Travelling distance from the Koti Rao Torrent (the boundary between the Gurhwal and Kumaon Turais) is about 130 miles. The breadth of Kumaon Turai varies from 15 to 25 miles; the greatest breadth being from Rudrapur to Bamori)

(This sketch was sent by Lt. Col. G.E. Gowan, Commissioner Kumaon, 1836 A. D.)

REPRODUCED : R. S. TOLIA (1990)

BRITISH KUMAON

P. WHALLEY

(Under Secretary to the Government of North Western Provinces)

THE LAW

OF THE

EXTRA-REGULATION TRACTS

SUBORDINATE TO THE GOVERNMENT, N.W.P.

(ORIGINALLY PUBLISHED IN 1870)

Introduction by

R.S. Tolia,

I.A.S.



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INTRODUCTION TO THE RE-PRINT

Ample materials for a complete and detailed history of the administration of the East India Company and the Crown in Kumaun-Garhwal exist. These, however, lie scattered in various English Record Rooms of Dehradun, Pauri-Garhwal, Tehri-Garhwal, Nainital and Almora Collectorates. Bareilly district's own Pre Mutiny Records have by and large been destroyed but owing to a very methodical correspondence-system, followed by the British, a considerable portion still survives in the State Archives, Lucknow. All English Pre Mutiny Records have been catalogued and indexed by Douglas Dewar. (1)

Of this vast material available some important records have been officially printed. While John Hallet Batten's *Official Reports on the Province of Kumaon*, containing his final settlement reports and the history of previous settlements, were published officially, George William Traill's competently compiled works found their way into the Asiatic Researches. (2). Col. Gowan's Report on the Mahamari and Batten's several essays, edited or original, were readily received by the editors of the Journal of the Asiatic Society of Bengal.(3). All these writings add considerably to our knowledge of these hill-tracts and can be easily found, with some effort.

Surprisingly, P.Whalley's, *The Law of Extra-regulation Tracts*, devoting nearly 200 pages to Kumaun and Turai, is not so readily available. Whalley provides us a short summary of the history of Kumaun under the British and a chronological table of important matters affecting the judicial and revenue administration of Kumaun. But, in my view, its most significant contribution is retrieval of those excerpts, which Whalley was fortunately able to secure, during his visits to several offices. A large number of the files, which originally contained these memos, exist no more.

Importance of Whalley's work cannot be overemphasised as it was his summary of Kumauni history which formed the basis of Atkinson's and Nevill's Gazetteers, both universally acknowledged as premier references on Kumaun-Garhwal. Moreover, Kumaun official records

have always been considered more important than those in most record rooms because the administration of Kumaun was on peculiar lines. (4).

Non-Regulation System

It thus came to pass, wrote Sir John Strachey, that there were two systems in force—one in the older provinces, and the other in the territories which had more recently come into British possession. The former were called "Regulation" and the latter "Non-Regulation" Provinces. A Non-Regulation Province was one to which the old Regulations and Acts, in force in Regulation Provinces, had not been extended, in which fewer officers were employed, and in which executive and judicial functions were, to a great extent, exercised by the same persons. Bengal, the North Western Provinces, Madras and Bombay were Regulation Provinces; the Punjab, Oudh, the Central Provinces, and British Burma, were Non-Regulation. Kumaun, for quite some time after its annexation from Nepal Raj, was governed as a Non-Regulation Province.

As a policy the Non-Regulation system was extended to those tracts where the people had never been accustomed to anything but a personal rule of the roughest sort. It was on this count that on the first introduction of British rule the executive and judicial powers were concentrated in the same hands. (5). The administrative history of Kumaun is an interesting example of a Non-Regulation province graduating into a Regulation one. In a miniscule way, it is also the administrative history of Uttar Pradesh.

British Rule in Kumaun-Garhwal

The British ruled Kumaun-Garhwal (except Tehri Raj) for slightly over 132 long years. Just two years prior to annexation of Kumaun, i.e. in 1813 A.D., the East India Company had requested the British Parliament for a further extension of its privileges for the next twenty years. By the Act of 1813 while the government of the country was left in the hands of the Company its monopoly of India trade was abolished and the sovereignty of the Crown was firmly asserted. The offices of the Governor General, Governors and Commander-in-Chief, were now to be made subject to the approval of the Crown. Evangelical efforts received impetus by appointment of a Bishop at Calcutta and his ecclesiastical establishment was now to be paid for by the Company. (6).

The Supreme Government at Calcutta discharged its functions through the Central Secretariat divided into four main branches, viz.

General, Revenue, Commercial and Judicial. The General branch was in turn divided into Civil, Military and Marine. This arrangement lasted till 1834 A.D. when the Commercial department was wound up. In 1809 the 7 Ceded districts were merged with the 4 Conquered ones to constitute the Western or Upper Provinces, as distinct from the Lower Provinces of Bengal, Bihar and Orissa or the intermediate Province of Benares. After several experiments with the Board of Revenue, Bengal Presidency in 1829 A.D. was divided into 20 Divisions, each under one Commissioner of Circuit and Revenue. These Commissioners were directly responsible to the Sudder Board of Revenue. In order to effectively supervise settlement operations in the Ceded and Conquered districts a Board on Deputation was stationed at Allahabad in 1831. Later redenominated as the Western Board, with additional jurisdiction of Benares, Sagar and the Nerbudda Territories, it also came to be known as the Sudder Board on Deputation.

The thirteen decades of the British rule in Kumaun, broadly divide themselves into four distinct periods. The first two decades clearly bear the stamp of Commissioner Traill, the next two belong to Commissioner Batten and the next three to Commissioner Ramsay. The next six decades are accounted for by as many as 17 Commissioners. During the first two decades Gardner and Traill laid the foundation of a totally new system of government. In the next two, Lushington and Batten introduced a silent reformation, and during the next three decades, Henry Ramsay not only consolidated the earlier gains but propelled Kumaun-Garhwal into the mainstream of modern India. Whalley's work, completed in 1870 A.D., roughly covers the period upto the first half of Ramsay's tenure.

Finally, a few words seem called for to explain the title of Whalley's original work. Efforts to simplify and improve the law of the land had been initiated at the time of the East India Company rule but without any practical gains. It was only after the appointment of Lord Macaulay, as a Member of the Council, that preparation of the Penal Code was taken up in the right earnest. Although he had completed it between 1834 and 1838, it was not until 1860 that it became a law. In Kumaun, Jhansi and some other districts the legal enactments and their exact status were not very precisely defined.

As a result Whalley was directed by the Government, in July 1869, to collect and arrange information regarding the laws in force in these

Non-Regulation districts. To accomplish this task he had to search through a correspondence spanning a period well over half a century. He has chronologically listed all Regulations and Acts, enacted, exempted or extended. He also gives a resume of the administrative changes of each district, to serve both as an index to its original legislation and the causes out of which it sprang, and also as a chronicle of the development of its legal and judicial systems.

Whalley's conclusions, it would be found, successfully unfold the mystique, that one often confronts, if unaided by this seminal work; wading through volumes after volumes of proceedings and official correspondance, so clinically catalogued and indexed now by Dewar; kept in various record rooms and archives. In short, Whalley's work is the magical-code without which it is impossible to decipher the true meaning of millions of words which constitute the Kumaun Records.

For making this reprint possible my very special thanks are due to Sri Rajendra Bahadur, retired Assistant Director, U.P. State Archives, Lucknow. For my hours in seclusion, both at home and in the archives, I must express my gratitude to my wife, Manju; and daughters Preeti and Priyanka, for having been so understanding and tolerant. Sri Purushottam Das Modi, the doyen among Varanasi publishers, was perhaps as much surprised by the printing excellence of a book published nearly 120 years ago, as I was by the clinical perfection and comprehensiveness of Whalley's work. His own sense of perfection is matched only by his persistence in conveying subtle periodic reminders. I am grateful to him for both.

February 28, 1991
B-25, Butler Palace Colony
LUCKNOW, U.P.

R. S. TOLIA

NOTES AND REFERENCES

1. Douglas Dewar *A Hand-Book to the English Pre Mutiny Records*; for Kumaun-Garhwal records see Chapters XXXVII (439-468), ch. XXXVIII (469-481), and XXXIX (482-484).
2. George William Traill *Asiatic Researches, Statistical Sketch of Kumaon*, Vol. XVI (1828) (137-233); *Statistical Report on the Bhotia Mehals of Kumaon*, Vol. XVII (1832), (I-49); *Pre Mutiny Records, Miscellaneous Letters Received*, Vol. 24 (1823), 20 June 1823, U.P. State Archives.
3. J.H. Batten *Journal of the Asiatic Society of Bengal*, Vol.III (1887); *A Few Notes on the Kumaon and Rohilkhand Turai*; J.A.S.B., Vol.XI (1842); JASB, Vol.XII (1838); JASB, Vol.XII (1843), etc.
4. E.T. Atkinson *The Himalayan Districts of the North Western Provinces of India*, forming Volume XI of the *Gazetteer N.W.P.*, Allahabad (1882); H.R. Nevill, *District Gazetteer of Nainital*, (1904); Douglas Dewar, *Opt cit*, 444.
5. Sir John Strachey *India, Its Administration and Progress* (1903), 93. John Strachey, served both Kumaun and Garhwal, as Senior Assistant Commissioner, under Commissioner Batten. His views on almost all branches of Administration, be it education, medical, health, tea-cultivation, Pilgrim Road, forestry, excise, civil, revenue and criminal judicature show him as an official far ahead of his times. His achievements have remained less acknowledged than his eminent brothers, Sir Henry and Sir Richard, both well known names in the Himalayan survey; see JASB, Vol.XVII (1848), the *Geographical Journal*, Vol. 15 (1900).etc.
6. Bishop Reginald Heber *Narrative Journey through the Upper Provinces of India* (1824-25), chapters XVII (247-269) and XVIII (270-286). Bishop Heber's account of Kumauni people, places and public servants is most exhaustive and vivid in its description.

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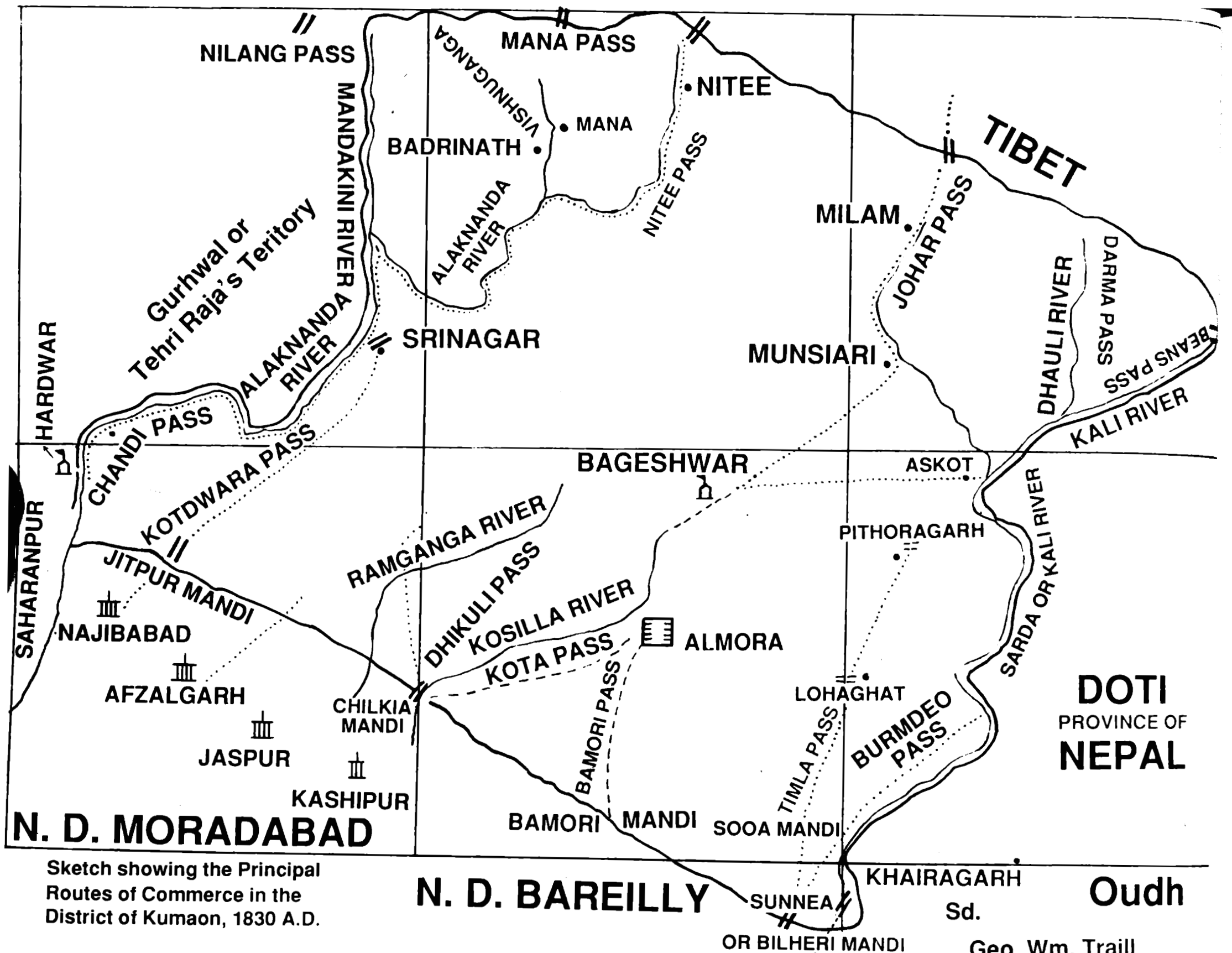
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Sketch showing the Principal Routes of Commerce in the District of Kumaon, 1830 A.D.

Geo. Wm. Traill
Commissioner

[Copied from Pre Mutiny Records]
U.P. State Archives, LUCKNOW]

CHAPTER I.

KUMAON.

THE administrative history of Kumaon divides itself naturally into three periods— Kumaon under Traill, Kumaon under Batten, Kumaon under Ramsay.

The *regime* in the first period was essentially paternal, despotic, personal. It resisted the centralizing tendencies which the policy of the Government had developed. It was, at the same time, though arbitrary, a just, wise, and progressive administration. It lasted from 1815 to 1835.

Mr. Traill's incumbency terminated with that year, and there followed an interval of wavering uncertainty and comparative misrule. "The system of Government," as was observed by Mr. Bird, "had been framed to suit the particular character and scope of one individual," or, as he might have said, had been framed for himself by that individual.

Traill left the province orderly, prosperous, and comparatively civilized, but his machinery was not easily worked by another hand. There was no law, and the lawgiver had been withdrawn. The Board of Commissioners and the Government, which had remained quiescent while the province was in the hands of an administrator of tried ability and equal to all emergencies, found it necessary to re-assert their control, and to lay down specific rules in matters that had hitherto been left to the judgment of the Commissioner.

Mr. Batten was then only Assistant Commissioner of Gurhwal, but he was a man eminently qualified both by training and disposition to second the action of Government, and to assist in the inauguration of the new era.

His talents had already been recognized, and from this period he was consulted in every step, and it was his influence more than that of any single officer which gave its stamp and character to the period which I

have distinguished by his name. Its duration covered the years 1836-56. It was marked in its earlier stage by an influx of codes and rules and a predominancy of official supervision, which gradually subsided as Mr. Batten gained in influence, position, and experience. Thus the second period glided insensibly into the third, which, nevertheless, has a distinctive character of its own. In colonel Ramsay's administration we see the two currents blended—the personal sway and unhampered autocracy of the first era combining with the orderly procedure and observance of fixed rules and principles which was the chief feature of the second.

KUMAON UNDER TRAILL.

The records in the office of the Commissioner of Kumaon reach back to 1814, but the events of that year and the following are chiefly of military interest, and the administrative history of the province begins with the appointment of the Hon'ble E. Gardner as first Commissioner of Kumaon in 1815.¹ During this year authority was given for the entertainment of revenue and police establishments;² the traffic in children, which brought in large gains to the traders under the Goorkha rule, was interdicted; and it was decided that the transit duty levied on merchandize by the Goorkha Government should temporarily be continued.

But the attention of the Commissioner was mainly occupied with his political duties; and on the arrival of Mr. G.W. Traill as Assistant Commissioner at Almorah on 22nd August, 1815, the superintendence of the revenue and police arrangements was entrusted to him, and shortly afterwards he was directed to undertake the settlement of the land revenue in Gurhwal. This settlement of Gurhwal was effected and reported to the Commissioner by the 1st March, 1816; the settlement of Kumaon was completed with similar rapidity in the same year.

The principle of assessment followed in these settlements is indicated in the subjoined extract from a letter, dated 27th May, 1815, from the Secretary to the Government of India to the address of the Commissioner:—

-
1. Appendix K. A.
 2. Appendix K. B.

"His Lordship perfectly concurs in the opinion offered by you, that during the first of the occupation of Kumaon by the British Government it will be expedient to adhere to the mode now in usage for the settlement and collection of the revenues of the province; and His Lordship accordingly desires that you will enter into engagements with the head men of the several pergunnahs for the collection and realization of the revenue in the same manner as has hitherto been the practice of the officers of the Goorkha Government. When a complete investigation shall have put Government in possession of an accurate knowledge of the resources of the province of Kumaon, and of the several local considerations which must necessarily bear on the question, the Government will be prepared to authorize a mode of settlement of the province and of the realization of its revenues.

"Although it is highly probable that a village settlement, as suggested by you, will ultimately be found to be advisable, the Governor-General reserves the subject for future and deliberate consideration."

The settlement was therefore modelled on the Goorkha system, and Mr. Traill took the records which he found in the hands of the duffrees¹ of the Goorkha Government as the main guide to his assessment.

But the Goorkha settlements were confessedly exorbitant and unequal, and Mr. Traill judged it prudent to graduate his demands rather by the actual collections than by the nominal assessments of previous years.

In 1816 Kumaon was placed under the Board of Commissioners at Furruckabad,² and successive settlements up to the year 1820 were made under their orders.

The process adopted by Mr. Traill in framing these settlements was little less rude and summary than that just adverted to. In writing to the Board of Commissioners on the 15th February, 1820, he describes it as follows:-

"The whole of the malgoozars of the pergunnah or puttee under revision being collected, the sum total of their jumma for the last year was given them for equalization among themselves; this was formed on consideration of the actual quantity of land in cultivation and of the number of asamees in each village, without reference to the former jumma.

"This operation being completed, and the signature of each individual being affixed to the result in corroboration of his assent to the justice of the estimate,

1. Appendix K.O., Note on the Canoongoes of Kumaon.
2. Appendix K.H.

the proportion of the gross increase demandable from the pergunnah was then added to the assessment of each village, and engagements with the zemindars were interchanged.

"As the pergunnahs are small, and the interference of Native officers is not allowed on the occasion, this mode is probably as fair and equitable as any which could be adopted."

Fair and equitable it might be, but it can hardly be supposed that it was satisfactory to the Board, who were then engaged in developing the scrupulous and elaborate system of assessment which shortly afterwards took a permanent form in Regulation VII., 1822.

Mr. Traill answered all objections with the allegation that—

"From the nature of the country in Kumaon, it would be impossible to ascertain the assets of every individual village by actual inspection except by giving up many years to the service."¹

And again, writing on 21st March, 1821, he says of the general fairness of his mode of assessment:—

"The experience of the last two settlements forms of best criterion. At this moment there is not a fraction of balance outstanding on account of former years, and this total realization of the jumma has been effected without a sale, without the imprisonment of a single malgoozar, and without recourse to the process of distraint."

The same letter, however, contains evidence that Mr. Traill was fully alive to the importance of securing accurate records of the village rights and customs, as opportunities of investigation offered themselves. He writes:—

(Para.19.) "The portion of land held by the village pudhans² in huq pudhancharee has been inserted in the present accounts, and has also been detailed in the engagements interchanged with the malgoozars."

There can be no doubt that the peculiarities of the hill tenures, the rugged nature of the country, and the abnormal conditions which affected the value of estates, were grave obstacles to the introduction of

1. Para, 6 of a letter from the Commissioner of Kumaon to the Board of Commissioners, dated Furruckabad, the 15th February, 1820.
2. For extracts relating to the duties and position of pudhans, see Appendix K.R.

the methodical plan of assessment which had been pursued with beneficial results in the territories more immediately under the eye of the Board; and the steady opposition of Mr. Traill to long settlements was grounded on a just appreciation of the circumstances of the province.

Moreover, the nature of property in Kumaon, the description of tenures, the division of responsibility among the malgoozars, and the system of collection¹ differed from those current in the plains, and rendered it impossible to follow the letter of the regulations into details: although at a later period, when Mr. Traill had resigned his charge, efforts were made not without success, to bring the settlement procedure into conformity, or at least into harmony, with the system which had obtained in the neighbouring provinces under regulation law.

In other matters of revenue administration we find a closer adherence to the rules and regulations of the presidency. Enquiries into pensions, rent-free holdings, and religious assignments formed an important part of Mr. Traill's labours during the first years of his administration, and all such cases appear to have been investigated and decided in conformity with the laws then in force.

No other points in the revenue management of Mr. Traill's time seem to demand detailed notice. Abwabs and cesses were nominally disallowed and wholly relinquished by Government. The transit duties instituted by the Goorkhas, though temporarily continued, were abolished a year or two afterwards. There was no vend of opium in the province. A rudimentary stamp law was introduced by Mr. Traill on his own authority, and is thus reported on²:-

"In the Civil Department, owing to the augmented value of landed property, suits have multiplied, and sometimes from 200 to 300 petitions are presented in one morning. To check this, I have now required that all petitions originating a cause shall be presented on an eight-anna stamp, and in order to supply the petitioners I have procured paper of this description from Bareilly."

There are several indents extant for supplies of eight-anna stamps subsequent to this letter, but none for stamps of other values; and it may be inferred that no stamp law but Mr. Traill's was known in

1. Apendices K.R., K.S., K.T., K.W.

2. From Commissioner of Kumaon to Political Secretary to Government, dated 14th November, 1820, para, 5.

Kumaon till the province was placed under the Board of Revenue in 1838.

The procedure in civil suits adopted by Mr. Traill is described in a letter to Government dated 16th May, 1821.¹ On the admission of a suit, an order of the nature of an *ittilahnama* was furnished to the plaintiff, to be served by him on the defendant. This process generally resulted in a private settlement of the claim; otherwise the parties were confronted, and orally examined with their witnesses without the formality of an oath.

On the criminal side, the trial of heinous offences—murder, robbery by violence, violent affrays, and treason—was provided for by Regulation X. of 1817; but crimes of this nature were so rare, that for some years it was not found necessary to invest any officer with the judicial powers of Commissioner under the act. In 1828, Kumaon was included in the Bareilly Division for the purposes of criminal trials, and from that time commitments appear to have been made by the Local Commissioner to the Commissioner of Bareilly.

During this period some acts sanctioned by the usage of the country were prohibited and made penal. Under the Government of Nepal it was the practice in cases of adultery for the husband of the seduced woman to give notice to the executive authorities of his intention to take the life of the adulterer, and after such notice he was permitted to consummate his vengeance without fear of penalty. This rule was repudiated by a Government proclamation in 1819, and it was declared that any person taking the life of an adulterer under colour of it should be held liable as a murderer.

The sale of wives and widows, which had long been an established usage in the hills, was made penal by a similar proclamation in 1823. An order for the suppression of *suttee* issued in 1829. These were the subjects of judicial administration to which the attention of Government was principally drawn during Mr. Traill's commissionership.

The questions of the pressing of coolies, the supplies of grain for troops, the demarcation of the Turai boundary, and the annexation of Pergunnah Chandee (now attached to the district of Bijnour), which

1. Appendix K.X.

were agitated during the same period, will be found sufficiently illustrated in the extracts and chronological table appended to this sketch.

KUMAON UNDER BATTEN.

Mr. Traill relinquished the office of Commissioner of Kumaon at the end of the year 1835, and was succeeded by Colonel Gowan. Hitherto the Commissioner had been allowed a large freedom and independence of action commensurate with the confidence evoked by his ability and experience; but from this time a jealous watch was kept over the local authorities. Several petitions were presented against the decisions of the new Commissioner. The cases were called for, and referred for the scrutiny of the Sudder Court.¹ About the same time Mr. Bird, member of the Sudder Board of Revenue, wrote a note on the administration of the province,² and shortly afterwards the Sudder Court was informed—

"That the attention of Government was directed to the introduction of an improved system of administration into the province of Kumaon, and that a preliminary act on the subject was then under consideration"³

By Act X of 1838, the functionaries of Kumaon were formally subordinated in revenue and judicial matters to the control of the Sudder Board of Revenue, Sudder Dewany Adawlut, and Sudder Nizamut Adawlut, respectively.⁴ Further legislation appears to have been

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1. Judicial Criminal Proceedings of 4th July, 1837, 6th February, 1838, 22nd December 1838. It is worthy of notice that the cases were referred to the Sudder Court for revision and amendment, but the Court questioned their power to alter the Commissioner's decisions, and final orders were passed by the Lieutenant-Governor on the Court's report. This is the first instance I have traced of this mode of dealing with appealed cases from Kumaon. By Section IV, Clause 4, of the Kumaon Civil Rules, passed under Act X, 1838, a special appeal was allowed from the Commissioner's decisions to Sudder Dewany Adawlut. But the practice above adverted to was revived and sanctioned by the Rules of 1863 Section LXIII., Clause I.
 2. Appendix K.c.
 3. To Regr., Nizamut Adawlut, dated 22nd December, 1838.
 4. Act X. of 1838 was passed on the 30th April, but no action appears to have been taken on it till 1839. In that year and the following, the Board issued a multitude of instruction in regard to partition, putwarees' accounts, dustuks, tulubana, shaenas, refund of stamp duty, distraint, compensation, provision for village police, &c., which can have had only a partial application to Kumaon. The abstract of one letter is thus given:—"The principles of the revenue administration for Kumaon to conform to those established in the plains." The

intended, but eventually it was thought sufficient to adopt the Assam rules of procedure to guide the action of the Courts in each department, leaving the substantive law to be gleaned from existing precedents or from the general regulations.

Other reforms were simultaneously introduced. A system of regular fees and a fixed establishment for the service of process were prescribed! Definite rules were laid down for the conduct of the courts in suits connected with slavery,² and the police administration of the Turai was withdrawn from the Commissioner of Kumaon and distributed among the Magistrates of the adjoining districts in the plains. But the most striking change in the system of policy consequent on the departure of Mr. Traill is to be traced in the system of revenue assessments.

It has been observed that the Board of Commissioners was constantly pressing assessment for longer terms, and a more minute and exact investigation of the rights and liabilities of the landholders and the extent and capabilities of their estates, than Mr. Traill, with his twenty years' experience of the province, thought it expedient to undertake, or possible to prosecute with success.

After his departure the revision of assessment was entrusted to Mr. Batten, Assistant Commissioner of Gurhwal, a man fitted, alike by his sympathy with the new principles of settlement and his thorough mastery of them, to carry out the views of the Board, and who worked under the favourable auspices of settled order and more confirmed prosperity. But the difficulties he had to contend with, though abated, were still formidable. In his report on the settlement of Gurhwal, Sec. V., p. 515, he says:—

"On first taking charge of the Gurhwal pergunnahs in 1837, I had everything to learn in regard to the peculiarities of the hill revenue system, and everything to teach, as far as my experience acquired in the plains would allow me, in regard to the revision of settlement required, or then supposed to be required, by the Sudder Board of Revenue. It is difficult to say whether the Gurhwal tehseeldar, the canoongoes, and putwarces were more astonished at the terms 'Regulation

Sudder Court appears to have followed the same course. Many of the circulars forwarded by order of the Court to Kumaon are absurdly inapplicable, e.g., "the acts of Magistrates in the management of ferries subject to the control of the Superintendent of Police."

1. G.O. 4th March, 1837.
2. Appendix K. b. These rules in 1843 were embodied in an act (V. of 1843) of the Legislative Council for the abolition of slavery, and made applicable to the whole of British India.

IX. of 1833,' my own title of 'Deputy Collector,' and my confident proposition of a settlement for a period of twenty or thirty years being about to take place, than I myself was confounded at the circumstance of having to wander over more than 4,000 square miles in order to revise Rs. 70,000 of jumma—which I was told Mr. Traill had at the last occasion revised in less than a month—on the road between Hurdwar and Budrinath."

He goes on to say that he found no village maps and no records of area in which the slightest reliance could be placed. The value of estates and their revenue-paying capabilities depended on quite other considerations than their extent and productiveness, and the other measures of value which guided the Settlement Officers in the plains. The superior revenue authorities had too imperfect a knowledge of the difficulties which surrounded him to give him any material assistance, and he was forced to reconstruct laboriously all the rules and standards of assessment before he could hope for any successful results.

"It was only," he says, "when I rejected the notion of forming my village settlement on comparison of measurement rates * * that I was enabled to carry on without misgivings, and I hope with real success, the actual business of settlement—that is, the fixing of a fair Government demand for twenty years for each estate, or set of estates, which required separate engagements, and the discovery and declaration of the rights, liabilities, and comparative possessions, *according to their own showing*, not according to any authoritative data, of the several communities."

Mr. Batten's settlements, if imperfect in themselves, must yet be regarded as the first solution of the problem of applying the principles of the regulations in fixing the revenue demands in the hill tracts—principles which are being fully carried out in the present settlement.

KUMAON UNDER RAMSAY.

When Colonel Ramsay assumed charge of the commissionership at the close of the year 1855, Mr. Batten's settlement was working well, the organization introduced by the Resolution of 26th January, 1839, had ceased to be a novelty, and the people had become familiar with the settled system of procedure based on the Assam Rules.

In 1855, after long experience, it was found expedient to alter these rules in respect of suits connected with land, and a set of revenue rules, which took all land cases out of the Civil Courts, were introduced by

G. O. No. 4085, dated 6th October, 1855. These rules are still in force, and are pronounced by the officers who apply them to be simple in their working and admirably adapted for the people.

From the 1st January, 1863, the Jhansie Civil Rules, with some modifications, were substituted for the Assam Rules previously current, by G.O.No. 2207A., dated 22nd August, 1862.

But it was held by the Supreme Government that from the date of the Indian Councils Act, August, 1861, the Lieutenant-Governor ceased to have authority to frame rules for the Non-regulation Districts, and that the new civil rules, whether for Jhansie or Kumaon, required special legislative sanction.

An act was accordingly passed, Act XXIV. of 1864, legalizing retrospectively the operation of the rules from the date on which they had taken effect, and continuing them in force so far as related to the constitution of the several Civil Courts, the distribution of judicial business, and the period of appeals. The remainder of these rules was superseded by the provision, in the 4th section of the act, that the proceedings in civil suits should be henceforward regulated by the Civil Procedure Code.

The Limitation Law, Act XIV. of 1859, had previously been extended by Notification No. 57A., dated 20th March, 1862, and the Code of Criminal Procedure came in to force by virtue of a similar notification from the beginning of the same year. The Revenue Courts continued to be guided by the amended rules of 1855.

There is no organic law for Kumaon such as that recently enacted for Jhansie, Act XVIII of 1867. In revenue matters the Commissioner exercises, under the Resolution of 26th January, 1839, the same powers as a Commissioner of a Division in the Regulation Provinces. He is a Sessions Judge under the Code of Criminal Procedure, and his civil powers, as also those of the officers subordinate to him, are defined in Sections I. and LXIII. of the Civil Rules of 1863. The police functions of the Commissioner are those of a Superintendent under the old regulations; and Regulation XX. of 1817, so far as applicable, has been declared to be the police law of Kumaon,¹ though how it can be applied at all in the absence of any organized police is a matter of question.

1. Section IV., Criminal Rules, passed under Act X. of 1838—Appendix K. k.

**CHRONOLOGICAL TABLE OF MATTERS AFFECTING THE
JUDICIAL AND REVENUE ADMINISTRATION OF KUMAON.**

1815.	Appointment of the Hon'ble E. Gardner to be Commissioner for the affairs of Kumaon and Agent, Governor-General	From Secretary to Government to Hon'ble Edward Gardner dated Futtehgurh, 3rd May, 1815.
..	Sanction accorded to the entertainment of the revenue and police establishment for Kumaon, proposed by the Commissioner as a temporary measure.	Ditto, 18th May, 1815.
..	Goorkha revenue system to be adopted for the first year.	Ditto, 27th May, 1815.
..	Continuance of transit duties sanctioned, and abolition of traffic in children approved. N.B.— The duty on the sale of children was the only one given up	Ditto, 2nd June, 1815.
..	Appointment of Mr. G.W. Traill as Assistant to the Commissioner on Rs. 700 a month.	From Secretary to Government to the Commissioner, dated, 8th July, 1815.
..	Conclusion of the treaty by which Kumaon was ceded to the British Government	2nd December, 1815.
..	Mr. Traill proposes arrangements revenue and police administration of Gurhwal.	From G.W. Traill to Hon'ble E. Gardner, dated 26th December, 1815.
1816.	Mr. Traill submits his report of the settlement of Gurhwal.	Ditto, 1st March, 1816.

Chronological Table of matters affecting the Judicial and Revenue Administration of Kumaon.—(Contd.)

1816.	Rules regulating surrender of prisoners to Nepal.	From Secretary to government to Commissioner, dated 1st June, 1816.
..	Kumaon placed under the Board of Commissioners at Furruckabad.	From Secretary to Government, Secret Department, to Officiating Commissioner of Kumaon, dated 19th October, 1816.
..	The pressing of coolies for the use of private persons prohibited.	From Secretary to Government to Officiating Commissioner of Kumaon dated 19th October, 1816.
1817.	Mr. Traill appointed Commissioner for the affairs of Kumaon and Gurhwal on Rs. 1,500, from 1st August, 1817.	From Secretary to Government, dated 7th July, 1817.
..	Regulation X., 1817, received the assent of Governor-General in Council.	22nd July, 1817.
..	Settlement of Kumaon, Gurhwal, sanctioned by Governor General in Council, except that of the Bhote Muhals.	Letter of Board of Commissioners, of 22nd September, forwarding G. O. No. 488. dated 28th August.
..	Board of Commissioners sanction the collection of Kuthbans and Kuth Muhals.	September 25th, 1817.
1818.	Enquiry made into the system of farming the customs duties on the boundaries of Kumaon.	Letter from Secretary of Board of Commissioners to Commissioner of Kumaon, dated 10th February, 1818.
..	Abolition of all transit duties, customs, and sayer from the commencement of the ensuing Fuslee year.	From Secretary to Government to Board of Commissioners at Furruckabad dated 19th June, 1818.
1819.	Settlement account of Bhote Muhals confirmed.	Consultation, Government of India, Nos. 41-3, dated 11th June, 1819.
..	Proclamation issued, under sanction of Governor-General in Council, disallowing the immunity from punishment enjoyed under the Goorkha Government by the slayer of an adulterer.	From Secretary to Government to Commissioner of Kumaon, dated 6th August, 1819.
..	Sanction of Governor-General in Council of the settlement of the resumed canoogoe lands.	From Secretary to Government dated 1st October, 1819.

Chronological Table of matters affecting the Judicial and Revenue Administration of Kumaon.—(Contd.)

1819.	Entertainment of putwarees as paid servants of Government authorized.	From Secretary to Government, dated 1st October, 1819.
..	No tulubana levied in the Revenue Department.	From Commissioner of Kumaon to Board of Commissioners, dated 12th October, 1819.
..	Deputation of the canoongoes of Kalee Kumaon and Pilibheet to adjust the boundary of the hills and plains.	From Commissioner of Kumaon to Collector of Bareilly, dated 5th and 24th November 1819, and 16th February, 1820.
..	Report on the system of cooly supply.	From Commissioner of Kumaon to Chief Secretary to Government, dated 23rd December, 1819.
1820.	Instructions solicited by the Commissioner relative to the fourth settlement of Kumaon. Long leases deprecated on account of the migratory habits of the cultivators, and a three years' settlement proposed.	To the Board of Commissioners at Furruckabad, dated 4th January 1820.
..	Three years' settlement approved.	Proceedings of Governor-General, Consultation of 14th April, 1820.
..	Dispute regarding the sale by the Bareilly Civil Court of certain lands situate within the province of Kumaon, and claims of Major Hearsey in reference thereto.	To Board of Commissioners dated 22nd July, 1820.
..	Report of the settlement of the jungle muhals.	To Board of Commissioners, dated 5th September, 1820.
..	Report of a murder induced by belief in witchcraft.	To Political Secretary to Government, dated 14th November, 1820.
1821.	Report of the settlement of Pergunnahs Kalee, Kuttoor, Kuriee, Danpore, and of the Bhootea Muhals.	Letter to the Board of Commissioners dated 14th March, 4th April, and 25th April, 1821.
..	No Government opium disposed of in Kumaon.	To Civil Auditor, dated 5th April, 1821.
..	Proposal for five additional putwarees in Kumaon.	To Board of Commissioners, dated 21st May, 1821.

Chronological Table of matters affecting the Judicial and Revenue Administration of Kumaon.—(Contd.)

1821.	Report of the settlement of pergunnahs in Tehseelee Shor.	To Board of Commissioners, dated 30th June, 1821.
1822.	Release of convicts on His Majesty's birthday.	G.O. No. 168, dated 29th March 1822
..	Enquiries of Mr. Glyn respecting the sale of children.	Letter to Mr. Traill, dated 5th July, 1822.
..	Inquests ordered to be held in cases of suicide.	Paras. 16 and 17 of Mr. Glyn's report, dated 8th October, 1822, and para 11 Resolution of Government, dated 19th December, 1822.
1823.	Resolution of Government regarding the sale of children.	Proceedings of Governor-General in Council, para. 8, dated 19th December, 1822.
..	Legal rate of interest fixed at 12 percent.	Paras. 3 and 4 of a letter from the Court of Directors dated 9th April 1823
..	Proclamation prohibitory of the sale of wives and widows.	G.O. dated 5th June, 1823.
1824.	Transfer of Turai. Mr. Adam's letter.	Letter dated 5th May, 1824.
..	Decision of Government on the boundary between Kumaon and Moradabad.	G.O. dated 21st May, 1824.
..	Rules for the sale of lands.	Resolution of Government, dated 21st May, 1824.
..	Board's rules for regulating the tax on foreign produce.	Letter from Board to Mr. Halhed, dated 13th Oct., 1824.
1825.	Mr. Traill's salary raised to Rs.2,500 per mensem.	Resolution of Government, dated 17th March, 1825.
..	Correspondence regarding the transfer of Pergunnah Chandee to Kumaon.	Proceedings of Governor-General in Council, No. 61, dated 25th June 1825, and Resolution of Government, dated 8th December, 1825.
1826.	Correspondence on Mr. Traill's quinquennial settlement.	
..	Annexation of Deyrah Doon and Chandee to the Jurisdiction of the Commissioner of Kumaon, and issue of administrative orders.	Proceedings of Governor-General in Council, Judicial Department, under dated 8th December, 1825.

Chronological Table of matters affecting the Judicial and Revenue Administration of Kumaon.—(Contd.)

1827.	Magistrates' jurisdiction in the case of petty offences committed by sepoys.	Letter from Secretary to Government to Mr. Traill, No.2059, dated 18th October, 1827.
1828.	Registers of burials, bapisms, and marriages prescribed.	Proceedings of Governor-General in Council, No. 215 dated 28th February, 1828, and Proceedings of Government, No. 31, dated 15th May, 1828.
„	Change in the constitution of revenue authorities.	Regulation I., 1829.
1829.	Stipulations of Kistbundee approved.	Letter from Sudder Board of Revenue, dated 19th February, 1829.
„	Canoongoes and pundit empowered to try civil suits.	G.O. No. 717, dated 10th March, 1829 and G.O. No. 2024, dated 14th July, 1829.
„	Separation of Deyrah Doon from Kumaon, from 1st May. See Regulation. V. of 1829.	Letter from Commissioner of Bareilly to Mr. Traill, dated 12th May, 1829.
„	Pergunnah Chandee placed under the Commissioner of Kumaon.	Letter from Secretary to Government to Mr. Traill, dated 12th May, 1829.
„	Mr. Traill, settlement of certain pergunnahs confirmed for five years.	
„	Appointment of a moonsiff.	G.O. No. 2024, dated 14th July, 1829 and G.O. No.2983, dated 3rd November 1829.
„	Measures for the suppression of suttee.	G.O. dated 5th December, 1829.
1830.	Mr. Traill, directed to take charge of the Bareilly Division.	G.O. No. 396, dated 24th September, 1830.
1831.	Mr. Robertson's power as Commissioner of Circuit.	Letter from Senior Secretary, Sudder Nizamut Adawlut, to Mr.J.C. Robertson, No. 1295, dated 15th November, 1831.
„	Spirit of revenue law prescribed for Kumaon by Regulation X.of 1831, Secs. 5,7	
1832.	Proceedings in the case of Deboolee, charged with murder.	Proceedings of Nizamut Adawlut dated 19th January, and 14th April, 1832.

Chronological Table of matters affecting the Judicial and Revenue Administration of Kumaon.—(Contd.)

1832.	Mr. Campbell appointed Commissioner to try suits under Regulation. X. of 1817.	G.O. No. 967, dated 10th April, 1832.
..	Extension of Kumaon settlements for a further period of five years.	
1833.	Orders of Government respecting the supplies of grain for troops.	Letter from Officiating Secretary to Government to Mr. Traill, No. 67, dated 5th January, 1833.
..	Regulation of customs dues in Kumaon entrusted to the Sudder Board by Regulation I. of 1833.	
1834.	Opinion of Government on the surrender of revenue defaulters to Nepal.	Letter from Court of Directors, No. 2, dated 12th February, 1834.
..	Recommendation of the Board of Revenue that Mr. Traill's settlement should be extended for a period of twenty years negatived.	
1835.	Mr. Traill, relinquishment of the office of Commissioner of Kumaon (December 31).	G.O. No. 3706, dated 28th October, 1835.
1836.	Abolition of the traffic in slaves.	G.O. No. 4, dated 28th January, 1836 and G.O. No. 604 dated 24th February, 1836.
..	Renewed investigation of rent-free tenures.	Letter from Special Commissioner, Meerut, No. 6, dated 19th January, 1836.
..	Directions as to the mode of demanding the surrender of refugees.	Paras. 32-36 of Letter from Court of Directors, No. 19, dated 27th May, 1835.
..	The Courts forbidden to receive suits for the recovery of slaves.	Letter to Commissioner of Kumaon, dated 31st May, 1836.
..	Arrangement of records enjoined by the Board of Revenue.	Letter from Secretary to Sudder Board of Revenue to Officiating Commissioner of Bareilly, No. 37, dated 10th June, 1836.
..	Insanes to be removed to Divisional Hospital.	Circular from Registrar of Calcutta Court to Commissioners and Magistrates, Lower Provinces, dated 3rd April, 1835.
1837.	Magistrates forbidden to order the restoration of wives to their husbands	Circular, Sudder Nizamut Adawlut dated January 20th, 1837.

Chronological Table of matters affecting the Judicial and Revenue Administration of Kumaon.—(Contd.)

1837.	The entertainment of an establishment for service of processes authorized and tuluhana ordered to be credited to Government.	Revenue Proceedings, March 4th 1837. See Regulation. XXVI, 1814 and Act XI, 1863.
..	Suggestions of the Board for abolishing the oppressive system of obtaining supplies of grain for the troops judged impracticable.	Revenue Proceedings May 10th 1837.
..	Slaughter of kine for troops restricted to cantonment limits.	Judicial Civil Proceedings 9th March, 1837.
..	Canoongoeship declared not hereditary.	
..	Mr. Bird's note on Kumaon submitted to Government by Sudder Board of Revenue.	Letter from Secretary to Sudder Board of Revenue, dated 13th June, 1837.
..	Orders re-annexing the Kashceporc Pergunnahs to their proper districts, and the Turai to the contiguous Rohilkund Collectories.	G.O. in Revenue Department, dated 10th July, 1837.
..	Importation of slaves into the plains from Kumaon held to be illegal and criminal in reference to Regulation III. of 1832.	From Secretary to Government, to Registrar, Sudder Nizamut Adawlut; dated 31st July, 1837.
..	Question raised regarding the legality of the ordeal by hot iron.	Letter from J.H. Batten, Assistant Commissioner, Gurhwal, to Collector Gowan, No. 3, dated 28th June, 1837.
..	Refusal of Commissioner to supply certain information to the Sudder Board of Revenue, and orders of Government thereon. See Section 3, Regulation XXV. of 1803.	Letter from Secretary, Board of Revenue dated 12th September, and G.O. in the Revenue Department, dated 29th September, 1837.
..	The question of the recognition of badshahce grants in Kumaon referred to the Government of India. Government of India decline to lay down any general rule.	G.O., Revenue Department, 13th November and 7th December, 1837.
1838.	Questions concerning maafce holdings in Gurhwal and Kumaon submitted to Government.	Letter from Secretary, Board Revenue, dated 27th April.
..	Orders concerning ditto.	G.O., Revenue Department, dated 4th July.
..	Kumaon placed under control of Sudder Dewany Adawlut, Sudder Nizamut Adawlut, and Sudder Board of Revenue.	Act X. 1838.
..	Carrying out of the transfer of Kumaon and Gurhwal Turai to the plains, and consequent reorganization of the system of police.	November 24th, letter to Sudder Board of Revenue.

Chronological Table of matters affecting the Judicial and Revenue Administration of Kumaon.—(Contd.)

1839.	Separation of offices of canoongoe and moonsiff.	January 26th, letter from Commissioner of Kumaon, dated 25th July, 1837, under orders of 15th July, 1837
„	Introduction of Assam Procedure Rules and other changes consequent on enactment of Act X. 1838.	Resolution of 26th January, 1839.
„	Mr. J.H. Batten made Senior Assistant to Commissioner of Kumaon, on Rs. 700 a month.	Resolution of February 15th.
„	Placed in charge of revenue settlement of Kumaon.	Resolution of March 9th.
„	Confirmation of Court declared not necessary to appointments of moonsiffs.	From Sudder Dewany Adawlut dated 8th June.
„	Appointment of a Deputy Collector under Regulation IX. of 1833.	Resolution of 8th June, 1839.
„	Rules regarding stamped paper in Kumaon. Rules contained in Section 17, Regulation X. of 1829, dispensed with in appellate cases originating in Kumaon.	Proceedings of 25th June 12th August and 14th November, 1839.
„	Constitution of an office for registering deeds in Kumaon.	G.O. No. 2192, dated 6th September, 1839.
„	Authority given to Commissioner of Kumaon to exercise his discretion in entertaining original civil suits himself or leaving them to be instituted in the lower tribunals.	From Secretary to Government to Sudder Dewany Adawlut, dated 14th September, 1839.
„	Court's permission for the record of proceedings in Nagree.	
1840.	Authority given to the Sudder Court to issue instructions to modify the practice of the Civil and Criminal Courts in cases of the abduction or elopement of women from their husbands.	Orders of Government in Judicial Criminal Department, dated 30th January, 1840.
„	Commissioner authorized to exercise the power of granting rewards under Clause 3, Section 14, Regulation XVII. of 1816, and Section 18, Regulation XVI of 1810.	G.O. No. 542, dated 15th February, 1840.
„	Instructions regarding the interference of the Commissioner in the appointment and dismissal of priests of Hindoo temples.	G.O. of 12th June, 1840, in Judicial Civil Department.
1841.	Mr. Batten's report on the management of the Turai.	From J.H. Batten, Esq., to Commissioner of Kumaon, dated 18th March, 1841.

Chronological Table of matters affecting the Judicial and Revenue Administration of Kumaon.—(Contd.)

1842.	Revised settlement of Gurhwal confirmed for a term of twenty years.	G.O. 31st December, 1842, Revenue Department.
1843.	Wish of the Government intimated that the enquiries into cases of abduction and adultery should be strictly governed by the rules in force in the plains.	Orders of Government on the Report of Police Administration, dated 9th June, 1843.
1844.	Directions for an addition to the Civil Rules to empower the Native Judges in Kumaon to confront litigant parties, and dispense with replications and rejoinders.	To Sudder Dewany Adawlut, dated 11th May, 1844, from Secretary to Government.
1845.	Commissioner directed to observe the provisions of Regulation I. of 1824 in taking up land for a public road.	G.O. dated 27th February, 1845, Revenue Department.
„	Notification containing rules for the settlement at Nynee Tal and resolution introducing the provisions of Act. X. of 1842, into that settlement.	No. 45, dated 7th June, 1845.
„	Supplementary Civil Rules regarding the cognizance of suits moonsiffs and the registration of deeds passed by the Hon'ble the Lieutenant-Governor.	No. 10, dated 3rd July, 1845, Judicial Civil Department.
„	Directions regarding the farm of Talooqua Chandee and the forest tracts. The right of Government to the forest should be asserted either by holding kham or farming.	G.O. dated 25th August, 1845 Revenue Department.
„	Advertisement in the <i>Gazette</i> of Pokree and Dhampore mines in Gurhwal.	G.O. dated 20th September, 1845, Revenue Department.
1846.	Rules issued for the use of judicial stamps.	Resolution of 6th April, 1846, Judicial Civil Department.
„	Confirmation of the settlement of Kumaon.	G.O. dated 2nd June, Revenue Department.
1847.	Definition of the duties of the local authorities in respect of the succession and investiture of the Rawuts of the temples of Budrinath.	Proceedings of Government in Revenue Department under dated 18th May and 3rd September, 1846, and 4th May, 21st May, and 26th June, 1847.
1848.	Death of Mr. J.T. Lushington, and appointment of Mr. J. H. Batten as Commissioner of Kumaon.	Resolution of 6th November 1848.
1849.	Introduction of the rule for the refund of stamp duty in cases adjusted by razeenamas.	G.O. No. 49, dated 24th July, 1849.

Chronological Table of matters affecting the Judicial and Revenue Administration of Kumaon.—(Contd.)

1850.	Directions issued for the local officers to assume charge of the Sudaburt estates, granted to the temple of Budrinath and Kedamath as a trust, in the spirit of Regulation XIX of 1810.	G.O. dated 8th October, 1850, Revenue Department.
1851.	Mr. Thomason's Note on the levy of forest dues along the foot of the Kumaon hills.	Dated 10th February, 1851.
..	Issue of revised rules for the administration of criminal justice	G.O. No. 67, dated 9th October, 1851.
1852.	Rules respecting zemindaree tea plantations.	
1855.	Rules respecting grants for tea lands.	Notification No. 2109, dated 26th September, 1855.
..	Revision of Revenue Rules.	G.O. No. 4085, of 6th October, 1855.
1856.	Captain H. Ramsay appointed Commissioner of Kumaon.	G.O. dated 20th February, 1856.
1858.	Transfer of the Turai to the charge of the Commissioner of Kumaon.	Resolution of Chief Commissioner, dated Agra, 11th January, 1858.
1861.	Re-attachment of the Turai to the Rohilkhund Division.	Notification, dated 2nd April, 1861.
..	Instructions to Commissioner of Kumaon directing observance of Sections 243 244 of Act VIII. of 1859.	G.O. No. 184A, dated 24th June, 1861.
..	Extension of Criminal Procedure Code to Kumaon.	Notification No. 1226A., Judicial Criminal Department, dated 18th December, 1861.
1862.	Extension of Act XIV. of 1859.	Notification No. 57A., dated 20th March, 1862.
..	Introduction of Jhansie Civil Rules.	G.O. No. 2207A., dated 22nd August, 1862.
1863.	Correspondence with Sudder Dewany Adawlut respecting the withdrawal of the supervising authority hitherto exercised by them, and amendment of the new Civil Rules.	From Reg., Sudder Dewany Adawlut, No. 636, dated 8th April, 1863, to Reg., Sudder Dewany Adawlut, No. 165A., dated 29th April, 1863.
1864.	Enactment of Act XXIV. of 1864, and introduction of Civil Procedure Code.	Passed on 8th April, 1864.
1868.	Act XXIV. of 1868, inoculation in Kumaon and Gurhwal.	Passed on 1st October, 1868.

**LIST OF ORDERS, RULES, &c. OF A LEGISLATIVE CHARACTER,
PASSED BY THE EXECUTIVE GOVERNMENT PRIOR TO AUGUST,
1861, IN REFERENCE TO KUMAON.**

1816.	Rules for the surrender of criminal refugees.	App. K. F.	Superseded by Act. VII 1854.
..	Order prohibiting forced-labour.	.. K. G.	Superseded by Act. XLV. of 1860.
..	Order subordinating Kumaon to the Board of Comms. at Furruckabad.	.. K. H.	Superseded by Regulation X. of 1831 and Act. X. of 1838.
1819.	Proclamation prohibiting the punishment of adulterers except by the intervention of the Courts.	.. K. M.	Superseded by Act XLV. of 1860.
1823.	Proclamation prohibiting the sale of wives and widows.	.. K. U.	In force?
1837.	Order forbidding suits for the restoration of slaves or the enforcement of slavery to be received in the Kumaon Courts.	.. K. b.	Superseded by Act V. of 1843.
1838.	Orders regulating the investigation of maafee tenures.	.. K. e.	Obsolete.
1839.	Orders on the constitution of the Courts in Kumaon.	.. K. f.	Mostly superseded by the Revised Rules of Procedure issued in different departments at subsequent dates.
..	Orders prescribing the levy of fees in civil suits.	.. K. f.	Superseded by the introduction of the Stamp Law.
1851.	Orders regarding the levy of forest-dues.	.. K. j.	In force?
..	Revised Rules of Criminal Procedure.	.. K. h.	Superseded by Act XXV. of 1861.
1855.	Revenue Rules.	.. K. m.	In force?
1856.	Additional Rules of Criminal Procedure.	.. K. n.	Superseded by Act XXV. of 1861.
..	Assam Civil Rules.	.. K. p.	See Appendix K. r. The Jhansie Rules having received validity by Act XXIV. of 1864, from 1st January, 1863, it must be held that the operation of the Assam Rules ceased from that date.

NOTE:— The Revenue Rules approved by G.O. No. 4085 dated 6th October, 1855, are the only rules now in force which can be held with any certainty to have acquired the force of law under the Indian Councils Act in 1861.

**LIST OF REGULATIONS AND ACTS HAVING SPECIAL
REFERENCE TO KUMAON.**

1817.	Reg. X	Trial of heinous offences by a special Commissioner.	Repealed by Act X. of 1838.
1831.	Reg. VI. Sec. 3Cl.1	Giving jurisdictions to the Sudder Nizamut Adawlut in criminal cases.	Modified by Act X. of 1838.
..	Reg. X., Secs. 5,7.	Including Kumaon in jurisdiction of the Sudder Board of Revenue, and prescribing the spirit of the regulations.	Ditto.
1833.	Reg. I., Sec. 3.	Vesting the control of the customs in Kumaon in the Sudder Board of Revenue.	Ditto.
1838.	Act. X.	Placing the functionaries of Kumaon under the control of the Sudder Court and Board of Revenue.	
1863.	Act. II.	Regulating appeals to the Privy Council from Non-regulation Provinces.	Supplementary rules for Kumaon in Resolution of 14th February, 1863.
1864.	Act. XXIV	Giving validity to a portion of the existing Civil Rules, and introducing the Code of Civil Procedure.	
1868.	Act. XXIV	Prohibiting inoculation in Kumaon and Gurhwal.	

LIST OF APPENDICES TO THE CHAPTER ON KUMAON.

K.A.	Order of Appointment of the Final Commissioner.	1815.
K.B.	Order Sanctioning the Final Revenue and Police Establishment.	..
K.C.	Order Sanctioning the Continuance of Transit-duties.	1815
K.D.	Note on the first system introduced by Mr. Traill in Gurhwal.	..
K.E.	Extracts from the first Settlement Report of Gurhwal.	1816.
K.F.	Rules for the Surrender of Criminals to Nepal.	..
K.G.	Order Prohibiting Forced Labour.	..
K.H.	Order placing Kumaon under the Board of Commissioners.	..
K.I.	Regulation X. of 1817.	1817.
K.J.	Order Abolishing Transit and Customs-duties.	1818.
K.K.	Order on the Settlement Reports of Kumaon and Gurhwal, laying down Principles with which the Assessment of the Bhote Muhals is inconsistent.	..
K.L.	Order of Board of Commissioners authorizing Lease of Forest- dues.	..
K.M.	Proclamation regarding the Crime of Adultery and its Punishment.	1819.
K.N.	Report of the Resumption of Canoongoe Lands and Appointment of Putwarees.	..
K.O.	Note on the Canoongoes of Kumaon.	
K.P.	Memo.on Canoongoes.	
K.Q.	Memo.on Putwarees.	
K.R.	Memo.on Pudhans.	
K.S.	Memo.on Kumaon, Seeanas, &c, with Extracts from Mr. Battens Report on Gurhwal.	
K.T.	Extract on Tenures in Gurhwal.	
K.U.	Rules issued by Proclamation in Mr. Traill's Time.	
K.V.	Report on the Mode of Assessment and Collection in the Hills.	1820.
K.W.	Extract from a Letter of Mr. Traill detailing the Nature of Land Tenures.	1821.

List of Appendices to Chapter on Kumaon. —(Contd.)

K.X.	Mr. Traill's Report on the Civil Procedure.	1821.
K.Y.	Report on Seigniorial Dues, Village Watchmen, &c.,	..
K.Z.	Extracts from Regulations of 1831, 1833, regarding Kumaon.	1831, 1833
K.a.	Colonel Gowan's Report on the Administration of Civil and Criminal Justice in Kumaon.	1837.
K.b.	Report on Slavery in Kumaon.	..
K.c.	Mr. R.M. Bird's Note on the Administration of Kumaon.	..
K.d.	Act. X. of 1838, and Note.	
K.e.	Orders on the Investigation of Maafce Grants.	1838.
K.f.	Resolution defining the Constitution of the Courts, and Letters regarding Levy of Fees in Civil Suits.	1839.
K.g.	Copies of Ordres given on eight-anna Stamped paper.	1842.
K.h.	Mr. Batten's Report on the Management of the Turai.	1841.
K.i.	Mr. Conolly's Report on the Turai Police, and Orders Transferring the Bhabur Tract to the Hill Authorities.	1842.
K.j.	Mr. Thomason's Note on Forest-dues.	1851.
K.k.	Revised Rules of Criminal Procedure.	..
K.l.	Rules for Grants of Tea Lands.	1855.
K.m.	Revised Revenue Rules.	..
K.n.	Additional Rules of Criminal Procedure Passed.	1856.
K.o.	Application of Sections 243, 244, Act VIII. of 1859 to Kumaon	1861.
K.p.	Assam Civil Rules.	
K.q.	Jhansie Civil Rules.	1862-3.
K.r.	Note on Civil Rules.	
K.s.	Withdrawal of Kumaon from the Control of Sudder Dewany Adawlut.	1863.
K.t.	Act XXIV. of 1864.	1864.
K.u.	Act XXIV. of 1868.	1868.

KUMAON—APPENDICES.

Appendix K. A.

From SECRETARY TO GOVERNMENT *to* HON'BLE EDWARD GARDNER, *dated*
Futtehgurh, 3rd May, 1815.

I am directed by His Lordship to desire that you will assume the official designation of Commissioner for the affairs of Kumaon and Agent of the Governor-General.

Any arrangements connected with the introduction of our authority which you may find it necessary to adopt will of course be considered as temporary, and subject to the final resolutions of the Government.

Appendix K. B.

To HON'BLE EDWARD GARDNER, *dated* *Futtehgurh, 18th May, 1815.*

2. The Governor-General is pleased to approve and to authorize the several revenue and police establishments proposed by you, * * * * as temporary, and liable to such change, &c.

Appendix K. C.

To HON'BLE EDWARD GARDNER, *dated* *Futtehgurh, 2nd June, 1815.*

2. The continuance of transit-duties as detailed is sanctioned by the Governor-General, and His Lordship highly approves of your having abolished the traffic in children.

[N. B.—The duty on the sale of children was the only one given up.]

Appendix K. D.

NOTE.

Mr. Traill was appointed Assistant Commissioner on Rs. 700, on 8th July, 1815, and reported his arrival at Almorah on 22nd August. Writing from Sreenuggur, on 26th December, 1815, to the Hon'ble Edward Gardner, Mr. Traill submits a statement of revenue and police establishments for the portion of Gurhwal entrusted to his charge. He observes that owing to the absence of crime, interior thannas are unnecessary, and the tehseeldars have accordingly been entrusted with all police duties of their respective divisions, and a small extra establishment, amounting to Rs. 25 per mensem, has been given to the tehseeldar stationed at Sreenuggur. The frequency of robberies in the forest immediately below Kotedwara renders the presence of a thannadar at that place advisable; and to him it is proposed to entrust the collection of duties levied on merchandise passing through that ghat, and also the supervision of the other ghats, consisting of the Bhorce Bilanance Chowkee, and Seeguddee, at each of which a small chowkee has been fixed.

Appendix K. E.

SETTLEMENT OF GURHWAL.

From G. W. TRAILL, ESQ., to HON'BLE EDWARD GARDNER, dated 1st March, 1816.

Previous to the year 1868 Sumbut, or 1219 Fuslee, no regular assessment of the provinces of Gurhwal had been formed under the Goorkha Government. The high rate of the settlement then made, and the occurrence of a dearth in the first year, rendered its liquidation by the zemindars impossible.

The country had in the meantime been parcelled out at the actual jumma in "jaeded" to troops, and as no indemnification was made to them for balances, no leniency was shown by them in forcing payment from the zemindars. Accordingly, in failure of other assets, the families of the defaulters were frequently sold into slavery for the satisfaction of the arrears. Under such a system cultivation rapidly declined, and numerous villages, formerly flourishing, decayed, and are now deserted.

4. The jumma of 1868 (Sumbut), which continued to be the demand till the expulsion of the late government, amounted to 87,724 Goorkhas; while the actual receipts for that and the two following years were—71,819 Goorkhas in the first, 57,735 Goorkhas in the second, and 51,623 Goorkha rupees in the third

year. The total land revenue for the present year amounts to Furruckabad Rs. 37,614, or Goorkhalee Rs. 50,589.

* * * * *

6. Several leases have been given for waste lands on the same terms as were granted by the last Government. By these terms, the lessee holds the land rent-free in the first year, pays one-quarter of the jumma demandable at the usual rate of cess in the second year, one-half in the third, and full cess in the fourth year; after which the estate is at the disposal of Government.

Appendix K. F.

SURRENDER OF CRIMINALS BELONGING TO NEPAL TO OFFICIALS OF THAT COUNTRY—RULES TO BE OBSERVED.

Extract, paras. 1 and 2, of a Letter from SECRETARY TO GOVERNMENT to ACTING COMMISSIONER, KUMAON, No. dated 1st June, 1816.

1. I am directed to acknowledge the receipt of your despatch of the 17th ultimo, reporting an application which you have received from Choutfa Bumsoh for the apprehension of three subjects of the Government of Nepal who had fled into Kumaon, charged with murder of a zemindar of Dotee, and soliciting the orders of His Excellency the Governor-General in Council on the subject of the present application, and generally of similar applications which may be made hereafter.

2. His Lordship in Council directs me to state to you, as a general rule for your guidance on occasions of this nature, that all offenders charged with murder, or with robbery attended with circumstances of aggravation, ought to be apprehended and delivered up on application from the local authorities of the Nepalese Provinces from whence they may have fled; but, previously to the adoption of any measures for the seizure and surrender of the criminals, it will be necessary that sufficient ground should appear on the face of the application to warrant the belief that the charge is founded on fact. In such cases you will consider yourself to be authorized to seize and deliver over the offenders to the Nepalese officers. Under other circumstances, where you may entertain considerable doubts of the truth of the charges preferred, it will be advisable to detain the parties when apprehended, and report the circumstance for the special order of His Lordship in Council. In cases of petty offence, you will decline compliance with any application for the surrender of the offenders, as inconsistent with the practice of the British Government and the usages of other states generally which do not recognize the principal of apprehending or surrendering to a foreign power petty delinquents seeking an asylum within their dominions.

Appendix K. G.

PROHIBITION OF FORCED LABOUR.

Extract from the Proceedings of H.E. THE RIGHT HON'BLE THE GOVERNOR-GENERAL IN COUNCIL, in the Secret Dept., under date 19th October, 1816.

The Governor-General in Council being desirous of restraining within the narrowest possible limits the practice, in some cases of public service unavoidable, of compelling the inhabitants of the hill countries under the authority or protection of the British Government to act as porters, His Lordship in Council is pleased to prohibit all travellers, civil and military, from pressing any of the said inhabitants to carry their baggage or perform any other service, and to forbid persons exercising authority from Government in those countries to supply such travellers with carriers for their baggage. Travellers must in all cases depend for the transportation of their baggage on the bearers or coolies whom they may be able to entertain in the plains.

Ordered that the foregoing resolution be communicated to Major-General Sir David Ochterlony and to the Commissioner in Kumaon for their information and guidance, and those of the officers acting under their authority in the hills.

Ordered that it be also recorded in the Judicial and Military Departments, whence it will be communicated to the proper civil and military authorities in the provinces, with a view to its being generally made known and enforced.

Appendix K. H.

TRANSFER OF THE REVENUE ADMINISTRATION TO THE CONTROL OF THE BOARD OF COMMISSIONERS.

Extract from the Proceedings of H. E. THE RIGHT HON'BLE THE GOVERNOR-GENERAL IN COUNCIL, in the Secret Dept., under date 19th October, 1816.

The Governor-General in Council, adverting to the general state of the province of Kumaon and to the progress which has been made in ascertaining the resources of that territory, is of opinion that the public convenience will be promoted by placing the administration of the revenues of Kumaon and the annexed pergunnahs of Gurhwal under the general superintendence of the Board of Commissioners.

His Lordship in Council does not contemplate the introduction into that territory of the regulations generally as a part of the proposed arrangement, but it appears expedient that the Commissioner should in his capacity of Collector of the Revenue, be placed under the control of the Board of Commissioners, and that their relative duties and powers be defined by the general principles established throughout the provinces.

The present season of the year being peculiarly convenient for the adoption of this arrangement, His Lordship in Council is of opinion that it should no longer be delayed, and is accordingly pleased to resolve that the necessary communications and instructions be conveyed to the Board of Commissioners from the Territorial Department.

Ordered that the foregoing resolution be communicated from this department to the Acting Commissioner, with directions to place himself under the orders of the Board of Commissioners in all matters connected with the administration and collection of the revenues of the territory under his charge.

Appendix K.I.

REGULATION. X.

A regulation for the trial of persons charged with the commission of certain heinous offences in Kumaon and other tracts of territory ceded to the Hon'ble the East India Company by the Rajah of Nepal, and subject to the British Government, passed by the Vice-President in Council on the 22nd July, 1817:-

Of the territories ceded to the British Government by the Rajah of Nepal under the treaty of peace concluded on the 2nd day of December, 1815, many portions have been since restored to the Native chiefs, to whose authority they were formerly subject, or have been transferred to the independent authority of other Native chieftains or powers.

The portions of territory ceded by the Rajah of Nepal which have been retained under the authority and dominion of the British Government, are as follows, viz:—

- 1st,—The tract of country called Deyrah Doon, heretofore forming a part of Gurhwal.
- 2nd,—The province of Kumaon.
- 3rd,—Jounsar, Bawur, Poondur, and Sundokh, and other small tracts of country situated between the Rivers Jumna and Sutlej.

By the provisions of Regulation IV, 1817, the tract of country denominated Deyrah Doon has been formally annexed to the district of Saharunpore, and the laws and regulations in force in the latter district, have, with certain exceptions, been extended to the Deyrah Doon. Local circumstances, however, have rendered it inexpedient that a similar arrangement should at present be adopted in the province of Kumaon, or in the reserved tracts of country situated between the Rivers Jumna and Sutlej.

The administration of the police and of civil and criminal justice, with the management of the revenues, as well in Kumaon as in the several places last mentioned, is conducted by British officers, under instructions issued for their guidance by the Governor-General in Council.

Embarrassment, however, having been experienced in the several places above mentioned, from the want of a suitable tribunal for the trial of prisoners charged with offences of a heinous nature, the Vice-President in Council, with a view to provide for the due and deliberate investigation of charges of that nature, has been pleased to enact the following rules, to be in force from the period of their promulgation:-

2. The British officers who now are, or hereafter may be, invested with the charge and superintendence of the police, and with the administration of criminal justice in the province of Kumaon, or in the several reserved tracts of territory situated between the rivers Jumna and Sutlej, are hereby prohibited from awarding punishment against any persons charged before them with having been concerned, either as principals or as accomplices, in the commission of the following offences—viz, murder, or any species of homicide not manifestly accidental or justifiable; robbery by open violence, as defined in Section 3, Regulation LIII., 1803; violent affrays attended with serious casualties or circumstances of aggravations; treason or rebellion against the State.

3. If any person subject to the jurisdiction of the British officers above mentioned, howsoever allied to, whether from local residence or from the perpetration of a criminal act within the limits of the British territory under their respective superintendence, shall, on due and careful investigation, appear to have been concerned, either as a principal or as an accomplice, in the commission of any of the crimes above mentioned, such person shall be kept in close custody, and shall be committed to take his trial before a Commissioner to be nominated and appointed for that purpose by the Governor-General in Council.

4. It shall be the duty of the local officer, immediately on making the commitment, to report the case to the Governor-General in Council, who will take the necessary steps for the trial of such persons.

measures for nominating an experienced judicial officer as Commissioner to hold trials of this nature, at such time and place as may appear proper in each instance, or at such stated periods as may be found convenient.

5. In the conduct of the trial, the Commissioner will exercise the same Powers vested in the Commissioner. powers as are vested in Judges of Circuit, and will be guided by the spirit and principles of the regulations in force in the ceded and conquered provinces; provided, however, that it shall not be necessary that any law officer should attend the trial, or that any futwa should be required in such cases.

6. If the Commissioner should be of opinion that the crime charged against the prisoner is not established by the evidence, he shall issue his warrant for the release of the prisoner. Commissioner may release prisoner if not convicted.

7. If the Commissioner shall consider the crime charged against the prisoner to be established, he shall either refer the case to Nizamut Adawlut if charge be proved. Commissioner to refer case to Nizamut Adawlut if charge be proved. Adawlut, or if the case be within the competence of Judges of Circuit. under the regulations in force in the ceded and conquered provinces, he shall issue his warrant for the punishment of the criminal.

8. If the case shall be referred to the Nizamut Adawlut, it shall be the duty of the Commissioner to forward to that court a full report of the case, together with his own proceedings and those of the officer by whom the commitment may have been made. With a report, and the proceedings on the case.

9. On receipt of the proceedings, the Court of Nizamut Adawlut will, without requiring any futwa from their law officers, pass such sentence or order as on due consideration they may deem proper and consistent with the spirit and principles of the regulations in force in the ceded and conquered provinces. Nizamut Adawlut to pass final sentence.

10. The sentence of the Nizamut Adawlut, whether for the release or punishment of the prisoners, shall be issued through the channel of the Commissioner who may have held the trial, and shall be duly enforced by the local British officers by whom the commitment may have been made, or who may at the time be entrusted with the management of the local police. Sentence, how to be carried into effect.

11. *1st.*— Whenever a Native subject of the British Government charged with having been concerned in the commission of a criminal offence within the territories of any independent State or Chieftain situated in the vicinity of Kumaon, or of the reserved tracts of In what cases the local officers may take cognizance of crimes committed within the territories of independent States or Chieftains.

country between the Jumna and Sutlej rivers, shall be apprehended by, or shall be delivered up to the British officers invested with the charge of the police in those places respectively, the officers in question shall be deemed competent to investigate the charge, and to release or punish the accused, under the general powers vested in them by the Governor-General in Council.

2nd.— Provided, however, that if the charge shall be of the nature of any of those described in Section 2 of this regulation, the local officer shall proceed in the manner directed in Sections 3 and 4 of this regulation; and the Commissioner who may be appointed to hold the trial, as well as the court of Nizamut Adawlut, shall in such cases be guided by the provisions of Sections 5, 6, 7, 8, 9 and 10 of this regulation.

12. It shall not be competent to the local officers intruded with the administration of criminal justice in Kumaon, and in the several reserved tracts of territory situated between the rivers Jumna and Sutlej or to any Commissioners who may be appointed under this regulation, or to the Nizamut Adawlut, to take cognizance of any crime of offence which may have been committed in any part of the tracts of country above adverted to previously to the 15th May, 1815, being the date of the convention by which they were surrendered to the Hon'ble the East India Company.

Crimes committed before 15th May, 1815, not cognizable by British officers.

13. No part of the regulations in force in the ceded and conquered provinces by which the punishment of the crimes specified in Section 2 of this regulation may be enhanced beyond the punishment ordinarily inflicted for such crimes according to the former laws and usages in force in those tracts of country, shall be considered applicable to persons convicted of having committed those crimes previously to the promulgation of this regulation.

Sentence, how to be regulated with regard to offences committed between 15th May, 1815, and the promulgation of this Regulation.

14. In cases, however, in which the penalties established by the regulations in force in the ceded and conquered provinces for murder or other species of homicide, robbery by open violence, violent affrays attended with serious casualties or circumstances of aggravation, or for treason and rebellion against the state, may appear to be more lenient than those to which the offenders would have been subjected under the pre-existing laws and usages of Kumaon, and of the reserved tracts of territory situated between the rivers Jumna and Sutlej, such offenders shall, nevertheless, have the benefit of the provisions now established, supposing the offences to have been committed between the 15th May, 1815, and the period of the promulgation of this regulation.

Same subject

Appendix K.J.

SYSTEM OF FARMING TRANSIT-DUTIES ON THE FRONTIERS OF KUMAON.

Extract of a Letter from MR. SHAKESPEAR, Superintendent of Police, to the BOARD OF COMMISSIONERS, forwarded by the Board to Mr. Traill under date the 10th February, 1818.

I point out * * * the apparently destructive tendency of the system recognized in the accompanying pottah, by which a farmer, for the inconsiderable sum of Rs. 8,881, is empowered to establish a number of chowkees along a line of country extending upwards of sixty miles between the Ramgunga and the Sarjoo rivers, and to levy customs apparently almost undefined in their amount on all articles of trade with the hills—such duties differing in no respect, saving their being licensed, from those restrictions on the transit of commerce which your Board deprecate under the appellation of arbitrary exactions.

From BOARD OF COMMISSIONERS, FURRUCKABAD, to MR TRAILL, dated 22nd May, 1818.

On the expiration of the present leases, you will adopt no measures for a re-settlement of the customs and sayer until further orders, as the Board have recommended to Government the abolition of them.

ABOLITION OF CUSTOMS.

From SECRETARY TO GOVERNMENT, to BOARD OF COMMISSIONERS, FURRUCKABAD, dated 19th June, 1818.

2. With reference to the circumstances stated by your Board, to the comparatively small amount of the collections, and to the importance of affording every encouragement to the rising commerce of that quarter of the country, the Vice-President in Council has been pleased to resolve, in conformity with your recommendation, that the collection of all transit-duties, customs, and sayer, within the provinces of Kumaon and Gurhwal, be discontinued from the commencement of the ensuing Fuslee year, at which time he presumes the existing leases will expire.

Appendix K.K.

REVENUE DERIVED FROM THE BIHOTEEA MEHALS TO BE DISCONTINUED.

From H. MACKENZIE, ESQ., Secretary to Government, to SIR J.E. COLEBROOKE, BART., and W.H.TROUT, ESQ., Board of Commissioners in the Ceded and Conquered Provinces, dated Fort William, 28th August, 1818.

GENTLEMEN,— I am directed by His Excellency the Most Noble the Governor-General in Council to acknowledge the receipt of your letter bearing dated the 10th ultimo, with the settlement account of Kumaon and Gurhwal.

2. The Governor-General in Council observes that the following is the result of the settlement formed by Mr. Traill for the provinces in question, exclusive of the Bhoteca Mehals:-

					Rs.
1225,	...	...	...	...	1,38,350
1226,	...	...	...	...	1,38,959
1227,	...	...	...	...	1,38,988

3. His Lordship in Council sees every reason to believe that the principles on which the above settlement has been framed are judicious, and approves and confirms it accordingly.

4. The revenue of the Bhoteca Mehals for the current year is stated at Rs. 12,280.

5. The nature of those mehals is thus described in Mr. Traill's letter of the 1st May, 1817, which accompanied your letter of the 25th July of that year.

The revenues of these are derived from three sources: the assets of the villages situate at the foot of the snowy range arise from the produce of the land; those of the villages higher up consist partly in the produce of land, partly in the profits of trade, but chiefly in the sale of hawks, musk, dufceas, nirbessee, frankincense, &c; the assets of the villages immediately in the snowy passes are derived entirely from the profits of trade. As the Bhotecas are, however, exempt from the payment of all customs throughout the province, the above may be considered as a transit-duty.

The detailed assessment is annually made by a general punchayet of the Bhotecas, who fix the sum demandable from each individual in proportion to the actual amount of the trade carried on by him during the current year without reference to capital,

6. Your Board have been already informed of the resolution of Government to discontinue the collection of transit-duties within the provinces in question. It appears not less desirable that every species of sayer should also be abolished.

7. In conformity with that principle, it would appear that almost the whole of the jumma of the pergunnahs in question must be hereafter relinquished, and you will be pleased to instruct the Commissioner to be guided in his future proceedings accordingly.

8. The year 1874 Sumbut having expired, and a small portion only of the Fuslee year 1225 remaining, the Governor-General in Council does not propose to interfere with the arrangements now submitted. The Commissioner will of course furnish a particular report in regard to any part of the mehals in question which he may consider not to fall within the above restriction, and from which he may still propose to draw a revenue.

Appendix K.L.

From HENRY NEWNHAM, ESQ., Secretary to Board of Commissioners, to G.W. TRAILL, ESQ., Commissioner of Kumaon, dated Furruckabad, 25th September, 1818.

SIR,— In reply to your letter of the 14th instant, I am directed by the Board of Commissioners to inform you that, considering the Kut Buse and Khut Mehals to be more of the nature of a zemindaree huk connected with and arising from the produce of the land than a sayer collection, they authorize your accepting the offers which have been made to you by the zemindars of the pergunnahs from which this source of revenue has been hitherto derived.

Appendix K.M.

PROCLAMATION ISSUED TO THE INHABITANTS OF KUMAON, BY ORDER OF
THE GOVERNOR-GENERAL IN COUNCIL

Letter No. 1230, dated 6th August, 1819.

Whereas it appears that, agreeably to the former usages and customs existing in Kumaon, it was allowable to the husband of an adulteress (*after due notice given to the Executive Government*), to take the life of the adulterer, and whereas such practice, as being deliberate and malicious homicide, is irreconcilable with justice and good-Government, and is, moreover, contrary to the laws established by the British Government, within the territories under their dominion:

Be it therefore made known that such practice is hereby declared unlawful, and is prohibited accordingly; and it is hereby ordained that any person who, in opposition to this prohibition, shall hereafter take the life of an adulterer, will, on conviction before a court of justice, be liable to suffer death.

2. Be it known, however, that according to the laws of the British Government, a husband is entitled to redress against the adulterer on application to the Commissioner; such adulterer being liable to punishment for his offence on conviction before a court of justice.

Appendix K.N.

From G.W. TRAILL, ESQ., Commissioner of Kumaon, to HENRY NEWNHAM ESQ., Secretary to the Board of Commissioners, Furruckabad, dated 27th August, 1819.

SIR,— I have the honour to submit for the confirmation of the Board of Commissioners the account settlement of the resumed canoongoe lands for the year 1876 Sumbut, being the unexpired period of the triennial settlement.

2. The annual jumma of these lands amounts to Rs.1,978-8-0, on which sum an increase may be expected at the ensuing settlement: the amount of the money pension to the canoongoes is only Rs. 1,500. I therefore take the liberty of recommending that the surplus Rs. 500 may be appropriated for the payment of the pergunnah putwarees. Of these officers there is one in each large pergunnah; they have hitherto been considered as naibs of, and paid by, the head canoongoes. As there are no village putwarees, the services of these people may prove of advantage both to the interests of Government and of the zemindars.

The following are the names of the pergunnahs, in which I would recommend the establishment of putwarees as servants of Government, on a monthly salary of Rs. 5, or Rs. 60 per annum. * * *

Total, Rs. 540 per annum.

3. These pergunnahs are the most important, from their size. There are, at the same time, some pergunnahs to which the arrangement might be extended with advantage, so soon as the improvement in the revenue of the resumed lands shall warrant such a measure, without subjecting Government to an additional charge.

[N.B.- These proposals were sanctioned by the Governor-General in Council, on 1st October following.]

Appendix K.O.

NOTE ON THE CANOONGOES OF KUMAON.

After the British occupation of Kumaon, the officers who were known by the name of dufrees under the Goorkha Government were styled canoongoes, owing probably to the fact that their duties with reference to the records of landed estates corresponded in some measure to those discharged by canoongoes in the ceded and conquered provinces; but in other respects their functions were different, and their position one of greater dignity and importance.

The canoongoes have played an important part in the revenue history of Kumaon.

The earliest information regarding the nature and emoluments of the office which I have met with is contained in the translate of a sunnud granted by the Goorkha Government in Sumbut 1869, enclosed in a report of Mr. Traill's dated 2nd April:—"Whereas Kajee Umer Singh has favourably represented that the said duftrees have been most zealous in the discharge of their duties, in conciliating the tenants, in collecting the rents, in recalling the cultivators who had fled to the plains, in restoring the cultivation and population of deserted villages, in preparing and keeping up the revenue accounts and records, and in obedience to orders, we accordingly authorize them to collect the dustoor duftree from the lands included in the assignments to three battalions and three captains, according to the receipts, and in excess of the jumma of the said lands."

Some further particulars about the office are concisely given in a memorandum, of old but uncertain date and authorship, extant in the Comissioner's office, which is printed in the next appendix.

The question of the resumption and settlement of canoongoe lands occupies a considerable portion of the correspondence of 1819. From that time they became paid servants of Government. In 1829 they were invested with power to try civil suits; but the offices of canoogoe and moonsiff were again disassociated in 1839, when it was in contemplation to reform and remodel the whole administrative system of the province. In Mr. Beuten's final report on the district of (1848), the only allusion to canoongoes is that in Section 23, where he states that "hitherto that full use has not been made of their services which is usual elsewhere, especially in the department of tehsceldaree accounts."

Appendix K.P.

MEMO ON CANOONGOES OR DUFTREES, FOUND IN THE COMMISSIONER'S OFFICE AT NYNEE TAL.

Office hereditary in particular families; there are four in Gurhwal, and five in Kumaon. Under the former Government they were called duftrees.

The office of duftree is considered hereditary so far that the succession remains in one family; but the several Governments have always exercised their discretion of selecting the most capable member of the family without reference to claims or birth or seniority.

The Dwarahath Chowdrees furnish two canoongoes—one for Palee and one for Baramundal; the Duncce Josees furnish two canoongoes—one for Shore, &c..

and one for Chowgurkha, &c.; the Jhijar Josces furnish one canoongoe, for Kalee Kumaon, &c. In Gurhwal the canoongoes are all of the Khundooree family. Under the former Government dufrees held nankar lands, and received half-an-anna in the rupee on the Government Jumma from each village; from the latter funds they kept up deputies in each p̄rgunnah, who looked after the revenue and cultivation. The nankar lands were resumed in 1819, and a monthly allowance of Rs. 31 in Gurhwal and Rs. 25 in Kumaon granted to the holders, who were then appointed canoongoes.

The percentage on the revenue being no longer granted, putwarees for each puttee were appointed and paid by Government.

Appendix K.Q.

PUTWAREES.¹

Under the old Governments no such officers existed; but in many of the p̄rgunnahs there were local deputies from the canoongoes or dufrees who performed the revenue duties: these were called lekhwars. On the resumption of the nankar lands, the fund being found more than sufficient to pay the canoongoes then appointed, a few putwarees were nominated in some of the principal p̄rgunnahs. The utility of the establishment being experienced, the number was further increased; and in 1830, it being found expedient to employ these officers in the collections, they were augmented to sixty-seven, the expense being met by a corresponding reduction in p̄cons, &c. Their duties are—(1) the collection of the revenue; (2) the measurement of villages, under instructions from the Court; (3) the prevention of desertion on the part of the village ryots, by immediately adjusting any quarrels which may arise, and by reporting such disputes and desertions to the sudder kutcherry; (4) care of police, apprehension of offenders, report of crimes, casualties, suicides, and notes of all estates, through the tehseeldars. The pay is Rs. 5 per mensem and they are removed from their situations without scruple where found inefficient.

Note:—In the settlement now in progress the number of putwarees is being still further augmented; but the nature and duties of the office have undergone no material change. It will be seen at a glance that the putwaree of Kumaon is generically different from the putwaree of the plains, and Regulation XII. of

1. This description is taken from an old memorandum extant in the office of the Commissioner. It is fully corroborated by the statement of putwarees' duties in the letter from Mr. Batten to the Commissioner of Kumaon, dated 1st June, 1840, para 10, printed in the appendix to Mr. Batten's Settlement Report of Kumaon.

1817, and the other legal provisions on the subject, can have no application whatever in Kumaon. The putwarce of the regulations is purely a village accountant; he is nominated by the zemindar, and supported out of revenues of the village. In Kumaon he is a provincial agent, charged with multifarious duties in all departments, independent of the villages placed under him, and responsible only to the Government by which he is paid.

Appendix K.R.

PUDHANS.

A Memorandum drawn up by MR. TRAILL, and quoted in Mr. Batten's Settlement Report of Gurhwal, Section 20.

The pudhan is the village ministerial officer, entrusted with the collection of the Government demand and with the supervision of the police of his village. He is commonly one of the sharers of the village, appointed with the approbation of the other joint sharers, and is removable for malversation, or at the requisition of the majority of the sharers. He collects the Government revenue from the sharers agreeable to their several quotas, beyond which he can make no further demand from them; he pays, also, the rent of his own immediate share of the estate. He is remunerated by fees on marriages, and by a small portion of land set apart expressly for the remuneration of the office. There is no hereditary claim or right to the situation of pudhan; but generally the son succeeds without opposition, unless incapable from youth or want of talent, in which case the sharers are called upon to chose another pudhan from among themselves. When no sharer or occupant cultivator of the estate is willing to engage, a farmer is sought for through the kumeen or thokdar: such cases are rare.

The land set apart for the pudhan is called "pudhan khangee" or "petoonda." If it be less than the quantity of land allowed in the puttee as pudhancharee huq, he gets rent for the balance from the sharers at the rate per beesee which the Government assessment may average in the village.

Note:— Compare with this Mr. Traill's Report to the Board of Commissioners on the Settlement of Tehscelee Shor, dated 30th June, 1821, para. 49:— "Where the pudhan holds direct from Government, he is restricted from collecting more than the amount of the lease, and the infringement of this regulation subjects him to the refund of the excess, with the forfeiture of his situation as pudhan."

Appendix K.S.

KUMBEEN, SEEANA, THOKDAR, BOORA.

These are designations given to principal malgoozars who are entrusted with the charge of the police in one or more villages. Under the Goorkha Government they had also the charge of the collections; now their duties are confined to matters of police: their former dues were numerous; at present they are consolidated into a percentage of about 3 per cent on the Government jumma, a fee of one rupee on the marriage of the daughter of a pudhan, and a leg of each goat killed by the pudhans. As ministerial officers they are removable for neglect or for ill-behaviour; but, in consideration of the influence possessed by the families of the old kumeens, the office is commonly continued to some one of its members. They are required to report offences and casualties; also the death of individuals dying without heirs on the spot, together with, an account of the property left unclaimed by such individuals. The search for stolen property and the seizure of offenders devolves on them. They are also expected to collect the coolies indented for on the villages under their charge. They assist at all inquests made by the putwarees within their puttees.

THOKDARS AND SEANAS.

Extract from MR. BATTEN'S Settlement Report of Gurhwal Section 21.

The seeanas or thokdars are divisible into two kinds: First, there are those thokdars (sometimes called in the time of the Rajah "lesser seeanas"), who are merely entrusted with the charge of the police in a certain number of villages, who are paid by a fee of one rupee on the marriage of the daughter of each village pudhan and a leg of every goat killed by the said pudhans, and who, *if they can prove the receipt of such a payment from the commencement of the British rule*, are entitled by the law to receive dues through them from the village, amounting altogether to a percentage on the Government jumma of about three percent; secondly, there are those thokdars, or greater seeanas, who are heads of the proprietary families, whose ministerial duties in reporting offences and casualties and also the death of individuals without heirs, seizing criminals, searching for stolen property, assisting the Government putwaree at inquests, collecting coolies and supplies indented for on the public service, are the same as those of the former class.

Appendix K.T.

LAND TENURES IN GURHWAL.

Extract from MR. BATTEN'S Settlement Report of Gurhwal, Section 19.

In Gurhwal, in three-fifths of the villages the inhabitants hold the land in severalty under a joint responsibility for the revenue, and pay nothing except

their shares of the Government revenue and the customary fees to the elected village pudhan, who, again, pays only the fee for ministerial services due to the thokdar.

The remaining two-fifths are inhabited by those who, in addition to the above-named items, pay certain sums of money, certain portions of grain, ghee, and other produce, and higher rate of customary fees—such as legs of goats, &c.—at marriages and other occasions, to the thokdar or secana in his capacity of hissadar and proprietor, or to those of his family who may possess the proprietary share in their respective villages.

Appendix K. U.

RULES AND REGULATIONS ISSUED FROM TIME TO TIME IN THE SHAPE OF ISITHARS.

All proprietors of land selling any portion of their estate required to procure the signature of the canoongoe or putwarce to the deed of sale; in default of such signature the deed not receivable in the court.

Pudhans required at the end of the year to settle with the other sharers for the amount of the Government revenues; if any part found due to take an acknowledgment from the defaulter, or to take the amount due. Should the sharers fail to make due settlement, the pudhan to proceed against the defaulters in the court within the period of month; after that time no claim admissible except on a written acknowledgment.

Pudhans to settle their demand for pudhancharec dues in the time, &c.

Cultivators having any complaints to make for damage by cattle, to present the same in the court within three months of the act of damage complained of.

Sharers having any complaint to make of exaction against their pudhan, to present the same in the court within months of the expiration of the year in which the exaction is stated to have taken place.

Any individuals having complaints of bribery to make against any public officer, to present ther same within twelve months of the act of bribery complained of.

The sale of wives by husband, and of widows by the heirs or relations of the deceased husband, prohibited. Where such sale is proved to have taken place, the purchase-money confiscated to Government and the women set at liberty.

NOTE—The above rules are contained in a memorandum furnished from the Commissioner's office. With the exception of the rule prohibiting the sale of wives and widows, they do not appear to have received any express sanction from Government, and do not, therefore, fall into the category of rules which have become law by the Indian Councils Act. Those concerning claims of rent and revenue were superseded by the rules promulgated under Act X. of 1838. See Appendix K. M.

Appendix K. V.

ASSESSMENT AND COLLECTION.

From BOARD OF COMMISSIONERS to COMMISSIONER OF KUMAON, dated 21st January, 1820

Board enquire in reference to Revision of Settlement.

3. The mode he proposes to adopt for ascertaining the assets, and for fixing the assessment on each estate?

4. In what form the sudder malgoozars realize the rents from the ryots—buttaee, divisions in kind, kunkoot, appraisement by sight (?), or by money rents on lease; and whether in effecting an assessment the tenor of the pottahs to the sudder malgoozars might not be so drawn out as to give the ryots a security in assuming an average rate on each mode of collection as a maximum, or the conditions of the pottah might enable you to interfere hereafter to prevent any unjust or forced demand?

The reply to the above is given in Mr. Traill's letter to Board, dated 15th February 1820, paras. 6 to 12 inclusive, of which the substance is as follows:—

The malgoozars of the pergunnah were assembled, and required to redistribute the previous gross jumma of the pergunnah among their villages in reference to the land under cultivation and the number of asamees.

Mode of assessment.

The Commissioner then announced the gross increase demandable from the pergunnah, which was rateably distributed, and engagements were taken.

Government chuprassees collect the jumma direct from the cultivators, who are usually proprietors. The malgoozar is only a representative of the village to engage for the demand. He receives no rents as such, and it is a maxim recognized by the civil courts that he can demand no more from the cultivators than their share of the

Mode of collection.

Government jumma. Buttace prevails in Niaabad villages, and koot in that tenures.

MODE OF ASSESSMENT AND COLLECTION OF THE LAND REVENUE IN
KUMAON, AND RIGHTS OF CULTIVATORS.

Extract, paras. 6 to 12, of a Letter from COMMISSIONER OF KUMAON to ACTING SECRETARY TO BOARD OF COMMISSIONERS, FURRUCKABAD, dated 15th February, 1820.

6. From the nature of the country in this province, it would be impossible to ascertain the assets of every individual village by actual inspection, except by giving up many years to that service; and as the partialities of Native officers render their estimates, though perhaps generally correct in the total, liable to suspicion in the detail, reference has hitherto in consequence been made to the gross body of the malgoozars themselves.

7. The mode pursued in the two former settlements, has been as follows: The whole of the malgoozars of the pergunnah or puttee under revision being collected, the sum total of their jumma for the last year was given them for equalization among themselves. This was formed on consideration of the actual quantity of land there in cultivation, and of the number of asamees in each village, without reference to the former jumma.

8. This operation being completed, and the signature of each individual being affixed to the result, in corroboration of his assent to the justice of the estimate, the proportion of the gross increase demandable from the pergunnah was then added to the assessment of each village, and engagements with the zemindar were interchanged.

9. As the pergunnahs are small, and the interference of Native officers is not allowed on the occasion, this mode is probably as fair and equitable as any which could be adopted.

10. Each of the forms of collection mentioned in the 4th paragraph of your letter exist throughout the province. The most general mode, however, is by nukuddee, or money rents; indeed, in the old-established villages the office of malgoozar is, as regards the duty of collection, a perfect sinecure, as the cultivators, who are generally proprietors of the land in their possession usually pay their quota of assessment direct to the public chuprassees, agreeable to the rate fixed at the original settlement. In cases where the engaging zemindar receives the rents in the first instance, he can make no demand beyond actual jumma; and were such a demand made it would not be complied with, as his dues are fixed and ascertained by local prescription and long-established usage. These consist of a small portion of land held rent-free, a trifling nuzurana of

grain from each family, and certain fees on all births and marriages occurring in the village.

11. Buttace, or division of produce, takes place commonly in the newly-cultivated villages or with the newly-settled asamees in the old villages, where, from the uncertainty of produce, the cultivator is unwilling to engage for a specific sum. In these cases, the rate of buttace is previously fixed, either by written or verbal undertaking, and the malgoozar has too much interest at stake to be the first to infringe the agreement. The system of kunkoot, or as it is here termed koot, exists in lands in tenure of that during the Government of former Rajahs. In these grants the rate of cess demandable on the gross appraisement is sometimes mentioned, and where omitted it is easily ascertained from long prescription and established usage to the present time.

12. From a consideration of the above circumstances, I am led to conceive that the rights of the cultivators are already fully secured in this province, and that their interests can never be endangered so long as it be an established maxim, recognized by the civil court, that the malgoozar can demand no more from them than the actual jumma of Government.

Appendix K. W.

LAND TENURES, AND DUES PAYABLE TO HEADMEN, &c.

Extract, paras 20-24 and 28, of a Letter from COMMISSIONER OF KUMAON to ACTING SECRETARY TO BOARD OF COMMISSIONERS, dated 14th March, 1821.

20. In this province the property of the soil has most undoubtedly always been vested in the sovereign, but the very exercise of this right has created a numerous race of individual landholders.

21. Under the former Governments, all servants of the state, both public and private, received on their appointment to office a grant of land for the support and establishment of their families. These lands have under succeeding sovereigns been subjected to rent, but the proprietary right has generally remained with the original grantee, or his descendants. Grants of this nature are wholly distinct from those in tenure of nankar, nankaree, or jaedad, which conveyed no property in the soil. Like the latter, however, their continuance or annulment has ever been subject to the pleasure of the ruling power. The descendants of the above-described grantees form the first class of landholders in the province.

22. A second class derive their title solely from long-established occupancy: this class is composed of aborigines of the mountains, while the former consists almost universally of descendants of emigrants from the plains.

23. A third class of proprietors, created during the Goorkha Government, are those who, in consideration of receiving the zemindaree title, have brought waste lands into cultivation. To this class a considerable addition has been made under the present Government, as, with a view to the encouragement of cultivation, the practice of the Goorkha Government in this respect has been continued.

24. With regard to the Dooms: they are almost invariably throughout the province the property of the landholders, and reside in the villages of their respective owners. The only separate establishment of Dooms are those which come under the first description of proprietors, and consist of carpenters, masons, potters, lohars, miners, and a variety of other trades which are here carried on solely by persons of this caste.

* * * * *

28. As stated in my former reports on this subject, the proprietary right of only a few villages is generally vested in the kumeen or seeana; on the remaining villages included in his puttee he has no claim except for kumeencharee dues. At present the kumeens continue to be, as heretofore, responsible for the police within their jurisdictions, in consideration of which the collection of huq kumeencharee is authorized (the nature and extent of this huq have been already detailed); at the same time they are expressly forbidden to interfere in the collection of the revenues of any village not their own property.

NOTE—Mr. Traill's views on hill-tenures will be found still further developed in his final Settlement Report of 1829, quoted at great length by Mr Batten in his Report on Gurhwal, Section 24.

Appendix K. X.

- (1) ABSENCE OF HEINOUS OFFENCES SUCH AS ARE COMMITTED IN THE LOWER FORESTS, BEING COMMITTED BY PLAINSMEN, WHO ARE PROSECUTED IN THEIR OWN DISTRICT—(2) CIVIL PROCEDURE DESCRIBED.

Extract, paras. 5 to 26, of a Letter from COMMISSIONER OF KUMAON to SECRETARY TO GOVERNMENT, POLITICAL DEPT., Fort William, 16th May, 1821.

5. The total number of prisoners of every description now confined in the criminal jail amounts to nine.

6. It is to this almost total absence of criminal offences that the paucity of police reports furnished from this office must be ascribed. So long as the present state of morals continues, the police administration must remain a question of inferior consideration in this province; and the premature enactment of any

criminal laws would, in all probability, tend only to create the offence for the prevention of which they might be intended.

7. In the above statement the dacoities and highway-robberies which take place in the forests below are not included. These are invariably committed by persons from the neighbouring districts in the plains, and as these latter never remain within this jurisdiction for a longer period than may be necessary for the execution of the robbery, their discovery and apprehension by the police establishment of this province is rendered impossible. Information of such crimes is, however, given to the civil authorities in the adjoining zillah, where the necessary proceedings are adopted for the detection and punishment of the offenders. Under these circumstances the crimes in question are considered as falling within the cognizance of the courts below, and as such do not require any particular observations or detail from this office.

8. In the civil court, as stated in my former report, the business has considerably increased. Some account of the form of proceedings may therefore be deemed necessary.

9. The original plaint is now required to be written on an eight-anna stamp, as the investigation and decision of every suit, whatever be the amount of the cause in action, fall to the cognizance of one court. Some discrimination is used in the previous admission; causes which, from the plaintiff's own written statement, must in the sequel be inevitably nonsuited, are rejected in the first instance, the ground for such refusal being recorded on the face of the petition.

10. Cases of this nature are confined to objections of limitations of time or jurisdiction.

11. Where the suit is admitted, an order of the court of the nature of an ittilanama is furnished to the plaintiff with the view to its being served by himself on the defendant.

12. In three-fourths of the plaints instituted, this process proves sufficient to induce a private settlement of the claim.

13. In the event of the plaintiff not receiving satisfaction, he returns the original notice into court, when the suit is regularly filed for adjudication, and a summons to require the personal attendance of the defendant is issued.

14. After a *viva voce* examination of the parties, the necessary witnesses on both sides are sent for.

15. In examination of these latter an oath is very rarely administered.

16. This omission does not arise from any ignorance on the part of the natives of this province of the nature of an oath, as they are on the contrary remarkably sensible of the religious obligation, and are in consequence generally averse to incurring the responsibility of an oath.

1821.

17. Their simplicity of character and common adherence to truth is, however, such as to render it extremely easy to elicit the whole truth without recourse to this ceremony. An indiscriminate application to it on all occasions is therefore uncalled for, and would only tend to weaken its force.

18. Where such may appear advisable to the court, or where it may be the requiring of either of the parties, the witness is always sworn.

19. This is, however, of rare occurrence; and, indeed, from the reasons above mentioned, the evidence of any witnesses is seldom required, as the parties commonly agree wholly in their statements and admissions.

20. No licensed vakeels, as in the courts below, are allowed to practice here; but parties who may be unable to attend are permitted to appoint any person as their agent.

21. This regulation at once precludes all vexatious litigation and prevents any unnecessary delays or procrastination by the parties in their proceedings. From the date of summons to the defendant, seldom more than twelve days are required for the investigation and decision of the suit; generally the proceedings are completed in even a shorter period: and no technical forms of pleading are required, the want of experienced vakeels proves no inconvenience to suitors.

22. Copies of the decree are furnished to either of the parties requiring it on an eight-anna stamp being furnished for the purpose. The price of this, together with that of the paper on which the original plaint is entered, and with occasional tulubana to muzkooree chuprassees employed, form the whole costs of a suit in this court.

23. In the execution of decrees resort is very seldom had to imprisonment.

24. The non-payment of a debt proceeds here generally from the want of means rather than of inclination; while the existence of the debt itself is commonly owing to some unforeseen difficulties, and not to any profuseness or want of principle on the part of the debtor. Such being the case, the hill-creditor seldom proves inexorable, but, after obtaining a decree, he is usually content to wait for its gradual liquidation by fixed instalments.

25. There are now two prisoners in the civil jail. One of these fraudulently obtained a loan on mortgage of an estate which he had previously mortgaged to

its full value, and which circumstance he concealed from the second mortgagee; the other is confined under an order for the restitution of a sum of money which he forcibly extorted from the plaintiff on an ungrounded and illegal claim.

26. Only one sale of real property in satisfaction of a decree has yet been made by order of the court. This occurred in the case of a bankrupt shopkeeper who died after two decrees had been passed against him. The property sold consisted of a share in a house and garden situated in Almorah.

Appendix K. Y.

(1) GOVERNMENT SHARE OF THE LAND REVENUE- (2) HEREDITARY OCCUPANCY- (3) REMUNERATION OF MALGOOZARS BY RENT - FREE LAND AND CERTAIN DUES-(4) VILLAGE CHOWKEDARS, POLICE SYSTEM.

Extract, paras. 7, 10, 27, 28, 34, 35, and 46, of a Letter from COMMISSIONER OF KUMAON, to SECRETARY TO BOARD OF COMMISSIONERS, FURRUCKABAD, dated 27th May, 1821.

7. The rate of Government assessment is in this province as yet far behind the scale which would render such a calculation of the assets necessary. Taking the average of the total jumma, it does not probably amount to one-third of the gross produce, while, agreeable to the ancient and established usages here, the malik's share is always half. By malik I of course mean the sovereign, or, in the case of rent-free lands, his representative, the maafcedar.

* * * * *

10. In a former report I had the honour of detailing the differnt descriptions of land tenures in this province: the only additional observation which at present offers itself is the right of hereditary occupancy enjoyed by many cultivators in the lands of proprietors of the first class who derive their claim from grants of former Rajahs, more particularly in cases where these grants are comparatively of recent date.

* * * * *

27. The ancient usage of setting apart as rent-free in each village a small parcel of land proportioned to the extent of the estate, appears to be by far the most advisable mode of remunerating the malgoozar. In this case he is restricted from collecting from each sharer a greater sum than is specified in the lease. At the same time he would still remain entitled to the usual bhet and nuzurana as now paid on births and marriages, &c.; and the extent of such land being specified and detailed in the lease under the head of huq malgoozaree, would

preclude the possibility of its ever being successfully claimed as private property.

28. Such is the system in force in this province; but, if thought objectionable, the revenue of the village might be fixed in the lease at the full amount of the malikce share, and at the end of the year the malgoozar might be entitled to a deduction of ten percent, on the amount actually realized through his means.

34. No people of this description exist in the hills: a few low-caste people, under the denomination of puhuries or kotwals, Village watchmen. are to be found in some pergunnahs in the service of kumeens, but these are remunerated by the persons employing them; as servants of the police they are neither required nor recognized.

35. The total absence of theft, and the extreme morality of the people in this province, renders any provisions in regard to police unnecessary. The kumeens are always required to search for and apprehend persons guilty of offences within their puttees; and, agreeable to the customs of this country, such is always done, without the necessity of an order either from the local police officer or the Sudder Court. In the event of a robbery being committed on a stranger or passenger within a village, the pudhan would no doubt be called upon to trace the property and offender; but in the event of his failure, it would be hard to subject him personally to fine or imprisonment, unless there should appear strong grounds for suspecting his connivance in the theft.

* * * * *

46. It is probable that many of these suggestions have already formed the subject of legislative enactments; if so, I have only to offer in excuse that, as the regulations do not extend to this province, I have not been furnished with or seen a single regulation for the last six years.

Appendix K. Z.

The Criminal Jurisdiction of the High Court over Kumaon, inherited from the Sudder Nizamut Adawlut, rests on Regulation VI. of 1831, Section 3, Clause 1, as follows:—

First,—A Court of Sudder Dewany and Nizamut Adawlut shall be constituted for the Western Provinces, to be ordinarily stationed at Allahabad, and to exercise jurisdiction over the whole of the districts comprised within the divisions numbered in Section 2, Regulation 1, 1829, as No. 1 to 9 inclusive; and a Court

of Nizamut Adawlut for the province of Kumaon, and the Saugor and Nerbudda Territories.

The Jurisdiction of the Sudder Board in Kumaon rests primarily on Regulation X. of 1831, Section 5; and the power of restricting and modifying the regulations in their application to the same province is vested in the Board by Section 7 of the same regulation:—

Section 5— The jurisdiction of the Sudder Board on deputation shall comprise the tracts of country situated within the first to the ninth division inclusive, containing the districts specified in Section 2, Regulation I., 1829, together with the province of Kumaon, and the Saugor and Nerbudda Territories.

Section 7— In the conduct of the revenue duties of the tracts of country composing the province of Kumaon and the Saugor and Nerbudda Territories, as well those relating to the customs, abkaree, stamps, and other miscellaneous items, as to the land revenue, the local authorities shall observe the rules and principles of the general regulations, with such limitations and restrictions as may be provided in the instructions they may receive from the Sudder Board on deputation or the Governor-General in Council.

The Superintendence of Customs in Kumaon was vested in the Sudder Board of Revenue by Regulation I. of 1833, Section 3:—

Section 3— The Sudder Board of Revenue at Allahabad shall, from the date of the promulgation of this regulation, possess and exercise a general power of control and supervision over the customs and town duties, and over the officers charged with the administration of these branches of revenue in the province of Benares, the ceded and conquered provinces, the territory formerly subject to the authority of the Chief Commissioner at Delhi, the province of Kumaon, and the Saugor and Nerbudda Dependencies; and the Board of Customs, Salt, and Opium, shall cease to have any jurisdiction relating to customs and town duties in the said tracts of country.

Appendix K. a.

Report on the Present Administration of Kumaon in the Department of Civil and Criminal Justice, and the Powers exercised by the Local Officers, with the Rules established for their guidance, by Lieut-Col. G. E. GOWAN, Commissioner of Kumaon, dated Almorah, 17th March, 1837.

The judicial administration of Kumaon and Gurhwal is entrusted to the Commissioner, who has at present three assistants—Messrs. Batten and Thomas of the Civil Service, and Captain Corbett, the officer in command of the Kumaon Local Battalion. The former of these officers, Mr. Batten, has recently

been vested with the powers of Joint Magistrate and Deputy Collector in Gurhwal; and will reside generally at Paoree, in the vicinity of Sreenuggur. He will take up all such cases as may be brought to him, both civil and criminal, and will hear appeals from the decisions of the moonsiffs under his jurisdiction.

Captain Corbett holds his court at Howalbagh, and tries all such cases as are made over to him by the Commissioner from the Huzzoor Tehseel or Central Pergunnahs; and, during the absence of the Commissioner on his periodical visits into the district, Captain Corbett has charge of the treasury and of the sudder station generally.

Mr. Thomas resides at Almorah, and tries all such cases as are made over to him by the Commissioner from Kallee Kumaon or the Eastern Pergunnahs. Both Captain Corbett and Mr. Thomas hear appeals from the decisions of the moonsiffs within their respective jurisdictions. The petition of appeal is required to be presented within two months, and the assistant's decision is final. Appeals lie to the Commissioner from the decision of the assistants in original suits; and in all such cases the petition of appeal is required to be given in within a fixed period, such period having reference to the distance of the appellant's residence from the Sudder Court. No appeal lies beyond the Commissioner's Court; his decision being final.

There are seven district moonsiffs and one pundit, sudder ameen—all having equal jurisdiction, extending to claims in personal actions not exceeding Rs. 50 principal amount, and which may have originated within three years. When the origin may be earlier, the petition is directed to be presented in the Commissioner's Court, whence it is commonly referred to the moonsiff of the district.

Moonsiffs.

The sudder ameen is authorized to investigate suits of Rs. 100 value principal amount. Above this amount all suits are decided by the Commissioner or his assistants.

Sudder ameen.

Claims for real-property are heard and determined in the Commissioner's Court or in the Courts of the Assistants; plaints being presented on one-rupee stamps. Plaints in the Moonsiff's Courts, as well as in the Sudder Ameen's, are presented with fees as follows:—

							Rs.	As.	P.
Re.	1	to	Rs.	25,	.....	.....	0	8	0
Rs.	25	to	"	50,	.....	.....	1	0	0
"	50	to	"	75,	.....	.....	1	8	0
"	75	to	"	100,	.....	.....	2	0	0

These insitution-fees cover the charge for stationery.

Claims for current rent and revenue are cognizable within the year in the Moonsiff's Court.

Claims for damage of crops by cattle are cognizable within three months.

"In civil judicature," observes Mr. Traill, "the simple forms of the preceding Government have been generally retained. The Civil courts. petition originating the suit is required to be written on stamp-paper of the value of one rupee, eight annas, or four annas, according to the nature of the suit; but no institution or any other fee is levied in the courts of the European officers.

"The form of procedure in the courts is as follows:—On a plaint being presented, a summons is forthwith issued to the defendant by a muzkooree peon. If defendant do not attend, an 'ishtihar' is issued with a 'meced' of 10, 15, 20, or 30 days, according to the distance of the defendant's house. A copy of this is stuck up in the court—the other is sent to the local putwaree, to be affixed on the defendant's door. If the defendant does not appear within the time specified, the plaintiff is called upon to prove his claim and decision is given *ex parte*, unless the defendant come forward at any time previous to the decision being given. If the defendant attend, he is required to file an answer, after which both parties are examined *viva voce*, their exhibits examined, and if any statement or fact be disputed, evidence is called for. Neither parties nor witnesses are examined on oath at all times—only when particular circumstances may suggest the propriety of such a measure, as in case of the parties when the plaintiff or defendant proposes to abide by the deposition on oath of his antagonist: this is an ordinary mode of settling disputed accounts.

"On decision being passed, copies are given to the parties, and the decree is executed as soon as application is made to the Court of the Commissioner. If, however, any great delay in making this application should occur, such decree is not executed, and the individual in whose favour it was given is directed to enter his suit anew; instances having occurred where the holder of the decree has kept it in his possession for many months, and even *years*, without making the necessary application for its execution, often with a view to harass the debtor."

Where a debtor may have died before or pending a suit, the decree is issued on his property, which is attached and sold on application of the creditor. The personal property is sold in satisfaction of decrees in the Moonsiffs' Courts, and the real property, after a month's advertisement, is sold either at the tehseeldaree or the moonsiff's kutcherry, according as may appear expedient.

Ejectments, attachments, plans of disputed premises, measurements, &c., are ordered through the nazir of the court, and carried into effect by the local

putwarees. Debtors are confined only until such time as they can enter into engagements for paying the amount of the decree by reasonable instalments, giving security for the same; or, if insolvents, until their property has been wholly attached and sold. All this is done as speedily as possible, so that no debtor is imprisoned beyond a few weeks; in consequence, no allowance is awarded to him from the creditor.

In the issue and execution of decrees the established forms are followed, but the lenity of the Native creditors renders imprisonment and sales in satisfaction of decrees somewhat rare. Though less so now than formerly, the number of Dewany prisoners even now rarely exceeds eight or ten at a time.

In the issue of decrees for money, it may be observed, the warrant to the nazir is issued for as many days as the decree may amount to in rupees. The lowest term is fixed at four days, and the highest at thirty-two days; and no higher sum of tulubana is charged than Rs. 4— no lower sum than eight annas; the rate intermediately is two annas per day.

For warrants for execution of decrees for land and houses, a fixed sum of two annas tulubana is levied, and no term is specified in the warrant. Tulubana is levied on summonses at established rates agreeably to the distance, and paid in such instances to the muzkooree peon serving the summons. "Tullub chittees" to defendants or witnesses at or near the Court are served by the regular chuprassees, and the amount of tulubana is carried to the credit of the tulubana fund. Measurements, plans survey, &c., are made through the nazir, who sends a chuprassee to the district putwarree; the party at whose desire or for whom suit is made pays two annas tulubana, which is carried to the fund. Tulubana on the execution of decrees is also carried to the credit of the fund, which is thus comprised of tulubana on summonses of one day, on measurements, plans, &c., on execution of decrees.

From this fund are paid twenty-eight moolazim chuprassees at Rs. 4 a month each. An extra allowance of Rs. 4 a month is paid to one individual, who keeps the accouts of the fund. Contingent expenses of belts, badges, &c., and numerous other charges, are defrayed from the same source. The accounts are kept in a book, which is signed monthly.

"For a series of year," Mr. Traill remarks, "only one court, the Commissioner's, existed in the province for the cognizance and adjudication of civil claims. In this court no arrears of public business were ever known. From the gross abuses which characterized the Native courts under the preceding Governments, when the administration of justice was an avowed item of public revenue, and the office of judge sold or farmed to the highest bidder, such establishments as now exist were not in the first instance deemed expedient. As, however, a period of

Moonsiffs.

fourteen years might be presumed to have induced some appreciation of our better system, a recourse to local tribunals was considered likely to consist with the ends of justice and good Government; while from the increase of wealth, and the enhanced value of landed property, the gradual increase in proportion of litigation which resulted rendered it in some measure necessary."

In electing fit officers for the discharge of the duties of Native Commissioners, the main consideration was to incur as little additional expense as possible. With this view, the duties of district moonsiff were delegated, with the sanction of Government to the canoongoes—paid officers of Government, who, under the new system of pergunnah putwarees, had scarcely any duties to perform, the business which formerly fell to them being transacted by the latter. By this arrangement all additional outlay was saved, the only charge, for stationery, &c., being defrayed by institution fees of eight annas on each suit—the whole of which, in cases decided on investigation, or adjusted by razeenamah, is paid to the moonsiff. In suits dismissed on default it is carried to the credit of Government.

The number of moonsiffs was fixed at eight, of whom seven are canoon - goes and one the court pundit, residing at Almorah, under the designation of sudder ameen. Their several jurisdictions are as follow:—

1	Sudder ameen,...	Almorah and Baramandal.
1	Moonsiff,	Pergunnah Pali.
1	.. .....	Phuldakote, Dhunnea Khote.
1	.. .....	Kota, Chukota, Ramgar, Chowgurka, Gungolee, Dhanpore, and Kuttare.
1	.. .....	Shore, Seera, and Askote.
1	.. .....	Kalce Kumaon ad Decaneerow.
1	.. .....	Chandpore, Budhan, Dussolee, Pynkundi, Mulla Sullan, and Tulla Sullan.
1	.. .....	Nagpore, Chouunkote, Gunga Sullan, Sreenuggur, Barasco, and Dewulgurh.

The following rules for the guidance of the moonsiffs were framed in the spirit of Regulation XXIII. of 1814, with a few verbal omissions and insertions. As the system for distraint for rent is not in force here, the moonsiff was authorized to take cognizance of claims for arrears of rent of the current year, and further, to hear complaints for damages committed by cattle in the crops of villages within their respective jurisdictions, the latter forming a most common cause of quarrel in the interior. They were empowered, in the first instance, to hear suits for money or other personal property not exceeding in amount or value Rs.25. The specification in regard to claims for rent, and for damage sustained by crops, of this limitation was superfluous, as, from the smallness of the villages, and the minute sub-division of landed tenures, no single individual claim ever amounts to that sum. A short experience of the utility of these

functionaries led to an extension of their powers in 1820 to Rs. 50. With reference, too, to the great extent of the province, a clause was added empowering moonsiffs, in the first instance, to decide causes exceeding Rs. 25 in amount when referred to them by the Commissioner with the mutual consent of both parties in the suit. The period of four years was fixed as the limitation of date for the cognizance of claims. The determination of suits by the oath of one of the parties being here in common practice, a rule authorizing such a mode of decision was introduced. The right of appeal was granted in all cases from the decision of the moonsiff to the Court of the Commissioner (now to the Courts of the Assistants), the period of limitation for the receipt of such appeal being fixed at two months, in consideration of the extent of the province. The appointment of moonsiffs had effect from 1829. The rules sanctioned by Government are appended.

Disputes regarding land form the greater portion of civil suits instituted. The value of those in action rarely exceeds Rs.100.

"The general absence of crime in the province," observes Mr. Traill, "renders this branch of administration (criminal justice) of
Criminal courts. minor importance. From the 1st January, 1820, to

31st December, 1821, the total of criminals confined in jail amounted to 65, for the undermentioned offences:—

"Murder,	....	...	...	...	4
"Theft above Rs.50,	....	...	...	...	3
"Forgery and perjury,	....	...	...	...	2
"Adultery,	....	...	...	...	3
"Petty thefts, and receiving stolen property, ...	...	...	...	...	29
"Assaults, defamation, and other petty misdemeanours,					24
					65"

It has been remarked by a late author that, "Crimes and acts of violence are rare amongst an unenlightened people. When such are neither enslaved nor oppressed, nor exposed to poverty or persecution, they seldom commit crimes either against society or individuals. They continue innocent and harmless, and well-disposed towards each other, till an intercourse with civilized man teaches them how to be discontented, by suggesting pleasures of difficult attainment, and awakening desires which cannot be fulfilled without injury to their fellow-beings."

This remark would appear applicable to Kumaon. Even now, after an intercourse of some twenty-two years with civilized man, there is yet a general absence of crime. Murder and theft are yet rare amongst these people; and

although all crimes have been on the increase since the period quoted by Mr. Traill, yet the total of criminals confined in the Almorah Jail on the 1st January, 1837, amounted only to 142 and for the undermentioned offences:-

Murder,	...	...	...	...	7
Dacoity,	...	...	...	...	28
Thefts,	...	...	...	...	31
Affrays with wounding,	...	...	...	...	8
Petty affrays,	...	...	...	...	24
Perjury and forgery,	...	...	...	...	22
Selling and kidnapping women	...	...	...	...	7
Adultery,	...	...	...	...	4
Gambling,	...	...	...	...	4
Minor offences,...	...	...	...	...	7
			Total,	...	-----
					142

The dacoitees all took place in the Bhabur or Turai, having been perpetrated by robbers from the neighbouring districts of Rohilkhund. Adultery is common amongst the lower orders, but it seldom forms a subject of complaint in the court, unless when accompanied by the abduction of the adulteress.

Complaints against individuals for sorcery and witchcraft are very common. All cases of unusual or sudden sickness and mortality are often ascribed to witchcraft, and individuals have been murdered on suspicion of having occasioned such calamities.

Applications to the court on the subject of caste are numerous: these are invariably referred to the pundit of the court, whose decree delivered to the party is always conclusive. These references are no doubt a consequence of the practice established under the former Governments, by which the cognizance of cases involving deprivation of caste was confined to the Government Court. The people to this day appear to consider such reference as the only effectual means for obtaining restoration and absolution.

Infanticide and suttees are now unknown in the province. Suicide prevails amongst females of the lower orders, and it occurs frequently from no other assignable cause than from a disgust of life. Suicide is seldom committed by males, except in cases of leprosy.

With regard to punishments for offences, the only punishments we have are
 Punishments. fine and imprisonment; the latter with or without
 labour in irons. The amount of fine levied is acco-

rding to the circumstances of the criminal and the nature of his offence, and rarely exceeds Rs. 200; it seldom amounts to Rs. 50 even; in common cases from Rs. 5 to Rs. 10 is the limit.

The period of imprisonment rarely exceeds two or three years; but there are instances of Mr. Traill having sentenced offenders to seven years' imprisonment. The penal regulations of the Bengal Presidency may be considered as the basis of the penal Code of Kumaon, as far, at least, as they can be brought to bear in a district situated as Kumaon is, with reference to the peculiar habits of a people differing so materially in many respects, as do the Kumaonees, from the inhabitants of the plains.

Kumaon being a non-regulation province, the only regulation which has ever been recognized is X of 1817, framed expressly for the trial of persons charged with the commission of certain heinous offences in Kumaon and other tracts of country ceded to the Hon'ble East India Company by the Rajah of Nepal, &c. &c.

Appeals beyond the Commissioner's Court have been hitherto unknown, and the people have been at all times contented and happy. That there have been petitions presented for several years past to civil functionaries visiting the province from time to time *by certain* discontented individuals, and others of notoriously bad character, at Almorah, appealing against the acts of the Commissioner, I do not pretend to deny. Some even have gone so far as to appeal to the Governor-General. But such persons are everywhere to be met with; their acts cannot be brought forward as a criterion of the wishes of the people generally to be permitted the right of appeal to the courts in the plains. Such appeals would only encourage litigation, and would involve the parties in expenses to an amount of which they can form but little idea, judging as they naturally would from the cost of suits in their hill courts. A late Commissioner in the 3rd Division, recommended to the Nizamut Adawlut, I understand, that the province of Kumaon should be placed under the Commissioner in Rohilkhund, in the same manner as any other district; but that court declined his recommendation, intimating to him that the Commissioner of Kumaon was out of his jurisdiction in criminal and civil matters, except in his capacity as Superintendent of Police and occasional Judge of Circuit.

The management of the police in the interior is entrusted to *tehseeldars*; and the only establishments exclusively devoted to Police. this duty are the *thanuahs* at Almorah and Sreenuggur, and at the five principal ghats towards the plains. The expense of these establishments amounts to Rs. 262 per month.

The *putwarees* are also entrusted with the duties of reporting on matters of police, as well as *revenue*. And subordinate to these are the *kumeens*, who are answerable for the police of their respective *puttees*; they report offences to

putwarees, and apprehend offenders, and this they are required to do by the customs of the country, without the necessity of an order either from the local police or the Sudder Court. The obligation is, however, enjoined in their purwanahs. In the event of a robbery being committed on a stranger or passenger within a village, the responsibility of the pudhan, while it calls for all his exertions in tracing the property and offender, cannot in justice extend so far as to subject him to penal consequences of failure, unless there should appear strong grounds for suspecting his connivance in the theft. Thus the details of police are, in this province, managed by the revenue authorities. No people of the description of village watchmen exist in the hills; the almost total absence of theft rendering any such establishment unnecessary.

The kotwalee was abolished at Almorah in 1923, and the duties transferred to the peshkar of the Huzzoor Tehseel, to whom the small police establishment of Almorah is subordinate.

The Kumaon Local Battalion is also available for police duties, and during the healthy season in the Turai, from November to April inclusive, detachments are stationed along the frontier of Rohilkhund for the protection of the Bhabur from dacoits. These are, however, quite inadequate for the purpose; they can, indeed, afford protection to the immediate vicinity of their posts, but, where the forest is so dense in every direction, a traveller may be plundered and murdered within a very limited distance, and the perpetrators of such violence would experience no difficulty in eluding their pursuers, however active the latter might be.

The turai attached to Kumaon has not the benefit of such protection afforded to it as similar forest tracts to the westward possess. Bodies of horse are available in other districts, and such mounted police would prove of greater service in checking the depredations of dacoits in the Kumaon Turai than the whole of the Kumaon Battalion, or any other bodies of dismounted men will ever be able to effect. The Kumaon Turai is now becoming the general haunt, it is said, of many of the depredators who have hitherto infested the western forests, from which they have been expelled by the better system of police established in that quarter.

Chowkeedars were employed in the Turai by former Governments, who engaged under certain conditions to repress robberies within their respective jurisdictions, and made themselves responsible for the restoration of all property which might be stolen therein.

The system being found bad was totally abolished very shortly after the conquest of the province by the British. Thefts of cattle were frequent, and suspicion attached to the chowkeedars themselves of being at least participators, if not principals, in these thefts; restitution of the stolen property seldom took place; and numerous abuses were daily complained of. Under such circumstances

it was deemed expedient to adopt some other method less objectionable, and recourse was had to the present system for the protection of the Turai.

Sensible of its imperfections, I have to solicit the indulgence of His Honor the Lieutenant-Governor for this report. I have drawn it up to the best of my ability; and have availed myself of the several memoranda of my predecessor, found in the office, adding such remarks as my own experience dictated. I trust His Honor will kindly make allowances for every deficiency.

Appendix K. b.

SLAVERY IN KUMAON.

Abstract of the Proceedings of Government in the Judicial Criminal Department, dated 31st May, 1837.

The Commissioner of Kumaon was called upon for a report on the traffic in slaves in Kumaon, and the practice of cultivating the soil by the labour of Domes purchased for that use, which is said to exist there and in the hill districts generally.

On the 5th February, the Commissioner reported as follows:—Slavery in Kumaon, appears to be hereditary. The classes of slaves are distinguishable into household slaves and slaves kept for the cultivation of the land; the former Rajpoots, the latter Domes. This state of bondage would appear to have existed from a very remote period. The slaves are dependent on their owners for food, lodgings, and clothing, and for the discharge of marriage expenses. The purchase or temporary engagement of *such persons* for carrying on cultivation, as well as the purchase of females for the uses of prostitution, are still common, and have never been prohibited. Such transactions are accompanied by a deed of sale. The recognition of slavery by the courts is confined to the sale of individuals by their parents. *Claims for freedom or servitude are heard like other suits.* Children seized by the Goorkhas for arrears of rent are always set at liberty, the custom having been prohibited by the Nepal Government. Transfers of slaves from one owner to another take place with the consent of the slaves. Complaints on the part of slaves are rare; whence it is to be presumed that they experience humane treatment from their masters.

"The descriptions of sales to which penal rules have been extended, are in number three, viz:—

"1st,—The sale of wives by their husbands.

"2nd,—The sale of widows by the heirs and relations of the deceased husband.

"3rd,—The sale of children for the purpose of being taken out of the hills into some other district.

"Since slavery is not countenanced by Government, solicits instructions for his future guidance. Is of opinion that slaves might perhaps be set at liberty by degrees; their immediate and unqualified enfranchisement does not seem to be demanded by the degree of civilization which society has attained.

"To themselves it might be a questionable benefit, while such a measure would undoubtedly affect in a very serious manner the interests of a large class of the landholders of the province."

On 24th February Government called for specimen records of cases of —

- (1) Claims for service.
- (2) Claims for freedom.

In forwarding these records, on 5th April, the Officiating Commissioner sent also a form of execution, exemplifying the mode in which decrees for slaves were enforced, adding that, "with regard to cases in which freedom is decreed by the court, no enforcement of the order is usual; a copy of the decree being quite sufficient to ensure the manumitted party from further claim on the part of the individual cast in the suit."

Finally, Government intimated its desire that in future no suits, either for the restoration of slaves or for the enforcement of slavery, should be received in the courts under the Commissioners of Kumaon.

Appendix K. c.

MR. R. M. BIRD'S *Note on the Administration of Kumaon, dated 13th June, 1837.*

My instructions to the Commissioner, 3rd Division, respecting the settlement of Kumaon are already on record, and need not be further referred to. But Kumaon being a remote province, seldom visited by any superior authority, and the people having the greatest terror of coming down into the plains, it appears to me proper to put on record such matters as came under my observation during my visit there, although not immediately connected with our own department, for the information of Government.

2. The records, both English and Native, of the Kumaon office are in a state of most admired confusion; and it was not, therefore, possible to verify such facts as I desired to enquire into by reference to written documents. What I am to mention, therefore, was principally obtained from other sources, but, as I used every precaution to avoid being misled by false information, I believe most of the circumstances which I may state may be at any rate sufficiently depended upon to form good ground for more deliberate enquiry.

1837.

3. As the people are too ignorant to know anything of our mode of dividing business into departments, each altogether unconnected with the other, petitions on every possible subject, revenue and judicial, civil, criminal, and political, were pressed upon me, and the matters brought forward in these petitions first attracted my attention to many points of enquiry.

4. The first point to notice is the European establishment. There is an officer called a Commissioner and three European assistants for the management of a country paying Rs. 2,34,000 to Government.

5. The office of Commissioner is one of very undefined powers, and appears to have been originally constituted expressly for Mr. Traill. From all I can see and hear, the results of the experiment have not turned out altogether favourable, although framed to suit the particular character and scope of one individual. When such an appointment comes to be thrown open to candidates of all kinds and selected without any peculiar fitness, it is manifestly desirable that the office should be placed on a different footing. The present incumbent¹ is not a man of any official experience in any department, and himself requires both guidance and control. He was appointed fifteen months ago.

6. The three assistants are, Mr. Batten, Captain Corbet, and Mr. Thomas. The former gentlemen has but a short time held office in the hills; but he is a man of a well-cultivated mind, much ability, great zeal, indomitable energy, and an earnest desire to promote the welfare of the people under his charge. His danger would be impatience of unavoidable errors and imperfections, and pushing his designs beyond the bounds of practicability; but under the judicious guidance of matured information and experience he will be an invaluable officer. As his health will oblige him to retain his appointment in the hills for a considerable period, we should endeavour to turn his services to the best account. Government have appointed him Joint Magistrate and Deputy Collector of Gurhwal, and I have directed that he shall assume independent charge of the settlement of that province, under the immediate guidance of the Commissioner of the Division. I would propose, if Government approve the measure, that the whole of the Settlement Department of Kumaon be placed under Mr. Batten, and that he should commence the settlement of Kumaon proper and Kalee Kumaon when he has completed Gurhwal, another officer being deputed to take his common duties in the latter district during his absence.

1. Colonel Gowan.

7. The other two assistants are Captain Corbet and Mr. Thomas. These gentlemen have both been some time in Kumaon, Captain Corbet and Mr. Thomas. and if there were any system of decision, or any fixed method of proceeding laid down, would, I have no doubt, succeed very well in common duties; But at present rule or method is a thing unknown, and the orders are such as to fill a practised mind with surprise.

8. If, however, any system were organized, it is impossible to imagine that Want of system in the disposal of business. there would be occupation for three officers within the narrow limits of Kumaon exclusive of Gurhwal, and, in fact, occupation is only obtained by the same case being continually re-tried. This was my own impression, and it was most distinctly and forcibly stated, and many of the attendant evils clearly pointed out in a petition of which I subjoin an abstract.

9. Captain Corbet commands the Local Corps, and resides at Howelbagh. No necessity for two Assistants in Kumaon. This is a distance of not more than two hours' ride from Almorah, and consequently Captain Corbet's services would be always available at the sudder station, and his assistance would be amply sufficient to enable the Commissioner to dispose of all business before him. If, therefore, it be considered expedient to retain Mr. Thomas in the province, I would recommend that he be placed under Mr. Batten's orders in Gurhwal, and he will probably by the time Mr. Batten has completed the settlement of Gurhwal, and is prepared to undertake another portion of the territory, have acquired sufficient acquaintance with his duty to be capable of officiating during Mr. Batten's absence.

10. Some arrangement of the duties would even then be required between the Commissioner should be empowered to distribute the judicial work. Commissioner and his assistant, Mr. Corbet. The best mode of proceeding would be to direct that Colonel Gowan, under the general superintendence of the Commissioner of the Division, make such an assignment of the duties as may be most expedient, as is done in other districts.

11. It seems to me inexpedient to send young gentlemen to the hills as soon as they enter upon the public service, as has been done in many instances. It is better they should acquire habits of regularity, and become initiated into public duty in districts more closely superintended, and where administrative knowledge is in a more advanced stage, and the people themselves exercise more of a check over eccentric proceedings than is at present the case in Kumaon.

12. Some confusion arises from the title of Commissioner of Kumaon. It Proposed restriction of the powers of the Commissioner of Kumaon. was specially assigned to Mr. Traill, and special powers were also conferred on him, with reference, I presume, to the seclusion of the tract from the rest of the provinces, and to the peculiar qualifications possessed by him for its management.

13. Circumstances are now changed, and to me it does not appear expedient that the Commissioner of Kumaon should possess any other powers than those of Collector and Magistrate, and of a Zillah Judge in civil cases. It should be a part of the duty of the Commissioner of the Bareilly Division to spend two or three weeks of every year at Almorah. Criminal cases which are beyond the competence of the Commissioner of Kumaon are already, by special order of Government, heard and decided or referred by the division officer. But it is also expedient that an appeal should lie in criminal cases to that officer. At present there is no such appeal, and the state of the administration of criminal justice is

Commissioner of the (Rohilkhund) Division might receive and transmit statement of suits and petitions of appeal to Sudder Dewany Adawlut.

unimaginably bad. It also seems to me unobjectionable that the Commissioner of the Division should be directed during his residence at Almorah to receive a statement—a kind of catalogue *raisonne*—of civil cases decided by the Commissioner of Kumaon, and any objections or applications of appeal which may be offered; and that he should forward this catalogue, certifying any cases which appear to him to require notice, to the Sudder Dewany Adawlut: the latter court might then call for such cases as it should think fit.

14. Unless this, or some such plan, or some plan of bringing the civil decisions of the Kumaon authorities under the supervision of those who have some experience in judicial affairs, be adopted, the condition of civil justice must continue in a lamentable state. The exercise of altogether irresponsible authority by persons not possessed of enlarged knowledge or of lengthened experience in public affairs, and unpractised in the ascertainment of truth amidst confused and conflicting statements, can only lead to the most unhappy results.

15. From the European I come to Native establishment. This, also, requires a thorough reconstruction. It consists of a not very large number of very ill-paid persons, whose salaries are not fixed on any scale having reference to the ability or labour required, and who obtain some unauthorized addition to the scanty pay out of the amount collected as *tulubana*. This appears to me altogether objectionable, and I would propose, if Government approve, to call on the Commissioner of Bareilly to submit, in concert with the Commissioner of Kumaon, a schedule of a moderate establishment on a proper scale of pay, to which the sanction of Government should be sought; and I would direct the whole of the *tulubana* receipts to be carried to the account of Government.

16. The next subject of notice is the police. It is stated that there is no faithful record of crimes committed in any part of the province, and that in fact crime is less infrequent than has been generally supposed and

Police establishment of Turai.

stated. On that point, however, my information is altogether general and vague. But the particular subject which I consider it my duty to bring to notice is the police of the Turai.

17. There is a strip of country, extending from the Ganges opposite Hurdwar on the west to the confines of Oudh on the east, which has been long the haunt of banditti, and the scene of the most atrocious crimes, committed with perfect impunity. This tract originally belonged to Kumaon under the Nepal Government, and has remained attached to it since, I presume, merely because the evil consequences of that arrangement have not been brought to the notice of Government.

The Turai haunted by robbers.

18. The officers residing in the hills have no sort of control over this tract, nor any information of what passes there. The tract varies in breadth from ten to near thirty miles. It is peculiarly unhealthy, and chiefly covered with dense forest. During eight months of the year it is altogether abandoned, except by the tribes called Boksas and Tharoos, who alone of all human kind appear able to endure the pernicious climate. For four months in the year it is the resort of the hill-people and their cattle, and through it pass all the tracks by which the commerce of the hills and the plains is carried on.

Description of the Turai.

19. During the busy season the banditti establish themselves in the forest in overwhelming numbers, and commit the most fearful atrocities against the merchants passing through with goods, the herdsmen from the hills and plains who take cattle there to graze, and the inhabitants of all the villages and towns bordering on the forest.

Habits of the robbers.

20. The information I could obtain can have no pretension to statistic accuracy, but the histories which were told me of skeletons of human beings found tied to trees, and supposed to be the wretched herdsmen whom the robbers had bound alive and so left miserably to perish, and the accounts of merchants and travellers killed and wounded, appeared authentic; and the village of Roodurpore was stated by the remaining inhabitants to have been reduced from a thriving town to a miserable hamlet by the oppression of the robbers.

The atrocities committed by them.

21. If they could have timely notice of the occurrence of these crimes at Almorah, which is impossible, they have no establishments or appliances to cope with the criminals of this class, and therefore some other arrangement is indispensable to the restoration of order throughout this tract.

Imperfect control exercised by the hill authorities.

22. To transfer the portion opposite to each to the districts of Bijnour, Moradabad, Pilibheet, and Bareilly, seems to me insufficient. The stations of the

Magistrates in all those districts are comparatively remote; unity of effort and action would be with difficulty attained; and the Magistrates could not give to the particular duty the undivided attention which the suppression of crime so inveterate, and the restoration of confidence to a people so long hopeless of efficient protection, requires. Also, when the Magistrate is so distant, and obliged to depend so much on his Native police officers, the latter attain too much power. From the notorious insalubrity of the climate no persons who have any chance of obtaining office elsewhere are willing to accept employment there. The choice, therefore, is limited to the very refuse of that class who seek police situations, never the most respectable; and the common pay of the police is so small, that, taking all the circumstances together—the distance of the Magistrate, the consequent chance of long evading detection, the scanty pay, the little inducement to energetic efforts against the dacoits, and the great risk with which such efforts must be attended—the police are apt to find it answer better to join the banditti. The ill-consequences of such a state of things in a forest country among ignorant people, Mr. H. S. Bouldersons' well-known report of the ills inflicted by the police in North Rohilkhund will evince.

23. The proper course seems to me to be to have a Magistrate appointed to
 Proposal to appoint a separate Magistrate for the Turai. the special charge of that tract, with an establishment specially entertained on adequate pay, including a strong force of horse under his orders, and possessing joint jurisdiction with all the Magistrates of Rohilkhund, so that he may be able to track out and apprehend the dacoits to whatever district they may retire.

24. This arrangement need not be attended with any great expense. About
 To be provided for by abolishing the Joint Magistracy of Kasheepore. four years ago the appointment of a Joint Magistrate and Deputy Collector of Kasheepore was made by Government, principally with a view to police purposes. At least the abolition of the office would not, I apprehend, cause us any inconvenience whatever in the Revenue Department. I would apply the salary and establishment of that office to the purpose of forming a magistracy of the Turai.

25. The officer appointed should be at liberty to choose his own residence
 Police duties incumbent on such a Magistrate. in any one of the neighbouring districts which he might prefer from April to October, both inclusive; but from November to March he should be always in the immediate vicinity of the forest, prepared to pursue and attack the bodies of armed dacoits wherever they may collect, and to afford protection to the trade passing and repassing between the plains and the hills. If a British Magistrate properly supported by an armed force were on the spot, and the fear of consequences removed, he would speedily obtain from the herdsmen, who are well-acquainted with the intricacies of the forest, all requisite information.

26. Detachments of troops, both from the regular corps stationed in Kumaon and from the local corps, are now Troops of no use for police purposes. stationed at different posts in the Turai during the cold weather; but regular troops are of no avail for such a service, and their protection extends no further than the range of their muskets.

27. The tract should, of course, be considered to belong to the plains and not to the hills. Its revenue administration might Revenue management. be committed to the Collectors of the adjoining districts. But there is in fact little to collect, and the great matter would be to induce men, if they can be induced by long leases and low terms, to clear the forest and bring it into cultivation.

28. The Commissioner of the 3rd Division and the Magistrates of Rohilkhund will be able to furnish Government with all necessary details on this subject. My only object has been to bring the matter to the notice of those who could remedy the evils complained of.

29. The system of criminal justice in Kumaon requires, also very great Cases of injustice in reformation. I was credibly informed that persons criminal administration. are apprehended, retained in jail, and worked in irons for years upon the roads, not only unsentenced and untried, but even without any recorded charge. I communicated on this subject unofficially after my return to Allahabad with the Judges of the Sudder Nizamut Adawlut, and at their request placed in the hands of their Registrar the means of testing the accuracy of my information. I think it, however, my duty to remark that it is essential to the due protection of the people that they should have an appellate authority to which they may resort in the immediate vicinity, and that the Commissioner of Rohilkhund or the Senior Judge of that Division would appear the most proper selection.

30. The civil jurisprudence (?) appears to me not less faulty. Something in Similar cases in civil the shape of a brief code should be drawn up, such administration. as lately appeared in the newspaper for Assam, and the powers of the officers entrusted with the civil authority should be in some degree defined, and regular reports should be furnished to the Sudder Dewany Adawlut, as from all other places, accounting for every suit brought upon the file. It was stated to be a practice to avoid all arrears of suits by non-suiting the plaintiffs towards the close of the year in all that remained undecided.

31. A case was put into my hands, which I think it right to mention in detail, as proving to my judgment the inexpediency of the system under which it could arise.

32. A common suit for a bond-debt was brought, and tried by Mr. Thomas, and, the bond being proved by witnesses, a decree was passed in favour of the plaintiff. The defendant appealed to the Commissioner of Kumaon. I could not from enquiry ascertain that any further evidence was taken; but the Commissioner took a different view of the case, and cast the plaintiff.

Instance of a case in which a plaintiff and witnesses in a civil suit had been punished for forgery and perjury without any proceedings on the criminal side.

33. He then held a proceeding in the Foujdaree Department, and, as I am informed, without putting the parties on their defence, or taking any evidence for or against them, sentence the unfortunate plaintiff to five years' imprisonment with labour and irons, and the witnesses to two years' imprisonment in the same manner.

34. Now, to say nothing of all the remaining anomalies, there, is this peculiarity in the case, that the claim was decreed by the Court of First Instance. But if the case was so gross that on a mere inspection the parties and witnesses could be convicted of forgery and perjury, what are we to say to the inferior Judge who decreed the claim. He ought, if the latter order be right in justice, certainly to be removed for incompetence. An abstract of the petition is subjoined.

35. I do not know that it is necessary to go beyond this. I have, I think, stated enough to justify myself as a trusted servant of Government in bringing to notice matters not in my own department, and which, not having received any special authority for that purpose, I was unable to investigate, so as distinctly to point out the errors and indicate for each its appropriate remedy. But the facts which I have recorded are sufficient to point out where knowledge is to be sought by those who may be employed to seek it. The general root of the evils which prevail is obvious—the committal of uncontrolled power to those whose fitness for its use has not been proved. The remedy is equally clear, namely, to bring the civil officers of Kumaon under the supervision of those experienced persons to whom the guidance of the other districts of the provinces has been committed, and to provide an appellate power sufficiently near to be available to the hill people.

The remedy to be sought in the subjection of the local authorities to the Sudder Board and Sudder Court.

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Appendix K. d.

ACT X. OF 1838.

1. It is hereby enacted that Regulation X., 1817, of the Bengal Code, be repealed.

2. And it is hereby enacted that the functionaries who are or may be appointed in the province of Kumaon be henceforth placed under the control and

superintendence, in civil cases, of the Court of Sudder Dewany Adawlut at Allahabad; in criminal cases, of the Court of Nizamut Adawlut at Allahabad; and revenue cases, of the Sudder Board of Revenue at Allahabad; and that such control and superintendence shall be exercised in conformity with such instructions as the said functionaries may have received, or may hereafter receive, from the Government of th North-Western Provinces of the Presidency of Fort William.

Note. —Previously to the passing of this act, Kumaon had been subjected to the jurisdiction of the Sudder Nizamut Adawlut by Regulation VI of 1831, and to the Sudder Board of Revenue by Regulation X. of the same year, (see Appendix K. Z.) The only novel feature in the act was the control given to the Sudder Dewany Adawlut over the Civil Courts of Kumaon. No practical good was found to result from it. The provision was lost sight of or ignored in the Rules of 1863 (see Appendices K. q. and K. s.), and virtually rescinded by Act XXIV. of 1864, which stamped the rules, so far as concerned the jurisdiction of the courts, with legislative sanction.

Appendix K. e.

ABSTRACT OF PROCEEDINGS OF GOVERNMENT, ON DATE 4TH JULY, 1838,
IN THE REVENUE DEPARTMENT.

From SECRETARY SUDDER BOARD OF REVENUE, dated 27th April, 1838.

Submits for orders three questions connected with maafee holdings in Kumaon and Gurhwal:—

1st,—Whether unrecorded lands lately assigned to individuals shall or shall not be charged with revenue, and with or without investigation?

2nd,—Whether investigation shall take place regarding recorded tenures held by individuals; and if so, on what principle it is to be conducted?

3rd,—Whether any distinction is to be made in respect to assessments for religious purpose between temples and institutions situated within or beyond the limits of British dominion?

ORDER

1st,—The maafee record seems to be different from the registers of the regulation provinces.

The entries were not made by the parties, but by canoongoes or pergunnah officers. There was no proclamation attaching penalty of resumption to non-registry. Omission of registry would not always be the result of laches of the maafeedar, but might be occasioned by the carelessness or knavery of the officers

of Government; it would not be equitable, therefore, to draw a distinction between recorded and unrecorded holdings as regards stability of tenure.

2nd,—The process and principles followed in the ceded and conquered provinces may be applied to tenures in Kumaon; the Assistant's investigation to be subject to appeal to the Commissioner of the province. Respect to be shewn to hereditary maafees founded on prescription. Uninterrupted possession for sixty years antecedent to the present date, during which two successions took place before acquisition of the province, ought to confer a valid title, whether the maafeedar hold no sunnud or facts to establish the authenticity of those he may possess, supposing no forgery.

3rd,—The validity of grants for these purposes to be tried on the same principles; but in all cases where policy or respect for the feelings of the people may render resumption unadvisable, a report should be made to Government, which latter can be easily prepared as it will contain no lands which do not average ten beegahs.

Religious endowments in our own territory will be disposed of by the Government; those in foreign states may become the subject of discussion with the rulers of those states. A distinction to be observed between mere assignments of revenue, and lands held and managed by the maafeedars; the former may be commuted for assignments in the foreign territory, but it may be necessary in the latter case that the revenue demandable be liquidated by the State wishing to save a maafee from resumption.

Appendix K. f.

RESOLUTION,

Dated 26th January, 1839.

In accordance with the power vested in the Governor-General by Act X. of 1838, specifying the rules which shall be in force for the civil administration of Kumaon.

Enumerating the establishment of officers to be maintained, amounting to Rs. 4,220 per month. The province to be divided into two districts, *viz.*, Kumaon Proper and Gurhwal; in each of which are to be stationed one Senior Assistant, one Sudder Ameen, and one Moonsiff. The Junior Assistant to be posted wherever the Commissioner may direct. The rules for Assam (with certain alterations) to be in force for the administration of civil and criminal justice. In the revenue management, the Commissioner will occupy the same position in subordination to the Sudder Board of Revenue as the Commissioner of a Division in the provinces.

A Senior Assistant will exercise the same powers as a Collector, and a Junior Assistant as a Deputy Collector.

The above rules to be in force from 1st February next, or such day after that date as they may be promulgated in the province. The Kumaon Local Battalion transferred from the Civil to the Military Department: the sepoy of that corps employed as guards at the jail, are to be relieved, and their places supplied by burkundazes. Captain Corbet, commanding the Kumaon Local Battalion, will vacate the civil appointment he has hitherto held of Assistant to the Commissioner of Kumaon.

Letter of same date to Commissioner of Kumaon details instructions for giving effect to foregoing resolution. Forwards a copy of the rules in use at Simla, of levying a percentage on the value of the matter at issue, to be paid by the losing party, and the imposition of a fine in cases vexatiously instituted and directs him to adopt the same system in Kumaon.

Appendix K. g.

USE OF STAMP PAPER BY THE AUTHORITIES IN KUMAON FOR ONE YEAR OF THE VALUE OF EIGHT ANNAS.

Extract of a Despatch from the HON'BLE THE COURT OF DIRECTORS, No.10 of 1841, dated 27th October, 1841.

60. We do not object to a charge of eight annas for every copy of an order passed or document filed, which private parties may apply for to the public authorities in Kumaon; but we approve of your having desired that the effect of this measure may be reported to you at the end of a year, with a view to its discontinuance if advisable.

From G. T. LUSHINGTON, Esq., Commissioner of Kumaon, to OFFG. SECRETARY TO GOVERNMENT, North-Western Provinces, Judicial Department, Agra, dated 21st February, 1842.

SIR,—In reply to your letter No. 295,¹ dated 15th instant, with enclosure, being extract of a despatch from the Court of Directors, No. 10, dated 27th October, 1841, relative to the sanction of an eight-anna stamp in this district, and the propriety or otherwise of continuing its use, I have the honour to remark that there would appear to be some misconception on the part of the Hon'ble Court as to the nature of the sanction formerly granted by Government, which was not that an eight-anna stamp should be demanded for copies of all orders passed or documents filed, but solely that parties requiring copies of decisions or

1. Covering letter to extract.

documents of former years should be required to put in stamp paper of the above value, whilst copies of all current decisions are tendered to the parties by the courts, and private persons allowed to make copies of any documents filed in pending cases at their own expense.

2. The above-restricted use of stamps has not, that I am aware of, been productive of any inconvenience to private parties, and I would therefore, wish it to be continued; but if the Government consider even this restricted use of a stamp objectionable, it might be abolished, provided two additional nukul nuvees—one for Kumaon and one for Gurhwal, at Rs. 10 and Rs. 8 per mensem respectively—be sanctioned.

From SECRETARY TO GOVERNMENT, North-Western Provinces, to COMMISSIONER OF KUMAON No. 413, dated 5th March, 1842.

SIR,—I am directed to acknowledge the receipt of your letter No. 24, dated 21st ultimo, and to state for your information that His Honor the Lieutenant-Governor sees no objection to the restricted use of stamps in Kumaon as reported by you; and the continuance of the measure is therefore sanctioned.

Appendix K. h.

ON THE MANAGEMENT OF THE KUMAON BHABUR AND THE TURAI.

Report by J. H. BATTEN, ESQ., Senior Asst. Commissioner, to G. LUSHINGTON, ESQ., Commissioner of Kumaon, dated 18th March, 1841.

SIR,—Understanding from Mr. Conolly, Commissioner of Rohilkhund, that the subject of the Turai police is likely to be brought to the notice of His Honor the Lieutenant-Governor, and discussed before him at Bareilly on the arrival of His Honor there during the present month, and having been requested by Mr. Conolly to furnish him with my own opinions as to the reality or otherwise of the grievances of the hill people in regard to the present system, I have the honour to request that you will forward to the Rohilkhund Commissioner, the following remarks and suggestions in answer to this query:—

"Are the hill-men dissatisfied (generally) or not; and if so, what are their real grievances?"

2. The hill people are, in the proportion of 999 to 1, dissatisfied with the transfer of the magisterial jurisdiction from the hills' to the plains' authorities. On this point I have not a shadow of doubt, and this dissatisfaction is one great cause of the falling-off of cultivation in the older clearings, and of the non-cultivation of new ground in the Bhabur or forest-tract of Kumaon (north of the

boundary "chubootras"), attached to the Pilibheet magistracy. This fact I have thoroughly ascertained by personal examination of the people and country.

3. The grievances are some of them imaginary, and owing to the recollection by the Puharees of Mr. Traill's despotic system of government. I was told in a large assembly of hill-men the other day, at the Huldwanee market, that Mr. Traill was Rajah of Kumaon, and never allowed the gentlemen of Rohilkhund District the slightest "dukhum" in the Kumaon Turai within the boundaries; and that after Messrs. Halhed and Traill had fixed these boundaries, the latter resented any attempt of the plains people even to cultivate the Kumaon Bhabur. The hill-men consider their dignity injured by the transfer of an old integral portion of Kumaon to the plains; and all the hill Native officials encourage these jealous feelings, being themselves Brahmins and landholders, whose pride is concerned in upholding the superior dignity of the Kumaon territory to that of the Rohilla Musulmans'. Had Mr. Traill been born and bred a Kumaonee *Joshee*, he could not have shown a greater partiality to the hill side of the question, nor stickled more for every inch of ground in his controversy with Mr. Halhed about the frontier. The people, seeing the pomp and circumstance (and expense) under which the boundary was settled, are naturally surprised and vexed at the facility with which the plains magistrates have now acquired jurisdiction, and laugh in my face when I say "both territories belong to the English Government," for Mr. Traill spoke, acted, and wrote as if this was a distinct Rajahship. This, nevertheless, is no laughing matter when it produces practical effects in lessening the resort of hill-men to the Bhabur, increasing the number of waste clearings, where till lately there was a fair show of cultivation, and stopping attempts at making fresh clearings in the forest.

4. The real grievances are the following, as far as I can gather:—

1st—That neither the Magistrates nor their Native officials (including both the district police and the amla of the court) understand the hill language as written in Nagree petitions and reports, and spoken in depositions and *viva voce* representations; that the ignorance of the spoken language gives rise to mistakes, especially in the reports sent to the Magistrate from the thannahs; but that the ignorance of the written language on the part of the officials compels the Puharees to submit to the expense of paying for the services of persons writing the Persian character, who are perfect strangers to themselves and their customs, and to other inconveniences which it is unnecessary to enumerate, as the evils of such a state of things in regard to the language of the people are obvious to every one.

2nd,—That the circumstance of the amla of the plains courts being quite unacquainted with hill customs and personally with the hill-men themselves, and of the hill-men being equally unacquainted with the amla and practice of the courts, gives rise to great delays in the prosecution of the cases, and some times to total neglect of them; and that, it being more difficult in the plains for the

Puharrees to gain access to the Magistrate himself than in the hills, owing to none of his attendants being their personal acquaintances, the Magistrate himself, however anxious to do justice, cannot easily rectify this state of things, the natural result of which is, either a denial of justice, or justice obtained through the means of bribery, and sometimes after the suffering of extortion.

3rd.—That to both these grievances above mentioned are added the great inconvenience, risk to health, and expense to parties, of attendance at Moradabad, Pilibheet, and sometimes, in the latter part of the hot weather and commencement of the cold season (owing to the residence there of the Pilibheet Magistrate), at Bareilly—place all at a great distance from the inhabited part of the Kumaon Turai; it being no answer to a complaint of this grievance to say that Almorah is equally distant, because Almorah is place of common resort to hill-men, enjoys a hill climate, and possesses none of the disadvantages enumerated under heads 1 and 2.

4th.—That the police of the plains are prohibited by regulations from themselves taking up and managing the decision of some kinds of petty cases between man and man, which, *prima facie*, appear to be of a criminal nature; and that thus it is in the power of any spiteful or litigious person to present petitions, and to drag down to the courts at the sudder stations witnesses and defendants at seasons when their absence from their lands and cattle is inconvenient, if not (as often asserted) ruinous.

5th.—That where the police do take up cases they often unnecessarily make mountains out of mole-hills, and, from not understanding the habits and mode of complaint of the hill people, report petty affairs to the Magistrate in such a manner as to cause the chullan of large parties to this court. That to avoid this evil, sufferers from petty thefts and other small injuries of a criminal nature neglect to report their losses to the police, and on the police discovering this, the hill people are denounced as concealers of crime, and consequently punished.

6th.—That on the occurrence of cattle-stealing by force, plunder of a "munde" (hill-mart) by robbers, theft with personal wounding, and similar heinous offences, the visitation of the police to the scene of the crime is often a greater evil than the injury to person and property which they come to investigate; that the rumour even of such occurrences is eagerly seized upon by the police as an excuse for their invasion of villages and cattlesheds ("goths"), and living upon the people at rack and manger (even if they do not extort money) for some days; and that this evil, one common to the whole police system in Hindoostan, is increased tenfold in the Turai by the bad character of the police servants employed—good men, with some few exception, such as Nadur Shah Khan at Huldwanee, not being procurable on account of the bad climate and small pay.

7th.—That, especially under the Pilibheet magistracy, the number of police chowkees scattered about the forest is unnecessarily large, and that thus a great number of villages and goths are subjected to the visits of plain burkundazes demanding milk, fowls, eggs, &c., for themselves, while, in fact, the inhabitants do not require these men as a protection; and that a few men stationed at the mundees where there is property to defend, and where there are bunneeahs to feed the defenders, would be sufficient for all purposes of police—it being quite an erroneous opinion that the Turai is now infested by gangs of dacoits, or that some bad practices as to feeding and concealing robbers suspected to exist among two or three landholders of Kota, prevail generally throughout the Kumaon Turai.

8th.—That the above-enumerated grievances are quite sufficient to account for the complaints on the part of the majority of the hill people against the existing system, and that it is a great injustice to those who suffer therefrom to compare their outcry with that temporarily raised by Lalljee and Kishna Jullal, and one or two others inhabiting the small pergunnah of Kota, under the Moradabad magistracy, who fairly brought themselves under suspicion of conniving with and concealing Ulwa, the dacoit, and his followers, and who were therefore seized and sent down to Moradabad for examination by Major Sleeman and Mr. Blunt.

9th.—That it is inconvenient and anomalous that the same people should be subject to the jurisdiction of separate zillah officers, according as they may have to transact civil or criminal business; that by the Kumaon rules the same European officer can be empowered to try civil suits and collectorial and criminal cases; and that, were the Turai subject to the Kumaon Commissioner, the same parties could transact their business at one time and one place, whereas now they may have a summary suit pending at Almorah and a case of theft at Pilibheet; and that this is very troublesome, because it is not the custom of the hill people to employ mookhtars, but rather on the contrary to carry on their suits of all kinds in person.

5. So far as the bad conduct of the police is concerned, the appointment of a separate Turai Magistrate, or the deputation annually of an empowered Assistant from Bijnour, Moradabad, and Pilibheet, to the respective Turais of those districts, would do away much of what is complained of, as it would also that arising from the distance of the courts; but, with reference to the other grievances enumerated, connected with the language, habits, feelings, and prejudices of the hill people, no steps will suffice short of restoring the magisterial jurisdiction of the hill authorities. It is for the higher authorities to determine whether this dissatisfaction is a sufficient cause for such restoration or not. In the Bijnour District, with the exception of Talookah Chundee, there is so very little Gurhwal Turai attached to the plains magistracy, and the Gurhwee mountaineers repair so little to the jungle for the purposes of cultivation and pasturage, that special measures do not appear necessary for the tract between Laldhang and the Ramgunga (or wherever the boundary may be between

Moradabad and Bijour Turais): moreover, very few complaints have been raised against the Bijour police for troubling the people; whilst Mr. Sympson's exertions, have, I believe, been very successful in ridding the country between Deyra Doon and Nujeebabad of dacoits—a country which I can remember as the scene of perpetual attacks on life and property. In Talookah Chandee the inhabitants generally remain throughout the year, being Tarooos, Boksas, and others, and not as in Kumaon hibernating Puharees. I think that in that tract, as in that west of it belonging to Bijour, any causes of complaint would be removed if the Bijour Magistrate, or his Joint or Assitant, from November the 15th to April the 11th or 12th, the date of Hurdwar fair, moved about the jungle-tracts and decided cases, referring as many as he liked to the hills; and if from the 12th April to 15th November, all criminal cases in which hill-men might be the chief parties, at whatever stage of the proceedings, were transferred to the Court of the Gurhwal Assistant at Sreenuggur—the thanadars at Chundee Kotdwara and elsewhere being directed to report on all matters connected with hill mundees and people to that court.

6. Pergunnah Kota comprises a doon of that name between Poulgurh and the base of the Ganger mountain, and the tract of country between the Ramgunga and Kosilla, and between the Kosilla and the Dubka, and the Dubka and Mukra rivers. That part which lies west of the Dubka has very few villages, but I do not attribute the want of cultivation there to any defects in the police system but to the nature of the country. The country about Poulgurh and Kota is very well cultivated, and in a fair state of prosperity; there being a good many permanently-resident zemindars possessed of capital and influence. These people, among whom are Lalljee and Krishna Jullal, above alluded to, are all hill-men, and some of them possess estates in the upper hills; and to them the present system is very obnoxious indeed. Moradabad is at a very great distance, and the perpetual quarrels among themselves, leading to constant complaints of a criminal nature, and to accusations against each other of harbouring and encouraging dacoits, are always likely to bring them and thier asamees into the court of the Moradabad Magistrate. Although, therefore, the actual petitions from this quarter against the Moradabad police may, in a great measure, have been got up by Lalljee Chukrait ;and other suffering from their own folly and bad conduct, still, this pergunnah, equally with the rest of the Kumaon Bhakur, is affected by most of the grievances enumerated in para. 4 of this letter; and whatever remedy is applied in the Pilibheet tract south and east of Kota will be suitable for this.

7. In this latter tract, comprising a part of Kumaon in some directions (as towards Tunda on the highroad to Rooderpore, and towards Chandnee Chowk near the Kalee or Sardah river:), extending nearly twenty miles, and nowhere less than six miles, from the foot of the hills, a great necessity certainly exists for a change of system; but, owing to the fact of the cultivators and cattle-keepers being for the most part hill-men, these latter will never be satisfied until either an appeal from the decision of the plains Joint Magistrate or Assistant in cases

connected with hill-men shall lie to the Kumaon Commissioner, or until an European officer, appointed to move about the Bhabur between November the 1st and April the 1st, shall be an Assistant under the Commissioner of Kumaon, available for other duty in the hills during the summer months. For my own part, I recommend the latter appointment; but, if the wishes of the hill people cannot be gratified in this respect, save at the expense of injury to the police system which guards the property of the Pilibheet and Moradabad lieges, and if the superior authorities really come to the conclusion that the numerous thannahs and chowkees now established in the Turai are really necessary throughout the year, all that can be done for the hill people is to establish a rule that, from April the 1st to November the 1st, every criminal case, great or small, in which Puharees are the parties chiefly concerned, shall be *exclusively* heard in the hill court; and that, between those dates, the police stationed in the Kumaon Turai shall report all matters connected with the hill people to the Almorah Magistrate, and obey the orders in such matters of that functionary. I am of opinion that there is no necessity for any police to remain in the *forest chowkees* after the retreat of the cowherds and cultivators from the Turai, and that the only spots where a permanent guard is necessary are the mundees of Burmdeo, Sunnea, and Huldwanee, and Mujhola or any similar mart or inhabitaney intermediate between the two last-named places, and also the posts of Kota and Poulgurh on the road to Chilkea from Almorah. If any of the police under the plains Magistrate have to retreat on account of the climate to the hills, they may just as well be subject throughout the year to the Kumaon authorities. But any such retreat during the unhealthy months to the hills is quite out of the question except in the case of an European Magistrate, to whom the hill climate for the hot six months would be an inducement for him to take the duties of the Turai during the cold months; for how, and where, and why, are the numerous policemen now entertained by the Pilibheet and Moradabad Magistrates, many of them Mussalmans of the plains, to be fed and lodged in the hills.

8. But I am of opinion that no portion of the police should remain after the 15th of June, at any station in the Turai at which there is neither a running stream nor a canal brought down to the foot of the hills, as the unhealthiest portions of the Turai (in the neighbourhood of Tarida, for instance) are found to be those in which such advantage do not exist and *vice versa*. In conclusion, I have only to make one observation, *viz.*, that I fully believe the assertions of the Puharees and Tarooos and Boksas of Pergunnahs Chukata, Dheeanerow, and Kalee Kumaon, that their eastern tract of hill Turai is not now harassed by dacoits, nor resorted to by them for the purposes of concealment, and that the late attacks on property in the Pilibheet Pergunnahs by Ulwa (the prison-breaker) and his band are quite different in their character from the dacoities of Boolakie and others in former days. Unless I am greatly mistaken, there is no evidence that any organized band of forest dacoits now exists west of the Sardah river; and, if this be so, it may fairly, perhaps, be asked whether the machinery of police in the Pilibheet and Moradabad jungle mehals is not unnecessarily great, and whether the expense of money to the State, health and life to the police agents,

and of peace, and quiet, and relief from police interference to the inhabitants, is not incurred without adequate cause.

Appendix K. i.

ON THE TURAI POLICE.

From OFFG. COMMISSIONER, ROHILKHUND DIVISION, to OFFG. SECRETARY TO GOVERNMENT, North-Western Provinces, dated 22nd February, 1842; with Extracts from a Letter by MR. CLARKE, Magistrate of Bareilly.

SIR,—I have the honour to acknowledge the receipt of your letters No. 2250, dated 27th November, and No. 111, of the 15th January last, on the subject of the Bhabur Turai Police.

2. In pursuance of the directions contained in the 8th para of the first one, Mr. Clarke and myself arranged a meeting with the hill authorities, for the advantage of personal conference, and had actually made some marches into the Turai last month for this purpose, when we were unexpectedly recalled to Bareilly by intelligence which seemed to render our presence there advisable, and the proposed meeting was in consequence abandoned. It is not likely that an opportunity will occur for another this season.

3. After all I am not aware that any object could be gained by further discussion, or that any important points remain to be settled. Under present circumstances there seems no reason why the Bhabur tract should not be made over to the hills at once. The question has hitherto been argued by the plains authorities on the assumption that the complaints of the hill people were exaggerated and unreal but His Honor has lately convinced himself by personal observation that such is not the case, and Major Sleeman seems to have entirely changed his opinion on this respect. The only question is, how the tract in question may be best given back without injury to the police administration of the plains.

4. I conceive that this will be sufficiently provided for by admitting the plains Magistrates to a concurrent authority in the Bhabur tract as far as the foot of the hills, by which I mean merely such authority as will enable them to pursue and hunt out dacoits and bad characters who may take refuge in it. I would have no further division of authority. The police establishments should be made over exactly as they stand, and the hill authorities can modify them in any way they may approve. The general control over them should rest entirely in the hills; and all trials should take place in jurisdiction in which the offence occurred. If the measure is to take place there could not be a better time for carrying it into effect than the present, when the whole Turai is entirely free of dacoits. Should the hill authorities be found unable to manage the police, and

the Turai fall into its former disorder, as most of the plains Magistrates apprehend it will, the only remedy will be to make over the complete jurisdiction of the tract, judicial and revenue as well as police, to the plains, and limit the boundary of Kumaon to the foot of the hills.

5. I conceived that His Honor would be glad to have Mr. Clarke's views on the subject, and requested him to draw up a report, copy of which I annex.

Extract paras. 2 to 11, and 15, of a Letter from R. H. CLARKE, ESQ, Bareilly Magistracy, No. 14, dated 14th February, 1842, to the COMMISSIONER OF ROHILKHUND, giving his Opinion on the Subject of Turai Police.

* * * * *

2. I will first briefly enumerate what appear to me to be the advantages and disadvantages of the existing arrangements, offering a few remarks on the most prominent.

3. The advantages are—first, a general great decrease of all kinds of crime; second, the suppression of robbery by open violence in particular, whether by dacoits on property in transit, or otherwise; third, the benefit of maintaining one jurisdiction over the forest opposite each district, instead of the anomaly of dividing a tract having no natural geographical division into two belts, and thus enfeebling the executive administration over both by placing each under separate authority.

4. The disadvantages insisted on by the hill authorities are—first, delay, vexation, expense, risk of health, long journeyings in the administration of justice; second, diversity in respect of language, customs, and habits; third, ignorance of the laws and of the practice of the courts to which the hill people are amenable; fourth, constant vexations, interference, extortion, and general bad character of the police, and concealment of crime by the hill people from the fear of a visitation from the official *employes*; fifth, the inconvenience and anomaly of the same people being subject to the same jurisdiction of separate zillah officers in the transaction of civil and criminal business.

6. In support of the asserted advantages, I beg to submit the following quinquennial statistical statement of crime, and to refer you to the concurrent testimony of most of those officers who have joined in the discussion of this subject from the commencement:—

7. I will proceed to offer a few remarks on the defects of the present system as they are stated in the 4th para of this report. Several of these remarks have equal reference to the subject, whether the Bhabur is retained or transferred.

COMPARATIVE STATEMENT OF CRIME IN THE DISTRICT OF PILBHEET, DURING THE LAST FIVE YEARS.

Years.	Murder.		Dacoitee.				High-way-robbery.		Burglary.				Theft; including Cattle-stealing.			Child-stealing.			Affray.		Assault, with Wounding, &c.	Arson.	Forgery.	Miscellaneous Cases.	Total.
	By Thugs.	Otherwise.	With Murder.	With Wounding.	Simple.	Attempt to Commit.	With Wounding.	Simple.	With Murder.	With Wounding.	Simple.	With Murder.	With Wounding.	Simple.	Receiving Stolen Property.	For the Slave Trade.	For the sake of Ornaments.	With Homicide.	With Violent Breach of the Peace.						
* 1837,	4	1	9	23	1	...	11	...	5	394	334	1	4	333	1	...	1	1	...	6	...	127	1,256	
1838,	2	5	1	6	...	1	14	1	2	161	236	1	15	985	...	8	1	1	2	16	...	70	1,529	
1839,	5	...	1	5	...	3	3	...	3	142	150	...	7	454	2	...	...	...	18	3	...	109	939	
1840,	8	2	3	6	...	2	2	...	2	186	170	...	4	527	...	...	...	2	7	2	...	126	1,049	
1841,	2	1	1	...	...	2	2	...	2	125	177	2	7	471	...	...	1	...	16	3	...	114	927	

* This was the year of famine. There has since been a general decrease of crime, more or less in every district; but not so great, I think, as in the Turai.

8. The delay, vexation, expense, &c., &c., would be in a great measure removed by the permanent local judicial tribunal which it has already been proposed in another report to establish in the Pilibhet District on its incorporation with Bareilly.

9. If the measures contemplated without arrangement are sanctioned by Government, then only parties in the most heinous offences would be required to come to Bareilly to give evidence before the sessions, or their cases might be committed for trial to the Almorah Commissioner.

10. The second disadvantage of diversity, namely, that of the hill people in respect to language, customs, and habits from the plains amlah, might be remedied in a great measure by the employment of some hill Native officers as writers in the sudder office and police thannas, and by taking down the depositions of the hill people in their own dialect by their own countrymen; translation in Oordoo or the Persian character being attached to each. The difficulty of the ignorance of the hill people is certainly deserving of consideration, but they must be equally well acquainted with our system of jurisprudence as those who live in the Mar adjoining the Bhabur Turai; if they are not it would be our duty if the Bhabur were retained to make known (as far as lies within our power) the laws and practice of the courts to which they are amenable, by means of translations in the tongue spoken in the hills.

11. The evils adverted to regarding the character of the police require amendment. As Mr. Bird remarks, the refuse only of a class of servants not very respectable in any part of the country will agree to take service in the Turai; we may therefore fairly conclude that the causes of inefficiency and misconduct in the Turai police are partly personal, and not *only* matter of organization. The difficulty of obtaining good officers with a proper degree of zeal in the absence of any gradation system of promotion, in so unhealthy a climate, on the present scale of allowances, is notorious. This evil I have in some measure endeavoured to correct in the revision statements recently drawn up for the Pilibhet District. I have, in those statements, proposed that all the burkundazes should receive Rs. 5 per mensem in the Bhabur and Mar chowkees, and I have also provided for a certain order of promotion from less to more lucrative employments, in order to stimulate the officers to a faithful discharge of duty. The business of police officers requires a special training according to their degree and station. Another imperfection of the past system, that of leaving police posts in the forest without any officer in charge, has also been remedied. Responsibility ought to be concentrated from the highest appointments to the lowest, or little will be felt, and the presence of a head man to check his subordinates is perhaps nowhere more necessary among our police than where our forest police officers reside.

15. In conclusion, it is but just to observe that the Almorah authorities have never yet had charge of the Bhabur with a strong organized police force under their control for its protection, and they will be able now to obtain better

intelligence of the state of crime, and will consequently be kept better informed of the administrative measures necessary for its prevention than they have ever been before.

ORDERS OF GOVERNMENT

From SECRETARY TO GOVERNMENT, N.-W. Provinces, to OFFG. COMMISSIONER OF ROHILKHUND, dated Agra, 11 th March, 1842.

SIR,—I am directed by the Hon'ble the Lieutenant-Governor to acknowledge the receipt of your letter No. 6, dated 22nd February, with its enclosure, and in reply to communicate the following instructions and orders:—

2. On a careful consideration of the whole of the correspondence, the Lieutenant-Governor authorizes the annexation of the Bhabur tract to the hill jurisdiction, the Magistrates of the plains having concurrent jurisdiction to the foot of the hills in so far as to warrant their following up and arresting any offender or fugitive who may seek shelter within the limits of the tract thus transferred.

3. The police establishments are to be made over on their present footing to the hill authorities, and to be, from the date of the transfer, solely under the hill authorities, but with a distinct understanding that they are to aid in the execution of any process which the Magistrates of the plains may, in virtue of their concurrent jurisdiction, think proper to issue.

4. An Assistant from Kumaon will be required to visit the Bhabur from about the 15th November to the 15th April in each year.

5. The Lieutenant-Governor does not anticipate that the hill authorities will find difficulty in managing the police and administering generally the duties within the tracts now directed to be made over to them, and relies confidently on the judgment and energy of the Commissioner, Mr. Lushington, aided by the zealous co-operation of Mr. Batten, in gaining from the arrangement now sanctioned every advantage that can reasonably be contemplated.

6. I am further directed to inform you that the transfer is to be carried into effect as soon as the hill authorities may be prepared to assume the charge.

7. A copy of the correspondence will be forwarded to the Commissioner at Kumaon, with whom you are requested to place yourself in communication immediately.

Appendix K. i 2.

Notification of Sudder Nizamut Adawlut, No. 1171, dated Agra, 4 th July, 1845.

The Court are pleased, under instructions from Government, to notify that the following supplementary rules for the administration of civil justice in the province of Kumaon were passed by the Hon'ble the Lieutenant-Governor, North-Western Provinces, under date the 3rd instant.

Suits cognizable by the moonsiffs of the province under the rules at present in force shall ordinarily be instituted originally in their courts.

Act XIX. of 1843, together with the Circular Order of Sudder Dewany Adawlut, No. 1288 of 26th July, 1844, published in the *Government Gazette* of 20th August last, on the subject of registration of deeds, are declared applicable to the province of Kumaon, subject only to the difference in the amount of fee leviable, which is to be limited, as heretofore, to one rupee.

These rules will be in force from the date on which they may be promulgated in the povince

Appendix K. j.

LEVY OF FOREST-DUES ALONG THE FOOT OF THE KUMAON HILLS.

Note by J. THOMASON, ESQ., dated 10 th February, 1851.

The levy of the forest-dues in some districts along the foot of the hills had for a time been discontinued, but was resumed a few years ago, because it was found that their discontinuance had afforded no advantage to the people, but had given rise to disputes and groundless claims to sayer rights, which were in reality destitute of foundation. It was therefore determined to re-assert the right of the Government to all spontaneous products from unappropriated tracts of land. In order the better to ascertain the value of these rights, and to regulate their levy, the whole are now held kham. This involves the necessity of some arrangement and concert between the authorities of Rohilkhund and Kumaon on both sides of the boundary line.

2. The forest-dues are of two kinds:—

1st,—Those which are levied at certain points in the forest throughout its extent, such as the pasturage-dues from cattle levied at the enclosures (goths) where they are herded by night, and the dues upon chunam and catechu (Bhuttee koyrar) which are levied at the places where these items are manufactured from the limestone and khyr trees.

2nd,—Those which are levied on the removal of the articles of produce from the forest along the usual routes, such as the dues from timber and wood of all sorts, from bamboos, and wax, honey, charcoal, and lac, &c.

3. These two classes of dues require different modes of management. The former must evidently be collected by the Collector of each district within his own boundaries: the latter partake more of the nature of customs duties, and as the levy is only upon articles passing from the hills to the plains country, it should take place only once on each line, wherever it can be most easily realized; some special provisions regarding the latter are, therefore, requisite.

4. *1st*,—In the tract between the Surdah and the Sookhee, there is a considerable tract of jungle-waste, in the district of Pilibheet as well as in Kumaon. The lines of communication also converge from the hills to the plains. The dues, then, on the articles taxed on transit can be most easily levied in the Pilibheet District. An arrangement to this effect will, therefore, be concerted between Captain Ramsay and Mr. Drummond.

5. *2nd*,—Between the Sookhee and the Kosillah, opposite to Pergunnahs, Kilpooree, Rooderpore, Gudderpore, and Bazpore, there is scarcely any jungle-tract in the Bareilly and Moradabad Districts. The divergence of the roads from the mountain passes, and the position of the Rampore jagheer, all render it desirable that the levy on articles in transit remain as at present in the hands of the Kumaon authorities at convenient points along the foot of the hills, and that no such levies take place in the plains. Care must be taken to connect this line with the preceding on the Sookhee river, so as to prevent the escape of articles between the two.

6. *3rd*,—North of Kasheepore and Thakoordwara, in the Moradabad District, some difficulty exists. The main levy is made at the foot of the hills by the Kumaon authorities, but there is a valuable forest-tract at Seonathpore in Juspore which requires care. It is believed that the best course would be to close this tract till the timber has acquired some growth. On this understanding the Collector of Moradabad should abstain from levying any such duties, and direct his attention to closing the forest, prohibiting the cutting of wood, and blocking up the approaches. Information, however, on this point is defective. It is hoped that the survey now in progress will throw light on the subject. Meanwhile, the dues may be levied as heretofore by the hill authorities, and the Collector of Moradabad will be careful not to interfere with those goods which have already paid duty in Kumaon. He will, also, entirely abstain from the levy of such dues in his district, unless on further enquiry he finds their retention on this portion of the frontier just and necessary. In that case he will concert with the Senior Assistant in Kumaon for the discontinuance of the present levy, and its removal to a line further south.

7. *4th*,—In the Bijnour District the levy of all forest-dues is entirely in the hands of the Collector of that district. The assistant in Gurhwal has no establishments or posts at the foot of the hills which could manage such collections. This item of revenue is now considerable, and is well collected by Mr. Dick, the present Collector of Bijnour. No change in the existing system is requisite.

8. The rates to be levied require consideration. On the tracts between the Surdah and the Sookhee, Captain Ramsay and Mr. Drummond advocate different scale of rates, that of the former being the higher. Captain Ramsay's scale seems best to correspond with that which prevails in other parts of the line, and is therefore authorized.

9. The exemption from payment of articles which produce little, such as drugs, lac, dyes, &c., and the permission for the free export of head-loads of the more bulky articles, such as wood, grass, &c., all require consideration. As regards the former, it may be observed that no one besides the Government has any right to the spontaneous products of the soil. No hardship or injury is inflicted on any person by the levy, nor do the articles appear to be of any commercial importance. It is desirable to maintain a right even if only for the exclusion of other claimants. As regards the latter point, the poorer classes in the neighbourhood of the chowkees should be allowed the privilege of carrying head-loads for their own consumption: it would be unjust and oppressive to prevent this. But the exemption of head-loads from payment of the dues must not lead to evasion of payment wherever it may rightly be demanded. Probably there will be no practical difficulty in the arrangement of this point. No change in the practice hitherto observed in these respects should be made without explanation of the grounds and a reference to the Government, further than that, as above stated, the poorer classes are to be exempted from the payment of duty on head-loads for their own consumption.

10. The levy of these forest-dues has been authorized by the Government more for the assertion of its just rights than with a view to financial returns. It is bound so to administer the system as most to profit the public. As regards the timber, evidently the receipts of the Government will be increased and the good of the country will be promoted by the formation of roads through the forests, and by thus laying open those tracts where good timbers are to be found, there is every reason to believe that the direct management of these forest-dues, now assumed by the Government, will lead to a considerable increase in the revenue derived therefrom, and will thus afford a fund for still further developing the resources of the country.

11. Assuming as a standard the average of the three years before the commencement of the direct management (kham tehseel), all the surplus receipts above that sum in any year may be held available for improving the roads through the forest lands, so far as means are available, provided that no

accumulation take place. For this purpose, again, special rules are necessary for each section of the line.

12. Between the Sardah and the Sookhee, the surplus net collections will be divided into five parts, of which one will be held by the Collector of Bareilly for the improvement of the roads through his portion of the forest, and the remaining four parts will be paid over to the Senior Assistant in Kumaon for opening out the forests in his portion of the tract.

13. Between the Sookhee and the Gurhwal frontier all the surplus collected by him will be held by the Senior Assistant of Kumaon available for the opening of roads in his forests. Any surplus which may be obtained by the Collectors of Bareilly and Moradabad in their districts will be simliarly held available by them.

14. In Bijnour Mr. Dick is well known to be most active in opening out his forest-tracts, and in devising machinery for sawing up the timber to the greatest advantage. The funds now placed at his disposal for these purposes will further his views.

15. The Commissioners of Rohilkhund and Kumaon will charge themselves with carrying out these instructions in their respective jurisdictions. They will report annually on the receipts and expenditure of the whole line during the season as soon as possible after its close. They will cause the surplus proceeds of each year, that remain unexpended in the following year, to be carried to the credit of Government under the head of profit and loss, so as to prevent any accumulation of funds.

16. This arrangement was made at Khera, near Bhamouree, on January 10th, 1851, in the presence of Mr. F. H. Robinson, Junior Member of the Sudder Board of Revenue, the Commissioners of Rohilkhund and Kumaon, the District Officers in Kumaon, Bareilly, and Moradabad, and the Superintendent of Irrigation in Rohilkhund. Copies of the memorandum will be furnished to the Sudder Board of Revenue and to the Commissioners of Kumaon and Rohilkhund for their information and guidance, and for communication by the latter to their subordinates.

Appendix K. k.

REVISED RULES FOR THE ADMINISTRATION OF CRIMINAL JUSTICE IN KUMAON.

Passed by Government under Act X. of 1838

SUPERSEDED BY ACT XXV. OF 1861.

SEC. I. —ON JURISDICTION.

1. There are to be four grades of functionaries employed in the administration of criminal justice in Kumaon, viz :—

Number and description of functionaries to be employed in the administration of criminal justice.

The Commissioner,
Senior Assistants:
Junior Assistants.
Sudder Amcens.

2. The powers of the Sudder Amcens are restricted to the trial of cases referred to them by the Senior Assistant in charge of the district, and to passing sentence of fine not exceeding Rs. 50, commutable to imprisonment, with or without labour, for six months, or of imprisonment only for that period. In all cases calling for a severer sentence, they shall send up their proceedings to the Senior Assistant in charge of the district.

Sudder Amcens empowered to try cases referred to them, and to sentence to a fine of Rs. 50, or imprisonment for six months, with or without labour.

referred to them by the Senior Assistant in charge of the district, and to passing sentence of fine not exceeding Rs. 50, commutable to imprisonment, with or without labour, for six months, or of imprisonment only for that period. In all cases calling for a severer sentence, they shall send up their proceedings to the Senior Assistant in charge of the district.

3. The ordinary powers of Junior Assistants, when not in charge of a district, are restricted to the trial of cases referred to them by their immediate superior, in which they are competent to pass sentence of fine not exceeding Rs. 100, commutable to imprisonment for a period not exceeding twelve months, or of imprisonment only not exceeding twelve months (in both instances with or without labour at his discretion), in cases of misdemeanour, assault, or other petty offences for which such punishment may appear adequate. Provided that in cases of theft it shall not be competent to the Junior Assistant to pass sentence of imprisonment without labour.

Junior Assistants, when not in charge of a district, empowered to try cases referred to them by their superior, and to pass sentence of fine of, Rs. 100, or imprisonment for twelve months, or imprisonment alone for that period.

or station, are restricted to the trial of cases referred to them by their immediate superior, in which they are competent to pass sentence of fine not exceeding Rs. 100, commutable to imprisonment for a period not exceeding twelve months, or of imprisonment only not exceeding twelve months (in both instances with or without labour at his discretion), in cases of misdemeanour, assault, or other petty offences for which such punishment may appear adequate. Provided that in cases of theft it shall not be competent to the Junior Assistant to pass sentence of imprisonment without labour.

4. An appeal from all orders passed by a Junior Assistant or Sudder Ameen shall lie to the Senior Assistant, if presented within one month from the date thereof.

Appeal from order of Junior Assistant lies to Senior Assistant.

shall lie to the Senior Assistant, if presented within one month from the date thereof.

5. The powers of the Senior Assistants in charge of districts shall include, with the general charge of the police of the district, the trial in the first instance, or committal, of all persons charged with offences.

Senior Assistant vested with the charge of the police, and the trial in the first instance of all persons charged with offences.

with the general charge of the police of the district, the trial in the first instance, or committal, of all persons charged with offences.

6. In cases of burglary or theft unattended with aggravated personal violence, in which the property stolen may not exceed in value the sum of Rs. 300, and also in cases of burkundazes or others employed in guarding prisoners who may be convicted of having wilfully permitted any prisoner under their custody

The Senior Assistant empowered in certain cases to pass sentence of imprisonment with labour for two years, and an additional period of one year in lieu of corporal punishment.

in which the property stolen may not exceed in value the sum of Rs. 300, and also in cases of burkundazes or others employed in guarding prisoners who may be convicted of having wilfully permitted any prisoner under their custody

to escape, the Senior Assistant may pass sentence of imprisonment with labour for two years, and of imprisonment with labour for the additional term of one year in lieu of corporal punishment. In cases of bribery and extortion on the part of any Native officer in the pay of Government, he may pass sentence of fine not exceeding Rs. 200, or of imprisonment not exceeding two years, with or without labour, whenever such sentence may appear to be adequate to the demands of justice. In cases of gross misconduct on the part of officers of police, as also in cases of burkundazes and others employed in guarding prisoners, who may be convicted of having by gross neglect permitted any prisoner under their custody to escape, the Senior Assistant may pass sentence of imprisonment, with or without labour, for a period not exceeding twelve months.

7. In all cases of affray or assaults unattended with serious wounding and loss of life, as also of unaggravated misdemeanours, including all miscellaneous offences detailed in the list published with the Circular Order of the Nizamut Adawlut No. 398, dated 11th April, 1850, the Senior Assistant may pass sentence of fine not exceeding Rs. 200, commutable to imprisonment for a period not exceeding one year, or of imprisonment only for that period; in both instances with or without labour, at his discretion.

In cases of affrays, unaggravated misdemeanours and miscellaneous offences, the Senior Assistant may pass sentence of fine not exceeding Rs. 200, or imprisonment for one year.

8. In all cases of more aggravated nature, as also in cases of perjury and forgery, the Senior Assistant shall refer his proceedings to the Commissioner in the manner hereinafter provided.

Cases of a more aggravated nature to be referred by Senior Assistant to the Commissioner.

9. An appeal from all original orders passed by the Senior Assistant shall lie to the Commissioner, if presented within two months.

Appeal from Senior Assistant lies to Commissioner.

10. The powers of the Commissioner shall extend to the trial of all cases referred to him by a Senior Assistant, and to the revision of all proceedings which he may think fit to call for from any subordinate authority, within the term of six months from the date on which a final order thereon may have been passed by such subordinate authority. It is not intended by this provision to limit the power of the Commissioner to call for any proceedings that he may require for inspection. Provided, however, that if after the expiration of the term above indicated he shall see cause for setting aside the decision of a subordinate authority, he shall report the particulars of the case, in an English letter, to the Nizamut Adawlut, and obtain the sanction of that court for proceeding to the revision of the case.

Commissioner empowered to try all cases referred by Senior Assistant, and to revise all proceedings of lower authorities within six months after sentence.

11. In all cases of theft, burglary, and dacoitce, unattended with murder and heinous offences, of wounding with intent to commit murder, the Commissioner may pass sentence of imprisonment for fourteen years, with labour in irons in banishment. Commissioner shall be competent to pass sentence of imprisonment with labour, in banishment or not at his discretion, for a term not exceeding fourteen years. Trials for rape, in which the Commissioner may consider a period of imprisonment not exceeding fourteen years to be sufficient punishment for the offence, are also placed within his competency.

12. In all cases of affrays, culpable homicide not amounting to murder, and other offences which the Sessions Judges in the regulation provinces are competent to dispose of without reference to the Nizamut Adawlut, it shall be lawful for the Commissioner to pass a sentence of fine not exceeding Rs. 500, or imprisonment, with or without labour, for a term not exceeding seven years. Provided, however, that in cases of perjury, forgery, knowingly uttering forged documents, forging counterfeit coin, or counterfeit stamps, or counterfeit public securities or bank-notes, as also in cases of clipping, filing, drilling, or otherwise debasing the coin, it shall be competent to the Commissioner to pass sentence of imprisonment and fine; but it shall not be competent to him to pass sentence of fine only. Accessories to murder before and after the fact shall be similarly punishable by the Commissioner by imprisonment, or imprisonment and fine, whenever the case as it regards the principals, may not be referred to the Nizamut Adawlut, and the Commissioner may consider the punishment of seven years' imprisonment, with or without labour, adequate to the offence.

13. In cases of murder, and in all cases demanding a more severe sentence than the Commissioner is competent under the preceding clause to pass, he shall refer his proceedings in the manner provided for in the sequel to the Nizamut Adawlut.

14. It shall be competent to the Commissioner to invest any Junior Assistant, during the temporary absence either from the district or station of the Senior Assistant, with the powers defined in Clauses 5, 6, 7, and 8, of this section; or, at any time, should he see occasion to do so, to invest him merely with the power to receive complaints and try cases within his competence without their being referred to him.

15. It shall be competent to the Commissioner to invest any experienced Junior Assistant with the powers defined in Clauses 5, 6, 7, and 8 of this section, whenever, from the state of the business in the district, he also to invest a Junior Assistant with the above powers when the state of business renders such measure expedient.

may deem such a measure expedient; provided that an immediate report shall in every instance be made to the Nizamut Adawlut, by whom, if they disapprove of the arrangement, a recommendation that it may be set aside, will be submitted to Government.

16. The provisions of Clause 1, Section 3, Regulation II. of 1834, are hereby declared to be in force in the province of Kumaon.
 Labour commutable to fine in certain cases.

SEC.II.—RULES OF PROCEDURE.

1. In cases in which the Senior Assistant in charge of the district is not competent to pass a final sentence, or which he may consider to demand a more severe sentence than he is competent to pass, he shall refer his proceedings, accompanied by an English Calendar, to the Commissioner, who will proceed to the trial of the case in the manner provided for in the sequel.
In cases where the Senior Assistant is not competent to pass sentence, he shall refer his proceedings with English Calendar to Commissioner.

2. Confessions, which in heinous cases ought always to be taken before either the Senior Assistant or Junior Assistant, and never before the Sudder Ameen, must be attested by two or more competent witnesses, who shall in every instance be made to stand within hearing of the prisoner as he delivers his statement. Each such confession shall be superscribed as follows, by the officer before whom it is made, in his own handwriting:—
Confessions in heinous cases to be taken before the Senior Assistant or Junior Assistant, and attested by witnesses.

"I (A. B.), Senior Assistant (or Junior Assistant, as the case may be), hereby certify that this confession of _____ was made by the said _____ and taken down in writing, and attested by the _____ and _____ subscribing witnesses, before me, and in my presence on the _____ between the hours of _____; that to the best of my belief the confession was voluntary, and that no interference directly or indirectly, on the part of any person likely to influence or intimidate the prisoner, was permitted."

3. Should the Commissioner be of opinion, after the examination of the evidence recorded in any case referred to him by the Senior Assistant, that the evidence is insufficient for the conviction of the accused, he is empowered, should such course seem to him expedient, to order the discharge of the defendant without proceeding to a regular trial of the case, and without summoning any of the parties concerned therein.
The Commissioner empowered to release the defendant without proceeding to a regular trial, if he consider the evidence insufficient.

4. The Commissioner is empowered to return to the Senior Assistant any case for further investigation.

5. In cases in which the Commissioner may consider it necessary to proceed to trial, he shall immediately appoint a time and place for the attendance of the witnesses and parties; provided, however, that the date appointed for the trial shall be not more than three months, subsequent to the date of the order so appointing it. The trial shall be held with the assistance of a jury, to consist of not less than three members, in whose presence the Commissioner will take the evidence for the prosecution and defence.

6. The decision of the case rests exclusively with the Commissioner whether he concur in the verdict of the jury or not. If the case be one in which he is competent to pass a final order, the Commissioner shall sentence or discharge the prisoner as the case may be; but in cases in which he is not competent to pass a final order, and in which he may consider the charge proved, he shall forward the case, with an English letter detailing the circumstances thereof, and his own opinion, for the orders of the Nizamut Adawlut.

7. In all petty criminal cases (namely, misdemeanors, theft to the amount of fifty rupees, and offences for which Magistrates in the Regulation Provinces are empowered to pass sentences of imprisonment not exceeding six months) evidence may be taken *viva voce*, and the substance merely be recorded, either in the English or Hindee language, as the Commissioner may direct.

8. A register of all trials held before the Senior Assistant and his subordinates, shall be kept in such form as the Commissioner may, in communication with the Nizamut Adawlut, direct.

9. Monthly returns of trials referred to the Commissioner, and disposed of by him, shall be made to the Nizamut Adawlut according to the appointed forms.

10. An annual report on the administration of criminal justice, showing the aggregate number of trials held, and prisoners punished in each division, and such other particulars as that court may require, shall be made to the Nizamut Adawlut.

SEC III— PERJURY AND FORGERY.

3. The Magisterial authorities and all officers of police are restricted from receiving, or acting upon, charges of perjury or subornation of perjury preferred by private parties. They are similarly forbidden to take cognizance of charges of forgery, or procuring forgery, or of forgery, or of fraudulently issuing forged deeds and papers, which may be preferred by parties to civil or criminal cases in respect to deeds and papers offered in evidence in such cases, And it is hereby declared that no individual shall be liable to any prosecution of the above descriptions, unless he shall be made over to the magisterial authorities by the officer presiding over the Court or office, in which the imputed offence may have been committed, and no such case shall be made over to the criminal authorities unless the civil case in which the alleged forged document was filed, or the alleged perjury committed, shall at the time be pending. The proceedings held in the court or office in which the offence is alleged to have been committed shall, in all such cases, be transmitted to the officer in charge of the district in his capacity of Magistrate; and if, upon an inspection of the same, or after making such further enquiry as he may deem necessary, he shall be of opinion that the offence is proved, the Magistrate shall commit the case for trial to the Commissioner.

The Magisterial authorities not to receive or act on charges of perjury or forgery preferred by private parties.

In cases of perjury or forgery when the offence is proved, case to be committed for trial to Commissioner.

SEC. IV. —POLICE.

Regulation XX, of 1817, shall be considered the Police Law in Kumaon wherever the circumstances of the province may admit to the application of its provisions, and the Commissioner of Kumaon is hereby declared to be Superintendent of Police.

5. The local authorities are required to adhere to the *spirit* of the following enactments which have already been recognized in Kumaon:—

Regulation VIII. of 1818.
 " I of 1824.
 Act V. of 1840.
 " XXI of 1841.
 " V. of 1843.
 " III of 1844.
 " V. of 1848.
 " XVI. of 1850.
 " XXVI of 1850.

Appendix K.I.

RULES FOR GRANTS OF TEA LANDS.

Notification No. 2109, Revenue Department, dated 26th September, 1855.

Grants of land for tea cultivation, in the Kumaon and Gurhwal Districts of the Kumaon Province, will be made on the following conditions on application to the Senior Assistant Commissioner of the district:—

2. Each grant will be of not less than 200 or more than 2,000 acres. More than one grant may be taken by one person or company on the applicant's satisfying the local authorities, acting under the usual control in the Revenue Department, of their possessing sufficient means and capital to undertake an extended cultivation and manufacture of tea.

3. One-fourth of the land in the grant will be given free from assessment in perpetuity on fulfilment of the conditions below stated.

4. The term of first lease will be for twenty years. For the first four years the grant will be rent-free; in the fifth year one anna per acre will be charged on three-fourths on the assessable portion of the grant; two annas per acre in the sixth year; three annas in the seventh year, and so on— one more anna being added in each year, till in the last year the maximum rate is reached of one rupee per acre. The full assessment on a grant of 2,000 acres will thus not exceed Rs. 1,500 per annum.

5. The following are the prescribed conditions of clearance.

At the close of the fifth year, from the date of grant, a twentieth part of assessable area, at the close of the tenth year, one-fifth of the assessable area, at the close of the fifteenth year, half the assessable area, and at the close of the last year, three-fourths of the assessable area is to be cleared and well-stocked with tea plants.

6. In the twenty-first year, on the fulfilment of the above conditions, the proprietary right in the grant, and the right of engagement with Government, shall vest in the grantee, his heirs, executors, or assigns, under the conditions generally applicable to the owners of estates in Kumaon; and the rate of assessment of the lands in the grant in whatever manner cultivated shall never exceed the average rate on grain crop lands in the same locality.

7. On failure of payment of the prescribed assessment in any year, or of any of the above conditions (the fact of which failure shall, after local enquiry conducted by the Senior Assistant Commissioner, be finally determined by the Sudder Board of Revenue), the entire grant shall be liable to resumption, at the

discretion of Government, with exception to the portion of the assessable area, which may be *bona fide* under tea cultivation, and to a further portion of land which shall be allowed in perpetuity, free of assessment, to the extent of one-fourth of such cultivated area. The portions so exempted will remain in the possession of the grantee, subject to the usual rates and rules of assessment in the district.

8. Grantees shall be bound to erect boundary pillars at convenient points round the circuit of a grant, within six months from its date, failing which such pillars will be put up by the Government officers, and the cost thereof shall be recoverable from the grantee in the same manner as the regulated rate of assessment.

9. No claim to the right and interest in a grant, on any transfer by the original grantee, will be recognized, as valid, unless on registry of the name of the transferee in the office of the Senior Assistant Commissioner.

10. So long as Government establishments for the experimental growth and manufacture of tea shall be maintained in the province, supplies of seeds and plants will be given gratis to grantees on application to the Superintendent, Botanical Gardens, North-Western Provinces, as far as may be in his power.

Appendix K.m.

RULES FOR THE GUIDANCE OF THE REVENUE COURTS OF KUMAON AND GURHWAL IN SUMMARY AND REGULAR SUITS.

Finally approved by Government in Orders No. 4085, dated 6 th October, 1855, and still in force.

I—SUMMARY SUITS

Cognizable in the Revenue Courts of Kumaon and Gurhwal.

RULE I.—Suits of malgoozars, whether proprietors or farmers from Government, of under-farmers, of holders of rent-free or quit-rent tenures, or of duly authorized agents against cultivators or other tenants, and of tenants of land against their sub-occupants, for arrears of rent in money or in kind, or for the value of the landlord's share in the crop, calculated at the market rate; provided the claim rests on payments or usage of past years, or on specific written engagements, or on the order of a competent court.

RULE II.—Suits of lumberdars against their under-shares, for quota of revenue, agreeably to written compact, or family, or established usage.

RULE III.—Suits of malgoozars, proprietors, or farmers from Government, or of holders of rent-free or quit-rent tenures, against agents intrusted with the

management of their estates, or the collection of rents, for production of accounts, and recovery of moneys alleged to be due.

RULE IV.—Suits of farmers of duties on abkaree, taree, or intoxicating drugs, against licensed manufacturers and vendors of those articles for recovery of arrears due on sub-contracts.

RULE V.—Suits of cultivators, tenants, or under-tenants, against any of the parties described in Rule I., and of under-sharers against their lumberdars, for undue exaction of rent.

RULE VI.—Suits of cultivators, tenants, or under-tenants, against any of the parties described in Rule I., and of under-sharers, against their lumberdars, on account of actual or attempted dispossession, without authority of law, from their holdings.

Rule VII.—The suit in each case, under Rules I., II., III., and IV., must be filed within a twelvemonth after the rent has become due, or the cause of action has arisen. The suit, in cases under Rules V. and VI. must be brought within 60 days from the date of alleged exaction or actual or attempted dispossession; excepting as regards a suit brought by residents of the Bhote Mehals, in which the limit for the admission of a claim summarily shall be within a month after the 1st December in each year.

PROVISO.—Provided that if it shall appear to the court, before which any of the aforesaid suits is instituted, or to the Commissioner in appeal, that it raises issues which are not fit to be tried summarily, an order may pass for the trial of the case under the rules for regular suits, the plaint being filed *de novo* on the requisite stamp. No order of the court, under this proviso, shall be open to appeal.

II.—REGULAR SUITS.

Cognizable by the Revenue Officers in Kumaon and Gurhwal.

RULE I.—Suits regarding the malgoozaree right in land, or the right in registered maafee land, or in land held on a quit-rent, claims to share in the rents and profits of lands, whether such be malgoozaree or registered maaf land, or land held on a quit-rent, or to share in the manorial privileges which the Government does not reserve to itself. Such claims may include wells, tanks, and water-courses *bona fide* employed in, or applicable to, agricultural purposes.

RULE II.—Suits brought on any of the grounds mentioned under Rules I. to VI. for summary suits, where, from lapse of time, or on other grounds, the suit cannot be tried in the summary department.

RULE III.— Suits brought by any of the parties described in Rule I. of summary suits, for rent of land held without authority by tenants in excess of pottahs, or preceding engagements, and contrary thereto.

RULE IV.—Suits brought by the same parties, to oust tenants not in default at the end of any year, or at the expiration of any lease, on the ground that such tenants have no permanent right of occupancy.

RULE V.— Suits brought by the same parties, to enhance the rent of tenants at the time, and on the grounds stated in the preceding rule.

III.—JURISDICTION OF THE CIVIL COURTS

In Kumaon and Gurhwal.

The civil courts have no jurisdiction in cases under the preceding rules for summary and regular suits, which are to be tried in the revenue courts; but they are competent to try and dispose of regular suits for orchards, gardens, and wells thereto belonging; or for houses or other buildings, the private property of individuals, with the land on which such houses or buildings are erected, and the enclosures round them.

IV.—RULES OF PRACTICE IN REGULAR SUITS.

For the Revenue Courts in Kumaon and Gurhwal.

RULE I.—The plaint must state precisely the subject-matter of complaint, the names of all the persons complained against, the correct valuation, and the time when the cause of action arose.

RULE II.—A single action must not involve different issues, unless on leave specially given by the court, and must relate to subject-matters within the authority of the revenue court in its fiscal capacity.

RULE III.—If the suit be for malgoozaree right, possession, and manorial privileges, or for share in the profits of malgoozaree right, possession, and manorial privilege incidental thereto, the plaint must specify the Government jumma of the estate, or the specific proportion of jumma on the share claimed.

RULE IV.—If the suit be for possession or share in the profits of registered maaf land, or land held on a quit-rent, the gross rental of the whole, or of the specific share claimed in the maaf or tenure held on a quit-rent, must be stated in the plaint.

RULE VI.—If the suit be for possession of wells, tanks, and water-courses employed for agricultural purposes, the amount of damage sustained by deprivation, or obstruction, must be stated in the plaint.

RULE VII.—If the suit be instituted for maintaining possession of a tenant against ouster, the extent of land, and amount of rent, must be stated in the plaint.

RULE VIII.—The plaint must be engrossed on stamp paper, according to the rule of valuation which may from time to time be declared by Government to have effect in the several districts of the Division.

RULE IX.—If the plaint be instituted on an inadequate stamp, or be wanting in precision and completeness, the court may allow it to be amended on additional stamp paper being furnished, according to the regulated value, as it may think fit. But if the plaint be preferred in a false or fictitious name, or if the cause of action be beyond twelve years, the plaintiff shall be nonsuited.

RULE X.—Regular suits shall be tried and decided in the revenue courts, and shall not be delegated to subordinate officers, but with consent of parties, or at the discretion of the court; in either case the grounds being set forth in an interlocutory proceeding, a commission may be issued to the tehseeldars, or other local officers, for enquiry, description, and report, with or without the taking of oral evidence, on any point on which an investigation on the spot may be thought requisite. But this rule shall not be regarded as prohibitory of the practice of making over to officers, vested with powers of Assistant, regular suits for investigation, completion of evidence, and decision or proposed award as may be pre-arranged, and subject to the orders of the superior district officers, and of the appellate authorities.

RULE XI.—The plaint having been instituted, shall be numbered and registered, after which on the deposit of the requisite tulubana within a reasonable specified term, a summons shall be served on the defendants. The summons shall contain a short account of the claim, and shall be issued under the seal and signature of the court, through an officer who shall require the defendants to attend within a time to be specified by the court.

RULE XII.—The officer in charge of the summons shall endeavour to obtain the signature of the defendants; or, in the event of their absence, shall proceed to their residence, and acquaint their families or neighbours with the object of his mission, and shall obtain the signature of two credible persons to the summons in proof of service. On his return, the nazir shall ascertain from him, and report in writing, the mode in which the summons has been served.

RULE XIII.—1. On the expiration of the period specified in the summons, if the defendant, or any of them, fail to attend the court, proclamation shall be issued for their attendance within a further period to be fixed according to local circumstances, in the different parts of the country.

2. If within the period fixed by the summons or proclamation, an application shall be made to the court to permit the answer to the plaint to be filed through

an agent or in writing, the court may, on special grounds shown to its satisfaction, grant the application.

3. But if the party shall fail to attend, or shall not have been excused attendance under the preceding clause, the court, on finding after an examination of the plaintiff's case, that he has a good *prima facie* cause of action, may, in its discretion issue a warrant for the arrest of the defendant, who shall thereupon be taken into custody and brought before the court, but no defendant shall be so arrested, who shall give to the party charged with the warrant, a declaration in writing that he is willing that the case should be tried *ex parte*.

RULE XIV.—On the appearance of the defendant, in answer to the summons, or in arrest, or on the appearance of the defendant's agent, if personal attendance has been excused, the parties shall be interrogated on oath, or solemn declaration, and a written answer may also be received for the defendant at the discretion of the court. The precise points at issue between them which are material to the decision of the suit, shall then be ascertained and reduced to writing. Either party may cross-examine the other, and any witnesses then present, or documentary proof adduced, may be examined. If an answer be allowed to be furnished in writing, it should be on stamp-paper of eight annas value for each sheet of manuscript.

Rule XV.—If after such interrogation and examination of evidence a decree can be properly made without further enquiry, the court shall make its decree accordingly; but if any issue result from the interrogatories upon which it is necessary to hear further evidence, the court shall call upon both parties to adjust the dispute amicably within a fixed period, or to consent to arbitration, and to furnish a list of such documentary and oral evidence as each is able to tender, or desires to be called.

RULE XVI.—If the parties will not adjust privately, or agree to arbitration, the court shall procure the attendance of the witnesses, and require the production of the documentary evidence on a day fixed, and proceed to the trial and decision of the suit. Parties summoning witness should be required to state generally to what particulars each witness is believed to be able to depose.

RULE XVII.—Exhibits may be received on plain paper, except instruments or copies of official documents which require to be engrossed on stamp paper to render them valid. Mookhtarnamahs must in all cases be of the stamp prescribed in Rule VIII.

RULE XVIII.—Razcenamahs filed within the term allowed for amicable adjustment by Rule XV., will enable the plaintiff to receive the full value of the stamp of the plaint; but if filed in any after-stage of the cause, only half the stamp-value can be returned.

RULE XIX.—If the case be referred to arbitrators, a term should be fixed for the award to be presented; and an officer of the court should be directed to attend, to call the parties and their witnesses before the arbitrators.

RULE XX.—The awards of arbitrators should be presented and acknowledged in open court. Such awards are not necessarily to be accepted by the court. If the court should have clear and strong reasons to believe that justice has not been done by the award, it may direct a fresh arbitration, or proceed to try the case itself.

RULE XXI.—The case having been completed by award of arbitrators, accepted by the court, or by the court having determined on the merits, the court shall declare its decision, which shall be written out in English, care being taken in the Vernacular counterpart, to specify the costs, the parties liable, and, in case of divided costs, the proportions chargeable to parties, as well as any amount of damages awarded on the ground of a suit being found to have been groundless and vexatious.

RULE XXII.—Execution of decree may be taken out, and should proceed, unless stayed within the period allowed for appeal, or after institution of an appeal, by the tender of adequate security. In pending cases if the court is clearly convinced that the defendant is preparing to alienate his property, or to remove himself from the court's jurisdiction, security can be demanded, and if not tendered, the court can arrest the person, or attach the property of the defendant to an amount sufficient to satisfy the claim.

RULE XXIII.—Execution of decree, if applied for within a twelvemonth from the date of decision, may be enforced at once; otherwise, previous notice must be served, or, if incapable of being served by the absence of the party liable, proclamation must be issued, calling on the party liable to show cause within a fixed term against execution. Execution may be enforced by delivery of possession of contested property, or by arrest of person and attachment and sale of property in satisfaction of the decree and costs of suit and execution.

RULE XXIV.—No compromise on a decree, or payment in satisfaction, shall be admitted, unless notified to the court, *viva voce* or by a writing, which may also be sent through the local tehseeldar; and no execution of decree which has been relinquished by the decree-holder shall revive, unless on good reason shown to the satisfaction of the court.

RULE XXV.—Upon every decree, whether in a summary or a regular suit for a balance of rent remaining due at the close of the year on account of which it was payable, application may be made as in execution of the decree for the removal of the defaulting tenant on whom the balance has accrued.

RULE XXVI.—The record of execution of decrees shall always be an annexure of the file of the original suit.

RULE XXVII.—Quarterly abstracts of regular suits instituted, decided, and pending in the revenue courts, shall be forwarded to the Sudder Board of Revenue.

V.—APPEALS IN SUMMARY SUITS.

Revenue Courts of Kumaon and Gurhwal.

RULE I.—Appeals from the revenue courts in the districts of the Kumaon Division, in the summary department, lie only to the Commissioner, whose orders on the merits or on the point of jurisdiction where cases involve issues which in his judgment are not fit to be tried summarily, are final.

RULE II.—Appeals from decisions of the revenue courts in summary suits are admissible in the Commissioner's office, if presented within thirty days, reckoning from the date of the decision appealed; copy of which parties are authorized to take on plain paper.

RULE III.—No appeal lies to the Sudder Board of Revenue from the appellate decisions of the Commissioner in summary suits; but the Board are competent to indicate and prohibit the recurrence of irregularity or erroneous practice which may come under their observation.

VI.—APPEALS IN REGULAR SUITS.

Revenue Courts of Kumaon and Gurhwal.

RULE I.—Appeals from the decisions of the revenue courts lie to the Commissioner, if presented within sixty days of the certified completion of copy of the decision, where stamp-paper for copy is deposited, or otherwise of the date of the decision.

RULE II.—Special appeals from the appellate decision of the Commissioner in regular suits lie to the Sudder Board of Revenue, if presented, or forwarded so as to reach the Board's office, within ninety days of the Commissioner's decision, The Board reserves to itself the discretion of admitting, or refusing to admit, such appeals. The Board admit appeals only in cases in which the Commissioner's decision is manifestly unjust, or apparently inconsistent with usage and rules, or involves a question of practice or usage on which the Board should declare its judgement, or, if necessary, elicit the orders of Government.

RULE III.—The proceedings and final judgements in all suits and appeals shall clearly state whether they are held or passed under the summary or regular jurisdiction declared by these rules.

Appendix K. n.

NOTE

Two rules of criminal procedure for Kumaon were proposed by the Sudder Nizamut Adawlut in 1856, and received the sanction of the Lieutenant-Governor.

The first enabled the Commissioner to pass sentence on the record, except in cases which called for a heavier punishment than seven years' imprisonment.

The second dispensed with attestations to confessions taken before the Magisterial authorities subordinate to the Commissioner.

The correspondence (from Register, Sudder Nizamut Adawlut, to Secretary to Government, No. 961, dated 1st July, 1856, and the reply, No. 1050A., dated 15th July, 1856) is prolix, and it seems unnecessary to reprint it, as both rules have been superseded by Act XXV. of 1861.

Appendix K.o.

APPLICATION OF SECS. 243, 244, OF ACT VIII. OF 1859.

Copy of Letter from REGISTER, SUDDER DEWANY ADAWLUT, to SECRETARY TO GOVERNMENT, N.-W. Provinces, No. 777. dated Agra 27th May, 1861.

SIR,—The Court have recently had under their consideration a statement, furnished by the Commissioner of the Province of Kumaon, showing the number of cases of temporary or permanent alienation of landed property effected in execution of the decrees of the civil courts within the Kumaon Division, during the year 1860.

2. They observe that the Kumaon courts have, under Clause 4, Section 5, of the Assam Rules, power to sell *real* property in execution of decrees; and that they have so sold fifty-eight hereditary holdings in the past year.

3. Although Act VIII. of 1859, Sections 243 and 244, do not apply to this province, yet the Court think that their spirit should, as far as possible, be observed in Kumaon by the civil courts using every endeavour to effect the execution of decrees by measures short of such sale.

4. The Court, therefore, desire me to suggest to His Honor the Lieutenant-Governor the propriety of instructing the Kumaon civil authorities to give effect to the views above expressed whenever practicable.

From OFFG. UNDER-SECRETARY TO GOVERNMENT, *North-Western Provinces*, to OFFG. COMMISSIONER OF KUMAON, No. 184A., dated *Nynee Tal*, 24th June, 1861.

SIR,—I am directed to forward to you the accompanying copy of a letter, No. 777, dated 27th May, from the Register to the Sudder Dewany Adawlut, together with extracts, sections 243 and 244, of Act VIII. of 1859.

2. The Lieutenant-Governor considers the provisions of the law contained in these sections to be most salutary, and his Honor would wish yourself and your subordinates to act fully in the spirit of them.

NOTE.—These orders were superseded by the extension of Act VIII. of 1859 to the province in 1864.

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RULES FOR THE ADMINISTRATION OF CIVIL JUSTICE IN KUMAON, CALLED THE ASSAM RULES.

Remained in force till the end of 1862, and were then superseded by the Jhansie Rules.

SEC. 1.—ON JURISDICTION.

1. There is to be one class of Native judge in Kumaon, viz., Sudder Ameens, with powers to try and decide cases of original suits referred to them for property, either movable or immovable, not exceeding in value the sum of one thousand rupees.

Description of Native judges to be employed in Kumaon; powers to be exercised by them.

The Sudder Ameens are to be appointed by the Commissioner, subject to the confirmation of the Lieutenant-Governor of the North-Western Provinces.

2. The European functionaries ordinarily employed in the administration of civil justice are to be the Assistants in charge of the several districts into which Kumaon is divided—the Junior Assistant and the Commissioner. The Assistant, to whom all petitions of plaint are in the first instance to be presented, is to retain on his own file suits for property, movable or immovable, of a value exceeding five¹ thousand rupees, as well as all sui-

The European functionaries are to be the Assistants in charge of the several districts into which Kumaon is divided and the Commissioner.

All petitions of plaint to the presented to the Assistant, who may refer suits for small amounts to Junior Assistant or Sudder Ameen.

1. Five thousand is apparently a clerical error for one thousand; for the Sudder Ameens had no power to try suits of higher value than this.

ts for land claimed as lakhiraj, but may refer suits for smaller amounts to the Sudder Ameen.

3. An appeal shall lie, under the provisions stated in the sequel, from the decision of an Assistant to the Commissioner of Kumaon, and from the decision of a Junior Assistant or Sudder Ameen to the Assistant in charge of the district.

An appeal shall lie from the decisions of an Assistant to the Commissioner.

4. A special appeal shall lie from all decisions passed by the Commissioner of Kumaon on suits originally tried by an Assistant to the Court of Sudder Dewany Adawlut at Allahabad.

A special appeal shall lie from all decisions of the Commissioner on suits tried by an Assistant to the Presidency Sudder Court.

5. The Commissioner or Assistant, as the case may be, is competent to remove to his own or any other court in the province, any cause that may be depending in a lower court, recording his reasons for so doing.

Commissioner or Assistant competent to remove any cause pending in a lower court to his own or any other court.

6. In suits for land, the value is to be calculated at the amount of its gross annual proceeds. If the suit be for gardens or houses, their value is to be reckoned at their estimated prices.

In suits for land or houses, value how to be reckoned.

7. No civil suit shall be cognizable in any court in Kumaon in which the cause of action shall have originated at any period antecedent to the 2nd December, 1815. For suits arising subsequently to the date, twelve years is to be the period of limitation within which, from the date of the transaction wherein it originates, a suit must be instituted, unless the complainant can show by clear and positive proof that he had demanded the money or matter in question, and that the defendant had admitted the truth of the demand or promised to pay the money; or that he directly preferred his claim within the period for the matters in dispute to a court of competent jurisdiction to try the demand, and shall assign satisfactory reasons to the court why he did not proceed in the suit; or shall prove that either, from minority or other good and sufficient cause, he has been precluded from obtaining redress.

Limitation of period for the institution of suits in Kumaon.

Exception.

8. A suit for money or personal property shall be instituted in the Court of the Assistant in charge of the district within which the defendant resides as a fixed inhabitant. In the event of his having changed his residence subsequently to the date on which the cause of action may have arisen, it shall be optional with

Suit for money or personal property to be instituted in the Court of the Assistant in charge of the district where the defendant resides; in the event of his having changed residence, either in the court of the district where he may actually reside, or in that where the cause of action may have arisen.

the plaintiff to commence his action in the court of the district within which the

Suits for damages on account of injury done to personal character, in what court to be instituted.

done to personal character

Amount of damages to be fixed by the Court in which the suit may be tried; the aid of jury or Native assessors to be obtained if possible.

is to be fixed by the officer

Suit for immovable property to be instituted in the Court of the district where such property is situated.

defendant may actually reside, or in that of the district in which the cause of action may have arisen. Suits for damages on account of injury are to be instituted, at the discretion of the party complaining, either in the court of the district within which the defendant resides, or in that of the district in which the act complained of was committed. The amount of damages to be awarded is to be fixed by the officer presiding over the court in which such suit may be tried, who will, in all such cases, endeavour to obtain if possible the aid of a jury or of a few Native assessors. A suit for land or other immovable property shall be instituted in the court of the district wherein such property is situated.

9. The civil authorities of one district are to cause all legal processes issued

The civil authorities of one district, how to act when legal processes issued by those of another district may be sent to them for the purpose of being carried into effect.

issued, within the term originally specified therein, or, in the event of that being impossible, a full statement of the cause of the delay, and of the probable time within which a full return may be expected, must be furnished by the authority receiving a process to the officer by whom it was issued. It is to be distinctly understood that in such cases it rests with the authority issuing a process to decide upon the admissibility of any excuses that may be urged against its being carried into execution.

by those of another division, which may be sent to them for the purpose of being carried into effect within their jurisdiction, to be duly executed, and the returns thereon are to be made and duly forwarded to the officer by whom the process was

10. Sudder Ameens guilty of any act of misconduct, may be fined by the Assistant in charge of the district in a sum not exceeding the amount of one month's salary. If the offence be of a more serious nature, so as to require severer notice, the Assistant in charge of the district must report the case for the consideration of the Commissioner, who may suspend him from the exercise of his judicial functions, appointing another person to fill his place temporarily, and submitting a report on the subject for the consideration and orders of the Lieutenant-Governor, North-Western Provinces.

11. Sudder Ameens are hereby declared competent to sentence any party guilty of a gross contempt of their lawful authority, or any of their subordinate officers guilty of gross contumacy or disrespect, to pay a fine not exceeding the amount of fifty rupees, commutable in the event of non-payment to imprisonment without labour or the term of one

Sudder Ameens competent to punish any party guilty of contempt of their authority, or their subordinates guilty of contumacy or disrespect; reporting particulars to their immediate superior within twenty-four hours.

month; reporting fully the particulars of the case to their immediate superior, within twenty-four hours from the time of such sentence being passed.

12. The Commissioner, the Assistants in charge of districts, and the Junior European functionaries also competent to punish offences of the class above alluded to; reporting the cases to the Commissioner. Assistant, are declared competent to punish offences of the class alluded to in the preceding clause by imposing a fine not exceeding two hundred rupees, commutable to imprisonment without labour for a period not exceeding six months. Such cases must be reported to the Commissioner for revisal or confirmation.

SEC. II. ON ORIGINAL SUITS.

1. If the suit be for land, houses, or money due on a bond, agreement, or commercial transaction (and the Assistant shall not see cause to reject the same as frivolous or vexatious, under the discretion allowed in the sequel of this section), a written notice must, after numbering the petition of plaintiff according to its place in the yearly list, be issued, calling upon the defendant to file a written reply within fifteen days. In the event of the reply not being filed within that period, a proclamation is to be affixed, if possible, to the abode of the defendant, and a copy of it to be affixed in the court room, calling upon the defendant to file a reply within fifteen days from its date. On the expiration of the second period, if no reply be filed, the case is to be tried *ex-parte*.

If the suit be for land, houses or money, and the Assistant see no cause to reject it, a notice must be issued to the defendant to file a reply within fifteen days.

In the event of the reply not being filed within fifteen days, proclamation to be affixed to the abode of the defendant, calling upon him to file one within fifteen days.

On the expiration of the second period; case to be tried *ex-parte*.

2. The parties are to be allowed an option of bringing up their own witnesses or of having subpoenas served upon them by peadas. If the witnesses fail upon this process to attend, a proclamation fixing a term for their appearance is to be issued, at the expiration of which, if still absent, a fine is to be imposed, to be levied by the attachment and sale of their property. Parties applying for a process to enforce the attendance of witnesses, shall, on doing so, declare that they are ready to indemnify the said witnesses for any necessary expenses to be incurred by them in attending before the court; and the court, in passing a final decision upon the case, shall include whatever sum, not exceeding the rate of three annas per diem, may be proved to have been paid to witnesses for their subsistence among the costs of suit.

Parties may bring up their own witnesses, or have subpoenas served upon them by peadas.

Witnesses failing to attend upon this process and proclamation, to be fined, and the fine levied by the sale of their property.

Parties to indemnify witnesses for expenses incurred by them.

3. When the witnesses shall be in attendance, their depositions are to be

Depositions to be taken down in writing in the Hindee language, in the presence of the Assistant in charge.

taken down in writing in the Hindee language, in the presence of the Assistant in charge of the district, if practicable; but in the event of his other avocations rendering it impossible for him to attend to this duty, he is allowed to delegate it to a Junior Assistant or to the head ministerial officer of his court, who is to attest the deposition by his signature, and to be responsible for its authenticity. On the whole evi-

Assistant allowed to delegate this duty to a Junior Assistant or the head ministerial officer of his court.

dence, documentary and parole, being filed, the Assistant is to proceed to pass

Assistant to pass judgment in open court.

judgment in open court, recording the substance of his decision in English; the decision must be translated into Hindee, and attested copies of it given to the parties.

4. If the petition of plaint in an original suit presented to an Assistant in

Assistant in charge of a district at liberty to reject a petition of plaint. Parties dissatisfied with the order of rejection may appeal to the Commissioner, who may direct the Assistant to admit and proceed upon the same as a regular suit.

charge of a district shall appear to him to be *prima facie* inadmissible, or shall prove to be so after a summary enquiry into its merits, he is at liberty to reject the same, without bringing it on his regular file and without calling upon the defendant for reply; but parties discontented with such order

of rejection may appeal to the Commissioner, who may, after calling for the original petition and proceedings held upon it, direct the Assistant to admit and proceed upon the same as a regular suit.

5. If the subject-matter of the petition of plaint relate to a question of caste

If the petition of plaint relate to a question of caste or marriage, it shall not be incumbent on the Assistant to bring the case on his file, but he may summarily dispose of it.

or marriage, it shall not be incumbent on the Assistant to bring the case on his file of regular suits, or to hold more than a summary enquiry into its merits, the result of which alone shall be briefly recorded on the back of the petition. It shall

however, be competent to

Commissioner declared competent to direct that the case be tried as a regular suit.

the Commissioner to direct that any case, thus summarily disposed of, shall be brought on the file and tried as a regular suit.

6. The Assistant may insist on the attendance, in person, both of the plaintiff

Assistant may insist on the attendance both of the plaintiff and defendant, and examine them on oath before bringing the suit on his file.

and defendant in any original suit; and he is strongly enjoined, in all cases in which it shall be practicable, so to confront them as at once to elicit the truth, and abridge the necessity of further

legal proceedings; and he may take their examination on oath, if he judge it necessary, previously to bringing the suit on his regular file; and in all cases in

In all cases in which the meeting of the parties can be effected, their depositions shall be taken to be the plaint and appeal.

which such meeting of the parties can be effected, their depositions shall be recorded and taken to be the plaint and reply in the suit. But any party feeling aggrieved by such a requisition, may

Any party aggrieved may appeal to the Commissioner, and the execution of the order shall be stayed pending the appeal.

appeal to the Commissioner, who is hereby empowered to cause it to be withdrawn, recording his reasons for doing so at length in his proceedings. It is also to be understood that the filing of a petition of appeal by a plaintiff against such a requisition shall bar its enforcement pending the reference to the Commissioner.

7. The Sudder Ameens shall, in cases referred to them, be guided in their proceedings by the provisions contained in the first three clauses of this section; with this exception, that they are in all instances expected to cause the depositions of witnesses to be taken in their own presence, and are not empowered to delegate that duty to any of their ministerial officers.

Sudder Ameens to be guided by the provisions contained in the first three clauses of this section.

8. The Sudder Ameens are not to try cases in which their own amlah, near relations, or spiritual instructors, are parties concerned. Should any such case be inadvertently referred to them, they are hereby required to return it, with a suitable representations, to the Assistant, who will either try it himself, or refer it to another Sudder Ameen, or, if he prefer that course, to the Junior or Sub-Assistant, from whose decision thereon an appeal will lie, under the general rules regarding appeals from the decisions of a Sudder Ameen, to the Assistant in charge of the district.

9. Whenever a plaintiff may satisfy the Assistant within whose district he may have a suit pending, either in that officer's own court or in any of the inferior courts, that the defendant against whom a suit has been brought is about to abscond or withdraw himself from the jurisdiction of the district courts, the Assistant may either demand security for the appearance of the said defendant or attach his property. If the defendant in such a case cannot produce security, or should not possess property, the Assistant may arrest and place him in the civil jail of his district, provided the plaintiff deposit money for his subsistence, according to the usual rates allowed to persons imprisoned in executing decrees. The Assistant in such cases is empowered to try the suit without reference to its order on the file, if it be pending in his own court, or to direct its speedy investigation if it be pending before a Sudder Ameen.

Assistant, on being satisfied that the defendant is about to abscond or withdraw himself, from the jurisdiction, may demand security from him, or attach his property, or commit him to jail.

10. The several courts in Kumaon are hereby authorized to use every proper means for inducing the parties in suits to refer their dispute to arbitration, either with a view of settling some particular issue, or of obtaining a complete and final adjustment of their differences. An agreement shall in such cases be taken from

The court authorized to use every proper means for inducing parties to refer their disputes to arbitration.

the parties, in which it shall distinctly stated whether the award is to be partial, that is, confined to a particular issue, or final, as embracing the whole merits of the case. In the former cases, the court will take the finding of the arbitrators as conclusive upon the particular point referred to them; in the latter case, the award of the arbitrators shall, if open to no just cause of impeachment on the score of flagrant and palpable partiality, be confirmed by the courts, and held of the same force and validity as a regular judgment.

Award of arbitrators, if open to no just cause of impeachment on the score of partiality, to be held by the courts of the same validity as a regular judgment.

11. Any party desirous of instituting an original suit as a pauper must appear in person before the Assistant in charge of the district, and present a petition containing a general statement of the nature and grounds of the demand, of the value of the thing claimed the name of the person or persons to be sued, and a schedule of the whole real or personal property belonging to the petitioner, with the estimated value of such property. In special cases, the Assistant in charge may receive such petitions through an authorized agent or mookhtar. On the receipt of such a petition, the Assistant shall institute a summary enquiry with a view of ascertaining the accuracy of the petitioner's allegations regarding his own circumstances. If satisfied of their accuracy, the Assistant is to admit the petitioner to sue as a pauper; but if the result of the enquiry shall not be satisfactory, the Assistant will at once refuse to admit his suit in that form, and will refer him to the general rules in force. All orders passed by an Assistant under the provisions of this clause are to be open to revision by the then Commissioner, if appealed against within the term of three months from the date on which they are passed.

Assistant may admit the petitioner to sue as a pauper, or refuse to admit his suit in that form. Such orders declared open to revision by the Commissioner.

12. If a suit be instituted against a European or Native officer or soldier, a notice in the usual form shall be sent, with a copy of the plaint, to the commanding officer of the corps to which the said officer or soldier may belong. The commanding officer shall return such notice, with the written acknowledgment of the party endorsed thereon, or a statement of the cause which has prevented the service of it; and the court before whom the suit may be pending may then proceed to dispose of the case under the general rules. Provided always, that in such cases every process that may be issued is to be served through the commanding officer of the corps to which the party may belong, and that such processes, if issuing from any of the inferior courts, are to be sent in the first instance to the Assistant in charge of the district, to be by him forwarded to commanding officer.

Form of proceeding to be adopted on a suit being instituted against a European or Native officer or soldier.

SEC.III.—APPEALS.

1. Parties discontented with the decision of a Sudder Ameen may, within one

Petitions of appeals from the decisions of Sudder Ameen's to be presented within one month to the Assistant.

month from the date thereof, present a petition of appeal to the Assistant in charge of the district.

3. Parties discontented with the decision of an Assistant in any suit tried in the first instance before him, may, within the

Petitions of appeal from the decision of an Assistant to be presented, within two months, either to the Commissioner or to the Assistant.

period of two months from the date of such decision, present a petition of appeal to the Commissioner of Kumaon, or if they prefer it, to the Assistant himself, whose duty it will then be to forward, with the least possible loss of time, the said petition with the copy of the decision appealed from, to the Commissioner.

4. When it may appear necessary for the ends of justice, in consequence of a

Special appeals, if presented within three months from the date of the decision, may be received by the Assistant from the judgment of a Sudder Ameen;

decision being at variance with some existing law or established custom of the country, or in consequence of the subsequent discovery of new evidence, or for any other good and sufficient reason to be fully detailed in the order for its ad-

mission, that a special appeal should be admitted, such appeal, if presented within three months from the date of the decision, may be received by the Assistant from the judgment of a Sudder Ameen, by the Commissioner from the judgment of an Assistant on an appeal from the award of a Sudder Ameen, and by the Commissioner from the decision of an Assistant on an appeal from the award of a Sudder Ameen; and by the Sudder Dewany Adawlut from the decision of the Commissioner. It is to be distinctly understood, also, that no second appeal is to be received on any but the special grounds alluded to in this section, whether the previous decisions of the two subordinate courts may have been concurrent, or the reverse. When, however, it shall

appear that the judgement against which the appeal is preferred is clearly in opposition to, or inconsistent with, another decree of the same court, or another court having jurisdiction in the same suit, or in a suit founded on a similar cause of action, a second or special appeal shall in all cases be admitted.

5. Whenever an appeal shall be preferred to the Assistant from a Sudder

On an appeal being preferred to the Assistant or Commissioner, they need not summon the respondent in the first instance, but may merely call for the proceedings;

Ameen's decision, or to the Commissioner from the Assistant's decision, it shall not be necessary to summon the respondent in the first instance, but merely to call for the original record of the proceedings in the case; and if, after the perusal of

the same in the presence of the appellant or his agent, the Commissioner or and, on perusal of them in the presence of the appellant or his agent, confirm the decision appealed from, or allow an appeal. Assistant, as the case may be, shall see no reason to alter the decision appealed from, it shall be competent to them to confirm the same communicating the order for confirmation, through the court from whose judgment the appeal was made to the respondent, with a view to enabling him to take measures for carrying the decision in his favour into execution. Should an appeal be allowed, a notice must be issued to the respondent, at the expiration of the term assigned, in which the

If the decision be confirmed, respondent must be warned that he may sue out execution.

If the appeal be allowed, notice must be given to the respondent to defend the appeal.

If the respondent fail to attend within the period fixed in the notice, the appeal is to be tried *ex parte*.

Sudder Ameen, Assistant, or Commissioner, as the case may be, shall, after receiving the respondent's reply to the petition of appeal, proceed to try and decide the merits of the appeal, and shall pass a decision confirming, modifying, or reversing the decision of the Moonsiff, Sudder Ameen, or Assistant. If the respondent fail to attend within the period fixed in the notice, the

6. The Sudder Dewany Adawlut, Commissioner, Assjstant, or Sudder Appellate Courts empowered to call for further evidence in a case appealed, or refer it back for re-investigation. Ameen, as the case may be, are empowered to call for further evidence in a case appealed, or to refer the case back to the Sudder Ameen, Assistant, or Commissioner, for re-investigation, if it appear to have been imperfectly enquired into.

7. The Sudder Dewany Adawlut, Commissioner, or Assistant, may admit Appellate Courts may admit appeals after the expiration of the term fixed for their presentation, on sufficient cause for the delay being shown. appeals after the expiration of the term above fixed for their presentation, on its being clearly shown that the appellant was prevented by some insurmountable obstacle from presenting the same within the prescribed term.

8. The execution of a decree passed by a Sudder Ameen or Assistant shall not, excepting in the particular case provided for below, be stayed notwithstanding an appeal, unless the appellant give security for the due fulfilment of the decree. Should he fail in furnishing security, the respondent is at liberty to cause the decree to be carried into execution on giving security for performing the final order to be passed by the higher court.

9. It is, however, to be understood that the superior court by whom the appeal is admitted is competent to stay the execution of a decree pending the trial of such appeal, even without exacting security from the appellant. But the reasons for the exercise of this power are, in every instance, to be entered at large in the order issued to the inferior court.

The superior court admitting an appeal declared competent to stay the execution of a decree without exacting security.

Reasons for the exercise of this power to be recorded in the order issued in the inferior court.

10. Security for the costs of an appeal are to be lodged when the petition of regular appeal is presented. In cases of special appeal, the security-bond for the costs is not to be exacted until after such special appeal shall have been admitted. Should the appellant fail to observe this condition, a notice is to be issued allowing him a term of six weeks, at the expiration of which, if the security be not furnished his right of appeal is to be held to be forfeited, and the decision of the lower court to be put in force, if required by the opposite party.

11. The rules laid down in Clauses 10, 11, and 12 of Section 2, on the subject of arbitrators, paupers, and military defendants, in original suits, are to be held applicable to the case of appeals.

SEC. IV.—VAKEELS, OR PLEADERS.

There are to be no regular Vakeels attached to any of the courts in Kumaon. Parties preferring to plead in person are to be permitted to do so; but if any party chooses to appoint a Vakeel, he may employ any person whom he may select to act for him in that capacity, and he and the Vakeel may make whatever terms they please as to the amount of remuneration to be allowed to the said Vakeel. Provided, however, that the Commissioner is to have the power to declare any individual incompetent to act in the capacity of Vakeel in any court in the province of Kumaon, recording his reasons for so doing in his proceedings, in order that, in the event of an appeal, the same may be revised by the Sudder Dewany Adawlut. It shall also be competent to every court in the province to reject for reasons to be recorded on its proceedings, any individual whom a party may wish to employ as Vakeel in any particular suit. Such order may be summarily appealed from and the superior court may cancel it, and direct that the person affected by it be permitted to act as Vakeel for the party wishing to employ him. In awarding cost against a party cast in any action no larger sum shall be charged on account of fees of the Vakeel of the successful party than it has been hitherto customary in Kumaon to allow on that score, viz, 5 per cent. on the value of the property litigated. Any further sum to which the Vakeel may be entitled under the agreement concluded between him and his employer, must be recovered by him from his employer.

Parties may plead in person, or appoint any person to do so, making whatever terms they please with the Vakeel as to the amount of remuneration to be allowed to him.

Commissioner empowered to declare any individual incompetent to act as Vakeel. Sudder Dewany Adawlut may revise such order.

Every court declared competent to reject any individual whom a party may wish to employ as Vakeel.

Superior court may cancel such order.

In awarding costs against a party cast, 5 percent. to be charged on the value of the property litigated on account of the successful party's Vakeel's fees.

SEC V.—EXECUTION OF DECREES.

1. Every petitioner praying for a warrant to enforce a decree, whether given in the Court of the Commissioner, the Assistant, or the Sudder Ameens, is to present his petition to the Commissioner (who may refer it to the Assistant or execution), or else to the Assistant, who will be guided in his proceedings by the following rules:—
- Petitions for the warrant to enforce a decree to be presented to the Commissioner or Assistant, who will be guided by the following rules.*
2. Petitions for the enforcement of decrees must be presented within the term of one year from the date on which such decree is passed. If it shall, however, appear to any Assistant to whom such a petition may be presented, after the expiration of the term above prescribed, that good and sufficient reason is shown for the delay, he may state the case for the consideration of the Commissioner, who is competent to sanction such decree being, under such circumstances put in force. If a similar petition be presented to the Commissioner, regarding any decree passed in his own court, he must, in like manner apply by a letter, in the English language, to the Sudder Dewany Adawlut, for permission to execute it.
- Petitions to be presented within one year from the date of the decree.*
- Exception.*
3. In cases not in the predicament of those specially provided for in Clauses 8 and 9 of section 3, a dustuk for the arrest of the party cast, in the event of his not paying the amount awarded against him, is first to be issued. Should he absent himself, or fail to pay, the peada entrusted with the enforcement of the process shall attach all his movable property, of which he will take an inventory, and give it over in charge to some respectable person of the village, taking a receipt for the same, which is to be lodged in the Assistant's Court. The property shall be sold as hereafter provided, and its proceeds applied to satisfying the demands of the claimant.
- Dustuk to be issued for the arrest of the party cast in cases not in the predicament of those mentioned in Clauses 8 and 9 of Section 3, Should he absent himself, or fail to pay, his property to be attached and sold, and the proceeds applied to satisfying the demands of the claimant.*
4. Should the amount thus realized not satisfy the decree, all the immovable and landed property of the party cast is to be attached by the nazir in the presence of some of his neighbours, by the erection of a post or other mark that may be intelligible to the people; a communication being at the same time made to the Collector of the district, through whom, if it be deemed preferable, the attachment of landed property may in all instances be made. The Assistant is to send up to the Court of the Commissioner a list of all such property for authority to dispose of it. On the expiration of the period fixed by the Commissioner, the property is to be sold in the presence of the Collector, who
- Or the landed property of the party cast is to be attached.*
- A communication to be made to the Collector, through whom landed property may be attached in all instances.*
- List of attached property to be sent to Commissioner for authority to dispose of it.*
- Property to be sold in the presence of the Collector, who is to remit the proceeds to the Assistant.*

will remit the proceeds to the Assistant, to be applied to discharge the balance of the decree.

5. Orders are to be given from the Court of the Assistant to the nazir to dispose of movable property attached, on receipt of which the nazir shall proclaim the sale, which is to take place in thirty days; at the expiration of which period, should the property be near to the sudder station of the district, it is to be sold in the nazir's presence; if at a distance, he is required to direct the local officer to conduct the sale. If the claimant be present at the time, the amount of proceeds arising from the sale is to be paid over to him on his granting a receipt. If he be absent, the amount is to be deposited in the Court of the Assistant, and a deduction of five per cent. to be made from the proceeds, which the nazir is to be allowed to retain to cover the expenses of the sale.

Movable property to be disposed of by the nazir or a mohurir.

Amount to be paid over to claimant or deposited in the Assistant's Court.

A deduction of five percent, to be made, which the nazir is to be allowed to retain.

6. In the event of the proceeds arising from the sale of the debtor's movable as well as immovable property not satisfying the amount of the decree, and claimant petitioning for the arrest of the debtor, he is to be required, at the same time, to deposit money for his subsistence, when the debtor may be placed in jail. It is to be understood that the debtor may, in like manner, be placed in jail in the event of his arrest by the peada entrusted with the dustuk which is in the first instance to be issued, provided the claimant lodge funds for his subsistence.

Should the proceeds not satisfy the decree, and the claimant deposit cash for the subsistence of the debtor, he may be placed in jail.

He may in like manner be placed in jail if arrested by the peada entrusted with the dustuk issued in the first instance.

7. The party applying for the arrest of another for the amount of a decree, is required to lodge with the nazir for his subsistence funds for two months. At the expiration of the first month, the claimant to be called on to lodge funds for two more months' subsistence. If he should fail to lodge the amount before the expiration of the first two months, the nazir to report it to the Assistant, who will release the debtor; and no debtor so released is to be liable to any further process of arrest of the same matter at the instance of the same party, unless it be proved that he was guilty of dishonest conduct in the fraudulent concealment or transfer of any property that would otherwise have been available for the satisfaction of the decree or other demand on account of which he may have been originally confined.

The party applying for the arrest of another required to lodge funds for his subsistence for two months.

At the expiration of the first, for two months more.

Should he fail to do so before the first two months expire, debtor to be released and not liable to any further process of arrest.

8. Rates for the subsistence of the debtors shall not exceed three annas or be lower than one anna per diem, to be fixed by the Assistant according to the rank of the debtor.

Rates for debtors' subsistence not to exceed three annas or to be lower than one anna per diem.

9. The fraudulent concealment of property with a view to evading the

Concealment of property to evade execution of a decree or to sue as a pauper, as also any act of violent resistance to the enforcement of a decree, declared a misdemeanour,

punishable by a fine, or imprisonment, with or without labour, for one year, or by imprisonment alone.

Roobukaree of the civil court to be held by the Magistrate to be a sufficient proof.

such sentence, on the prisoners being transferred to his authority, as, under the circumstances set forth therein, he may deem adequate.

execution of decrees or of obtaining permission to sue as a pauper as also any overt act of violent resistance to the enforcement of a decree or order of a civil court, is to be accounted a misdemeanour, punishable on conviction by a fine not exceeding two hundred rupees, commutable to imprisonment, with or without labour, for a term not

exceeding one year, or by imprisonment alone for that period. The roobukaree of the civil court before whom parties may be convicted of any of these offences is to be held by the Magistrate to be a sufficient proof of their guilt; and he is warranted to pass

10. If the debtor or debtors in confinement shall give in a statement upon

The court enforcing a decree may order the release of debtors in confinement upon their surrendering their property in satisfaction of the judgment passed.

which may be offered by the party at whose instance the prisoner or prisoners may be in confinement; and if the result of such enquiry shall satisfy the court that the statement so delivered is true and faithful, the court may accept the surrender of the property included therein, and, upon surrender thereof in satisfaction of the judgment passed, order the release of the person or persons in confinement.

oath containing a full and fair disclosure of all property belonging to them, the court enforcing a decree may cause enquiry to be made for the purpose of ascertaining the truth of such statement, or the validity of any objections thereto

11. Should a claimant, after the release of a debtor, give in a petition setting

Should a claimant discover more of a debtor's property after his release, the same may be attached and disposed of by the Assistant.

forth that he has discovered more of his property the same may be attached by the Assistant, and disposed of as is already enjoined, to satisfy the balance of the decree.

12. If the Assistant should see special cause for the release of a debtor, thought

If the Assistant see cause for the release of debtor, although founds for his subsistence are lodged, he is required to report to the Commissioner, who may order the release of the debtor.

the claimant may have lodged the founds for his subsistence, he is required to send up to the Court of the Commissioner a detailed statement, on which the Commissioner, if he thinks proper, may order the release of the debtor.

13. No person shall be liable to personal confinement in satisfaction of a

Specification of period of personal confinement in satisfaction of a decree.

decree for any sum not exceeding fifty rupees beyond a period of six months. If a decree be for a sum not exceeding three hundred rupees, the party

cast may be detained for a term of six months on account of every hundred rupees demandable thereon, so that the whole term of imprisonment shall not exceed two years. If the decree be for a greater sum than three hundred rupees, the Com-

Liberation from personal restraint to be no bar to process against the property of a person discharged.

missioner is competent, on the expiration of the two years, to liberate the party in confinement. It is to be distinctly understood, however, that liberation from personal restraint under this clause is to be no bar to such further process against the

property of a person so discharged as the party holding a decree against him may find occasion to resort to.

14. Should any person or persons report to the Assistant that part of their property has been attached along with that of the debtors, he is required to enquire into the case; and should it appear to him that the allegation is correct, and that the act was committed from mali-

Persons causing the property of others to be attached along with that of the debtor, declared liable to be punished for a misdemeanour.

cious motives, he is to make over the offenders to the Fouzdarry Court, to be there punished for a misdemeanour.

15. If at the time of passing or of executing a decree it shall be proved that no property can be pointed out from which the judgment can be immediately enforced, it shall be competent to the Court passing, enforcing, or revising such decree, to accept an engagement from the party against whom it is passed, on his surety (under sufficient malzaminee or hazir zaminee security), for the liquidation of the amount due by instalments, and to cause execution of the decree in conformity therewith. In such cases, if the party executing or delivering the engagement shall have been taken into custody, he shall be immediately discharged, and shall not be liable to further arrest in execution of the judgement to which such engagement may refer, except on failure to perform the terms of it; nor shall any interest be chargeable in such instances beyond what may be provided for in the engagement.

Court passing or enforcing a decree, declared competent, if no property can be pointed out, to take security for the liquidation of the amount due by instalments.

If the party delivering the engagement be in custody, he shall be discharged, and not liable to further arrest unless he fail to perform the terms of it: interest to be charged only according to the engagement.

shall any interest be chargeable in such instances beyond what may be provided for in the engagement.

16. The amount paid for subsistence is to be repaid by the party in confinement on his release, when property may be forthcoming from which it may be realised; but when no property can be so pointed out, a party shall not be kept in confinement for the repayment of such money only.

No party shall be kept in confinement for the repayment of subsistence-money only.

17. The Assistants are empowered to make over applications for the execution of decrees to the Junior or Sub-Assistants, or the Sudder Ameens, who, in acting upon the same, will be guided by the preceding rules.

Assistants empowered to make over applications for the execution of decrees to the Junior or Sub-Assistants, or the Sudder Ameens.

SEC. VI.—ON THE NAZIR AND HIS PEONS.

1. The Nazir of the Court of the Assistant is required to conduct the duties in the Courts of the Sudder Ameens.

Nazir of the Assistant's Court to conduct the duties in those of the Sudder Ameens.

2. A register of all peadas and teeklahs who are to be employed in the Courts of the Assistants and Sudder Ameens shall be kept in the Court of the Assistants, and none other are to be employed. The allowance of those employed

Register to be kept of peadas and teeklahs.

in all the courts is to be two

Their allowance to be two annas per diem. Persons on whose business they are employed to furnish them with conveyance or pay two additional annas during the rainy season.

allowance lodged for peadas

The Nazir to be remunerated with a fourth of such allowance. Commissioner may direct peadas and teeklahs to furnish security.

on the establishment.

annas per diem, and, during the rainy season, the persons upon whose business they are employed are required to furnish them with a conveyance, or two additional annas per diem as compensation.

The Nazir to be remunerated with a fourth of and teeklahs. The Commissioner may, if he thinks proper, direct security for appearance, when required, to be furnished by each peada or teeklah

3. Prior to the employment of any peada or teeklah, the person on whose

Allowance of peadas or teeklahs, to be lodged by the person on whose business they are to be employed.

business they are to be employed is required to lodge the amount of their allowance with Nazir, who is required to endorse his receipt the same, specifying the amount lodged on the back of the

warrant which the peada is to serve. The peada, on the process being executed must sign a receipt on the reverse of the warrant for the amount of his allowance.

4. The period to be allowed for warrants to be served by the peadas must be

Period for the service of the warrants to be regulated by the Assistant, in communication with the Commissioner.

regulated hereafter by the Assistant, in communication with the Commissioner.

SEC VII.—ON RECORDS.

1. A register of all original suits, as well as of appeals, shall be kept by the Assistant, in which are to be distinctly set forth the date on which each case was referred, and to what Court. The Sudder Ameens shall also keep a register.

Registers of all original suits and appeals to be kept by the Assistant and Sudder Ameens.

Assistant, in which are to be distinctly set forth the date on which each case was referred, and to what

2. The Sudder Ameens shall furnish the Assistant with a monthly return or copy of their register of all suits disposed of in their courts during the preceding month.

A monthly return of suits disposed of, to be furnished by Sudder Ameens to the Assistant.

3. All decisions in the courts in Kumaon are to be written in the Hindee language and character, and are to exhibit the names of plaintiffs and defendants, the amount sued for, as well as the number, date, and order of arrangement of the documents attached to the proceedings, with every other necessary particular.

All decisions to be written in the Hindee language, and to contain certain particulars.

language and character, and are to exhibit the names of plaintiffs and defendants, the amount sued for, as well as the number, date, and order of arrangement of the documents attached to the proceedings, with every other necessary particular.

4. The Sudder Dewany Adawlut are declared competent to fix the minimum number of suits to be decided monthly by the several Courts in Kumaon.

Sudder Dewany declared competent to fix the minimum number of suits to be decided monthly by the several Courts.

SEC VIII.—ON MORTGAGES.

1. If the property mortgaged has been held from the date of the mortgage by the mortgagee, the party who has mortgaged the same shall, on paying, or tendering, or depositing in court, the full amount due on the said deed, be entitled, on the expiration of the term specified in the mortgage-deed to recover possession of the same.

Party who has mortgaged property declared entitled to recover possession of it on the expiration of the term of mortgage, on tendering the amount due.

2. Wherever it shall appear that the profits accruing from the usufruct of the property ought, under the condition of the transaction, to be received in lieu of interest, the payment, tender, or deposit of the principal sum shall suffice to entitle the mortgager to recover possession of the property mortgaged.

When the usufruct of the property ought to be received in lieu of interest, the payment, tender, or deposit of the principal sum shall entitle the mortgager to recover possession.

3. In the event of any mortgagee refusing to receive the sum due to him, according to the conditions of the transaction, the mortgager may deposit the sum thus due in the court, and the officer presiding over the same shall then cause a notification to be issued to the mortgagee, calling upon him within a given period to attend, either in person or by representative, and receive the said money.

Should any mortgagee refuse to receive the amount due to him, it may be deposited in court, by which he will be called upon to receive it within a given period.

4. After the expiration of the period specified in the notification, the Assistant in charge of the district may either proceed to conduct the further enquiry himself, or may refer the case for trial to the Sudder Ameen; and on its being satisfactorily established that the transaction was a *bona fide* mortgage, and that the party applying to the Court has deposited the full amount of what is thereon due to the mortgagee, the complainant may forthwith, and without further suit, be replaced in possession of the property mortgaged.

After the expiration of the period specified in the notification, the complainant may be replaced in the possession of the property mortgaged.

5. When any person holding a deed of mortgage shall be desirous of foreclosing the same, he shall, after the expiration of the period specified in the deed, present, either in person or by representative, to the court a petition, with the original deed of mortgage appended to it, praying that the opposite party may be called upon to pay in the amount that may be due thereon.

Mortgage, how to be foreclosed.

6. The officer presiding over the court shall then cause a notice to be served on the mortgager, and, in the event of his not being found, a proclamation shall be issued calling on the mortgager to attend and pay the stipulated amount into court within the term of one year from the date on which such notice may be issued.

Mortgager to be called upon to pay the stipulated amount into court within one year from the date of notice.

7. In the event of the mortgager failing when thus summoned, to attend to or pay in the sum required of him on the expiration of the term above presented, the mortgage shall be held to have foreclosed. But it is hereby notified that no lapse of time shall suffice to foreclose a mortgage, or to convert a conditional in an absolute sale, until the provisions of the Clauses 5 and 6 shall be complied with.

On the mortgager's failing to attend or to pay, the mortgage shall be held to have foreclosed.

No lapse of time shall suffice to foreclose a mortgage or convert a conditional into an absolute sale, until the provisions of Clauses 5 and 6 shall be complied with.

8. It is further necessary to explain that the mortgagee thus applying to have his mortgage foreclosed is not, if he be not in possession before, to be put in possession in consequence of such application by a summary process, but must bring a regular suit, in order to acquire possession, against the mortgager.

Mortgagee must bring a regular suit in order to acquire possession.

9. In every case of mortgage, the Court before which it may be tried shall enquire into the amount that may have accrued to the mortgagee from the proceeds of the estate, and make a corresponding deduction from the sum that must be paid in order to procure the redemption of the same; and whenever it shall appear that the sum originally lent, with legal interest, has been realized out of the profits derived from the possession of the property, then the mortgage shall be held liable to account to the mortgager for any surplus that he may thus have appropriated.

Whenever it shall appear that the sum lent, with legal interest, has been realized out of the profits derived from the possession of the property, the mortgage shall be held to have been redeemed, and the mortgagee liable to account to the mortgager for any surplus that he may thus have appropriated.

10. In cases, such as obtain occasionally in Kumaon, in which no term is specified in the deed, the parties therein concerned may at any period take advantage of the provisions of this rule, either to redeem or foreclose the mortgage.

In cases in which no term is specified in the deed, parties may take advantage of this regulation at any time.

11. To prevent the bad effects of a species of mortgage that has prevailed in Kumaon, in which money is lent upon the implied security of persons not actually parties to the transaction, it is to be held as a general rule that a decree is never to pass, or to be enforced, against any individual not actually and severally

No decree shall pass or be enforced against any individual not indicated by name in the petition of plaint, and the processes issued thereon.

indicated by name in the petition of plaint and the processes thereon issued.

12. It being understood that many transactions partaking of the nature of a mortgage have been concluded in Kumaon on the faith merely of a verbal agreement, it is hereby enacted, that the conditions of all existing contracts of that description are to be enforced as far as possible in conformity with the provisions of this section; but that no mortgage not supported by a written deed is, after the promulgation of this rule, to be taken cognizance of by any Civil Court in the province.

Conditions of existing contracts, partaking of the nature of a mortgage on a verbal agreement, to be enforced. But no mortgage not supported by a written deed, is, after the promulgation of this rule, to be taken cognizance of.

SEC X.—RETURNS.

Monthly returns, in such form as he shall direct, shall be made by the Assistants in charge of districts to the Commissioner, showing the number of cases instituted and disposed of in the various courts during the preceding month; and an annual report on the administration of civil justice shall be made by the Commissioner to the Sudder Dewany Adawlut in such form as that Court shall direct.

Monthly returns shall be made by the Assistants to the Commissioner.

Annual report by the latter to the Sudder Dewany Adawlut.

Assistants in charge of districts to the Commissioner, showing the number of cases instituted and disposed of in the various courts during the preceding month; and an annual report on the administration of civil justice shall be made by the Commissioner to the Sudder Dewany

SEC.XI.—REGISTRY OF DEEDS.

An office for the registry of deeds shall be established in the several districts of the province of Kumaon under the immediate charge of the Junior Assistant. A single book, to be made of paper of English manufacture, will for the present suffice. The pages of this book are to be numbered, and each leaf is to be signed with his initials by the Senior Assistant in charge of the district, who is to certify at the end of the book how many pages it contains, and to affix his signature at full length, with the date, to the certificate. A fee of one rupee is to be paid on the registry of any deed, and a fee of eight annas on a copy being taken from the registry book. The fees are to be the perquisite of the Junior Assistant having charge of the books, who is to defray the expense attending their purchase and preservation. It shall for the present be optional with parties to register deeds or not, as they think proper.

A fee of one rupee to be paid on the registry of a deed, and of eight annas on a copy being taken from the registry book.

The fees to be the perquisite of the Junior Assistant, who is to defray the expenses of purchasing and preserving the books. Registering of deeds left optional with parties.

deeds or not, as they think proper.

12. In all cases not specially provided in the preceding rules, the Commissioner, his Assistants, and Native functionaries, shall endeavour to conform, as nearly as the circumstances of the province of the regulations in force in the provinces subordinate to the presidency of Fort William: applying in all cases not provided for, the Commissioner and other functionaries to conform to the regulation in force in provinces subordinate to the Presidency of Fort William; applying in doubtful matters to the Sudder Dewany or Board of Revenue.

doubtful matters for instructions to the Court of Sudder Dewany Adawlut, or to the Sudder Board of Revenue, according as the question at issue may be of a judicial or of a fiscal nature.

Supplementary Clause to Section I. of the Rules for the Administration of Civil Justice in Kumaon.

1st.—Whenever from the state of business in the Court of the Native Judges, or from other causes, the Assistant in charge of a division shall consider it expedient to transfer to his Junior Assistant any of the suits on the files of the Native Judges, it shall be competent for the Commissioner, on the Assistant's report of the circumstances, to invest the Junior Assistant with powers to try original cases for movable and immovable property not exceeding in value the sum of Rs. 1,000.

2nd.—Appeals from their decisions shall lie to the Assistant in charge of the division.

3rd.—It shall be competent to the Sudder Dewany, on report of the Commissioner, to invest a Junior Assistant with the powers conferred on Assistants in charge of divisions, by Clause 2, Section I., and subsequent provisions of the Civil Rules, whenever, from the state of business in the districts, such a measure may be deemed expedient.

4th.—Appeals from the decisions of Junior Assistants invested with the above powers shall lie to the Commissioner.

Appendix K.q.

RULES OF CIVIL PROCEDURE, PUT IN FORCE FROM 1863.

[NOTE.—These rules having been extended to the province of Kumaon subsequent to the date of the Indian Councils Act of 1861, were held to be legally invalid, but validity was given to them by Sec. 2, Act XXIV. of 1864, from the date of their issue until the act quoted came into operation; and portions of them, providing for the establishment of courts and the periods of appeal, were to continue permanently in force. These portions, as recognized in Kumaon, are distinguished by larger type].

SEC. I.—1. The Courts of Primary Instance shall exercise jurisdiction as follows:—

The Senior Assistant Commissioner shall try suits without limit of amount.

Assistant Commissioners who have passed the examination by the higher standard shall try suits not exceeding Rs. 1,000 in value.

Assistant Commissioners who have not passed the said examination, and Sudder Ameens, shall try suits not exceeding Rs. 500 in value.

Tehseeldars who may be recommended by the Commissioner, and duly authorized by the Government to exercise civil judicial functions, shall try suits not exceeding Rs. 300 in value.

2. No Judge shall hear or try a cause in which either of the parties may be his relative, a dependent, or creditor, or spiritual instructor.

3. None of the officers above named, having primary jurisdiction, shall admit a suit *in forma pauperis*; but the Commissioner may refer such suits to any subordinate Court for trial as he may think fit.

For the present, and untill the 20th March, 1864, after which date all suits which may be instituted shall be governed by the provisions of Act XIV, of 1859, all suits shall be tried and determined according to the limitation rules heretofore in force.

SEC.III.—1. The plaint should be written either in Hindee (or in English), and this, with all other statements, petitions, or exhibits in the cause, shall be on stamp-paper of the value prescribed by Act X. of 1862. The plaint shall state the name, description, and residence of the plaintiff, and also of the defendant, the substance and value of the claim, the date of the cause of action, &c. If the Court consider the plaint admissible, the particulars above mentioned shall be entered in a book to be kept for the purpose, and called the Register of Civil Suits; and the entries shall be numbered in every year, according to the order in which the plaint is presented: the register shall be kept in the form contained in Appendix A.

2. The plaint may be filed in the court which, according to the limitations described in Section 1, is competent to hear it; provided that, in the case of tehseeldars, the cause of action shall have arisen, or the defendant at the time the suit may be instituted shall reside, as a fixed inhabitant, within the limits of the tehseeldaree.

3. With respect to claims which may be brought forward wherein the cause of action has not arisen within the limits of the tehseeldaree, or the defendant does not reside within it at the time of the action being brought, the tehseeldar will note on the back of the plaint the jurisdiction to which the parties should resort, and return the plaint to the party presenting it.

4. Whenever a claim shall be brought into any Tehseel Court, in which the tehseeldar himself, or any of his relations, dependents, or subordinates may be interested, he shall not investigate the claim, but

shall forward it to the Senior Assistant Commissioner, without registering it on his own file, stating his reasons for not taking up the suit; and the Senior Assistant Commissioner, after consideration of the circumstances, shall decide in what court the case shall be tried. Again, if a plaintiff should in the first instance file before the Senior Assistant Commissioner a suit cognizable under Section 1 by any other court than his own, that officer will refer it to the competent court, or, on sufficient cause being shown, will bring it on his own file, or allow it to be heard in any other court subordinate to his own.

5. It shall be in the power of the Senior Assistant Commissioner, on sufficient cause being shown, to cause any suit to be removed into his own court, or to any other court subordinate, which may possess competent jurisdiction.

SEC. IV.—If the plaintiff sue on a bond, or rely in support of his claim on Documentary evidence to any document in his possession other than an entry in a book, he shall deliver, the same to the Court at the time of making or presenting his claim; and if the document be an entry in a book, he shall produce the book to the Court, together with a copy of the entry on which he relies; and unless such document be delivered in, or its non-production at the time be sufficiently excused, or unless the Court may see fit to extend the time for producing the same, it shall not be admitted to proof in support of his claim.

SEC. V.—The Court having received a plaint, shall proceed thereupon to make enquiry by examination of the plaintiff or his recognized agent, upon oath or affirmation, as to the merits of the claim, and shall record the examination in full. The Court shall reject the plaint unless it appear that the plaintiff has a fair *prima facie* cause of action, or if it shall appear that the defendant or matter of the suit is not within the jurisdiction of the Court, or that the action is barred by the lapse of time. If the plaint be not rejected, it shall be filed, together with any document produced in support thereof, unless the document be a book; in which case, the Court, after examining and comparing the copy of the entry produced with the original, shall cause the copy to be filed, and the original book to be returned.

SEC. VI.—The Court upon rejecting a plaint shall record its decision, which shall be reduced to writing in the Vernacular language of the Judge, together with the reasons upon which it is founded.

SEC. VII.—If the plaint shall be admitted, the Court shall direct the issue of a summons, in which shall be specified the name and residence of the plaintiff, and the amount or description of the claim.

SEC. VIII.—The day to be specified in the summons shall be fixed with reference to the state of the file, and the distance that the defendant may be, or supposed to be, at the time from the place where the court is held; and the summons shall order the defendant to appear in court personally, and to produce any document which he may have in his possession, of which the plaintiff demands inspection, or upon which the defendant may intend to rely in support of his defence.

The day to be specified in the summons, how to be fixed; defendant to be ordered to produce necessary documents.

SEC. IX.—The officer in charge of the summons shall endeavour to obtain the signature of the defendants, or, in the event of their absence, shall proceed to their residence and acquaint their families or neighbours with the object of the summons, and shall obtain the signature of two credible persons thereto in proof of service. On his return, the nazir shall ascertain from him, and report in writing, the mode in which the summons has been served.

SEC. X.—1. On the expiration of the period specified in the summons, if the defendants or any of them fail to attend the court, proclamation shall be issued for their attendance within a further period, to be fixed according to local circumstance in the different parts of the country.

2. If, within the period fixed by the summons or proclamation, an application shall be made to the Court to permit the answer to the plaint to be filed through an agent, or in writing, the Court may, on special grounds shown to its satisfaction, grant the application.

3. But if the party shall fail to attend, not having been excused attendance under the preceding clause, the Court on finding, after an examination of the plaintiff's cause, that he has a good *prima facie* cause of action, may, in its discretion, issue a warrant for the arrest of the defendant, who shall thereupon be taken into custody, and brought before the Court; but no defendant shall be so arrested who shall give to the party charged with the warrant a declaration in writing, that he is willing that the case should be tried *ex parte*.

SEC XI.—If at anytime after the admission of the plaint, the Court should be satisfied that the defendant conceals himself, or otherwise evades process of the Court, or is disposing of his property and effects with intent to defraud the plaintiff, or is about to withdraw his person or effects from the jurisdiction of the Court, in order to avoid any judgement in the case, the Court may at once cause his property to be attached, and issue a warrant for his arrest wherever he may be found.

When warrant of attachment may be issued.

SEC. XII.—If the defendant be arrested under the warrant issued under the preceding section, and shall not deposit the amount specified in the warrant, he shall be brought before the Court, without any unreasonable delay, and the Court shall, with all convenient speed, proceed to take his answer to the plaint; and if the suit cannot be at once adjudicated, the Court may require security from the defendant for his appearance in court, whenever the same may be required by the Judge at any time whilst the suit is pending before the Court, or before the final decree which may be passed thereupon shall be completely carried into execution, and may commit him to the civil jail until he shall furnish the same, or deposit in court such a sum as the Court may order.

SEC. XIII.—If the claim of the plaintiff be dismissed, and the Court be satisfied that the application for the arrest was without reasonable cause, the Court may, upon the application of the person arrested, award to such person a sum not exceeding the amount of the property or claim in dispute, provided that the award shall in no case exceed Rs. 100, as damages for any injury or loss which he may have sustained by reason of such arrest, to be recovered as part of the costs of suit. Such award shall bar any suit for such arrest; but the party arrested, instead of applying to the Court for damages under this section, may proceed in a regular suit on account of such arrest.

SEC. XIV.—Upon the appearance of the parties on the day named in the summons, or upon any subsequent day to which the hearing of the case may be adjourned, the Court shall proceed to examine the parties present, or their agents, upon oath or solemn affirmation, and either party may cross-examine the other. The depositions shall be taken down in writing in a narrative form in Hindee, as well as in the Vernacular language of the Judge, who shall then try to induce the parties either to compromise the suit or to submit to arbitration.

SEC. XV.—If the parties shall not agree to a compromise or to arbitration, and either of them shall bring forward any witnesses, when to be examined, witnesses on such day, the Court may take the evidence of such witnesses either on that day or on any subsequent day which may be fixed for the examination of witnesses.

SEC. XVI.—If, after the examination required by Section 14, and also the examination of any witnesses who may attend to give evidence on behalf of either of the parties, a decree can be properly made without further evidence, the Court shall make its decree accordingly.

SEC.XVII.—If any issue result from the examination upon which it is necessary to hear evidence, the Court shall declare such issue in brief and precise terms, and shall ascertain and record the names of the witnesses whom the parties intend to adduce, and whether the parties will bring their own witnesses, or whether they, or either of them, require the assistance of the Court to procure the attendance of a witness, either to give evidence or to produce a document. The Court shall then fix a convenient day, not more than twenty days distant, for the examination of witnesses and the trial of the suit, and shall, if required to do so, summon the witness or witnesses of either party or of both parties, to attend on the fixed day, and the trial shall take place on that day, unless there be sufficient reason for adjourning it, which reason shall be recorded by the Judge.

SEC XVIII.—If the defendant in support of his defence rely on any document in his possession other than an entry in a book, he shall deliver the same to the Court at the time of making his defence, and the Court shall file the same, and if the document be an entry in a book, he shall produce the book to the Court, together with a copy of such entry; and the Court, after examining and comparing the copy with the original, and marking the original, shall cause the copy to be filed, and the original book to be returned to the defendant; and unless such document, as above mentioned, be delivered in, or its non-production be sufficiently excused, or unless the Court extend the time for producing the same, it shall not be admitted to proof in support of the defence.

SEC.XIX.—1. Every summons for the attendance of a witness to give evidence or to produce a document, shall require the intended witness to attend at a time and place to be named in the summons, and shall also state whether the attendance of the witness is required for the purpose of giving evidence, or producing a document, or for both purposes. If a witness, whether a party to the suit or not, is required to attend and to produce before the Court any document alleged by the party summoning him to be in his possession or power, a direction to attend the Court with such document shall be inserted in the summons, and the document which the witness may be so called upon to produce shall be described in the summons.

2. Every such summons shall, if possible, be served personally upon the person thereby required to attend, by showing the original to such person, and at the same time delivering or tendering to him a copy thereof.

3. Such service must be made a sufficient time before the time specified therein for his attendance, to allow the witnesses a reasonable time for preparation and for travelling to the place at which his attendance is required.

SEC. XX.—If any witness on whom any summons to give evidence or produce a document shall have been duly served, either personally or in like manner as has been above prescribed in Section 9 for serving a summons on a defendant, shall, without lawful excuse, fail to comply with such summons, or, attending or being present in court, shall, without lawful excuse, refuse to give evidence, or to subscribe his deposition, or to produce any document in his custody or possession named in the summons, upon being required by the Court so to do, the Court shall have full power and authority to issue an order in writing to the nazir to apprehend and bring the witness before the Court, or, if he be already before the Court, to take him into custody; and such Court may impose on such witnesses a fine not exceeding rupees five hundred for his default or refusal, realizable by attachment and sale of his property, and may commit him to close custody until he shall consent to give his evidence, or to sign his deposition, or to produce the document; and any such fine shall, be levied and recovered by attachment and the sale of the property of such person. Provided that no fine imposed under the provisions of this section shall exceed the amount of the property in dispute in the suit.

SEC. XXI.—If a person for whose attendance, either to give evidence or produce a document, a summons shall have been served as above ordered, shall fail to attend, the Court, upon proof that the evidence of such witness or the production of the document is material, and that the witness absconds or keeps out of the way to avoid such attendance or production of the document, may cause a proclamation, requiring the attendance of such person to give evidence, or produce the document, at a time and place to be named therein, to be affixed, in the presence and with the attestation of two respectable householders, in some conspicuous place upon or near to his house or place of abode; and if such person shall not attend at the time and place to be named in such proclamation and it be proved to the satisfaction of the Court that the witness cannot be found, his property, real and personal, to such amount as the Court shall deem reasonable (but subject to the same limitation as to the articles exempt from attachment as in case of attachment for arrears of rent), shall be liable under an order of the Court to attachment and sale.

SEC. XXII.—Every plaintiff and defendant summoned to attend personally shall, except as hereinafter provided, appear in person on the day specified in the writ of summons, and on every other day fixed for their appearance by the Court

SEC. XXIII.—1. Ordinarily it shall be the duty of every Court to confront the parties to a suit, and to discourage the employment of vakeels and mookhtars; and the intervention of these latter, it is to be understood, Parties to the suit should ordinarily be confronted: exceptions.

is on no account to be permitted in the Courts of the Tehseeldars, except in these latter courts it shall be in the option of any party to a suit to employ a recognized agent to conduct the case on his behalf. But the appointment of such recognized agent shall not excuse the personal appearance of the plaintiff or defendant, in cases where his personal attendance has been or shall be required by an order of the Court, nor shall the Court adjudge the losing party to pay the fees of the agent of the other party, unless the latter satisfy the Court that he was unable to conduct the case in person.

2. The term "recognized agent" is defined to mean a personal servant, partner, relation, or friend, whom the Court may admit as a fit person to represent a party; persons holding general powers of attorney from absent parties; persons carrying on business on behalf of bankers and traders, such as gomastahs; managing agents of landholders, such as karindahs, &c.; nearest male relations of women; and persons *ex-officio* authorized to act for Government or for any Prince or Chief.

SEC. XXIV.—1. Women who, in accordance with the customs and manners of the country, ought not to be compelled to appear in public, shall be exempt from personal appearance in court.

2. The Government may, at its discretion and on report from the Commissioner of Division, exempt from personal appearance in court, any person whose rank in the opinion of the Government entitles him to the privilege of exemption, and may, at its discretion, withdraw such privilege. A list of persons so exempted shall be kept in the principal Civil Court of such district, and in the several subordinate courts of such district.

3. A plaintiff or defendant may be excused by the Court from attending in person if there is a co-plaintiff or a co-defendant who appears in person, or if the opposite party be willing to excuse his attendance, or if the Court shall be satisfied that there is reasonable excuse, *bona fide*, for the non-attendance of such party; but, nevertheless, any such party may be compelled to attend as a witness to the suit.

SEC. XXV.—If a plaintiff or a defendant setting up a cross demand against the plaintiff be excused by the Court from appearance, such plaintiff or defendant shall appoint some person to attend the court on his behalf, who has personal knowledge of the subject of the claim or demand, and who shall be liable to be examined and cross-examined in the same manner and with the same effect as the plaintiff or

defendant would have been if he had personally attended. The Court may also, if it think fit, order that the party excused shall be examined in any way in which an absent witness may be examined.

SEC. XXVI.—If, on the day fixed by the summons for the appearance of the defendant, or on any subsequent day to which the hearing of the case may be adjourned, prior to the recording of issues for trial, neither of the parties appear, the Court shall non-suit the plaintiff.

If, on the day of hearing, and prior to recording the issues for trial, neither of the parties appear, plaintiff to be non-suited.

SEC. XXVII.—1. If on any such day the defendant only shall appear, and shall, by himself or by some one duly authorized on his behalf, admit the cause of action, or any part of it, the Court shall proceed to give judgment upon such admission as if the plaintiff had appeared; provided that such judgment, if there be several defendants, shall be only against the defendant who makes the admission.

If the defendant only appear and admit the claim, Court shall decree upon such admission.

2. If on such day the defendant only shall appear, and shall dispute the demand, the Court shall allow the case to stand over for fifteen days. If the plaintiff appears within that time, and applies on a stamp-paper of one-half the value of that on which the plaint was instituted, but in no case of less value than eight annas, to continue his prosecution, the case may be proceeded with; but neither the value of the stamp-paper on which the petition for re-opening the case is written, nor the cost of any process for summoning defendant a second time, shall be included in the cost of the suit, or be allowed to the plaintiff.

If defendant only appear and dispute the demand, the case to stand over for fifteen days, to allow plaintiff an opportunity, under a penalty, of proceeding with it.

SEC. XXVIII.—If on the day appointed the plaintiff only shall appear, the Court, upon proof that the summons has been duly served, or that the defendant has come to the knowledge of such summons, shall proceed to examine the plaintiff or his agent, and, after considering the allegations of the plaintiff, and any documentary or oral evidence adduced by him, may either dismiss the case, or postpone the hearing of it to a future day for the attendance of any witness the plaintiff may wish to call, or may make an *ex-parte* decree against the defendant.

If plaintiff only appear, Court may proceed *ex parte*.

SEC. XXIX.—If the defendant shall appear on any subsequent day to which the hearing of the suit may be adjourned, the Court may, upon his showing cause to its satisfaction for not having appeared on the day first appointed, allow him to make defence. Provided that, unless the Court should specially

If defendant appear on a day to which the case is postponed, the Court may allow him to be heard in answer to the suit.

otherwise direct, any extra cost which may have been caused to the plaintiff in consequence of the defendant in appearing, shall be charged only to the defendant, whatever may be the result of suit.

SEC. XXX.—1. The defendant may pay into court such sum of money as he shall think a full satisfaction for the demand of the plaintiff, together with the costs incurred by the plaintiff up to the time of such payment, and such sum shall be paid to the plaintiff.

2. If the defendant deposit less than the sums claimed, and the plaintiff shall elect to proceed in the case, and ultimately recover no further sum than shall have been paid into court, the plaintiff shall be charged with any costs incurred by the defendant in the suit after such payment.

SEC. XXXI.—No interest from the date of payment shall be allowed to a plaintiff on any sum paid by the defendant into court, which may be tendered to the plaintiff, without prejudice to his right, to continue his suit for any further claim in the same subject matter.

SEC. XXXII.—If the defendant in any case claim to set off any demand against the claim of the plaintiff, the Court shall find what amount is due to the plaintiff, and what amount, if any, is due to the defendant, and shall give judgment for the recovery of any sum which, upon such finding, shall appear due to either party.

SEC. XXXIII.—The judgment of the Court with respect to any demand which a defendant may claim to set off, shall have the same effect as if such sum had been claimed by the defendant in a separate action against the plaintiff.

SEC. XXXIV.—If either party fail to produce his proofs within the time allowed him, or to take out a summons for the attendance of any witness whose attendance he may require to be enforced, the case shall be proceeded with and determined as if such party had declined to produce any proof.

SEC. XXXV.—The Court may in any case make orders for granting time to the plaintiff or defendant to proceed in the prosecution or defence of a suit, and may also, from time to time, for sufficient reason to be

recorded by the Judge, adjourn the hearing or further hearing of any case in such manner as to the Court may seem fit, or call on either party for proof on any point which the Court may think necessary for the determination of the case.

SEC. XXXVI.— On the day fixed for the trial of any issues, the witnesses shall be examined, and the evidence of each witness shall be recorded in writing in a narrative form, in the presence, and under the personal superintendence of the Judge, and each party may cross-examine any witness produced by the opposite party. The questions and answers of the witnesses shall be recorded; and no depositions shall be taken in the absence of the Judge.

SEC. XXXVII.—The Court, after considering the arguments and evidence, shall pronounce judgment in open court; such judgment shall be reduced to writing before it is delivered in the Vernacular language of the Judge, and shall state the points to be decided, the decision thereon, and the reasons for the decision.

It shall be signed by the Judge, and dated on the day upon which it is pronounced. The decree shall also state whether the amount of any sum adjudged is to be paid by instalments, and shall specify the dates and amounts for payment of instalments, with the amount of costs, other than those excepted by section 27, Clause 2, and Section 29, incurred in the suit, and by what parties, and in what proportion, they are to be paid.

SEC. XXXVIII.—Certified copies of the decree and judgment shall be furnished to the parties, or their recognized agents, on application to the Court, and on the production of the necessary stamps, where stamps are required by any law for the time being in force. The application may be made either orally, or by writing on unstamped paper. The date on which application for copy may be made, the date on which the necessary stamp-paper for a copy may be presented, the date of the copy being completed, and of its actual delivery or tender, shall be endorsed on the back of the original decision, and of the copy or copies also. If the applicant shall fail to attend, or shall refuse to receive the copies, the Court shall certify the same on the back of the copies, which shall then be filed with the case.

SEC. XXXIX.—If the decree be for the delivery of personal property, it shall state the amount of money to be paid as an alternative if delivery cannot be had.

Court may appoint Assessors.

SEC. XL.—The Court may in any case appoint a jury or assessors.

ARBITRATION

SEC. XLI.—1. The Court also may in any case, with the consent of both parties to the suit, order the same to be referred to arbitration, in such manner and on such terms as it shall consider reasonable and just.

2. The Court shall advise the parties to agree to arbitration in all cases of dispute regarding caste, or family matters, or involving accounts, or questions of inheritance or betrothal; and, on their consent being received, it should be the object of the Court, in cases where accounts are to be examined, to ensure the appointment as arbitrators of such persons only as are versed in accounts; in cases where claims to inheritance have to be investigated, of such persons as belong to the same caste or tribe as the litigants; and in disputes relating to betrothals, of persons, without reference to family or caste, whose respectability of character may be calculated to secure respect for their award.

Reference of a case to arbitration not revocable, except by consent of parties.

3. Reference of a case to arbitration shall not be revocable, except by consent of the parties.

4. When the arbitrators have arrived at a decision, their written award, together with any depositions of witnesses which they may have taken in the case, shall be presented to the Court in presence of both parties to the suit. Although every consideration should be given to the award of arbitrators, especially when they are unanimous, yet in no case should the Court accept it unless satisfied that it is a reasonable and just decision. If the Court should see good reason to doubt the justice of the decision, the arbitrators should be interrogated as to the grounds upon which they have formed their opinion, and the same should be recorded on the back of the document itself. If the explanation thus obtained should not appear satisfactory, the Court should return the proceedings to the arbitrators, and desire them to consider and record their award with more clearness and precision. If the Court, being a court inferior in degree to that of an Assistant Commissioner, should refuse to accept the award of the arbitrators, and should pass a decision contrary thereto, the said Court shall submit the case at once to the Senior Assistant Commissioner, who shall then pass upon it such orders and such a decision as he may think proper. But if any such Court should have before it proof of the corruption or the partiality of the arbitrators, it shall be authorized at once to reverse the award, recording the reasons for so doing, and shall then forward the proceedings for the perusal and confirmation of the Senior Assistant Commissioner.

SEC. XLII.—1. Insolent or disrespectful behaviour towards any Judge while sitting in court, or any other conduct within the hearing or view of a Judge sitting in court tending to the dishonour of the Court.

to interrupt the due course of business, shall be deemed a contempt of the authority of the Court, and shall be punishable by fine not exceeding Rs. 100, commutable to imprisonment at the public expense in the civil jail for a period not exceeding thirty days.

2. The order of the Court shall in such case, state the facts constituting the contempt, and such order shall be open to a summary appeal.

SEC. XLIII.—1. The Court or any court to which any process may be sent for service or execution, may hear and determine cases of resistance of its process occurring within its own jurisdiction, unattended with personal violence; and on proof of the offence may convict the offender, and adjudge him to pay a fine not exceeding Rs. 100, and in default of payment, to be imprisoned for any period not exceeding thirty days in the civil jail at the public expense.

2. If the resistance of process be attended with personal violence, or other aggravating circumstances, the case may be referred by the Court to the Magistrate of the district, who shall proceed upon such reference under the rules in force.

3. The Court, on the statement on oath or solemn affirmation of any peon or other officer resisted in the execution of the process, may summon the person accused to answer the charge, and on the failure of such person to attend, the Court, if satisfied of the service of the summons in any one of the modes above prescribed, may issue a warrant for the apprehension of the accused.

SEC. XLIV.—Application for the execution of a decree shall be made by petition, and the petition shall be engrossed upon stamped paper of the value prescribed by Act X. of 1862, as modified by the Notification of the Government of India before cited.

SEC. XLV.—1. The petition shall set forth in tabular form the following particulars:— The number of the suit, the names of the parties, and the date of the decree; the subject of decree; whether an appeal has been preferred or admitted from the decision; whether any and what adjustment of the matter in dispute has taken place since the date of the decree; the specific amount due to the petitioner under the decree, whether on account of costs of suits or otherwise; and the name of the individual against whom the enforcement of the decree is solicited.

2. An attested copy of the decree shall also be presented with the application.

SEC. XLVI.—If the Court shall award payment of any sum of money by instalments, and default be made in payment of any instalment as it falls due, execution shall issue, upon the application of the decree-holder, for the full amount of all the instalments remaining unpaid.

SEC. XLVII.—Execution on a judgment shall not issue against the heir or other representative of a deceased party without notice to such heir or other representative to appear and be heard.

SEC. XLVIII.—For the present, and until the 20th March, 1864, after which date process of execution will only issue according to the provisions of Section 33 of Act XIV, of 1859, the period within which execution of decree may be sued out shall be determined by the rules heretofore in force

Process not to issue simultaneously against person and property.

SEC. XLIX.—Process shall not be issued simultaneously against the person and property of a judgement-debtor.

SEC. L.—If a warrant issue for taking in execution the body of any person, the Nazir of the Court shall cause him to be seized, and unless such person shall immediately deposit with the officer entrusted with the service of the warrant the full amount specified therein, the Nazir shall bring him before the Court, and if such person shall not immediately deposit in court the amount of the demand, inclusive of all costs, or shall not furnish good and sufficient security for the payment of the same, either in full or by instalments as the Court may direct, or satisfy the Court that he has done his best to pay the same, and has no property or effects from which it can be discharged, the Court shall send him to jail, there to remain for such time as shall be direct by the warrant, unless he shall in the meantime pay the full amount specified therein, or furnish the security above stated. Provided, that the term to be directed by the warrant shall not exceed three calendar months where the amount decreed, exclusive of costs, does not exceed Rs. 50, or six calendar months in any other case. Provided also, that if the judgment-creditor should oppose the release, and can prove to the satisfaction of the Court that the judgment-debtor has wilfully and fraudulently evaded payment by the concealment or transfer of property or otherwise, the Court may award a further term of imprisonment, not exceeding three or six months, as the decree may be for less or for more than Rs. 50, unless the debtor shall sooner perform the order of the Court.

SEC. LI.—The security-bond taken under the preceding section shall be in the form appended to these rules, and shall stipulate that, if default shall happen in the fulfilment of the conditions of the bond, the judgment-creditor

may, without a fresh action, sue out execution upon such bond under the foregoing rules, in like manner as if a decree had been passed against the surety, his heirs, executors, or administrators, upon such bond.

SEC.LII.—Any person once discharged from jail shall not be imprisoned a second time under the same judgment, but such discharge shall not extinguish the liability of such person under the decree, or exempt any property liable to attachment in execution of the same.

SEC.LIII.—Any person suing out process of execution against the body of any other person shall deposit with the Nazir of the Court, at the time of the issue of the warrant, diet-money for one month of thirty days, after the rate of two annas per diem, unless the Court for any special reason in any case direct the deposit of a higher rate, which shall not exceed four annas per diem.

SEC.LIV.—Payment of diet-money at the same rate shall be made previous to the commencement of each succeeding month of the imprisonment, in failure of which the party confined shall be discharged.

SEC. LV.—All the diet-money spent in providing subsistence for any prisoner shall be added to the costs in the suit, and any diet-money not so spent shall be returned to the party who deposited the same.

SEC.LVI.—The Court, at the instance of the decree-holder, may at any time after judgment summon the defendant, and any other person whom it may think necessary, and examine him upon oath, or solemn affirmation, touching the property of the defendant and his means of satisfying the judgment; and if such defendant or other person on such examination shall wilfully misrepresent any matter on which he may be examined, he shall be deemed guilty of perjury, and shall be proceeded against, and upon conviction punished accordingly.

SEC.LVII.—If it shall at any time appear to the satisfaction of the Court that the defendant is unable from any temporary cause to pay and discharge the debt, or damages awarded against him, or an instalment thereof ordered to be paid by him, the Court may suspend the execution for such time and on such terms as it shall think fit, until it shall appear by the like proof that such temporary cause of disability has ceased.

SEC. LVIII.—A judgment-debtor may at any time deposit in court any sum of money which he may have been adjudged to pay, and the sum so deposited shall be paid over to party entitled to receive the same; and no interest shall be allowed to such party upon such deposit from the date on which it was made, whether it be in full, or only in part of the judgment.

Judgment-debtor may deposit in court money, either in full or in part of the judgment, and no interest allowed on such deposits.

SEC. LIX.—When cross-judgments shall have been obtained between two parties, execution shall only issue upon the one which shall be for the larger sum, and for so much only as shall remain after deducting the smaller sum.

Execution when cross-judgments have been obtained.

SEC. LX.—1. In executing a writ of execution against the property of a judgment-debtor, the Court shall direct such portion of his property (first movable and then immovable) as may be included in the application of the judgement-creditor for execution to be attached, as may appear sufficient to cover the amount due. Should the amount realized from the movable property not satisfy the decree, it shall be competent to the Court to order the attachment of any immovable property which shall suffice to cover the amount of balance due. In directing such attachment, the Court shall except the tools and implements of the trade or occupation of the defendant, as well as all other articles which under existing rules are exempt from attachment in these territories.

Only movable property to be first attached in execution.

2. The attaching officer shall prepare an inventory of the articles distrained, and shall give them in charge to some respectable householder in the vicinity, from whom a receipt must be taken, which shall be filed with the proceedings.

3. As soon as the attachment has been effected, a proclamation in the current language of the country shall be issued for at least thirty days before the appointed day of sale. The proclamation shall specify the property attached, and the time and place of proposed sale. One copy of the proclamation shall be fixed to some conspicuous part of the defendant's dwelling-house or usual place of business, and another to the court-house. The purport of the proclamation shall also be announced in some public manner in the village or town where the attachment has been made.

4. If within the period fixed by the proclamation any claim be preferred to the property thus advertised for sale, or if any objection be raised against the proposed sale, such claim or objection may in the first instance be presented on stamp-paper of the value required for miscellaneous petitions by Article IX., Schedule B., Act X. of 1862. If the decree-holder admit the lien, then no further proceedings are required. If the lien be disputed, then a trial will be held, to be

commenced by a petition on stamped paper of the value prescribed by Act X. of 1862 for regular claims; and, upon receipt of such a petition duly filed, the Court shall be at liberty to postpone the sale, and to enter upon an investigation, and to decide on the validity of the claim or the objection preferred.

5. If the claim be proved to be frivolous, it shall be dismissed, with all the costs incurred in the investigation. But if it appear to be well-founded, the property claimed shall be released from attachment, or, when the claim may be only to a portion of such property, may, in the discretion of the Court, be exposed for sale, subject to satisfaction of the claim admitted or proved; and the cost of the initiatory stamp, as well as all subsequent expenses incurred, will be charged to the person pressing the right to sell, or in such proportions between both parties as shall seem to the Court fair and equitable.

6. Any decision which may be passed on such claim shall be held conclusive only *quoad* the parties who have been before the Court. After such decision, the purchaser shall be put in possession of the thing sold, but no immunity can be given to property thus obtained against any just claims of absent parties.

7. If a sale be postponed pending the investigation of such a claim or objection, and in the event of the claim being disallowed, a second proclamation, of a term not less than ten days, shall be issued for the information only of intending purchasers, but it shall not be competent to the Court to receive any fresh objections during the second term, or at any time after the expiry of the first or original advertisement; provided that the objector be allowed to show cause why he had not objected during the first term.

8. On the day appointed for sale, the attached property shall be divided into convenient lots, and each lot put up in succession until the amount of the decree be realized. When the decree is satisfied, the sale shall immediately cease, and all property remaining unsold shall be at once released from attachment.

9. The entire sum bid for movable property must be paid up within twenty-four hours, and the property withheld till the money is paid. A deposit of ten percent. on the price will be required at the time of sale, and this deposit will be forfeited, and the property resold, unless redeemed within the period above prescribed. If at the second sale the property should fetch a lower price than at the first sale, then the difference shall be recoverable from the original purchaser.

10. In the case of immovable property other than land, the sale will be held on the premises or at the court-house as may seem most expedient to procure a ready sale. The property will be sold in lots, so as to prevent the sacrifice of any property beyond the necessities of the decree.

11. In sales of real property, the full amount of the purchase-money should be paid within fifteen days, in default of which the deposit of ten percent. required at the time of auction will be forfeited, and the property re-sold at the risk of the first purchaser. But the Court may, at its discretion, extend the term, if the value of the property should render such a course expedient.

12. No proprietary right in land shall be sold in execution of decree except with the written sanction previously obtained of the Commissioner of the division.

SEC. LXI.—Where there are several decree-holders claiming to share in the proceeds of sale, each claimant must take out process of attachment previous to the sale of the property to entitle him to a rateable share; and before any distribution of the assets, the attaching decree-holder shall be reimbursed from them the charges which he has actually incurred.

Distribution of assets among several decree-holders, and what each must do to entitle him to a rateable share.

SEC. LXII.—If a decree-holder be unable to enforce or obtain satisfaction of a judgment by execution within the jurisdiction of the Court which pronounced the same, and be desirous of enforcing or obtaining satisfaction of such judgment by the arrest of the defendant, or the seizure and sale of property in the jurisdiction of another court, the Court, on the application of such judgment-creditor, shall grant him a copy of the judgment, and a certificate of any sum remaining due under it, and on the presentation of such copy and certificate to any of the Civil Courts in these territories, such Court shall proceed to enforce such judgment according to the foregoing rules.

Judgment how to be enforced beyond jurisdiction of Court.

SEC. LXIII.—Every order and decision passed by the Court of Primary Instance shall be open to an appeal as follows:—

Appeal allowed in every case.

1. From the decisions of a Senior Assistant Commissioner (or Junior Assistant Commissioner exercising the powers of a Senior Assistant Commissioner) in original suits, a regular appeal shall lie to the Commissioner, whose decision shall be final; provided that, whenever the decisions of the Court of Primary Instance and of Appeal in such cases shall differ, it shall be in the option of the Government, on petition being presented, or otherwise, to refer the proceedings to the Sudder Court for their report and opinion, and thereafter to pass such orders as may appear proper.

2. From the decision of a Senior Assistant Commissioner in regular appeal, a special appeal may be admitted by the Commissioner, for

good and sufficient reasons to be set forth at length in the order of admission.

3. The foregoing clause shall be applicable to the decisions passed on regular appeal by Assistant Commissioners, who, upon the special recommendation of the Commissioner, may be empowered by the Government to hear appeals from the decisions of Tehseeldars in original suits.

4. From the decision of Assistant Commissioner, of Sudder Ameens, and of all Tehseeldars, in original suits, a regular appeal shall lie to the Senior Assistant Commissioner; provided that whenever an Assistant Commissioner shall have been vested with authority to hear appeals, as in the preceding clause, it shall be in the discretion of the Deputy Commissioner to make over to him for hearing and decision such number of appeals from the decisions of the Tehseeldars as he may think fit.

SEC. LXIV.—The petition of appeal shall be written on stamped paper of the value prescribed by Act X. of 1862, according to the value of the property to which the appeals relates. The petition of appeal shall be accompanied by an authenticated copy of the order of decision appealed against, engrossed upon stamp-paper of the requisite value.

Mode of preferring an appeal.

SEC. LXV.—The appeal from the decisions in original suits of all (district) courts subordinate to the Senior Assistant Commissioner as an appellate authority, must be preferred within thirty days from the date of the order or decision appealed against. A regular appeal from the decision of a Senior Assistant Commissioner, or a Junior Assistant Commissioner exercising the powers of a Senior Assistant Commissioner, in original suits, and a special appeal from the decision of the same officers in regular appeal, must be preferred within sixty days from the date of the order or decision appealed against. If the period allowed for appeal should in either case elapse whilst the Appellate Court is closed, an appeal, either regular or special, as may be, may be admitted on the first day on which such Court re-opens. The thirty and sixty days respectively shall be reckoned from, and exclusive of, the day on which judgment was pronounced, and also exclusive of the period

Period within which appeal must be preferred.

which may intervene between the presentation of stamped paper for a copy, and the completion of the copy.

SEC. LXVI.—An appeal may be admitted after the expiration of the term allowed, provided that good and sufficient cause be shown for the indulgence.

In what case an appeal may be admitted after the expiration of period specified.

SEC. LXVII.—The petition of appeal shall set forth concisely, and under distinct heads, the grounds of objection to the decision appealed against, without any argument or narrative, and such grounds shall be numbered consecutively. The appellant shall not without the leave of the Court, urge or be heard in support of any other ground of objection, but the Court, in deciding the appeal, shall not be confined to the grounds set forth by the appellant.

What matter shall be set forth on the petition of appeal.

SEC. LXVIII.—1. An appeal shall be preferred by the appellant in person, or by his recognized agent, and the Appellate Court shall give immediate notice to the respondent, and may if it think necessary, summon the respondent.

By whom appeal is to be presented.

2. The Court of Appeal may take additional evidence in a case on appeal, or may remand it for further investigation.

3. The Appellate Court may suspend the execution of a decree pending on appeal.

SEC. LXIX.—No order or decision shall be reversed, altered, or remanded on account of any error, defect, or irregularity not productive of injury to either party.

Appeals to be determined upon merits, without regard to technical errors.

SEC. LXX.—A register of regular appeals, and a register of special appeals, shall be kept in each Appellate Court in the forms contained in the Appendix B. and C.¹ respectively.

SEC. LXXI.—It shall be in the power of the Commissioner of the Division, and of the Senior Assistant Commissioner of each District, exercising appellate jurisdiction under these rules, at any time within ninety days from the date of the passing or the execution of any judgment

Appellate Courts authorized to call for proceedings or judgments of subordinate Court, and to revise, reverse or confirm such judgment, without appeal or application for review having been preferred.

1. Not printed,

or order by any Court subordinate to the said Appellate Courts of the Commissioner and Senior Assistant Commissioner, to call for such judgment or proceeding without any regular appeal or application for review having been preferred against the same; and may, if the said Commissioner or Senior Assistant Commissioner shall see sufficient grounds, revise and alter, or reverse, or confirm the same. But in such case, before revising, altering, or reversing any judgment or order, the said Commissioner or Senior Assistant Commissioner shall cause the same notice to be given to the party in whose favour the said order of judgment was pronounced, and the same opportunity to such party to be heard in support thereof, and the same proceedings to be taken, as if a petition of appeal had been filed by the party aggrieved thereby.

SEC. LXXII.—In revising cases called for under the preceding rule, or brought before them on appeal, it shall be the duty of the Appellate Courts to point out for future guidance all irregularities, errors, and instances of departure from right principle; and these, when important, should, as a general rule, be circulated to the subordinate Courts for instruction and guidance.

Appellate Court in such cases to point out irregularities and errors observable to all subordinate Courts, for guidance.

MISCELLANEOUS—RELATING TO TEHSEELDARS.

SEC. LXXIII.—1. The Tehseeldars entrusted with jurisdiction in civil suits shall forward to the office of the Senior Assistant Commissioner the records of such cases as are decided in one month on the fifth day of the month next ensuing, recording, in a book to be kept for the purpose in their own office, a copy of the final judgment filed in each case.

2. These records of decided cases shall be accompanied by a list of them in the subjoined form.¹

SEC. LXXIV.—It being important that the measure of investing Tehseeldars with jurisdiction in civil suits shall be, at least in its beginning, closely watched, it will be the duty of the Senior Assistant Commissioner, as each batch of monthly decisions is received from the Tehseeldars, to cause the records to be distributed among his Assistants; and these should be required to examine some of the decisions of each class indiscriminately, and to put up with the record of each case, so examined, for submission to the Senior Assistant Commissioner, a brief note pointing out anything that may appear to be contrary to rule or justice, or to involve any departure from right principle. If the Senior Assistant Commissioner, in looking through these cases, should see

The decisions of Tehseeldars to be revised by the Assistants, who will put up a note of any error, and submit the case to the Senior Assistant Commissioner, who will pass such orders as he may deem expedient.

1. Not printed.

sufficient reason for so doing, he is authorized to revise and amend or reverse the decision, or remand the case for re-trial or investigation, as may appear to him expedient, whether an appeal has been preferred or not; provided always, that in such cases he shall observe the rule laid down in Section 71.

SEC. LXXV.—The cost of any extra establishment which may be required by the Tehseeldars will be met from the surplus tulubana levied in the Courts of the Tehseeldars on account of summons, subpoena, and other processes.

Cost of extra Tehseeldar's establishment to be met from the surplus of Tulubana Fund.
Tulubana not to exceed one rupee upon one process.

SEC. LXXVI.—The tulubana shall in no case exceed one rupee upon one process.

SEC. LXXVII.—Tehseeldars shall keep a list of muzkooree peons to be employed by them in serving civil processes, in the following forms, and shall employ none other

List of muzkooree peons to be kept by Tehseeldar.

Name of Peon.	Name of Father.	Caste and Age.	Residence.

and the list in this form shall be hung up in the Tehseeldar's Court. Care must be taken that no more muzkooree peons shall be entertained than experience may show to be required for the serving of processes in ordinary course.

SEC. LXXVIII.—The Tehseeldars will forward the surplus proceeds of tulubana at the end of each month to the Senior Assistant Commissioner, who will regulate the necessary establishments, paying them from this fund, and therewith will be forwarded a monthly account of tulubana, showing the total amount levied during the month, to be made out in the subjoined form:—

Tehseeldars will forward the surplus proceeds of tulubana and a monthly account at the end of each month to the Senior Assistant Commissioner.

Assistant Commissioner, who will regulate the necessary establishments, paying them from this fund, and therewith will be forwarded a monthly account of tulubana, showing the total amount levied during the month, to be made out in the subjoined form:—

Account of Tulubana levied during the month of

1.	2.	3.	4.	5.	6.	7.
Month.	Number of Processes Served	Number of Persons Employed in Serving Processes	Amount of Tulubana Received	Amount paid to Muzkoorees for Service of Processes	Surplus Remitted	Remarks.

SEC. LXXIX.—A daily account shall also be kept in the Tehseeldar's office, ^{Daily account of processes to be kept in Tehseeldar's office.} in the subjoined form, detailing the processes served each day, with the names of the persons employed in serving them:—

Daily Account showing the Number of Peadas Employed and the Date of Employment.

1.	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.
Number of the Cases in Register A.	Name of Plaintiff.	Name of Defendant.	Amount of Claim.	Description of Process issued.	Name of Tehseeldaree Peon or Muzkooree Peon by whom served.	Date of serving the Process.	Date of Return of Process after Service.	Number of Days,	Name of Place where Served, and Distance from Tehseel.	Amount of Tulubana.

GENERAL—MISCELLANEOUS

SEC. LXXX.—In addition to the "Register of Civil Suits," "Register of Appeals," and "Register of Special Appeals," to be kept in the forms of Appendix A., B., and C, statements, in the forms appended, shall be kept in each of the courts specified in Section 1 of these rules, viz.:—

D.—"Register of Rejected and Returned Plaints."

E.—"Register showing the Dates fixed for the Trial of Cases."

F.—"Register of Penalties imposed on account of Insufficiently-stamped Documents."

G.—"Register of Returned Documents."

H.—"Register of Amount Deposited on account of Judgment-debtor, under Section 53 of the Rules, and on account of Tulubana Levied for Service of Process."

K.—"Register of Civil Prisoners Confined in Execution of Decree."

L.—"Register of Deposits."

M.—"Register of Fines Imposed."

N.—"Daily Register of Stamps."

O.—"Register of Application for Execution of Decree."

SEC. LXXXI.—It shall be the duty of the Commissioner of the (Kumaon Division to submit to the Government on or before the last day of each month, a statement, in the Form P. of appendix, of all original suits and appeals, and miscellaneous cases, other than applications for execution of decree, instituted, disposed of, and pending in each Civil Court of his division for the preceding month. He will also submit at the same time a statement, in the Form R. of appendix, of applications for execution of decree for the same period. The Commissioner will receive from each district statement in this form, and, after examining them, and issuing to the Senior Assistant Commissioner of the districts such instructions as may be through necessary, will incorporate the same in the two statements for the whole division which are required by the section to be submitted to Government.

A statement of all original suits and appeals and miscellaneous cases instituted, disposed of, and pending, to be submitted by Commissioner on or before the last day of each month.

Division to submit to the Government on or before the last day of each month, a statement, in the Form P. of appendix, of all original suits and appeals, and miscellaneous cases, other than applications for execution of decree, instituted, dis-

posed of, and pending in each Civil Court of his division for the preceding month. He will also submit at the same time a statement, in the Form R. of appendix, of applications for execution of decree for the same period. The Commissioner will receive from each district statement in this form, and, after examining them, and issuing to the Senior Assistant Commissioner of the districts such instructions as may be through necessary, will incorporate the same in the two statements for the whole division which are required by the section to be submitted to Government.

SEC. LXXXII.—The Commissioner of the Division, simultaneously with the statement required by the preceding section, shall forward to the Government a monthly statement, prepared in a corresponding form so far as may be applicable, of appeals regular and special instituted, disposed of, and pending in his own court.

A statement of appeals, regular and special, instituted, disposed of, and pending, also to be forwarded by Commissioner.

the statement required by the preceding section, shall forward to the Government a monthly statement, prepared in a corresponding form so far

as may be applicable, of appeals regular and special instituted, disposed of, and pending in his own court.

SEC. LXXXIII.—All civil suits and miscellaneous civil cases which shall be pending before any Court within the limits of jurisdiction of any of the courts constituted by section 1 of these rules at the time of the constitution of such Court, shall be heard and determined in any of the Courts so constituted which shall possess competent jurisdiction under these rules.

All suits pending at the constitution of the Courts to be heard by those Courts.

pending before any Court within the limits of jurisdiction of any of the courts constituted by section 1 of these

rules at the time of the constitution of such Court, shall be heard and determined in any of the Courts so constituted which shall possess competent jurisdiction under these rules.

Appendix K. r.

NOTE ON THE RULES FOR THE ADMINISTRATION OF CIVIL JUSTICE IN KUMAON.

MORTGAGES, SUDDER AMEENS, AND TULUBANA.

It is a question which admits of a doubt whether the rules prescribed under Act X. 1838, and known by the name of the Assam Rules, do not retain their legal force so far as they overlap or cover more ground than is covered by the rules which were designed to supersede them. They have never been expressly abrogated; and in matters not provided for by subsequent legislation, as, for example, the law of mortgages contained in Section 8, the Courts are practically still guided by their provisions.

No instructions were ever issued by the Executive Government regarding the application or introduction of Act VIII. of 1856, when it was extended to Kumaon by act XXIV. of 1864, and the Courts have followed their old usage in all matters for which there exists no special provision in the Civil Procedure Code. The Sudder Ameens have not been transformed into Subordinate Judges. The recent enactment which regulates their titles, and powers, and duties, Act XVI. of 1868, is conterminous in its scope with the local limits of the the civil jurisdiction of the High Court, and Kumaon lies without the circle of its operation. There, consequently, the Sudder Ameens are still Sudder Ameens, and are appointed by the Commissioner, and the appointment is subject to the confirmation of the Lieutenant-Governor, according to the provisions of the old Assam Rules.

The same is the case with the rules for the service of process. The operation of Act XI. of 1863 is confined to those provinces which are subordinated to the civil jurisdiction of the High Court. In Kumaon the existing system is still based on the arrangements made forty years ago by Mr. Commissioner Traill. There is one establishment for the service of process in all departments—civil, criminal and revenue. The nazirs and peons are supported out of the tulubana, and the tulubana is still levied for summonses in petty criminal cases, exactly as in revenue or civil suits.

Appendix K. s.

THE WITHDRAWAL OF KUMAON FROM THE CONTROL OF SUDDER DEWANY ADAWLUT.

*From REGISTRAR, SUDDER DEWANY ADAWLUT, to OFFG. SECRETARY TO
GOVERNMENT, No. 636, dated 8th April, 1863.*

* * * * *

4. These rules (civil rules prescribed for Kumaon in 1862) contain two important modifications, the effect of which is virtually to remove the province

of Kumaon altogether from the control and superintendence of the Sudder Court, for, by Section 63, the jurisdiction of the Sudder Court on regular and special appeals has been transferred to the Commissioner, and in certain cases to the Government, while Section 81 directs the transmission of all periodical statements to the Government, and not to the Court as has hitherto been the practice.

From OFFG. SECRETARY TO GOVERNMENT TO REGISTRAR, SUDDER DEWANY ADAWLUT, *No 165 A ., dated 29th April, 1863.*

3. It appears evident that, regard being had to Section 2, Act X. of 1838, this Government cannot legally withdraw all control and superintendence of the Kumaon Civil Courts from the Sudder Dewany Adawlut.

* * * * *

5. I am accordingly directed to authorize the insertion of the words, "through the Court of Sudder Dewany Adawlut," in the second line of Section 81 and the third line of Section 82, after the words "As the Government."

Appendix K. t.

ACT XXIV. OF 1864.

Whereas certain rules for the administration of civil justice, and for the superintendence of the settlement, and of the realization of the public revenue, and of matters relating to rent, in the districts of Jhansie, Jaloun, and Lullutpore, were made by the Lieutenant-Governor of the North-Western Provinces, and came into operation on the twenty-eighth day of January and the seventh day of February, 1862 and whereas the said rules, so far as they relate to the administration of civil justice, were afterwards extended by an order of the Lieutenant-GGovernor of the North-Western Provinces to the provinces of Kumaon and Gurhwal; and whereas it is expedient to prevent the validity of decisions, orders, and proceedings passed or held under the said rules being questioned only by reason that the said rules were not made in accordance with the provinces of the Indian Councils Act 1861; and whereas it is expedient to make provision for the administration of the districts and provinces aforesaid, and also of a tract of country in Deyrah Doon, in the North-Western Provinces, known as Jousar Bawur; it is enacted as follows:—

1. The rules made as aforesaid by the Lieutenant-Governor of the North-Western Provinces relating to the jurisdiction and procedure of the revenue officers, and for the superintendence of the settlement, and of the realization of the public revenue, and of matters relating to rent, in the districts of Jhansie, Jaloun, and Lullutpore, and the said rules, so far as they relate to the administration of civil justice, were afterwards extended by an order of the Lieutenant-GGovernor of the North-Western Provinces to the provinces of Kumaon and Gurhwal; and whereas it is expedient to prevent the validity of decisions, orders, and proceedings passed or held under the said rules being questioned only by reason that the said rules were not made in accordance with the provinces of the Indian Councils Act 1861; and whereas it is expedient to make provision for the administration of the districts and provinces aforesaid, and also of a tract of country in Deyrah Doon, in the North-Western Provinces, known as Jousar Bawur; it is enacted as follows:—

Rules relating to jurisdiction and procedure of revenue officers, &c., to be deemed valid from date of issue.

zation of the public revenue, and of matters relating to rent, within the said district of Jhansic, Jaloun, and Lullutpore, shall be deemed valid for all purposes from the date on which such rules were issued.

2. The rules made as aforesaid by the Lieutenant-Governor of the North-Western Provinces for the administration of civil justice within the said districts, and thereafter extended to the provinces of Kumaon and Gurhwal as aforesaid, shall be deemed valid for all purposes from the date on which they were issued until this act shall come into operation. So much of the said rules as relates to the establishment of Courts of Civil Judicature, and provides for the trial of suits and appeals by Commissioner, Deputy Commissioners of Districts, Assistant Commissioners, Extra Assistant Commissioners, and Tehseeldars, together with so much of the said rules as relates to the periods of appeal from decisions and orders made by such Courts, shall continue to be in force after this act shall have come into operation.

3. No decision, order, or proceeding of any Court or officer under any of the said rules, made and extended as aforesaid by the Lieutenant-Governor of the North-Western Provinces, shall be questioned on the ground of such order or decision having been passed, or of such proceeding having been held, before the date fixed for this act to come into operation.

4. Except as in this act is otherwise provided, the proceedings in civil suits of every description between party and party, brought in the said Courts of Civil Judicature, shall be regulated by the Code of Civil Procedure.

5. Every suit shall be instituted in the court of the lowest grade competent to try it.

6. It shall be lawful for the Commissioner or for the Deputy Commissioner of a district to withdraw any suit instituted in any court subordinate to the Court of such Commissioner or Deputy Commissioner and to try such suit himself, or to refer it for trial to any other Court subordinate to his authority and competent in respect of the value of the suit to try the same.

7. If the suit be for land or other immovable property situate within the local limits of the jurisdiction of different Courts, the suit may be brought in any Court, otherwise competent to try it, within the jurisdiction of which any portion of the land, or other immovable property in suit is situate; but in such case, the Court in which the suit is brought shall apply to the Deputy Commissioner of the district if the suit is brought in any Court subordinate to the Deputy

Commissioner, or to the Commissioner if the Court in which the suit is brought is the Court of a Deputy Commissioner, for authority to proceed with the same.

8. The periods of regular and special appeal prescribed in the rules, which, by Section 2 of this act are to continue in force after this act shall have come into operation, shall be reckoned from and exclusive of the day on which the judgment appealed against shall have been pronounced, and also exclusive of such time as may be requisite for obtaining a copy of the decree from which the appeal is made. Appeals from orders, when such appeals are allowed by the Code of Civil Procedure, shall be presented within the same period as appeals from decrees.

Periods of appeal, how to be reckoned.

9. Act XIV. of 1859 (*to provide for the limitation of suits*) is hereby extended to certain districts and provinces. extended to the said districts of Jhansie, Jaloun, and Lullutpore, and to the said provinces of Kumaon and Gurhwal, and shall take effect therein from the date on which this act comes into operation, subject to the provision contained in Section 24 of the said Act XIV. of 1859 as regards pending suits instituted within two years from the date above mentioned.

10. It shall be lawful for the Lieutenant-Governor of the North-Western Provinces, by notification in the official *Gazette*, to extend to the said districts and provinces the operation of any regulation or act now in force in the districts under his Government which are subject to the general regulations, and to declare in whom any authority, to be exercised under any regulation or act so extended, shall be vested.

Operation of regulations and acts may be extended to the same districts, &c.

11. The administration of civil and criminal Justice, and the superintendence of the settlement and realization of the public revenue and of all matters relating to rent within the tract of country in the Deyrah Doon called Jounsar Bawur, are hereby vested in such officers as the Lieutenant-Governor of the North-Western Provinces may, for the purpose of tribunals of first instance or of reference and appeal, appoint.

Administration vested in officers appointed by the Lieutenant-Governor of North-Western Provinces.

12. The officer or officers so appointed shall be guided by the rules made before the date fixed for this act to come into operation by the Lieutenant-Governor of the North-Western Provinces, under the authority of Act. XIV. of 1861 (*to remove certain tracts of country in the Rohilkhund Division from the jurisdiction of the tribunals established under the general regulations and acts*), for the guidance of the officers appointed to administer the tracts of country described in the said act.

Rules for administration.

13. The Lieutenant-Governor of the North-Western Provinces may, by notification in the official *Gazette*, extend the Code of Civil Procedure to the said tract of country known as Jounsar Bawur, or the tracts of country described in the said Act XIV. of 1861.

Code for Civil Procedure may be extended to certain tracts.

Code of Civil Procedure to the said tract of country known as Jounsar Bawur, or the tracts of country described in the said Act XIV. of 1861.

14. Nothing in this act, or in the said Act XIV. of 1861, shall be held to exclude the said tract of country known as Jounsar Bawur, or the tracts of country described in the said Act. XIV. of 1861, from the operation of the

Indian Penal Code.

Operation of act.

15. This act shall come into operation on the first day of May, 1864.

Appendix K.u.

ACT XXIV. OF 1868.

Whereas it is expedient to prohibit the practice of inoculation with the small-pox in the districts of Kumaon and Gurhwal, it is hereby enacted as follows:—

Preamble.

1. Whoever produces or attempts to produce in any person, by inoculation with variolous matter or by wilful exposure to variolous matter or to anything impregnated therewith, or who wilfully by any other means produces the disease of small-pox in any person, shall be liable, on conviction before a Magistrate, to imprisonment for a term not exceeding three months, or to fine not exceeding two hundred rupees, or to both.

Penalty for inoculating

2. If any person, having been inoculated with the small-pox in a place to which this act does not extend, shall afterwards enter any place to which this act extends before the date of forty days from the date of such inoculation, or without a certificate from a qualified medical officer that such person is no longer likely to cause contagion, such person shall be liable, on conviction before a Magistrate, to imprisonment for a period not exceeding three months, or to a fine not exceeding two hundred rupees, or to both.

Penalty on inoculated person entering place to which act extends.

3. Whenever an offender is sentenced to pay a fine under this act, the convicting Magistrate may award any portion not exceeding one-half of such fine to the person on whose information the offender has been convicted.

Reward to informer.

Extent of act.

4. This act extends only to the districts of Kumaon and Gurhwal.

CHAPTER II.

THE TURAI.

EARLY ADMINISTRATION OF THE TURAI—FAILURE OF THE FIRST SETTLEMENTS—OPPRESSION BY THE POLICE—PARTITION OF THE TURAI AMONG THE ROHILKHUND COLLECTORATES IN 1837—TRANSFER TO THE KUMAON AUTHORITIES IN 1858—RE-TRANSFER TO ROHILKHUND AND CONSOLIDATION INTO ONE DISTRICT IN 1861—PRESENT STATE OF THE LAW.

The Turai Pergunnahs were deregulationized only in 1861. When Rohilkhund first came into the hands of the English, these pergunnahs were left for some years under the management of the Nawab of Rampore. In 1817-18, we find some correspondence about the waste lands in the Turai, and applications from the Tharoos for rent-free cultivation and abundant evidence therein of the paucity of information possessed by the Supreme Government regarding this tract.

In 1823 the boundary between the Turai and the hill provinces was defined; and the Turai was attached to Rohilkhund, and subjected to the regular judicial and revenue authorities.

The history of the Turai from 1818 to 1858 is a mournful illustration of the futility of introducing refinements of legislation among a people unprepared by previous training to receive them.

The results of the first settlement are graphically depicted in two notes of Mr. Holt Mackenzie's, which unfold a tale of over-assessment, ruin, and desertion, little creditable to the discretion of the officers to whom the work was entrusted.

The revision of the settlement was the work of Mr Boulderson, and his report¹ echoes the conclusions arrived at by the Secretary to

1. Mr. Boulderson's Settlement Report of the Pergunnahs Gudderpore and Rooderpore, in Proceedings of Government of India dated 29th May, 1832.

Government, and shows, not only the utter break-down of the revenue arrangements, but the total failure of the police system.

"The Whole country cries out against the oppression of the police."

"In these pergunnahs the power of the police is dreadful and uncheckable."

"The police is more dreadful than the robbers."

These sentences, occurring withinn a few lines of each other, sufficiently indicate Mr. Boulderson's opinion of the results in the Turai of the organization of a police system under Regulation XX of 1817. Of the chowkeedars he says:—

"They were all appointed by the late thannadar, and are all of his caste, Mewatees. If dismissed they will probably turn dacoits; but this is the lesser evil and (to dismiss them) the better course to choose."

The police question soon became the chief problem of the management of the Turai, and the most important correspondence which took place on the subject will be found in the appendices to the Kumaon chapter¹.

After having been placed for some time under the Commissioner of Kumaon, the Turai in 1837 was partitioned off to the contiguous Rohilkhund Collectorates², and the police in great measure re-organized.

In 1858 the Turai became again the resort or the refuge of numerous outlaws and banditti, and was made over to the charge of Colonel Ramsay, who continued to administer it till it was re-annexed to the Rohilkhund Division, and formed into a separate district by Act XIV. of 1861. This act, as was declared³ by Mr. Harington when the bill was introduced, altered merely the system of procedure and the administrative organization, leaving the substantive law intact.

Technically speaking, therefore, the Turai is entirely subject to regulation law, except as regards the constitution of the courts and offices, and the judicial procedure, which last is regulated by special rules.

Still, as a matter of practice, there are many subjects in which the peculiar circumstances of the district have hindered the application of the statute law.

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1. See appendices to Kumaon chapter, *K. c., K. h. K. i.*; also Appendix T. A. to this chapter.
 2. See G.O., Revenue Department, dated July 10th, 1837.
 3. Proceedings of the Legislative Council, p. 282, vol. VII., for 1861.

The greater portion of the tract is a vast Government zemindaree, the whole revenue of which is appropriated to improvement within its limits. Partly owing to this fact, and partly to the sparse population, there is little litigation of any sort, and no distraint or suits for rent¹.

There are no canoogoes, no police; and the putwarees' duties bear a closer affinity to those of the hill putwarees, than to the regulation functionaries of the plains?²

The laws on such subjects are dormant and inoperative in the Turai, simply because the rights, and duties, and offices which they affect have no existence there; and not, as has been supposed because the whole body of law was swept away by the deregulationizing act of 1861. Except so far as concerned the Courts and their procedure, that act left the existing law in *statu quo ante*, and assumed, with the same reserve, the future recognition of every act passed by the Legislative Council which might take effect generally in the North-Western Provinces. The Turai still forming, and having always formed, an integral part of the North-Western Provinces in the Presidency of Fort William, the laws obtaining in the presidency took effect *per se* in the Turai tract, and their operation could not be barred except by a legislative enactment. Up to the present time no such enactment has been passed. During the temporary transfers to Kumaon, notably in that of 1858-61, the management was undoubtedly assimilated to the non-regulation system; but it was only through the absence of assertion of law, or appeal to law, on the part of any but the officers who administered it, that the

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1. The Superintendent writes:—"As regards the laws providing for the realization of revenue, in five out of six of the pergunnahs composing the district, Government is zemindar, and there has never been occasion to put in force any legal decrees against the cultivator to enforce payment of rent. In those villages where Government is not zemindar, the procedure is as under the old laws; and under Act XIV. of 1861, rules were issued for the guidance of the Revenue Courts regarding rent disputes between zemindars and their tenants. These latter are based on the spirit of the old regulations. Practically speaking, but few cases occur."—*Letter from Officiating Superintendent of the Turai to the Commissioner of Rohilkhund, dated March, 1870.*
 2. The position of putwarees is, in Pergunnahs Bazpore, Gudderpore, Rooderpore and Kilpooree, that of a Government servant. He receives from Government a fixed monthly salary for keeping the village accounts and performing the other duties of a putwarce. It is probable this system will extend to Bilherce. In Nanuck-Mutta, the putwarce under the old settlement receives certain dues, and is apparently under Act XII. of 1817. Canoogoes do not exist in the Turai."—*Letter from Officiating Superintendent of the Turai to the Commissioner of Rohilkhund, dated March, 1870.*

necessity of legislation did not become apparent till 1861. The Turai would seem to be one of those exceptional districts in which any legal system but the rudest and simplest is felt to be an incumbrance rather than a benefit; and the experience of recent years tends to show that the Legislature would have followed a wiser course if the wishes of the Local Government had been fully carried out, and not only the procedure, but the whole of the law, summarily withdrawn. But such was not the case, and the resolution by which Act XIV. of 1861 was brought into operation in the Turai, and its action limited and defined, clearly appears to recognize the continuance of all except procedure law without formal re-introduction. As the Turai, till the passing of Act XIV. of 1861, formed a portion of the Regulation Provinces, and as no administrative orders were issued concerning it subsequent to the passing of the act, there are, of course, no rules in force which have been legalized under the Indian Councils act. The basis of the administration is the resolution above referred to, No. 2664A. of 10th October, with the rules for procedure in the several departments which were issued simultaneously. These have been reprinted in the appendices to which also reference may be made for a description of the system of managing the canals and forests, and forest-dues.

CHRONOLOGICAL TABLE OF MATTERS AFFECTING THE JUDICIAL AND REVENUE ADMINISTRATION OF THE TURAI.

1818.	Correspondence regarding the waste lands in the Turai; and application of the Tharoos to be allowed to cultivate another year rent-free.	Proceedings of Government of India, dated July 17th, 1818.
..	Letter to the Board of Commissioners, calling for a report on the adjustment which may have been effected with the proprietors of the lands appropriated to the settlement of the Tharoos.	Ditto Ditto
1819.	Observation and orders on the conservation of forests in Rohilkhund.	February 26th, 1819.
1823	The Turai attached to Rohilkhund, and subjected to the regular revenue and judicial authorities. Mr. Halhed's boundary between hill and plain approved.	July 17th, 1823.
..	Mr. Boulderson's first settlement.	

Chronological Table of matters affecting the Judicial and Revenue Administration of the Turai.— (Concl'd.)

1824.	Expediency of the retention of a portion of the forest of the Turai for Government.	October 29th, 1824.
1828.	Holt Mackenzie's note on the settlement of the Pergunnahs Bazpore, Kasheepore and Juspore.	October 10th, 1828.
..	Instructions for the revision of the settlement issued to the Board.	
1929.	Sanction to the re-settlement of the villages in the pergunnahs Gudderpore and Rooderpore, in which the same errors had been committed as in Bazpore, Kasheepore, &c.	October 27th, 1829.
1832.	The re-settlement of the Pergunnahs Gudderpore and Rooderpore confirmed by the Governor-General in Council for fifteen years.	May 29th, 1832.
1837.	Re-distribution of the Turai tract among the districts of Rohilkhund.	G.O. dated 10th July, 1837.
1838.	Fresh arrangements proposed by the Board for the Police and Revenue Department. in the Turai.	Letter from Sudder, Board of Revenue, to Government, dated 12th January, 1838.
1851.	Extensions of Canal Act (VII. of 1845), to the Pergunnahs Gudderpore and Rooderpore.	No. 428, Revenue Department, dated February, 11th, 1851.
1858.	The Turai temporarily placed in the charge of the Commissioner of Kumaon.	Resolution 122, dated January 11th, 1858.
1861.	The Turai formed into a Separate district and re-annexed to the Rohilkhund Division.	Notification No. 228, dated 26th March, 1861.
..	The Turai placed under a separate officer and removed from the control of the Regulation Courts and their procedure.	Act XIV. of 1861, and Notification No. 2666A., dated 10th October, 1861.
1867.	The High Court declines to review the Turai Criminal Administration Report, their authority being limited to the confirmation of capital sentences.	From Registrar of High Court to Government, No. 554, dated 4th May, 1867.

**ORDERS PASSED PRIOR TO AUGUST, 1861, HAVING THE
FORCE OF LAW IN THE TURAI.**

Nil

ACT HAVING SPECIAL REFERENCE TO THE TURAI.

ACT XIV. OF 1861

LIST OF APPENDICES TO THE CHAPTER ON THE TURAI.

T.A.	Re-settlement of Pergunnahs Rooderpore and Gudderpore,	1832.
T.B.	Act XIV. of 1861,	1861.
T.C.	Resolution No. 2664A. of 10th October,	..
T.D.	Revenue Rules,	..
T.E.	Civil Rules,	..
T.F.	Criminal Rules	..
T.G.	Police Establishment of the Turai,	1863.
T.H.	Forest Law and Canal Law,	1870.

THE TURAI—APPENDICES

Appendix T. A.

Extract from the Proceedings of the Government of India, dated 29th May, 1832, Confirming the Re-settlement of the Pergunnahs Rooderpore and Gudderpore for 15 years, Board's Letter No. 666 of 31st December, 1831, para.2.

[Under dates 29th September and 27th October, 1829, Government sanctioned a partial re-settlement of these pergunnahs.]

3. The Jumma of the first year has been fixed on the basis of the actual jummabundee, allowing a deduction of 20 percent.

The jummabundee has been assumed on a comparison of the gross assets of two periods of six years, the first ending with 1230, the second with 1236, and the actual collections of twenty-seven years. From this assumed jummabundee a deduction is allowed of from 30 to 37 per cent; and the remainder is fixed as the full (i. c. final) jumma, para 5. The full jumma is, in almost every instance, less than the average amount of collections for twenty-seven years, and therefore sufficiently moderate.

Appendix T.B.

ACT XIV. OF 1861.

Whereas it is expedient to remove certain tracts of country in the Rohilkhand Division from the jurisdiction exercised by the Civil, Criminal, and Revenue Courts, and offices of that division, under the general regulations and acts of the Government; it is enacted as follows:—

1. The tracts of country described in the schedule to this act, and such parts of the Pergunnahs Juspore and Kasheepore, in the district of Moradabad, as shall be declared and defined by the Lieutenant-Governor of the North-Western provinces by an order to be published in the manner prescribed by Section 7 of this act, on or before the date fixed by the said Lieutenant-Governor under the said Section 7 for this act to take effect, are hereby removed from the jurisdiction of the Courts of Civil and Criminal Judicature, and from the control of the offices of revenue constituted by the regulations of the Bengal Code and by the acts passed by the Governor-General of India in Council and the Legislative Council of India, as well as from the

system of procedure prescribed for the said Courts and offices by the regulations and acts aforesaid; and no act hereafter passed by the Legislative Council of India, relative to the constitution or procedure of the said Courts and offices, shall be deemed to extend to any part of said tracts, unless the same be specially named therein: provided that nothing herein contained shall extend to or affect any case now pending in any court or office.

2. The administration of civil and criminal justice, and the superintendence of the settlement and realization of the public revenue, and of all matters relating to rent within the said tracts, are hereby vested in such officer or officers as the Lieutenant-Governor of the North-Western Provinces may, for the purpose of tribunals of first instance, or of reference and appeal, appoint; and the officer or officers so appointed shall, in the matter of the administration and superintendence aforesaid, be subject to the direction and control of Lieutenant-Governor of the North-Western Provinces, and be guided by such instructions as the Lieutenant-Governor of the North-Western Provinces may from time to time issue.

Administration of justice and collection of revenue vested in officers subject to control of the Lieutenant-Governor of the North-Western Provinces.

3. It shall be lawful for the Lieutenant-Governor of the North-Western Provinces to direct that an appeal may be heard in any of the matters described in the last preceding section by the Commissioner of the Rohilkhand Division or the Civil and Sessions Judge of any district in the said division, or by the Sudder Dewany and Nizamut Adawlut, or by the Board of Revenue, and to declare in what cases the order made by any officer or Court empowered by the Lieutenant-Governor to dispose of any of the matters aforesaid shall be final.

Appeals.

4. It shall be lawful to the Lieutenant-Governor of the North-Western Provinces to direct any officer empowered to administer criminal jurisdiction in or for the tracts aforesaid, to refer the sentence passed by him in any class of criminal trials for the confirmation of the Sudder Court; and no sentence of death passed by any person competent under the direction of the Lieutenant-Governor to pass such sentence, shall be carried into execution until it be confirmed by the Sudder Court. In disposing of any trial referred for disposal under this section, the Sudder Court shall not call for the futwah of its law officer, and shall pass such order as it may deem just and proper, so as that it shall not convict any person acquitted by the referring officer, or enhance any sentence pronounced by him.

Reference to the Sudder Court.

5. Any person liable to be imprisoned in any civil or criminal jail, or to be transported beyond sea, under any order or sentence passed by any officer or Court empowered as provi-

Place of imprisonment or transportation.

ded in this act, may be imprisoned in any civil or criminal jail, or transported to any place, which the Lieutenant-Governor of the North-Western provinces may direct.

6. When a question shall arise whether any place falls within the tracts Questions of disputed boundary to be determined by Commissioner of Rohilkhund. described in the schedule of this act, it shall be competent to the Commissioner of Rohilkhund to consider and determine on which side of the described boundary the place aforesaid may lie, and the order made by the Commissioner shall be final.

7. This act shall take effect from such date as shall be fixed by the Lieutenant-Governor of the North-Western Provinces, and notification thereof shall be published in the office of the Commissioner of Revenue, and the Courts of the Civil and Sessions Judges and of the Magistrates of the Rohilkhund Division, and in such other manner as the Lieutenant-Governor may direct.

Commencement of act.

SCHEDULE

The tracts referred to in the foregoing act are as follows:—
 The pergunnah of Bazpore in the district of Moradabad;
 The Pergunnahs of Rooderpore and Gudderpore in the district of Bareilly;
 The pergunnahs of Kilpooree, Nanuck-Mutta, and Bilheree in the district of Pilibheet.

Appendix T. C.

RESOLUTION No. 2664A.

Dated 10th October, 1861.

1. The Lieutenant-Governor records the following observations and instructions:—

2. The act above cited enacts that certain pergunnahs of the Bareilly and Moradabad Districts, named in the schedule thereof, together with such portions of Pergunnahs Kasheepore and Juspore as the Local Government may determine, shall be formed into a separate district, which shall not be subject to the jurisdiction of the Courts of Civil and Criminal Judicature, or to the control of the offices of revenue, constituted by the regulations of the Bengal Code and by the acts passed by the Governor-General in Council and the Legislative Council, nor to the system of procedure prescribed for the said Courts and offices. And the act further directs, that no act hereafter passed relative to the constitution and procedure of the said Courts and offices shall be deemed to extend to the tracts forming the Turai District, unless the same be specially named therein.

3. The act was passed in pursuance of the representations contained in the Proceedings of the Government, in the Revenue Department, above cited, No. 148; and in the extract from the Proceedings of the Government of India, in the Financial Department, No. 3417, dated 15th March, 1861, the scheme of administration proposed by this Government (as sketched briefly in the said extract) was sanctioned experimentally for three years.

4. But, in anticipation of the passing of the Act XIV. of 1861, on receipt of the Orders of the Government of India No. 1917, dated 16th February, 1861, The Turai Pergunnahs, then under the control of the Commissioner of Kumaon, were transferred to and declared to be a part of the Rohilkhund Division, by Notification No. 228, dated 26th March, 1861; and by another notification of the same date, Mr. Elliot Colvin was appointed to be Superintendent of the Turai District.

5. After enquiries, which have been attended with undesirable delay, the Lieutenant-Governor has resolved that the entire pergunnahs of Kasheepore and Juspore, remaining, as heretofore, attached to the district of Moradabad, the pergunnahs of Bazpore, Rooderpore, Gudderpore, Kilpooree, Nanuck-Mutta, and Bilheree shall form the Turai District, and shall be, in all departments of administration, in the jurisdiction and under the control of the Superintendent of the said district; subject to the instructions to be recorded in this resolution, and to the rules which it shall prescribe for the conduct of business in each department. As required by Section 7 of Act No. XIV. of 1861, a notification will be published in the *Government Gazette*, declaring the said act to be in force, within the limits above described, from and after the 1st November next ensuing; and it will be the duty of the Commissioner of Rohilkhund to cause a translation thereof to be published in the manner described in the section cited, and furthermore, at the tehseeldaree stations of the Rohilkhund Division.

6. In like manner the Superintendent of the Turai District will give publicity to the notification by causing a translation of it to be stuck up at each tehseeldaree and at all police posts within his jurisdiction, as well as at his own principal office, at the office of the Commissioner and the Senior Assistant Commissioner of Kumaon, and at all the tehseeldarees or similar offices in the Bhabur.

7. The Superintendent of the Turai District will have primary authority in all matters relating to the administration in all departments. He will have power to assign to the Assistant Superintendent such duties, executive, fiscal, or judicial, within the limitations to be elsewhere described, as he may be deemed qualified to discharge.

8. It appears desirable to treat of each department separately.

9. The tract now called the "Turai District" has boundless resources in the natural richness of its soil and in the abundance of its water; and it requires only an industrious population, fair roads, and skilful drainage, to convert what is now a pestilential prairie into a prosperous district.

10. The population is sparse and scattered, composed, in great part, of Tharoos and Boksas—the former in Pergunnahs Bilheree, Nanuck-Mutta, and Kilpooree, the latter in Rooderpore, Gudderpore, and Bazpore. These tribes are migratory, and can never be depended on. An imaginary evil spirit, a quarrel, or any trifle may disturb a whole village; and they leave houses and lands which they have occupied and cultivated for years without any apparent regret. They are, moreover, very improvident, and seldom or never accumulate property.

11. It cannot be hoped that the extensive wastes of the Turai will ever be brought under the plough and made productive by people of this character. They want the patient and trusting industry which distinguishes the agricultural population of Rohilkhund and the Doab; and, though they are useful as pioneers, there can be no doubt that the Turai can only be reclaimed by immigration of settlers from the south. These must be attracted by low rates and by the assurance of liberal treatment, and of assistance when occasionally needed.

12. It seems certain that some years must elapse before the system of regular settlements for fixed terms or years can be introduced. Before this can be successfully done, villages must be established, the immigrants must acquire an abiding interest in the lands which they occupy, and an united community, having fixed and defined rights of occupancy, at least, must be formed. A village settlement in proprietary right with parties who have no common interest, and who have not brought themselves to regard their new village as their home, and the land which they have redeemed from the waste as the inheritance of their children, would surely be a failure.

13. Settlements now existing need not be interfered with, but it is thought that the best hope of bringing the Turai into cultivation lies in a judicious kham management, and in the appropriation of the proceeds, as sanctioned by the home authorities many years ago in respect of the Bhabur tract, to the drainage of swamps, the construction of dams and channels of irrigation, to the opening-up of communications, to the settling and hutting of immigrant cultivators, and, generally, to the improvement of the tract.

14. In this view, there will be obvious advantage in regarding all the pergunnahs composing the Turai District as one undivided estate, and in authorizing the Superintendent to regulate his expenditure without reference to the proportion of kham collections from each pergunnah. Hitherto the officers in charge of these pergunnahs have been required to account for receipts and

disbursements in respect of each. Under this system the expenditure is local, and so also is the improvement, and it has been impossible to undertake any extensive works of general utility, or to extend improvements to those parts which may most specially need it. The most backward pergunnahs, yielding the smallest revenue and needing the greatest care, have been at a standstill, and the general progress of the whole tract has been retarded.

15. There can be little doubt that every useful work which can be executed will be beneficial, in a greater or lesser degree, to every part of the tract. In the improvement of communications all the pergunnahs must be interested. From the drainage of swamps, the excavation of irrigating channels, and the extension of cultivation, advantages accrue to all indirectly, in the improved salubrity of the surrounding country which always follows clearances after the first two or three years.

16. The Superintendent will therefore be guided, in his appropriation of kham collections, having for their object the improvement of the Turai, by a consideration of what will tend in the largest degree to benefit the whole tract. As heretofore, he must exhibit in his accounts the amount of revenue realized from each of the component pergunnahs, but his account of disbursements will be general for the entire district under his charge—showing, of course, the various works on which money may have been expended, but without any reference to locality.

17. It must be understood that the orders issued and the arrangements made by the Superintendent relative to the settlement of new asamees, the rates of rent to be paid by them, and all other details of kham management, will be subject to no appeal; nor will his control over the water available for irrigation, or his directions regarding its distribution, or his orders as to removal of dams which cause swamps, and as to the course of new channels, be open to appeal; provided always that, on or before the 15th October of each year, he shall submit to the Commissioner of Rohilkhund, for transmission to the Board of Revenue, a full report of the revenue administration for the preceding revenue year¹ and shall at the same time lay before the Commissioner, for submission direct to Government, a statement of the new works—as, *e. g.*, roads, large bridges, dams, irrigating-channels—which he proposes to undertake during the ensuing revenue year, with remarks showing the object contemplated in each work, the probable cost of it, and the means which exist for meeting it. The Commissioner, in forwarding the latter report to the Government, will express his own opinion as to the propriety of the selections made; but it is to be understood that the Superintendent shall, nevertheless, have power to incur any expense on account of tuccavee, hutting new asamees, clearing old village gools, repairing existing

1. "Revenue" year extends from 1st October to 30th September; "Agricultural" year extends from 1st July to 30th June.

roads, and such like works, without prior reference to higher authority. The expenditure will appear in the Superintendent's annual account of disbursements.

18. The revenue of settled villages will be realized according to the kistbundee, and credited, without any deductions, to Government. In case of necessity, the usual coercive processes will be adopted at the discretion of the Superintendent.

19. Reverting now to the 13th paragraph of this resolution, the Lieutenant-Governor thinks it proper to entrust to the Superintendent of the Turai the power, subject to the confirmation of the Sudder Board of Revenue, of conferring proprietary right in land on cultivators who may have fromed villages in the Turai, and been settled upon the lands for a period not less than ten years, and may have brought under cultivation not less than half the culturable area assigned to them.

20. But it is the opinion of some who are well acquainted with these tracts, and have had experience in the management of them, that it will not be advisable to confer these rights too freely or too early. It is apprehended that the cultivator, while under kham management he feels that he will be treated liberally and assisted, would become alarmed at the responsibility which would accompany a fixed, unvarying demand; that, if proprietary right were recognized, and fixed jumma assessed, as soon as a village or a fair portion of it were brought under cultivation, the village itself might prosper, but that progress elsewhere would be retarded by reduction of the surplus profits from kham management held available for the general improvement of the Turai District; and it is thought that the object to be aimed at in giving proprietary right will be as surely attained in the end by holding out hopes of such rights at the next settlement to those who had earned them by their industry, and of "mouroosee" rights to others having lesser pretensions and more slender claims to favour.

21. The Lieutenant-Governor, therefore, is unwilling to lay down any undeviating or imperative rule. The Superintendent will use the authority conferred upon him in general accordance with the principle above indicated, and in the manner which he may see best fitted to produce the largest benefit to the Turai District generally.

22. It is hardly needful to observe that the utilization of the water, which, after its subterraneous passage through the forest, rises to the surface at the upper edge of the Turai, is a matter to which the constant attention of the Superintendent will need to be directed. The extension of cultivation, the enhancement of the land revenue, the progress of the people towards a state of prosperity, and the improvement of the now deadly climate, all depend upon the proper application of the water to be drained from the swamps of the Turai. The Bhabur offers an example of what can be accomplished in these respects by very simple means, and with little professional assistance; and the Lieutenant-Governor is sanguine that the Superintendent of the Turai District will, before

long, bring about similar results in that tract by the like means. It is mainly, though not solely, to help the Superintendent in utilizing the water of the Turai that the appointment of the Assistant has been sanctioned.

23. No further remarks or instructions of a general kind seem to be called for. The Superintendent will bear in mind that the object with which all these pergunnahs have been formed into one district, and placed under his direct charge, is the reclamation of the Turai. The introduction of a simple and uniform administration, adapted to the rude nature, the social backwardness, and the primitive customs of those who form the greater part of the population, will assist the furtherance of this object, but success will depend chiefly on the temper, the discretion, and the energy of the Superintendent; and the Lieutenant-Governor is glad to think that in Mr. Elliot Colvin all these qualities are united, and that to him may be confidently entrusted the duty of carrying out the measures which are looked to for the conversion of this pestilential and unproductive tract into a flourishing district, yielding its due contribution to the revenues of the State.

24. Rules for the guidance of the Revenue Courts in summary and regular suits are appended to this resolution.

25. All monetary transactions connected with the Turai District will be conducted in the District Treasury of Bareilly. Revenue realized from settled villages according to the kistbundee, or from the sale of stamps, or from abkaree, will be paid into that treasury, and credited to Government in its accounts. Collection under kham management from pasturage-dues or from miscellaneous forest-produce will be paid into the same treasury, and held in deposit to the credit of the Superintendent of the Turai District, who will draw upon it as he may require. The Deputy Auditor and Accountant-General will issue such further and detailed instructions as he may see fit.

26. Stamps will be supplied by the officer in charge of the Bareilly Treasury to the Superintendent of the Turai District on his indents, and will be accounted for by him in usual course.

27. The Stamp Act, No. XXXVI. of 1860, as amended by subsequent enactments, and as modified in its application to non-regulation provinces, by notifications of the Government of India Nos. 1828 and 2095, dated respectively the 25th September and 26th October, 1860, is to be considered in force within the limits of the Turai District.

28. A small revenue is derived from this source in the pergunnahs of the Turai District, and there is no reason why it should be relinquished. The management in this branch of the Revenue Department will be regulated by the instructions contained in the Circular Order of the Sudder Board of Revenue, No. 1, dated 1st May, 1857, and by such further orders as may have been and may from time to time be issued by the said authority.

Abkaree.

29. Lastly, as incidentally mentioned above, all transactions with the cultivators will be regulated according to the "agricultural year," extending from the 1st July to the 30th June, and all revenue collections, balances, &c., will be accounted for to the superior revenue authorities according to the "revenue year," extending from the 1st October to the 30th September as recently set on foot in the North-Western Provinces generally. An annual report of the revenue administration must be submitted, showing demands, collections, and balances from settled villages, with accounts of kham collections on account of each pergunnah, and accounts of disbursements from those collections, as incurred for the benefit of the whole tract. This report will be drawn up for the *revenue* year, and will be submitted in duplicate to the Commissioner, who will forward one copy to the Sudder Board of Revenue, and the other direct to Government for the Lieutenant-Governor's early information of what has been done during the year past.

30. Further, it will be necessary that, in connection with the above report, the Superintendent should, as soon after the 1st October as possible, submit to the Commissioner of Rohilkhund for transmission, direct to Government, with his remarks, a (*quasi*) budget statement* of the works, whether roads, irrigating channels, drainage lines, or other, which he purposes to undertake during the *ensuing* year; taking care that, so far as possible, all the works shall be of a reproductive character, and that the amount of the funds available for their execution, as well as the approximate cost of completing each, shall be exhibited in the statement or in the report accompanying.

*See para 17.

POLICE AND ADMINISTRATION OF CRIMINAL JUSTICE.

31. In the thinly-inhabited pergunnahs which compose the Turai District, the normal crime is cattle-theft. Property of other kind there is little to tempt the professional thief; crimes of violence are believed to be rare; affrays, from the very nature of the country, must be almost unknown.

32. Hitherto the tehseeldars and their subordinates have been employed both in the Revenue Department, and in the performance of police duties. The system has not been unsuccessful.

33. After full consideration of the subject, in communication with the Inspector-General of Police, North-Western Provinces, and other officers of local knowledge and experience, it has been resolved that the existing system shall not, for the present at least, be disturbed. There are sufficient reasons for this determination: *1st*, in the fact that the cost of a constabulary police, organized and enrolled under Act V. of 1861, would be out of all proportion to the revenue of the Turai District, and the measure cannot, therefore, be justified in a financial point of view; *2nd*, in the consideration that the villages are so scattered, the population so small and so poor, and serious crime, comparatively speaking, so rare, that, even if the financial difficulty did not intervene, the need of a constabulary police would still be more than doubtful; *3rd*, in the social status of the people, which is so backward, that the refined system of procedure, which is prescribed for constabulary police organized under Act V. of 1861 by the Code of Criminal Procedure (Act XXV. of 1861) would be unacceptable to the people themselves, would weaken the hands of the Superintendent and his subordinates, and would injuriously hinder their action. The police agency in the Turai District will remain unaltered. The officers engaged in the performance of police duties will continue to be guided by the spirit of Regulation XX. of 1817. And in respect of police management, as of all other branches of administration, the Superintendent of the Turai District will be subject to the control of the Commissioner of Rohilkhund, who is hereby declared to be Superintendent of Police.

34. The rules in accordance with which the administration of criminal justice is to be conducted, are appended to this resolution.

35. All offenders sentenced to imprisonment by the Magisterial Courts of the Turai district will be sent either to the Central Jail at Bareilly, or to the District Jail at Moradabad, as may from time to time be most convenient.

THE ADMINISTRATION OF CIVIL JUSTICE.

36. By the rules which have been above prescribed for the guidance of the Revenue Courts, the trial and decision of all regular suits for proprietary and accessory rights in land have been reserved to those Courts, the jurisdiction of the Civil Courts being restricted to the disposal of regular suits for orchards, gardens, and wells, appertaining thereto, or for houses or other buildings the private property of individuals, with the land on which such houses or buildings are erected, and the enclosures around them. In addition to these, the Civil Courts will, of course, have cognizance of actions for debts or bond, or otherwise, respecting partnership, and accounts not being partnership accounts, injuries to person or character, &c.

37. The functionaries to be employed in the administration of civil justice will be—

The Commissioner of Rohilkhund
 The Superintendent of the Turai District
 The Assistant Superintendent.

Each of whom will exercise the powers defined in the rules appended to this resolution, and will be guided in their procedure by the same rules.

38. No provision is made, at present, for investing tehseeldars with authority to try civil suits: *1st*, because they are employed as police officers; *2nd* because it is believed that the Superintendent will not require their assistance in this branch of the administration; and *3rd*, because it is thought that the duties falling upon them in the departments of revenue, police, and criminal justice, will be too onerous to admit of their being employed with advantage in the trial and disposal of civil suits. If this measure should appear hereafter to be desirable, it may be brought under consideration.

39. In the preparation of the rules, the exclusion of all needless technicalities has been kept in view. In order, however, to secure uniformity and order in the proceedings of the Civil Courts, it is necessary to lay down certain simple forms of procedure, and nothing more has been attempted. Whenever these rules may cease to be applicable to the state of things, and to the nature of the ordinary transactions among the people in the Turai District, it will be easy to amend and enlarge them.

40. Monthly statements of business in this department, in the forms appended to this resolution (X. and Z.)¹ will be submitted to the Commissioner, who, after passing his own remarks and orders thereupon, will forward them to the Government, together with a statement, in a corresponding form, of regular and special appeals, and miscellaneous cases disposed of by himself during the month.

41. An annual report on the administration of civil justice, with statements showing the number of suits instituted, disposed of, and pending, the manner of their disposal, and the proportion disposed of in each Civil Court, the classes of suits brought, whether for real property, or debts on bond, or accounts, &c., and the numbers of appeals preferred and their results, together with any other particulars illustrative of the administration in this department, will be submitted by Superintendent of the Turai District, as soon after the close of each calendar year as possible, to the Commissioner of Rohilkhund, who will forward the report, with his own remarks, direct to the Government.

Appendix T. D.

RULES FOR THE GUIDANCE OF THE REVENUE COURTS OF THE TURAI DISTRICT OF THE ROHILKHUND DIVISION IN SUMMARY AND REGULAR SUITS.

Passed by Government under Secs. 2 and 3, Act XIV. of 1861.

1—SUMMARY SUITS—*Cognizable in the Revenue Courts of the Turai District.*

1. Omitted.

RULE I.—Suits of Malgoozars, whether proprietors or farmers from Government, of under-farmers, of holders of rent-free or quit-rent tenures, or of duly authorized agents, against cultivators or other tenants, and of tenants of land against their sub-occupants, for arrears of rent in money or in kind, or for the value of the landlord's share in the crop, calculated at the market rate; provided the claim rests on payments or usage of past years, or on specific written engagements, or on the order of a competent Court.

RULE II.—Suits of lumberdars against their under-sharers, for quota of revenue, agreeably to written compact, or family or established usage.

RULE III.—Suits of malgoozars, proprietors, or farmers from Government, or of holders of rent-free or quit-rent tenures, against agents entrusted with the management of their estates, or the collection of rents, for production of accounts, and recovery of moneys alleged to be due.

RULE IV.—Suits of farmers of duties on abkaree, taree, or intoxicating drugs against licensed manufacturers and vendors of those articles for recovery of arrears due on sub-contracts.

RULE V.—Suits of cultivators, tenants or under-tenants, against any of the parties described in Rule I. and of under-sharers against their lumberdars, for undue exaction of rent.

RULE VI.—Suits of cultivators, tenants, or under-tenants, against any of the parties described in Rule I., and of under-sharers against their lumberdars, on account of actual or attempted dispossession, without authority of law, from their holdings.

RULE VII.—The suit in each case, under Rules I., II., III., and IV., must be filed within a twelvemonth after the rent has become due, or the cause of action has arisen. The suit, in cases under Rules V. and VI., must be brought within sixty days from the date of alleged exaction or actual or attempted dispossession.

Provided that, if it shall appear to the Court before which any of the aforesaid suits is instituted, or to the Commissioner in appeal, that, it raises issues which are not fit to be tried summarily, an order may pass for the trial of the case under the rules for regular suits, the plaint being filed *de novo* on the requisite stamp. No order of the Court, under this proviso, shall be open to appeal.

II.—REGULAR SUITS.—*Cognizable by the Revenue Officers in the Turai District.*

RULE I.—Suits regarding the malgoozaree right in land, or the right in registered maafee land, or in land held on a quit-rent, claims to share in the rents

and profits of lands, whether such be malgoozaree, or registered maaf land, or land held on a quit-rent, or to share in the manorial privileges which the Government does not reserve to itself. Such claims may include wells, tanks, and watercourses *bona fide* employed in, or applicable to, agricultural purposes.

RULE II.—Suits brought on any of the grounds mentioned under Rules I. to VI. for summary suits, where, from lapse of time, or on other grounds, the suit cannot be tried in the summary department.

RULE III.—Suits brought by any of the parties described in Rule I. of summary suits, for rent of land held without authority by tenants in excess of pottahs or preceding engagements, and contrary thereto

RULE IV.—Suits brought by the same parties to oust tenants not in default at the end of any year, or at the expiration of any lease, on the ground that such tenants have no permanent right of occupancy.

RULE V.—Suits brought by the same parties to enhance the rent of tenants at the time, and on the grounds stated in the preceding rule.

III.—JURISDICTION OF THE CIVIL COURTS.—*In the Turai District.*

The Civil Courts have no jurisdiction in cases under the preceding rules for summary and regular suits, which are to be tried in the Revenue Courts; but they are competent to try and dispose of regular suits for orchards, gardens, and wells thereto belonging, or for houses, or other buildings, the private property of individuals, with the lands on which such houses or buildings are erected and the enclosures round them.

IV.—RULES OF PRACTICE IN REGULAR SUITS.—*For the Revenue Courts in the Turai District.*

RULE I.—The plaint must state precisely the subject-matter of complaint, the names of all the persons complained against, the correct valuation, and the time when the cause of action arose.

RULE II.—A single action must not involve different issues, unless on leave specially given by the Court, and must relate to subject-matters within the authority of the Revenue Court in its fiscal capacity.

RULE III.—If the suit be for malgoozaree right, possession, and manorial privileges, or for share in the profits of malgoozaree right, possession, and manorial privilege incidental thereto, the plaint must specify the Government jumma of the estate, or the specific proportion of jumma on the share claimed.

RULE IV.—If the suit be for possession or share in the profits of registered maaf land, or land held on a quit-rent, the gross rental of the whole or of the specific share claimed in the maaf or tenure held on a quit-rent, must be stated in the plaint.

RULE V.—If the suit be for tenant-occupancy, or for the right to levy rent of land in tenant-occupancy, the extent of the land, and the amount of rent payable or fairly demandable, must be stated in the plaint.

RULE VI.—If the suit be for possession of wells, tanks, and water-courses employed for agricultural purposes, the amount of damage sustained by deprivation or obstruction must be stated in the plaint.

RULE VII.—If the suit be instituted for maintaining possession of a tenant against ouster, the extent of land and amount of rent must be stated in the plaint.

RULE VIII.—The plaint must be engrossed on stamp-paper, according to the rule of valuation prescribed by Act X. XVI. of 1860, as modified by the Notifications of the Government of India Nos. 1828 and 2095, dated respectively the 25th September and the 26th October, 1860.

RULE IX.—If the plaint be instituted on an inadequate stamp, or be wanting in precision and completeness, the Court may allow it to be amended on additional-stamp-paper being furnished, according to the regulated value, as it may think fit. But if the plaint be preferred in a false or fictitious name, or if the cause of action be beyond twelve years, the plaintiff shall be non-suited.

RULE X.—Regular suits shall be tried and decided in the Revenue Courts, and shall not be delegated to subordinate officers but with consent of parties or at the discretion of the Courts; in either case, the grounds being set forth in an interlocutory proceeding, a commission may be issued to the tehseeldars, or other local officers, for enquiry, description, and report, with or without the taking of oral evidence, on any point on which an investigation on the spot may be thought requisite. But this rule shall not be regarded as prohibitory of the practice of making over to officers vested with the powers of Assistant regular suits for investigation, completion of evidence, and decision or proposed award as may be pre-arranged, and subject to the orders of the superintendent of the Turai District, and of the appellate authorities.

RULE XI.—The plaint having been instituted, shall be numbered and registered, after which, on the deposit of the requisite tulubana within a reasonable specified term, a summons shall be served on the defendants. The summons shall contain a short account of the claim, and shall be issued under the seal and signature of the Court, through an officer who shall require the defendants to attend within a time to be specified by the Court.

RULE XII.—The officer in charge of the summons shall endeavour to obtain the signature of the defendants; or, in the event of their absence, shall proceed to their residence, and acquaint their families or neighbours with the object of his mission, and shall obtain the signautre of two credible persons to the summons in proof of service. On his return, the nazir shall ascertain from him, and report in writing, the mode in which the summons has been served.

RULE XIII.—1. On the expiration of the period specified in the summons, if the defendants, or any of them, fail to attend the Court, proclamation shall be issued for their attendance, within a further period to be fixed according to local circumstances in the different parts of the country.

2. If within the period fixed by the summons or proclamation, an application shall be made to the Court to permit the answer to the plaint to be filed through all agent, or in writing, the Court may, on special grounds shown to its satisfaction, grant the application.

3. But if the party shall fail to attend, or shall not have been excused attendance under the preceding clause, the Court on finding, after an examination of the plaintiff's case, that he has a good *prima facie* cause of action, may, in its discretion, issue a warrant for the arrest of the defendant, who shall thereupon be taken into custody and brought before the Court, but no defendant shall be so arrested who shall give to the party charged with the warrant a declaration in writing that he is willing that the case should be tried *ex parte*.

RULE XIV.—On the appearance of the defendant in answer to the summons or in arrest, or on the appearance of the defendant's agent, if personal attendance has been excused, the parties shall be interrogated on oath or solemn declaration, and a written answer may also be received for the defendant at the discretion of the Court. The precise points as issue between them which are material to the decision of the suit shall then be ascertained and reduced to writing. Either party may cross-examine the other, and any witnesses then present, or documentary proof adduced, may be examined. If an answer be allowed to be furnished in writing, it should be on stamp-paper of the required value.

RULE XV.—If, after such interrogation and examination of evidence, a decree can be properly made without further enquiry, the Court shall make its decree accordingly; but if any issue result from the interrogatories upon which it is necessary to hear further evidence, the Court shall call upon both parties to adjust the dispute amicably with a fixed period, or to consent to arbitration, and to furnish a list of such documentary and oral evidence as each is able to tender or desires to be called.

RULE XVI.—If the parties will not adjust privately or agree to arbitration, the Court shall procure the attendance of the witnesses, and require the production of the documentary evidence on a day fixed, and proceed to the trial and decision

of the suit. Parties summoning witnesses should be required to state, generally, to what particulars each witness is believed to be able to depose.

RULE XVII.—Exhibits must be engrossed on stamp-paper of the value prescribed in Act No. XXXVI. of 1860, as modified by the notifications of the Government of India quoted in Rule VIII.

RULE XVIII. —Razecnamahs filed within the term allowed for amicable adjustment by Rule XV., will enable the plaintiff to receive the full value of the stamp of the plaint; but if filed in any after-stage of the cause, no portion of the stamp value will be returned.

RULE XIX.—If the case be referred to arbitrators, a term should be fixed for the award to be presented; and an officer of the court should be directed to attend, to call the parties and their witnesses before the arbitrators. The arbitrators shall not be permitted to leave the court until they shall have delivered their award.

RULE XX.—The awards of arbitrators should be presented and acknowledged in open court, in the presence of both parties to the suit. Such awards are not necessarily to be accepted by the Court. If the Court should have clear and strong reason to believe that justice has not been done by the award, it may direct a fresh arbitration or proceed to try the case itself.

RULE XXI.—The case having been completed by award of arbitrators accepted by the Court, or by the Court having determined on the merits, the Court shall declare its decision, which shall be written out in English, care being taken in the Vernacular counterpart to specify the costs, the parties liable, and, in case of divided costs, the proportions chargeable to parties, as well as any amount of damages awarded on the ground of a suit being found to have been groundless and vexatious.

RULE XXII.—Execution of decree may be taken out, and should proceed, unless stayed within the period allowed for appeal, or, after institution of an appeal, by the tender of adequate security. In pending cases, if the Court is clearly convinced that the defendant is preparing to alienate his property, or to remove himself from the Court's jurisdiction, security can be demanded, and, if not tendered, the Court can arrest the person, or attach the property of the defendant to an amount sufficient to satisfy the claim.

RULE XXIII. —Execution of decree, if applied for within a twelvemonth from the date of decision, may be enforced at once; otherwise, previous notice must be served, or, if incapable of being served, by the absence of the party liable, proclamation must be issued, calling on the party liable to show cause, within a fixed term, against execution. Execution may be enforced by delivery of possession of contested property, or by arrest of person, and attachment and sale of property, in satisfaction of the decree and costs of suit and execution.

RULE XXIV.—No compromise on a decree, or payment in satisfaction, shall be admitted, unless notified to the Court *viva voce*, or by a writing, which may also be sent through the local tehseldar; and no execution of decree which has been relinquished by the decree-holder shall revive, unless on good reason shown to the satisfaction of the Court.

RULE XXV.—Upon every decree, whether in a summary or a regular suit, for a balance of rent remaining due at the close of the year on account of which it was payable, application may be made as in execution of the decree for the removal of the defaulting tenant on whom the balance has accrued.

RULE XXVI.—The record of execution of decrees shall always be an annexure of the file of the original suit.

RULE XXVII.—Quarterly abstracts of regular suits instituted, decided, and pending in the Revenue Courts, shall be forwarded to the Sudder Board of Revenue.

VI.—APPEALS IN SUMMARY SUITS.—*Revenue Courts of the Turai District.*

RULE I.—Appeals from the Revenue Courts in the summary department lie only to the Commissioner of Rohilkhund, whose orders on the merits, or on the point of jurisdiction, where cases involve issues which in his judgment are not fit to be tried summarily, are final.

RULE II.—Appeals from decisions of the Revenue Courts in summary suits are admissible in the Commissioner's office, if presented within thirty days reckoning from the date of the decision appealed, copy of which parties are authorized to take on plain paper.

RULE III.—No appeal lies to the Sudder Board of Revenue from the appellate decisions of the Commissioner in summary suits; but the Board are competent to indicate and prohibit the recurrence of irregularity or erroneous practice which may come under their observation.

VII.—APPEALS IN REGULAR SUITS.—*Revenue Courts of the Turai District.*

RULE I.—Appeals from the decisions of the Revenue Courts lie to the Commissioner of Rohilkhund, if presented within sixty days of the certified completion of copy of the decision, where stamp-paper for copy is deposited, or otherwise of the date of the decision.

RULE II.—Special appeals from the appellate decisions of the Commissioner in regular suits lie to the Sudder Board of Revenue, if presented or forwarded so as to reach the Board's office within ninety days of the Commissioner's decision. The Board reserves to itself the discretion of admitting, or refusing to admit, such appeals. The Board admit appeals only in cases in which the Commissioner's decision is manifestly unjust, or apparently inconsistent with usage and rules, or involves a question of practice or usage on which the Board should declare its judgment, or, if necessary, elicit the orders of Government.

RULE III.—The proceedings and final judgments in all suits and appeals shall clearly state whether they are held or passed under the summary or regular jurisdiction declared by these rules.

Abstract Quarterly Return of Regular Suits in the Revenue Courts of the Turai District

District.	No. of the rule under which the Suit has been Instituted.	Pending at Close of Past Quarter.	Instituted.	Decided.	Depending.	REMARKS. Date of the oldest Cases under each Rule.
	Rule I., „ II., „ III., „ IV., „ V.,					
	Total, ...					

Abstract Quarterly Return of Appeals from Decisions of Regular Suits in the Revenue Courts of the Turai District

District.	Number Pending at the Close of Past Quarter.	Number Instituted.	Number Decided.	Number Dependent.	REMARKS. Date of Oldest Case of Appeal.
Total,...					

Appendix T. E.

RULES FOR THE ADMINISTRATION OF CIVIL JUSTICE IN THE TURAI DISTRICT OF THE ROHILKHUND DIVISION.

Passed by Government, N. W. Provinces, under Sections 2 and 3, Act XIV of 1861.

Rule 1.—The Superintendent of the Turai District shall have authority to try original suits without limit of value and regular appeals from the decision of the Assistant Superintendent in original suits.

RULE II.—The Assistant Superintendent shall have authority to try original suits not exceeding Rs. 1,000 in value.

RULE III.—No action shall be entertained unless it be instituted within the periods hereinafter mentioned from the time that the cause of action arose or accrued in each description of cases:—

Action respecting the succession or right to real and personal property, and respecting partnership,	12 Years.
Action for debts on bond or accounts, not being partnership accounts, or accounts of retail purchases settled at short periods,	3 Years.
Actions for other debts and other accounts than the above; injuries to person or character; disputes regarding marriage, caste, or non-fulfilment of contract,	1 Year

provided that the time shall be excluded during which the plaintiff shall be under the disability of infancy, lunacy, or idiocy, or during which the plaintiff shall be precluded by law from suing the defendant by reason of any disability whatever, either of the plaintiff or of the defendant.

RULE IV.—1. Every suit shall be commenced by a plaint, which shall be presented to the Court by the plaintiff in person or by his recognized agent.

Trial of original suits.

2. Every suit shall be instituted in the Court of the Superintendent, who will either try such suit himself or refer it for trial to the Court of the Assistant Superintendent, provided that he be competent, in respect of the value of the suit, to try the same.

3. The term "recognized agent" is defined to mean a personal servant, partner, relation, or friend whom the Court may admit as a fit person to represent a party; persons carrying on business on behalf of bankers and traders, such as gomashthas; managing agents of landholders, such as karindahs; nearest male relations of women; and person *ex-officio* authorized to act for Government.

4. No vakeels or mookhtars are to be admitted in the Civil Courts of the Turai District.

RULE V.— The plaint shall be distinctly written, either in Hindee or in Oordoo, and shall contain the following particulars:—

1st,—The name, description, and place of abode of the plaintiff.

2nd, —The name, description, and place of abode of the defendant, so far as they can be ascertained.

3rd, —The relief sought for ; the subject of the action: the cause of action, and when it accrued.

RULE VI.—Every plaint shall be engrossed on stamp-paper of the value prescribed by Act No. XXXVI. of 1860, as modified in its application to non-

regulation provinces by the Notifications of the Government of India Nos. 1828 and 2095, dated respectively the 25th September and 26th October, 1860.

RULE VII.—If the plaintiff sue on any written document, or rely upon any such document as evidence in support of his claim, he shall produce the same in court when the plaint is presented, and at the same time deliver a copy of the document to be filed with the plaint. If the document be an entry in a book, the plaintiff shall produce the book to the Court, together with a copy of the entry on which he relies, to be filed with the plaint. And unless such document be so delivered in, or its non-production at the time be sufficiently excused, or unless the Court may see fit to extend the time for producing the same, it shall not be admitted as proof in support of the claim.

RULE VIII.—The Court on receiving a plaint shall proceed to make enquiry, by examination of the plaintiff or his recognized agent, upon oath or affirmation, as to the merits of the claim, and shall record the examination in full. If it should appear to the Court that the plaintiff has no *prima facie* cause of action, or that the defendant or matter of the suit is not within the jurisdiction of the Court, or that the action is barred by lapse of time, the Court shall reject the plaint.

RULE IX.—The court upon rejecting a plaint, shall record its decision, which shall be reduced to writing in the Vernacular language of the Judge, together with the reasons upon which it is founded.

RULE X. —If the plaint be admitted, it shall be entered, with all the particulars described in Rule V., in a book to be kept for the purpose, and to be called the Register of Civil Suits; and the entries shall be numbered in every year according to the order in which the plaint is presented. The register shall be prepared in the Form A.¹

RULE XI.—When the plaint has been registered, a summons, under the seal and signature of the Court, shall be issued to the defendant to appear and answer the claim, on a day to be therein specified, in person or by a recognized agent. The summons shall specify the name and residence of the plaintiff, and the amount as well as the description of the claim.

RULE XII.—The Court shall determine, at the time of issuing the summons whether it shall be for the settlement of issues only or for the final disposal of the suit, and the summons shall contain a direction accordingly.

RULE XIII.—The day to be specified in the summons shall be fixed with reference to the state of the file and the distance that the defendant may be, or supposed to be, at the time, from the place where the Court is held; and the

1. Omitted.

summons shall order the defendant to produce, on his appearance in Court, any document in his possession of which the plaintiff demands inspection, or upon which the defendant intends to rely in support of his defence.

RULE XIV.—The officer in charge of the summons shall endeavour to obtain the signature of the defendant in acknowledgment of service. In the event of the defendant's absence, the officer shall proceed to his residence, and acquaint his family or neighbours with the object of his mission, and shall obtain the signature of two credible witnesses to the summons in proof of service. On his return the nazir shall ascertain from him, and report in writing, the mode in which the summons has been served.

RULE XV.—1. On the expiration of the period specified in the summons, if the defendant fail to attend the Court, proclamation shall be issued for his attendance within a further period, to be fixed according to local circumstances in the different parts of the Turai District.

2. If, within the period fixed by the summons or proclamation, an application should be made to the Court to permit the answer to the plaint to be filed through "a recognized agent," or in writing, the Court may, on special ground shown to its satisfaction, grant the application; provided that the prohibition contained in Clause 4, Rule IV., shall in every case be strictly observed.

3. If the defendant shall fail to attend, not having been excused personal appearance under the preceding clause, the Court may, at its discretion, issue a warrant for the arrest of the defendant, who shall thereupon be taken into custody and brought before the Court; but no defendant shall be so arrested who shall give to the party charged with the warrant a declaration in writing that he is willing that the case should be tried *ex parte*.

RULE XVI.—On the appearance of the defendant in answer to the summons, or in arrest, or on the appearance of the defendant's "recognized agent" if personal attendance has been excused, the parties to the suit shall be confronted, and shall be interrogated on oath or solemn affirmation, and a written answer may also be received for the defendant at the discretion of the Court. The precise points at issue between them which are material to the decision of the suit shall be determined, or the suit shall be finally disposed of, according as may have been directed in the same summons. Either party may cross-examine the other and any witnesses then present, or documentary proof adduced may be examined. If an answer be allowed to be furnished in writing, it should be on stamped paper of the required value.

RULE XVII.—If, after such interrogation and examination of evidence, a decree can be properly made without further enquiry, the Court shall pronounce its judgment, and make its decree accordingly. The judgment shall be reduced to writing before it is delivered, in the Vernacular language of the officer presiding

in the Court, and shall state the points to be decided, the decision thereon, and the reasons for the decision. It shall be signed by the said presiding officer, and dated on the day in which it is pronounced. The decree shall also state whether the amount of any sum adjudged is to be paid by instalments, and shall specify the dates and amounts for payment of instalments; and, in case of divided costs, the portions chargeable to parties, as well as the amount of any damages awarded on the ground of a suit being found to have been groundless and vexatious, together with the amount of costs.

RULE XVIII.—But if it should be impracticable to pass a decree without further enquiry, that is to say, if any issue result from the interrogatories on which it is necessary to hear further evidence, the Court shall call upon both parties to adjust the dispute amicably within a fixed period, or to consent to arbitration; and to furnish a list of such documentary and oral evidence as each is able to tender or desires to be called.

RULE XIX.—1. If the parties to the suit will not adjust it privately, or agree to arbitration, the Court shall procure the attendance of the witnesses, and require the production of the documentary evidence, on a day fixed.

2. The Court shall ascertain and record the names of the witnesses whom the parties intend to bring forward, and whether they will bring their own witnesses, or whether they or either of them require the assistance of the Court to procure the attendance of a witness, either to give evidence or to produce a document. The Court shall then fix a convenient day, not more than ten days distant, for the examination of witnesses and the trial of the suit, and shall, if required to do so, subpoena the witness or witnesses of either party, or of both parties, to attend on the fixed day, and the trial shall take place on that day, unless there be sufficient reason for adjourning it, which reason shall be recorded by the Court.

RULE XX.—1. If either party should fail to produce his proof within the time allowed him, or to take out a subpoena for the attendance of any witness whose attendance he may require to be enforced, the suit shall be proceeded with and determined as if such party had declined to produce any proof.

2. If, on the day fixed for the trial under Clause 2 of Rule XIX, the witnesses should appear, they shall be examined, and the evidence of each witness shall be recorded in writing, in narrative form, in the presence and under the personal superintendence of the presiding officer, and in the presence of the parties or their "recognized agents;" and each party may cross-examine any witness produced by the opposite party.

3. Exhibits produced in support either of the plaint or the defence, must be engrossed on stamp-paper prescribed by Act XXXVI of 1860, as modified by the Notifications from the Government of India Nos. 1828 and 2095, dated respectively the 25th September and 26th October, 1860. Exhibits shall not be

admissible as valid evidence unless they be engrossed upon stamp-paper as above directed.

RULE XXI.—The Court, after considering the arguments and evidence, shall pronounce its judgment in open court, and record its decree in the manner prescribed by Rule XVII.

RULE XXII.—Whenever a suit may be referred to arbitrators, as provided for in Rule XVIII, a term shall be fixed for the award to be presented; and an officer of the Court shall be required to attend for the purpose of calling the parties and their witnesses before the arbitrators. The arbitrators shall not be permitted to leave the precincts of the court until they shall have delivered their award.

2. When the arbitrators have arrived at a decision, their written award, together with any depositions of witnesses which they may have taken in the case, shall be presented and acknowledged in open court, and in the presence of both parties to the suit.

3. Although every consideration should be given to the award of arbitrators especially when they are unanimous, yet in no case shall the Court be bound to accept such award, unless satisfied that it is a reasonable and just decision. If the Court shall have clear and strong reasons to doubt the justice of the decision, it shall be competent to interrogate the arbitrators as to the grounds upon which they have formed their opinion, and the same shall be recorded on the back of the document itself; and thereafter the Court may either return the proceedings to the arbitrators, and desire them to reconsider their award, and to record it with more clearness and precision, or it may direct a fresh arbitration, or it may proceed to try and dispose of the case itself.

4. The case having been completed by award of arbitrators accepted by the Court, or by the Court having determined on the merits, the Court shall declare its judgment and record its decree in the manner prescribed by Rule XVII.

RULE XXIII.—Certified copies of the decree and judgment shall be furnished to the parties, or their "recognized agents," on application to the Court, and on the production of the necessary stamp-paper where stamps are required for that purpose by any law for the time being in force. The application may be made either orally or by writing on unstamped paper. The date on which application for copy may be made, the date on which the necessary stamp-paper for a copy may be presented, the date of the copy being completed, and of its actual delivery or tender, shall be endorsed on the original decision, and on the copy or copies also. If the applicant shall fail to attend, or shall refuse to receive the copies, the Court shall certify the same on the back of the copies, which shall then be filed with the record of the case.

RULE XXIV.—Execution of decree may be applied for by petition presented to the Court which pronounced the decree.
Execution of decrees.

RULE XXV.—The petition shall set forth in tabular form the following particulars, *viz.*—The number of the suit, the names of the parties, and the date of the decree; the subject of the decree; whether an appeal has been preferred or admitted from the decision; whether any and what adjustment of the matter in dispute has taken place since the date of the decree; the specific amount due to the petitioner under the decree, whether on account of costs of suit, or otherwise; and the name of the individual against whom the enforcement of the decree is solicited.

2. An attested copy of the decree shall be presented with the application.

RULE XXVI.—If the Court shall have awarded payment of any sum of money by instalments, and default should be made in the payment of any instalment as it falls due, execution shall issue, upon the application of the decree-holder, for the full amount of all the instalments, remaining unpaid.

RULE XXVII.—Execution on a judgment shall not issue against the heir or other representative of a deceased party without notice to such heir or other representative to appear and be heard.

RULE XXVIII.—No process of execution shall issue to enforce any judgment or decree passed by the Civil Courts of the Turai District, unless some proceeding shall have been taken to enforce such judgment or decree and to keep the same in force, within one year next preceding the application for such execution.

RULE XXIX.—Execution of decree, if applied for within the period prescribed by the preceding rule, may be enforced at once; provided that, if an appeal shall have been preferred and adequate security be tendered, or if within the period of appeal such security shall have been tendered, execution may be stayed until the appeal shall have been decided, or until the period of appeal shall have expired without institution of appeal.

RULE XXX.—In pending cases, if the Court shall be satisfied that the defendant is preparing to alienate his property, or to remove himself from the Court's jurisdiction, security may be demanded, and, if not tendered, the Court can arrest the person, or attach the property of the defendant to an amount sufficient to satisfy the claim.

RULE XXXI.—Execution may be enforced by delivery of possession of contested property, or by arrest of person, or by attachment and sale of property in satisfaction of the decree and of costs of suit and of execution.

RULE XXXII.—If the decree-holder should apply for execution by arrest of the defendant's person, he shall deposit in the court, at the time of the issue of the warrant, diet-money for one month or thirty days, after the rate

of one anna per diem, unless the Court for any special reason direct the deposit of diet-money at a higher rate, which shall in no case exceed four annas per diem.

RULE XXXIII.—Diet-money at the same rate shall be made previous to the commencement of every succeeding month of the imprisonment, on failure of which the party confined shall be discharged.

RULE XXXIV.—All diet-money spent in providing subsistence for any prisoner may be added to the costs in the suit; and any diet-money not so spent shall be returned to the party who deposited the same.

RULE XXXV.—1. In executing a writ of execution against the property of any defendant, the Court shall direct such portion of his movable property to be attached as may appear sufficient to cover the amount due; and it will be only when the amount realized from such property shall fail to satisfy the decree, that the Court will be competent to order the attachment of any immovable property.

2. In no case shall the tools and implements of the trade or occupation of the defendant be sold in execution of decree; nor shall land in which a proprietary right has been acquired; by whatever means, be sold in execution of a decree without the sanction of the Commissioner first obtained.

3. The attaching officer shall prepare an inventory of the article distrained, and shall give them in charge of some respectable person, from whom a receipt must be taken, to be filed with the proceedings of the case.

4. As soon as the attachment has been effected, a proclamation in the current language of the country describing the property attached, and specifying the time and place of the proposed sale, shall be issued at least thirty days before the appointed day of sale, and a copy thereof shall be affixed to the defendant's dwelling-house, and another to the building in which the Court is held.

5. If, within the period of the proclamation, any claim shall be preferred to the property thus advertised for sale, or if any objection shall be raised against the proposed sale, it shall be competent to the Court to enquire into such claim or objection summarily, and, if satisfied as to its validity, to release the said property from attachment, or to postpone the sale; or, if the claim should appear to be frivolous, to dismiss it, with all the costs incurred in the investigation; provided always, that any decision passed on such claim shall be held conclusive only as between the parties who have been before the Court.

6. If, pending the investigation of such a claim or objection, the sale be postponed and the claim be disallowed, a second proclamation of a term of not less than ten days, shall be issued, for the purpose solely of giving notice to intending purchasers. No other objectors will be heard.

7. On the day fixed for sale, the attached property shall be divided into convenient lots, and each lot shall be put up in succession until the amount of the decree be realized. When the decree is satisfied, the sale shall cease, and the property remaining unsold shall be released from attachment.

8. The entire sum bid for movable property must be paid up within twenty-four hours, and delivery of the property withheld until the money is paid. A deposit of ten percent, on the price will be required at the time of sale, and this deposit, unless redeemed within the period above prescribed, will be forfeited, and the property will be resold at the risk of the original purchaser.

9. In sales of immovable property, the full amount of the purchase-money shall be paid within fifteen days; in default of which the deposit of ten percent, required at the time of auction will be forfeited, and the property will be resold at the risk of the first purchaser.

RULE XXXVI.—No compromise on a decree or payment in satisfaction shall be admitted, unless notified to the Court *viva voce* or by a writing, which may also be sent through the local *tehsildar*; and no execution of decree which has been relinquished by the decree-holder shall revive unless on good reason shown to the satisfaction of the Court.

RULE XXXVII.—The record of execution of decrees shall always be an annexure of the file of the original suit.

RULE XXXVIII.—If any witness, on whom a subpoena shall have been duly served under Clause 2, Rule XIX., shall neglect to attend the Court, or, being present in Court, shall refuse to give evidence or to subscribe his deposition, the Court shall be authorized to issue an order in writing to the *nazir* either to apprehend and bring the witness before the Court, or, if he be present, to take him into custody; and the Court may impose on such witness a fine, not exceeding rupees five hundred, for his default or refusal, realizable by the attachment and sale of his property, and may commit him to close custody until he shall consent to give his evidence, or to sign his deposition; provided, that no fine imposed under this rule shall exceed the amount of the property under litigation in the suit.

RULE XXXIX.—If a witness, for whose attendance a subpoena shall have been issued as aforesaid, shall fail to attend, the Court, upon proof that the evidence of such witness is material, and that the said witness is absconding or keeping out of the way to avoid attendance, may cause a proclamation requiring the attendance of such person to give evidence, at a time and place to be therein named, to be affixed in the presence and with the attestation of two householders, to his house; and if, nevertheless, such person should not attend at the time and place to be named, his property, real and personal, to such amount

may deem reasonable, shall be liable, under an order of the Court, to attachment and sale.

RULE XL.—1. Insolent or disrespectful behaviour to the Court while sitting, or any conduct tending to interrupt the due course of business, shall be deemed a contempt of the authority of the Court, and shall be punishable by a fine not exceeding one hundred rupees, commutable to imprisonment at the public expense in the civil jail for a period not exceeding thirty days.

2. The order of the Court shall in such case state the facts constituting the contempt, and such order shall be open to a summary appeal within thirty days.

RULE XLI.—1. The Civil Courts of the Turai District are hereby empowered to hear and determine cases of resistance of their own processes, occurring within their own jurisdiction, provided they be unattended with personal violence; and, on proof of the offence, may adjudge the offender to pay a fine not exceeding one hundred rupees, and in default of payment, to be imprisoned for any period not exceeding thirty days in the civil jail at the public expense.

2. If the resistance of process be attended with personal violence, or other aggravation, the case shall be referred by the Civil Court to the Superintendent of the Turai District in his capacity of Magistrate and, upon such reference, the Superintendent shall proceed under the "Rules for the Administration of Criminal Justice in the Turai District."

3. The Court, on the statement on oath or solemn affirmation of any peon or other officer resisted in the execution of any process, may summon the person accused to answer the charge, and, on failure of such person to attend, may issue a warrant for his apprehension.

RULE XLII.—1. Every decision passed by the Superintendent of the Turai District in Original suits shall be open to a regular appeal to the Commissioner of Rohilkhund, whose decision shall be final; provided that, whenever the decision of the Superintendent and the Commissioner shall differ, it shall be in the option of the Government, on petition being presented, to refer the proceedings to the Sudder Court for their report and opinion, and thereafter to pass such orders as may appear proper.

2. From the decision of the Assistant Superintendent in original suits a regular appeal shall lie to the Superintendent.

3. From the decision of the Superintendent in regular appeal a special appeal may be admitted by the Commissioner of Rohilkhund, for good and sufficient reasons to be set forth at length in the order for admission.

RULE XLIII.—The petition of appeal shall be written on stamped paper of the value prescribed in Act XXXVI. of 1860, as modified by the Notifications from the Government of India Nos. 1828 and 2095, dated respectively the 25th September and 26th October, 1861, according to the value of the property to which the appeal relates. The petition of appeal shall be accompanied by an authenticated copy of the decision or order appealed against.

RULE XLIV.—An appeal from the decision of the Assistant Superintendent must be preferred within thirty days, and an appeal from the decision of the Superintendent, whether in original suits or in regular appeals, must be preferred within sixty days from the date of the order or decision appealed against; provided that the period which may intervene of the copy shall not be included in the said terms of thirty and sixty days.

RULE XLV.—The petition of appeal shall set forth concisely, and under distinct heads, the ground of objection to the decision appealed against, without any argument or narrative, and such grounds shall be numbered consecutively.

RULE XLVI.—1. The petition of appeal shall be preferred by the appellant in person or by his recognized agent, and the Appellate Court shall give immediate notice to the respondent, and, if it think necessary, may summon the respondent.

2. The Appellate Court may take additional evidence in a case on appeal, or remand it for further investigation.

3. The Appellate Court may suspend the execution of a decree pending the decision of an appeal.

RULE XLVII.—No order or decision shall be reversed or modified, and no case shall be remanded, on account of any error, defect, or irregularity not productive of injury to either party.

RULE XLVIII.—A register of regular appeals, and a register of special appeals, shall be kept in each Appellate Court in the Forms B. and C. appended to this resolution.

RULE L.—A register of application for execution of decree shall be kept in the Court of the Superintendent and of the Assistant Superintendent, according to the form given.

Appendix T. F.

RULES FOR THE ADMINISTRATION OF CRIMINAL JUSTICE IN THE TURAI DISTRICT OF THE ROHILKHUND DIVISION.

Passed by Government under Sections 2 and 3, Act XIV. of 1861.

SEC I.—On JURISDICTION.

1. There are to be four grades of functionaries employed in the administration

Number and description of functionaries criminal justice in the Turai District, viz :—
to be employed in the administration of
criminal justice.

The Commissioner of Rohilkhund.

The Superintendent of the Turai District.

The Assistant Superintendent ditto.

The Tehseeldars.

2. The Tehseeldars may be invested by the Government with powers to try criminal cases. When so invested, their power will

Tehseeldars may be empowered to try cases referred to them, and to sentence to a fine of Rs. 50 or imprisonment for six months, with or without labour.

be restricted to the trial of cases referred to them by the Superintendent, and to passing sentence of fine not exceeding Rs. 50, commutable to imprisonment, with or without

labour, for six months, or of imprisonment only for that period. In all cases calling for a severer sentence, they shall send up their proceedings to the Superintendent.

3. The ordinary powers of the Assistant Superintendent will be restricted to

Assistant Superintendent empowered to try cases referred to him by his superior; and to pass sentence of fine of Rs. 100, and imprisonment for twelve months, or imprisonment alone for that period.

the trial of cases referred to him by his immediate superior, in which he is competent to pass sentence of fine not exceeding Rs. 100, commutable to imprisonment for a period not exceeding twelve months, or of imprisonment only not exceeding

twelve months (in both instances with or without labour, at his discretion), in cases of misdemeanour, assault, or other petty offences, for which such punishment may appear adequate. The Assistant Superintendent may also be authorized by the Commissioner to receive petitions and complaints, as provided for in Act X. of 1854, and to proceed thereupon according to these rules.

4. An appeal from all orders passed by the Assistant Superintendent or

Appeal from order of Assistant Superintendent to the Superintendent.

Tehseeldars shall lie to the Superintendent, if presented within one month from the date thereof.

5. The Superintendent shall have the full powers of a "Magistrate of a

The Superintendent vested with the charge of the police, and the trial in the first instance of all persons charged with offences.

District." He will have the general charge of the police, and will be entrusted with the trial in the first instance, or committal, of all persons charged with offences.

6. In the cases of burglary or theft, unattended with aggravated personal

The Superintendent empowered in certain cases to pass sentence of imprisonment, with labour, for two years, or fine to the extent of Rs. 1,000, or both imprisonment and fine.

violence, in which the property stolen may not exceed in value the sum of Rs. 300 and also in cases of burkundazes or others employed in guarding prisoners who may be convicted of

having wilfully permitted any prisoner under their custody to escape, the Superintendent may pass sentence of imprisonment, with labour, for two years, or fine to the extent of Rs. 1,000, or both imprisonment and a fine. In cases of bribery and extortion on the part of any Native officer in the pay of

Government, he may pass sentence of fine not exceeding Rs. 200, or of imprisonment not exceeding two years, with or without labour, whenever such sentence may appear to be adequate to the demands of justice. In cases of gross misconduct on the part of officers of police, as also in cases of burkundazes and others employed in guarding prisoners who may be convicted of having by gross neglect permitted any prisoner under their custody to escape, the Superintendent may pass sentence of imprisonment, with or without labour, for a period not exceeding twelve months.

7. In all cases of affrays or assaults unattended with serious wounding and loss of life, as also of unaggravated misdemeanours, including all miscellaneous offences detailed in the list published with the Circular Order of the Nizamut Adawlut No. 398, dated 11th April, 1850, the Superintendent may pass sentence of fine not exceeding Rs. 200, commutable to imprisonment for a period not exceeding one year, or of imprisonment only for that period; in both instances with or without labour, at his discretion.

8. In all cases of a more aggravated nature, as also in cases of perjury and forgery, the Superintendent shall refer his proceedings to the Commissioner in the manner hereinafter provided.

9. An appeal from all original orders passed by the Superintendent shall lie to the Commissioner, if presented within two months.

10. The powers of the Commissioner shall extend to the trial of all cases referred to him by the Superintendent, and to the revision of all proceedings which he may think fit to call for from any subordinate authority, within the term of six months from the date on which a final order thereon may have been passed by such subordinate authority. It is not intended by this provision to limit the power of the Commissioner to call for any proceedings that he may require for inspection. Provided however, that if, after the expiration of the term above indicated, he shall see cause for setting aside the decision of a subordinate authority, he shall report the particulars of the case, in an English letter, to the Government, and obtain its sanction for proceeding to the revision of the case.

11. In all cases of theft, burglary, and dacoity, unattended with murder, of wounding with intent to commit murder, the Commissioner shall be competent to pass sentence of imprisonment with labour, in banishment or not, at his discretion, for a term not exceeding fourteen years. Trials for rape, in which the Commissioner may consider a period of imprisonment not

exceeding fourteen years to be sufficient punishment for the offence, are also placed within his competency.

12. In all cases of affrays, culpable homicide not amounting to murder, and other offences which the Sessions Judges in the regulation provinces are competent to dispose of without reference to the Nizamut Adawlut, it shall be lawful for the Commissioner to pass a sentence of fine not exceeding Rs. 500, or of imprisonment, with or without labour, for a term not exceeding seven years. Provided, however, that in cases of perjury, forgery, knowingly uttering forged documents, forging counterfeit coin or counterfeit stamps, or counterfeit public securities or bank-notes, as also in cases of clipping, filing, drilling, or otherwise defacing the coin, it shall be competent to the Commissioner to pass sentence of imprisonment, or of imprisonment and fine, or of fine only, to an unlimited amount. Accessories to murder before and after the fact shall be similarly punishable by the Commissioner, by imprisonment, or imprisonment and fine, or fine only, to an unlimited amount, whenever the case, as it regards the principals, may not be referred to the Nizamut Adawlut for confirmation of a capital sentence, under Section 4, Act XIV. of 1861.

13. In cases of murder, and in all cases demanding a more severe sentence than imprisonment for fourteen years, the Commissioner is competent to pass sentence of imprisonment for life in transportation beyond seas, or sentence of death, provided that, before sentence of transportation shall be considered final, the proceedings on the trial shall be laid before the Sessions Judge, either of Bareilly or of Moradabad as may be most convenient, when, if his judgment be concurrent, the sentence shall be carried out; if otherwise, the proceedings shall be laid before the Nizamut Adawlut for final sentence. Provided further, that, as required by Section 4, Act XIV. of 1861, no sentence of death passed by the Commissioner shall be carried out until it be confirmed by the Nizamut Adawlut, to whom the proceedings in every trial in which the Commissioner may pass sentence of death shall be referred for that purpose.

14. It shall be competent to the Commissioner to invest the Assistant Superintendent, during the temporary absence either from the district or station of the Superintendent, with the powers defined in Clauses 5, 6, 7, and 8 of this section.

15. It shall also be competent to the Commissioner to invest the Assistant Superintendent with the powers defined in Clauses 5, 6, 7, and 8 of the section, whenever, from the state of the business in the district, he may deem

such a measure expedient, and may consider the Assistant Superintendent to be duly qualified. Provided that an immediate report shall, in every instance, be made to the Government, who will either confirm or set aside the arrangement, as may be thought proper.

SEC. II.—RULES OF PROCEDURE.

1. In cases in which the Superintendent is not competent to pass a final sentence, or which he may consider to demand a more severe sentence than he is competent to pass, he shall refer his proceedings, accompanied by an English calendar, to the Commissioner, who will proceed to the trial of the case in the manner provided for in the sequel.

In cases where the Superintendent is not competent to pass sentence, he shall refer his proceedings, with English calendar, to Commissioner.

2. Confessions which in heinous cases ought always to be taken before either the Superintendent or his Assistant, shall be certified and superscribed as follows by the officer before whom they may be made, in his own handwriting: —

Confessions in heinous cases to be taken before the Superintendent or his Assistant.

the Superintendent or his Assistant, shall be certified and superscribed as follows by the officer before whom they may be made, in his own handwriting: —

"I (A. B.), Superintendent (or Assistant Superintendent, as the case may be),
And to bear a certificate in the prescribed form. hereby certify upon honour that this confession of _____
 _____ was made by the said _____
 _____ and taken down in writing before me, and in my presence, on the _____ between the hours of _____
 _____; that to the best of my belief the confession was voluntary; and that no interference, directly or indirectly, on the part of any person likely to influence or intimidate the prisoner, was permitted.

3. Commitments within the final cognizance of the Commissioner on which a sentence not exceeding seven years, or fine, or both imprisonment and fine, is legally awardable, may be tried, and sentence passed, upon the proceedings of the committing officer, without the attendance of parties and witnesses in the Commissioner's Court.

Commissioner to pass sentence on the record in certain cases.

a sentence not exceeding seven years, or fine, or both imprisonment and fine, is legally awardable,

4. In cases within the competency of the Commissioner requiring punishment above that specified in the preceding clause, a regular trial must be held by the commissioner whenever a plea of "not guilty" may have been entered before the committing officer.

When Commissioner must hold a regular trial.

above that specified in the preceding clause, a regular trial must be held by the commissioner

5. In all cases within the competency of the Commissioner to dispose of finally in which the prisoners may have voluntarily confessed their guilt before the

All cases within Commissioner's competency in which prisoners confess can be tried on the record.

finally in which the prisoners may have voluntarily confessed their guilt before the

committing officer, the trial may be held by the Commissioner on the record of the Lower Court, and sentence may be passed without summoning the parties and witnesses.

6. Whenever the Commissioner, from a perusal of the proceedings of the Commissioner may acquit in all cases on a perusal of the record. committing officer, may consider the prisoner entitled to his release, sentence of acquittal may be passed without summoning the parties and witnesses.

7. It will be, of course, in the discretion of the Commissioner to hold a Commissioner may hold a regular trial when it seems to him advisable. regular trial in any cases committed to his Court if he shall have reason for doing so.

8. It will also be in the power of the Commissioner, whenever, in his Commissioner may always remand a case to the committing officer for further investigation. opinion, the investigation of a case committed to his Court may be incomplete, to remand the case to the committing officer for further enquiry upon points to be specified, and to direct him to re-commit the case on completion of such enquiry.

9. In cases in which the Commissioner must under the above rules, proceed to trial, he shall immediately appoint a time and place for the attendance of the witnesses and parties; provided, however, that the date appointed for the trial shall be not more than three months subsequent to the date of the order so appointing it. The Commissioner is authorized, if he think fit, to call in the assistance of a jury, to consist of not less than three members; or to associate three or more assessors with himself on the trial.

10. The decision of the case rests exclusively with the Commissioner, whether he concur in the verdict of the jury or the assessors or not. If the case be one in which he is competent to pass a final order, the Commissioner shall sentence or discharge the prisoner, as the case may be; but in cases beyond the ordinary competence of a Sessions Judge, he shall pass sentence, and proceed as directed in Clause 13, Section I., of these rules.

11. In all petty criminal cases namely, misdemeanours, thefts to the amount of fifty rupees, and offences for which Magistrates in the regulation provinces are empowered to pass sentence of imprisonment not exceeding six months), evidence may be taken *viva voce*, and the substance merely be recorded, either in the English or Hindce language, as the Commissioner may direct.

12. A register of all trials held before the Superintendent and his subordinates shall be kept in such form as the Commissioner may direct.

13. Monthly returns of cases instituted, disposed of, and pending before the Superintendent of the Turai District and his subordinates, and monthly returns of trials referred to Commissioner and disposed of by him, shall be made to the Government, according to forms to be prescribed by the Commissioner.

14. An annual report on the administration of police and criminal justice, showing the crimes committed, the number of offenders apprehended, the aggregate number of trials held, and prisoners convicted, punished, or acquitted, and such other particulars as may be required to show clearly the results of the administration in department, shall be made to the Commissioner after the close of each calendar year, and will be submitted by him, with his own remarks, to the Government direct.

SEC. III.—PERJURY AND FORGERY.

The magisterial authorities and all officers of police are restricted from receiving or acting upon charges of perjury or subornation of perjury preferred by private parties. They are similarly forbidden to take cognizance of charges of forgery or procuring forgery, or of fraudulently issuing forged deeds and papers, which may be preferred by parties to civil or criminal cases in respect to deeds and papers offered in evidence in such cases. And it is hereby declared that no individual shall be liable to any prosecution of the above descriptions, unless he shall be made over to the magisterial authorities by the officer presiding over the court or office in which the imputed offence may have been committed; and no such case shall be made over to the criminal authorities unless the civil case in which the alleged forged document was filed, or the alleged perjury committed, shall at the time be pending. The proceedings held in the court or office in which the offence is alleged to have been committed, shall, in all such cases, be transmitted to the Superintendent in his capacity of Magistrate; and if, upon an inspection of the same, or after making such further enquiry as he may deem necessary, he shall be of opinion that the offence is proved, the Superintendent shall commit the case for trial to the Commissioner.

SEC. IV.—POLICE.

In matters of police, the provisions of Regulation XX. of 1817, if they should be applicable, or the spirit of that law, should be followed by the Superintendent and his subordinates.

SEC. V.—In regard to all matters not specially provided for in the foregoing rules, the local authorities are required to adhere to the *spirit* of Act XLV. of 1860 (the Penal Code), and Act XXV. of 1861 (the Code of Criminal Procedure).

Appendix T. G.

Extract, para., 96, of Report of Police Commission for 1863.

The Kumaon Division and the district of the Turai in the Rohilkhand Division have never been brought under the constabulary police as constituted by Act V. of 1861. * * * The police in these tracts, particularly in the hills, is for the most part carried on, and with satisfactory results, by the people themselves; and the introduction of organized police would be attended, in consequence of the swampy and mountainous character of the country, with very large expense, calculated for Kumaon and Gurhwal at Rs. 1,46,000 per annum.* * * In the Turai District, the police duties are performed by the tehseeldar and his subordinates, whose pay is charged in the Revenue Department. There were formerly three thannahs in the Turai, but there was so little crime amongst the scattered and quiet population of these jungles, that it was decided to do away with the police as a distinct body.

Appendix T. H.


FOREST LAW AND CANAL LAW IN THE TURAI.

Extract from a Letter from SUPERINTENDENT OF TURAI to COMMISSIONER OF KUMAON, dated March, 1870.

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5. As regards the forest laws, the Turai forests were removed by order of Government of India No. 461 F., of 18th September, 1865, from the administration of the Forest Department, and have since been managed at the discretion of the Superintendent. It is presumably for this reason that it has been considered unnecessary to render the Turai District subject to the Forest Law, Act VII., 1865, by the notification required by Section 11. The timber of the Turai forests being of little or no value, no measures for its preservation have been put in force, but a small tax is levied on all forest produce removed from the forest tracts; and under the orders of the Government of India above quoted, the proceeds of the tax are appropriated to the general improvement of the district. The levy of the tax appears to rest on prescription, and the right of

Government to these dues has been recognized and declared in successive settlements—see Mr. Thomason's Memorandum on Forest-dues at the foot of the Kumaon Hills, dated 10th February, 1851, page 97, Vol. II. of Thomason's Despatches. The Canal Act, VII. of 1845, is certainly applicable to the streams of the Paha, Kitcha Dora, and East Bygool, or to such portions of them as are under the control of the canal officers. The extension of the authority of these officers to the Turai is however, distinctly opposed to the administration laid down in the orders of 1861, which contemplated the concentration of all power, revenue and judicial, in the hands of the Superintendent of the district; and in my opinion it would be a great mistake to extend the Canal act to the rest of the streams in these pergunnahs. At present the land is almost entirely in the hands of the Superintendent in Pergunnahs Bazpore, Gudderpore, Rooderpore, Kilpooree, and Bilheree; and with the exception of those streams which at present are under control of the canal officers, the water is also. The extension of cultivation and improvement of the tract depends much upon the clearing of old river-beds and utilizing their water-supply. None of the nullahs themselves contain a discharge which requires any great engineering skill to manage, and most of them barely suffice for the irrigation of the land already cleared in the Turai. In most of the villages watered the land-rent and water-rent are taken in one fixed rate per beegah. There are treaties existing with His Highness the Nawab of Rampore, which at present, even if the stream admitted of it, would render it difficult to extend irrigation beyond the Turai itself, and such extension in the cases of Bazpora, Gudderpore and Rooderpore, must be with view of watering the Rampore territory. Under such circumstances, I believe the improvement of the tract greatly depends on the continuation of the present system, by which both land and water are under the direct control of one officer.



CHAPTER III.

DEYRAH DOON AND JOUNSAR BAWUR.

THE portion of Gurhwal known by the name of Deyrah Doon was ceded to the British Government by the Rajah of Nepaul by a treaty dated 2nd December, 1815.

Regulation IV. of 1817 annexed the Doon to the District of Saharunpore, and declared the laws of the ceded and conquered provinces to be in full force, with the single reservation of the periods of settlement which might be fixed. The pergunnahs of Jounsar Bawur were not then included in the limits of Deyrah Doon, but formed part of the reserved tracts between the Jumna and the Sutlej, which were placed under the Commissioner of Kumaon, and subjected to the criminal provisions of Regulation X. of 1817.

By Regulation XXI. of 1825, Deyrah Doon also was transferred to the jurisdiction of the Commissioner of Kumaon; the operation of the regulations was suspended within its boundaries; and the system established in Kumaon, with its local rules and usages, took the place of the general law. An Assistant to the Commissioner of Kumaon was placed in charge of the Doon, and invested with the powers of a Magistrate in criminal, and of a Zillah Judge in civil cases. The Peshkar and Tehseeldar were to have the management of the police. The Assistant's jurisdiction extended over several pergunnahs of the province of Kumaon, which are specified in the instructions issued by the Governor-General in Council,¹ and probably over Jounsar Bawur, though no mention is made of this tract.

This arrangement lasted for four years only. By regulation V. of 1829, the Doon was again removed from the verdition of the Commissioner of Kumaon, and from the laws which he was authorized to administer. The same regulation served the connection between

1. Proceedings of the Governor-General in Council, Judicial Department, under date 8th December, 1825.

Kumaon and Jaunsar Bawur; and the latter tract seems thenceforward to have been treated as an integral portion of the Doon District. It has more than once been doubted what was the legal effect of Regulation V. of 1829, as regards the law to be administered in the Doon proper, to the exclusion of the reserved tracts; whether or no it revived the clause of Regulation IV of 1817 which subjected the Doon to the operation of the general regulations. We shall see that this doubt, in subsequent times, led to much complication and some blundering. For the present, it is sufficient to observe that, according to the latest decision, Regulation V. of 1829 left everything in the air. It is probable that further legislation was interested in the press of more important matters, the subject dropped out of sight, and the Doon was left without any further law than was contained in the executive orders of the 12th May, 1829, issued simultaneously with the regulation. Under these orders the Commissioner of Meerut was invested with the civil appellate powers of a Provincial Court in respect of Deyrah Doon. When, however, the powers of the Provincial Courts to hear appeals were transferred by Regulation of 1833 to the Sudder Dewany Adawlut, the effect of the orders of 1829 became doubtful. In 1838, the Sudder Court placed the matter before Government, and elicited an order that the Superintendent of Deyrah Doon should be directly subordinate to the Sudder Dewany Adawlut, and not to the Commissioner of Meerut.

It was in reference to this order that the Court, in the following year, took occasion to suggest a legislative enactment, to define the jurisdiction of the Civil Courts of the Doon¹ to prescribe rules for their guidance, and to declare them amenable to the spirit and principles of the existing regulations. One of the schemes which were forwarded with their letter was the origin of the present organization of the Civil Courts in the Doon. As modified by the Orders of the Governor-General in Council of 29th June, 1839, it stood as follows :—

The Agent was to be vested with the powers of a Principal Sudder Ameen, and his Assistant with those of Moonsiff. The decisions of the former were to be appealable regularly to the Judge of Saharunpore, and specially to the Sudder Dewany Adawlut; those of the latter regularly to the Agent, and specially to Judge of Saharunpore. The Governor-General saw no necessity for a legislative enactment to carry this arrangement into effect.

1. Proceedings in Judicial Civil Department dated 18th September, 1838.

On this, the Allahabad Court consulted the Calcutta Court, which held that Section 2, Regulation IV. of 1817, having been virtually revived by the removal of the Doon from the jurisdiction of the Commissioner of Kumaon, and the Judge of Saharunpore and the Sudder Dewany Adawlut possessing civil jurisdiction under that law, no new enactment was necessary. The Allahabad Court, however, adhered to their original opinion of the necessity of legislation, and re-submitted the question to the Supreme Government. In Council it was treated very summarily, and with the observation that the difference of opinion involved a mere point of technicality, the Sudder Court was requested to issue instructions to give effect to the orders previously detailed. So for the time the matter dropped. But during the same year, Mr. H. S. Boulderson, Commissioner of Meerut, then on leave at Mussoorie, was desired to investigate the nature and extent of the duties of the Political Agent in the Deyrah Doon in all departments, and to submit a full report to Government, with suggestions of such revision and improvement of the system as he might deem expedient.¹

With his report he submitted a draft of rules for the civil administration of the Doon, which, after revision by Government, were forwarded to the Sudder Dewany Adawlut for their observations.² The Court, without entering into the merits of the rules, took the opportunity of raising the question whether the Doon was to be regarded as a regulation province. The Local Government consulted the Government of India.³ Then, at length, the Legislative Department took the matter into consideration, and proposed an enactment for including the Deyrah Doon in the Regulation Provinces."⁴ But the draft of the act forwarded to Agra did not appear to meet the exigencies of the case, and, after repeated revision and amendment and much correspondence,⁵ the proposal for legislation appears to have merged into the scheme of a general code for all the Non-regulation Provinces. This scheme proved impracticable, and the difficulties which gave rise to it again sunk out of sight.

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1. Proceedings of Government in Judicial Civil Department, dated 26th July, 1839.
 2. Proceedings of Government, North-Western Provinces, in Judicial Civil Department, dated 3rd July, 1840.
 3. Proceedings of Government, North-Western Provinces, in Judicial Civil Department, dated 20th August, 1840.
 4. From Junior Secretary to Government of India, Legislative Department, to Secretary to Government, North-Western Provinces, dated 14th September, 1840.
 5. Proceedings of Government, North-Western Provinces, in Judicial Civil Department, dated 2nd November, 1840, 22nd February, 1841, 8th May, 1841, 16th September, 1841, 18th November, 1841.

But Mr. Boulderson's report was not without its fruits. On 26th December, 1842, a resolution¹ was framed abolishing the office of Political Agent of the Doon, and transferring all political functions connected with the territory of the Gurhwal Rajah to the Kumaon Agency; and determining further, that Deyrah Doon, with the station of Mussoorie, should be attached to Saharunpore, and administered by an officer subordinate to the Magistrate and Collector of that station, with the title of Superintendent, on a salary of Rs. 1,000 per mensem. Further orders in the following year² declared the powers of the Superintendent, in revenue and magisterial duties, to be those of a Joint Magistrate and Deputy Collector in separate charge of a portion of a district, and continued to him in civil matters the powers previously exercised by the Political Agent, pending the revision of the civil branch of the administration.

We may pass cursorily over the history of the succeeding years, till we reach the year 1860. During the intervening period the jurisdiction assumed by the Sudder Court on its civil side was exercised consistently and unhesitatingly. As concerns the law administered, no distinction appears to have been made by the Court in dealing with the Doon, and with the other districts subject to its authority. Thus, by the influence of the Court, the Doon was silently drawn within the sphere of the operation of the general law, and the regulations were accepted and acted upon as if they had been formally extended.

In 1860 the question of the applicability of the regulations to the Doon was incidentally started afresh by Mr. H. G. Keene, then Superintendent. On this occasion the doubt regarded the criminal law. The Sudder Nizamut Adawlut³ quoted, as the basis on which their criminal jurisdiction rested, an order of the Governor-General dated 23rd February, 1832, addressed to the Judge of Saharunpore, which they said necessarily implied their own jurisdiction in criminal matters. The order runs as follows:---

"His Lordship has been pleased to resolve that the commitments made by the Superintendent of the Deyrah Doon, and by the Magistrate of Moozuffernuggur, shall be ordinarily cognizable by the Sessions Judge at Saharunpore, and that the

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1. No 201, dated 26th December, 1842, in Judicial Criminal Department.
 2. G. O. of the 2nd February, 1843, Judicial Civil Department, to Commissioner of Meerut, communicated to Sudder Dewany Adawlut and Sudder Nizamut Adawlut.
 3. From Regr., Sudder Nizamut Adawlut, to Secretary to Government, North-Western Provinces, No. 601, dated 11th June, 1860.

tract of country comprised within the former jurisdiction shall in future be considered as forming portion of the first division."

In connection with this, it may be noted that regulation IV. of 1818, which restored the Dewany Adawlut of the Northern Division of Saharunpore, specially reserved to the Governor-General in Council the power of determining the local limits of the Court's jurisdiction; and it was probably a doubt concerning the Doon which led to the insertion of this provision.

There seemed, therefore, no sufficient reason to question the authority of the Nizamut Adawlut; but in the course of the enquiry a suggestion was made by Mr. Muir, then Member of the Board of revenue, which met with the concurrence of the Lieutenant-Governor,¹ to remove the wild hilly tract of Jounsar Bawur from the jurisdiction of the Judge of Saharunpore and the Sudder Court. It was however, considered expedient to defer any action in the matter till the completion of the impending settlement.

In the following year the settlement was sanctioned, and the Board again solicited orders² regarding the proposed transfer of jurisdiction. The correspondence which ensued resulted in the enactment of the concluding sections of Act XXIV. of 1864 (Sections 11 to 14), which vested the administration of justice and the collection of revenue in Jounsar Bawur in such officers as the Lieutenant-Governor might appoint, and directed that those officers should be guided by the rules framed for the Turai District under Act XIV. of 1861. The supplement to the act is to be found in Notification No. 1170 1/2 of 1864 of the Local Government, by which the Superintendent of the Doon was invested with the whole administration of Jounsar Bawur, in subordination to the Commissioner of Meerut, and empowered to assign duties to his Assistants. The functionaries to be employed in the Administration were enumerated, and the application of the Turai Rules was defined by the substitution of the Judge of Saharunpore for the Judge of Moradabad and Bareilly.

It must be borne in mind that Act XXIV. of 1864 did not deregulationize Jounsar Bawur, nor was that its object. The fact that those pergunnahs were from the first without the pale of the regulation

1. To Sudder Board of Revenue No. 1861A., dated 17th July, 1860.

2. From Secretary, Sudder Board of Revenue, to Secretary to Government, dated 15th April, 1861.

law was clearly recognized by the Courts of Judicature, the Government, and the Legislature. All that was designed or effected by the act was to empower the Lieutenant-Governor to prescribe the organization best suited to the judicial administration, and to apply rules of procedure which had already been tried and approved in the similarly-circumstanced district of the Turai.

Before dismissing the subject of Jounsar Bawur, it is necessary to advert to the "Dustoor-ool-uml," or local code of common law, drawn up by the seenas, or headmen of the villages, under the supervision of Mr. A. Ross during the settlement concluded in 1852.¹ When the question of legislation for Jounsar Bawur was under consideration in 1862-64, this "Dustoor-ool-uml" was brought to the notice of Government, but the form in which the rules had been cast was too rude, and some of its provisions were too startling, to admit of its receiving legislative recognition. It embodies the whole civil and revenue law which has grown up among the people, but it exists now simply as an authoritative record of local usages, which may or may not be enforced according to the judgment of the Courts.

In the course of the correspondence which preceded the enactment of Act XXIV. of 1864, it was suggested, both by the Sudder Court and the Board of Revenue, that an act should be passed declaring the Doon proper, i.e., the portion lying to the left bank of Jumna, subject to the regulations. In the opinion of the Sudder Court, there was no doubt that, technically, this portion of the Doon was extra-regulation, though, practically speaking, it had been administered for many years in conformity to the general law. They proposed, therefore,² that it should be declared by a legislative enactment that the portion of the district on the left of the Jumna should be deemed to have been subject to the regulations in regard to civil and criminal justice, from the date of the passing of Act X. of 1838. In the reply of Government,³ it was pointed out that Act X. of 1838, was a special law for Kumaon, having no reference to Deyrah Doon; and it was added that the Lieutenant-Governor saw no necessity for a declaratory law such as that proposed by the Court.

The reply of the Court⁴ merits quotation. After admitting their mistake about Act X. of 1838, and stating their belief that, ever since

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1. See the extract from Mr. Ross's letter of 8th December, 1851, Appendix D.D.
 2. From Regr. Sudder Nizamut Adawlut, No. 2433, dated 29th November, 1862.
 3. Dated 15th December 1862
 4. No 2592, dated 27th December, 1862.

1842 in the Civil Department, and in the Criminal Department for a still longer period, the Doon proper had been administered as a regulation district, they proceed to say (para. 4) that—

"In the opinion of the Court it seems anomalous that a district legally removed from the operation of the regulations should be administered as one under their operation, without some order placing it under them. They think, therefore, as the state of the previous legislation relating to the Doon proper does not actually necessitate a declaratory act, the Government should, at all events, by order declare the Civil and Criminal Procedure Codes to have been in force in the portion of the district of Deyrah Doon lying on the left bank of the Jumna from the dates on which the above codes came into operation, viz., 1st July, 1859, and 1st January, 1862."

A notification was accordingly issued, not extending the codes, but simply declaring them to be in force.¹

It may be doubted whether the Sudder Court fully apprehended the difficulties which might arise out of the enactment which they proposed, declaring the Doon to have been a regulation district from the year 1838, and whether they were fully informed when they pronounced that it had been administered in all respects as a regulation district from the year 1842.

In the case of *Dick v. Heseltine*, which came before the High Court at the close of 1869, it was distinctly admitted that Act X. of 1859 had never been brought into operation in the Doon, but that rent suits have been decided in that district according to the summary procedure prescribed by enactments which have been repealed for all regulation districts. Further investigation might probably reveal other instances of deviations from the established law, which would show the necessity of caution in venturing on a retrospective declaration of its binding force. But the ruling of the High Court in the above case, to the effect that neither Act X. of 1859, nor the regulations which it supplanted, were entitled to any legal recognition in the Deyrah Doon, has brought the question again before the notice of the Legislature; and the bill to consolidate the law relating to non-regulation districts will, in all probability, place the law of Deyrah Doon on a satisfactory footing.

1. Notification No. 236A., dated 17th January, 1863.

**LIST OF APPENDICES TO THE CHAPTER ON DEYRAH DOON AND
JOUNSAR BAWUR.**

D.A.	Orders for the Administration of the Doon under the charge of the Commissioner of Kumaon.	1825.
D.Aa.	Extract from the Proceedings of the Right Hon'ble the Governor-General in Council, Judicial Department, under date 12th May, 1829.	1829.
D.B.	Abstract of Subjects touched on in Mr. Thomason's Minute on the Revenue Management of Jounsar Bawur.	1847.
D.C.	Sketch of the Customary Law of Jounsar Bawur, Extracted from the Settlement Report of Mr. A. Ross.	1851.
D.D.	The Dustoor-ool-umr of Jounsar Bawur, with Note,	1859.
D.E.	Notification declaring the Codes of Civil and Criminal Procedure in force in Deyrah Doon.	1863.
D.F.	Notification defining the Future Administration. of Jounsar Bawur under Act XXIV. of 1864.	1864.

DEYRAH DOON AND JOUNSAR BAWUR—APPENDICES.

Appendix D. A.

Extract from Proceedings of RIGHT HON'BLE GOVERNOR-GENERAL IN COUNCIL *in the Judicial Department, under date 8th December, 1825:*

The Right Hon'ble the Governor-General in Council is of opinion that the transfer of Deyrah Doon and the pergunnah of Chandnee to the jurisdiction of the Commissioner of the province of Kumaon, and the introduction into those tracts of the *system of internal administration* now in force in that province, will be far better adapted to the state of society in those parts than to continue the enforcement of the general regulations; and that the arrangements suggested by the local authorities of Kumaon and Deyrah Doon are in a high degree calculated to promote the welfare and good government of the people. His Lordship in Council is accordingly pleased to resolve that the Deyrah Doon and the pergunnah of Chandnee be separated from the districts of Saharunpore and Moradabad, and be placed under the jurisdiction and authority of the Commissioner in the province of Kumaon; and that regulation be enacted to that effect.

2. A civil officer will be appointed as Assistant to the Commissioner of Kumaon, and will, in that capacity, conduct, under his authority and instructions, the administration of civil or criminal justice and the collection of the land revenue in the Deyrah Doon and in the pergunnah of Chandnee, and also in the following pergunnahs of Kumaon, viz.;—

Gunga Sulan.
Choundkote.

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Dewalpurh.
Rajpore.

3. Sudder Kutcherry to be in the Doon from May to October, and at Sreenuggur from November to April.

4. The Assistant will exercise powers to the same extent as those vested by the general regulations in a Zillah Judge and Magistrate and a Collector of Revenue, subject to the control and instructions of the Commissioner of Kumaon.

5. In all *civil* suits an appeal will lie to the Commissioner Court, under such rules as may from time to time be established for that purpose.

6. In the trial of *criminal* cases, the Assistant will be guided by the spirit and principles of the general regulations in force in the Ceded and Conquered Provinces.

7. In cases of heinous nature requiring a more severe punishment than a Magistrate is authorized to inflict by the general regulations, but not coming within the description of crimes specified in Section 2 of Regulation X. of 1817—*viz.*, murder, or any species of homicide not manifestly accidental or justifiable, robbery by open violence as defined in Section 3 of Regulation LIII. of 1803, violent affrays attended with serious casualties, or circumstances of aggravation, treason, or rebellion against the State—the Assistant shall, provided the person accused shall appear to have been guilty of the crime laid to his charge, forward the whole of his proceedings to the Local Commissioner (with a *letter* explanatory of his view of the case), who will pass such orders for the punishment or acquittal of the prisoner as may be consistent with the general powers vested in him for the administration of criminal justice in the province of Kumaon.

8. Cases coming under Section 2 of Regulation X. of 1817 may be committed to the Judicial Commissioner—the Judicial Commissioner who may be appointed in Section 3 or 4—without reference to the Civil Commissioner. Under Section 4, the Governor-General will determine the time and place of trial.

9. The Assistant and Commissioner of Kumaon will exercise their discretion in confining prisoners in the jail at Deyrah Doon or the jail at Almorah.

10. The Assistant will furnish to the Commissioner of Kumaon monthly and *other* periodical returns of civil and criminal business, to be incorporated in the Commissioner's annual report to Government.

11. The Assistant will furnish also monthly statements of the collection of revenue.

12-15. Establishment sanctioned.

15. Peshkar or Tehseeldar to have the management of the police, subject to the control of the Assistant.

16. to end. Mr. Shore appointed

Appendix D. Aa.

Extract from the Proceedings of the RIGHT HON'BLE THE GOVERNOR-GENERAL IN COUNCIL, Judicial Department, under date 12th May, 1829. To W. EWER, ESQ., Commr. of revenue and Circuit, 1st Division, Meerut.

Sir,—I am directed to transmit to you the accompanying extracts from a correspondence with the Commissioner of Kumaon relative to the boundary

between that province and the Deyrah Doon and its dependencies, and to communicate to you as follows regarding the arrangements that have been made for the future management of the latter tract of country :—

2. Pergunnah Chandnee, as well as the tehseeldaree of Sreenuggur, is to be placed under the authority of the Commissioner in Kumaon.

3. That part of Section 2, Regulation XXI., 1825, by which the Deyrah Doon was annexed to the jurisdiction of Commissioner for the province of Kumaon has been rescinded.

4. The River Ganges is to constitute the boundary between the provinces of Kumaon and the Deyrah Doon and its dependencies.

5. The officer appointed to superintend the affairs of the Deyrah Doon and its dependencies will be subject to your authority as Commissioner for the districts of the Northern Doab, in the same manner as the Local Officers of those districts. And the Resident at Delhi will possess and exercise the powers of the courts of Sudder Dewany and Nizamut Adawlut, and of the Sudder Board, in regard to the Deyrah Doon, in like manner as the Resident is vested with those powers in regard to the districts of the Northern Doab, under the provisions of Clause 2, Section 9, Regulation I. of 1829.

6. In the administration of the revenue, and of civil and criminal justice, and of the police, the Superintendent will exercise powers to the same extent as those vested by the general regulations in a Zillah Judge, and Magistrate, and a Collector of Revenue, subject to your control and instructions.

7. In civil suits, an appeal will lie to you in your capacity of Commissioner.

8. In the trial of criminal cases, the Superintendent will be guided by the spirit and principles of the general regulation in force in the Ceded and Conquered provinces.

9. In cases of a heinous nature requiring a more severe punishment than a Magistrate is authorized to inflict, the Superintendent shall commit the offender to take his trial before the Commissioner at the next sessions to be held in the Deyrah Doon; provided always, that, if the sessions are not likely to be held within a reasonable period, and the crime shall not be of such a description as to render the prisoner liable to suffer death or imprisonment for life, the Superintendent shall forward the whole of his proceedings to the Commissioner (with a letter explanatory of the case), who will pass such orders for the punishment or acquittal of the prisoner as may be consistent with the general powers vested in him for the administration of criminal justice.

10. So much of Regulation X., 1817, as provides for the commitment and trial of persons charged with heinous crimes committed in the Deyrah Doon, and in Jounsar Bawur, Poondar, and Sundokh, and other small tracts of country situated between the Rivers Jumna and Sutlej, and requires that a report shall be made to Government in each case of commitment, has been rescinded.

11. Sessions of jail delivery shall be regularly held at least once a year in the Deyrah Doon, by the Commissioner of the 1st Division, appointed under Regulation I. of 1829 for the trial of prisoners committed by the Superintendent of the Deyrah Doon and its dependencies; and if the Commissioner shall consider the crime charged against a prisoner to be established, he shall either refer the case for the final sentence of the resident at Delhi, or, if the case be within the competence of the Judges of Circuit, under the regulations in force in the Ceded and Conquered Provinces, he shall issue his warrant for the punishment of the criminal.

12. If the case shall be referred to the Resident at Delhi, it will of course be the duty of the Commissioner to forward a full report of the circumstances attending it, together with his own proceedings and those of the Superintendent or other officer making the commitment, for the final orders of the Resident.

13. The sentence of the Resident, whether for the release or punishment of the prisoner, shall be issued through the channel of the Commissioner, and shall be duly enforced by the Superintendent or other officer above mentioned.

14. It will be the duty of the Superintendent of the Deyrah Doon and its dependencies to furnish the Commissioner with periodical returns of the civil and criminal business of his Court, and with such statements in regard to the collection and management of the revenues as may be required from him.

15. The foregoing orders of Government will be communicated to the Commissioner of Kumaon and to the Superintendent of the Deyrah Doon and its dependencies, with instructions to make the necessary arrangements relative to the disposition of the revenue and judicial establishments of the Deyrah Doon, which have hitherto been included in those of Kumaon, but which it will now be necessary to bring under separate account.

16. Mr. Shore having embarked for England, I am directed to acquaint you that the Governor-General in Council has been pleased to appoint Major F. Young, of the 68th Regiment Native Infantry, commanding the Sir-moor Battalion, to be Superintendent for the affairs of the Deyrah Doon and its dependencies, with a consolidated salary of Rs. 500 Sonat per month, including the allowance now drawn by him in the Political Department as Superintendent of Jounsar and Bawur.

Appendix D.B.

Mr. Thomason's minute on the revenue management of Pergunnah Jounsar *in the hills* attached to Deyrah Doon, was forwarded to the Board with G. O. No. 3188, dated 11th August, 1847. It has been printed in the Thomason Despatches, Vol. I., pp. 366-370, but I subjoin a synopsis of the contents to save or facilitate reference.

(Para.2.) The settlement was made in 1835 for fifteen years; expires in September, 1849. (3) Former assessment. (4) The chountroo. (5) Joint responsibility. (6) Re-distribution of demand. (7) Kirpa Ram, mahajun; (8) Lightness of assessment. (9) Not to be enhanced. (10) Maintenance of existing arrangements in future settlement. (11) Record of the system to be made. (12) To determine the states of. (13) The chountroo. (14) The Seanas. (15) Of Kirpa Ram, as tehseeldar. (16) Distribution of assessment. (17) Re-distribution when permissible. (18) Realization of balance. (19) Publication of record. (20) Data of assessments. (21) Census of information. (22) Judicial authority of chountroo. (23) Village police adequate. (24) Contentment of people. (25) Enhancement may be disclaimed. (26) Record to reflect usages. Now tentative rules prohibited.

The above minute was forwarded by Board to the Commissioner of Meerut, with the request that copies might be furnished to the Superintendent, when the time arrived for setting the pergunnah.

Appendix D. C.

DUSTOOR-UL-UML OF JOUNSAR BAWUR.

Extract, paras. 9 to 13, of a Letter from MR. A. Ross, Superintendent, Deyrah Doon, to the OFFICIATING COMMISSIONER OF MEERUT, NO. 226, dated 8th December 1851.

* * * * *

9. In the performance of the revenue and judicial functions hitherto exercised by the chountroo, I have found the plan briefly sketched by me in the 52nd, 57th and 58th paragraphs of my former report answer admirably well.

The revenue duties performed by the late chountroo have been transferred to the seanas of khuts, without any further pecuniary remuneration than they have always received, viz., their "bisounta." The seanas are of course assisted and supported in such duties by the peshkar, and when necessary by the Superintendent, either by the exercise of his official influence, or, in extreme cases, by the application of the usual measures sanctioned by law for the recovery of revenue.

The resort to these latter measures is, however, I am happy to say, very rarely necessary.

10. The judicial functions formerly exercised by the chountroo have been provided for most successfully by the substitution of the machinery described in the 57th paragraph of my former report. Slight disputes are settled as they arise within the khut by the seana of each khut and his brethren. Grave disputes affecting two or more khuts are of rare occurrence, while such as do arise I have found capable of easy and satisfactory adjustment by punchayets elected by the parties at issue, the proceedings of such punchayets being subject to the control, and their decisions to the revision and approval, of the Superintendent.

I may mention that, so satisfactory has been the working of this system among the simple people of the hills, that it has frequently been resorted to by the bunyahs of Kalsee, in preference to the Dewany Court of the district of which I am the Judge, notwithstanding their proverbial fondness for the intrigue and expensive litigation of our Civil Courts.

11. For the guidance of these "Field Courts," and with the object of securing as much as possible consistency in the principles of their decisions, I have drawn up the general *Dustoor-ool-um*, or short code of common law of the *pergunnah*. This document, childish, irrational, and arbitrary as are many of the provisions it contains, I have found most useful in judging of the propriety and justice of the decisions of the punchayets. In its preparation I have confined myself, as far as possible, to the simple recording of all important facts and customs, ascertained after careful enquiry to be generally received as binding throughout the *pergunnah*. In no instance have I insisted on the alteration of a law or custom, however silly or arbitrary it might appear, provided it was harmless.

12. The only exceptions to this rule are those cases in which the practices hitherto prevailing, are either directly contrary to our criminal laws or violently opposed to common sense and morality, or are of a purely mischievous tendency, and have therefore been declared prohibited. Of this nature are the provisions which prohibit the compounding of felonies, or the disposing in any way by the seanas of khuts of such cases, especially murder; such are also those provisions which declare witchcraft an impossible crime, and the accusation of witchcraft a punishable offence. In like manner the practice of cursing the ground in revenge for an injury supposed or real, the inevitable effect of which, according to superstition of the hill-people, is to throw the ground so cursed permanently out of cultivation, has, in consequence of its tendencies, been prohibited and declared a punishable offence. In all these instances, however the alterations have met with the cordial concurrence of the people themselves, who are only anxious for a law, or authoritative declaration, to enable them to effect the introduction of the desired reforms.

Appendix D. D.

DUSTOOR-OOL-UML OF JOUNSAR BAWUR.

As drawn up by MR. A ROSS, with Proposed Additions and Amendments by MR. J. C. ROBERTSON.

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1. Whereas the revenue is fixed on the general resources of the zemindars as well as upon the lands actually under cultivation, and not as in the Doon and plains, it is necessary to have knowledge of capabilities of the people as regards quantity of sheep, goats, plough-cattle, labourers and quantity of land and of its produce, viz., walnut-trees, apricots, &c., cabbages, honey. All this is referred to as, on account of the frequent changes or distribution of shares, a frequent change of the revenue is necessary.

2. In this pergunnah land is not measured in beegahs and biswas in the usual manner; there is only the measurement of the beegah, that is to say, as many pathas of seed as they sow in their lands the measurement of that land is called so many pathas, namely, such and such a field is four-pathas or five-pathas. The patha is one kind of measurement of which mention is made in paragraph 3. In the new measurement according to the orders of Government, each piece of cultivated land has been measured in blocks by acres, one acre four beegahs, or one beegah one rood.

3. The weight is according to paemane, viz., the kucha seer is called a seer, and the pucca seer is called two seers and a half, and four kucha seers

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make one patha (of rice or ourud), sixteen pathas make one doon, and twenty doons make one khar, and twenty seers kucha make an adhoone, forty seers kucha make sixteen pucca seers; the chittack, and adhpou are not used here, but the quarter-seer and half-seer are.

4. *1st*.—There are two kinds of cultivators, one mouroosce and the other gair mouroosce. Cultivators are of the Brahmin and Rajpoot caste, and have the power to sell or otherwise dispose of their lands. They have in every way a right and title to their villages, but the gair mouroosce cultivators have no right to sell or otherwise dispose of their lands; but to the zemindar, whose land they cultivate, they pay rent in money; this payment is called kara.

2nd.—If any mouroosce cultivator removes or runs away from his village, the land in the first place should be made over to his brother, nephew, or any other nearest relation he may have; if he have no relations, the seana of the khut distributes the land among the mouroosce cultivators of the village. But if they do not agree to such an arrangement, the seana gives it to some other person on a gair mouroosce tenure, and settles the quota of revenue payable by him. And if any such land cannot be settled in the above manner it lies fallow, and the seana distributes the amount due from it over the whole khut according to the capabilities of each person: but no Dome, Bajgie, or any such caste, can get possession of such land; only Brahmins and Rajpoots can, and they can only hold it on a gair mouroosce tenure.

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3rd,—As regards a runaway cultivator, it was always the custom that, without any limitation as to time, whenever he chose to re-settle and take possession of his land, whatever Government revenue was due could be collected from him, and he not forego his claim to his land unless he became a mouroosee cultivator in another place, or resigned his claim by writing a baznama. As this causes confusion and loss of revenue to Government, we have, with the permission of Government, ordained that a runaway cultivator can reclaim his right to his land within five years, after which time the new cultivator can lay claim to the land, no matter if the former cultivator has or has not become a mouroosee of any other place.

4th,—If the seana should make a gair mouroosee a mouroosee cultivator, he should give such a person or persons a bond: the candidate must give Rs. 2 to the seana, Rs. 4 and a goat to the punchayet, and Rs. 2 to the residents of the village of which he is made a mouroosee cultivator.

5th,—When the tenant of any khut or mehal settled in another, the practice was that there was still a claim upon him for the revenue of his former tenures, and in his new khut he gave kara. Now we have so ordained that in such a case there be no claim upon him for his tenures in his former khut and he will only pay the revenue in his new khut.

6th,—If a cultivator dies, leaving a widow and young children, and the

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widow takes to herself another husband, the husband can claim the tenures of the former one as gair mouroosee, but in any such case it is customary to take a written document from the new husband that the claim to any such tenures (as he may have got by marriage of the widow) of the the children of the former husband, and any that might be born of him shall be as follows:—Two-thirds are claimable by the children of the former husband, and one-third by any children that might be borne of him; if, however, a cultivator should at his death be in debt, and have no heirs, then whoever takes possession of his effects is liable for and must pay his debts.

5. When land that has been lying fallow is taken possession of for cultivation, the natural boundaries of the village should be looked to, such as trees, khuds, watercourses. Land for grazing goats and sheep can be taken without reference to boundaries.

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All trees are the property of Government, except a few near villages, which were included in the chuks, and were planted by the zemindars. The zemindars have, however, permission to cut wood for making ploughs, houses, or for their private use as firewood, but are not allowed to sell it; and those in whose khuts there is no deodar, are allowed to bring them from the khuts they have been accustomed, subject to the above conditions. And the persons from whose khuts the wood is cut are not allowed to charge for it. They have a complete right to all bansie jungle, and to medicines such as kakua, singhie; and as they pay reve-

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6. If there should be a quarrel with any other khut about boundaries, it is settled either by punchayet or by making oath, but it is settled by oath only when it cannot be settled by panchayet. The person in possession should take the oath, and if the seana is interested, he must take the oath, and in case he should refuse, the opposite party should be given the oath. Any quarrel about the lands in each khut is settled in the same way.

7. The customs of the punchayets are, that when a case has been settled by punchayet, the punchayet can claim a rupee from both sides; and as regards the claim of the punch in heavy cases of quarrel about boundaries, as described in para. 6, or regarding abductions of females, *vide* para. 15, the punch can claim two rupees from each side.

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nue on those they also possess the right of grazing cattle. But other rights, such as mines, belong to Government, and no zemindars can cultivate any barren land which has not been included in any chuk, without permission of Collector. And Government has the right of selling and letting that land to whomsoever it chooses.

Measurements having been made, and boundary-pillars erected to avoid future disputes, a report is to be made within fifteen days after a case has been decided, stating what decision has been arrived at, and what objections either of the parties make to the decision; if no proper objection is filed within fifteen days, the decision of the arbitrators will be confirmed

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8. 1st,—In the whole pergunnah there are thirty-five khuts. Each khut contains several villages. The head man of the khut is called seana. The duties of the seana are as follows:—To keep the zemindars contented, to collect the dues of Government according to custom only, equal shares according to the capabilities of each one; to settle all quarrels; and look after the welfare of new ryots; and obey the orders of Government. The seana and zemindars of khuts are of the same caste and parentage, but the title of seana is hereditary. In some khuts there is a difference of caste between the seana and the zemindar.

2nd,—The seana is appointed in the following way:—On the death of a seana, his eldest son succeeds; but if he should be under age, or otherwise unfit, the title of seana still continues in his name—his brother or any other

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One khut constitutes a mehal

If any ryot does not pay his dues, the seana can sue him in court for the amount; and if a cultivator should run away, he can distrain his effects, through the tehseeldaree, that they may be forthcoming when called for by the authorities, in order that Government may not be a loser; and if he cannot by any means in his power collect the Government revenue, he must re-arrange the phant over his khut. The phantbundee must be filed in the tehseel in December: if the seana should fail to do this, he makes himself liable for such arrears. But even if no alteration is made, the phantbundee must be filed, in order that the arrangements for the following year may be looked into, and may be settled by the end of April.

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son of the deceased, does the work for him as his deputy or naib; and if the seana wishes, he can make his eldest son seana during his lifetime; but his brothers have no claim to the seana charee—they are zemindars: the seana can, if he chooses, allow them to receive a portion of the bisouta. In case of division of property, the seana charee is not distributed, though all other property is. A younger son cannot take the title of seana. If the eldest son should die, and have children, such children can claim the title, no one else can claim it.

3rd,—When a seana dies without issue, his wife cannot claim the title of seana; deceased's brother succeeds to the post.

4th,—In each khut there are several seanas, but that person is considered the head seana whose orders and power extend throughout the khuts. In this pergunnah the village of such a seana is called "khoond."

5th,—If the seana should in any way injure the Government revenue, or act contrary to the Government orders, or injure the ryots by harsh measures, or wrongfully levy fines from the ryots of Government, or should be remiss in obeying the orders of his superiors (or Government), he may, according to the orders of Government, be dismissed. In such a case the person who has the next claim, and is capable, will succeed to the seana charee, if approved by the district office. If he should wish, for any particular reason, to give up his claims to the seana charee, it is customary to do it

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in the following manner:—First he resigns his claim to his brother, then to any other person; but the rightful owner cannot sell it to destroy the rights of the next person.

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9. In many khuts in each of the villages there is an officer of lower rank than the seana who is called in the language of the district "chuck-routta." There is this difference between him and the zemindar, that in some khuts the seana from his own share gives the one or two rupees each, and in some khuts the seana, at the termination of any suit, makes the zemindars give him something. These chuckrait do all the work of the khut under the guidance of the seana; but if he should disobey the orders of the seana, the seana can dismiss him and appoint another person chukrait in his place.

10. If a seana should have to attend kutcherry or the district officer on his tour, he is entitled to a coolie as a servant, and another to carry a load; he also receives one seer of atta from each zemindar. Formerly seanas were in the habit of distributing any heavy expenses incurred by them over the whole pergunnah. On account of the great injury done to the zemindars by this, that custom is abolished, and in future a seana will be entitled, once a year, to levy from each zemindar at the rate of one-half anna per rupee of jumma payable by him, to cover his expenses when employed on business in the khut; but he can claim no other fees except small perquisites that he is entitled to from his office.

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11. 1st.—If a zemindar wishes to sell any portion of the land he has under cultivation, he must first through the seana get the permission of the shareholders of his village, and also of the zemindars of the khuts. When a person of that khut wishes to buy it, he cannot sell or mortgage it to a resident of another khut.

2nd.—It was formerly usual that a purchaser of land was responsible for the revenue, and a mortgager was not responsible. Not approving of this we have changed it as follows, viz.:—In either case—viz., either of a mortgage or sale—the person in possession is responsible for the revenue.

3rd.—Formerly, in case of sales, if the purchaser and seller lived in the same khut, the purchaser gave a dinner to the relatives of the seller, and four annas for their having been witnesses. All the other witnesses of the sale received one anna per rupee on the value of the sale. Besides the price of the land, he gave one rupee (khurtawun), or gave a dinner to the relatives of the seller. The seana of the khut, the relatives of the seller, and other residents, attest the deed of

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But the deed of mortgage must contain a condition that only the zemindaree rights are mortgaged, not the land itself; but when the mortgagee takes possession, he is only entitled to it till his claim has been paid, or till the expiry of any period agreed on at the time of the mortgage. The mortgager is also responsible for the revenue. All charges of possession must be entered in the phantbundee.

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sale; if the purchaser belong to another khut his relatives should be witnesses, but receive nothing for it.

4th,—With regard to mortgage. It can only be completed by permission of the seana. No period is fixed for the duration of the mortgage, and no fees are paid; and seana receives four annas for writing the deed: the mortgage must be recorded by the karkoon.

5th,—If anyone sells or mortgages anything to two people, and the first purchaser takes possession, and the money is returned to the second, the seller is considered dishonest.

12. *1st*—If, according to custom, four brothers have two or perhaps one wife between them, and four or five daughters are born, and one of the brothers marries again, the children are not shared between them, but remain with the woman; and the woman cannot go to the younger brothers, but must live with the elder; but the children are entitled to equal shares from the four brothers, which are paid to the elder. If they separate, the elder brother bears expenses of the marriages.

2nd,—Goods are divided in the following manner, *viz.*:— After deducting one thing of each kind, and one field for pitans—*viz.*, rights on account of seniority—and half of that field—*viz.*, kanchoo—for the youngest, all the rest are divided equally among them; but if there should be any bought land, *viz.*, by mortgage or sale, or if there is any of their own land mortgaged in another place, that is also divided among them.

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The seana distributes the shares, and receives one sheep, one goat, one dish, one weapon, and five rupees. The punchayets receive five rupees and the villagers two rupees; but if they are poor, no one receives anything in the shape of fees: no fees are paid in cattle.

3rd.—If the mother or father should be alive, the brother with whom they live must provide them with a cow, plate, clothes, budlen currie; but if there are two fathers and mothers the second receive nothing

4th.—If any man have three wives, and they have children in unequal numbers—viz., one have two, another three—at the time of sharing, the children all receive equal shares, except that the son with whom the first mother is to live will receive a little more.

5th.—If two brothers have one wife, and have two children at the death of the wife, and both brothers marry again, and after the marriage the elder brother dies, leaving four sons at the time of sharing, after deducting half the whole property for the children by the first marriage, the remainder is divided into six equal shares: from those six shares two more, besides the half previously deducted, are given to the children by the first marriage.

6th.—Daughters can claim no shares in the paternal property; only the following is the custom—that the father should provide whatever is necessary for marriage ceremonies; and if he have any grown-up brothers, he should get them married.

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13. The following are the customs as regards marriages:—That only the Mia and Rawuth castes intermarry with the Kunnaith and Bhat castes, Brahmins and Rajpoots; in this district the marriage ceremony is called "Jhajrae."

1st,—The bridegroom's father gives the father of the bride one rupee as **earnest-money**; the father of the young woman will give him a feast (dinner) of pources: this makes the betrothal binding. The bride's father having dressed the young woman in a chola, a damun, and a dhatoo (head-dress), and having given her as many dishes, &c., as in his power, goes with all his relatives to the bridegroom's father's house, and the bridegroom's father gives them one or two dinners.

2nd,—If the bridegroom's father should decline to fulfil the contract of marriage after the betrothal has taken place, he must not take back the earnest-money he has given; but if the bride's father should give her in marriage to another party without the permission of the young man's father to whom she is betrothed, the girl's father will pay the young man's father sixty rupees.

14. When a son and heir is born, alms are distributed according to the means of the parents; and if anyone be in great sorrow, their relatives give them a he-goat and a rupee, to try and dispel their sorrow.

15. If any person of low caste should run away with the wife of a respectable man, then, either the per-

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son who runs away with her, or any person who allows them to remain in the district, must pay one hundred and twenty-five rupees; or else the woman, together with the person who ran away with her, should go out of the country. If it be proved that intimacy has previously existed, the man should be made to pay twenty-five rupees through the seana. If any person of respectable caste seduces a woman of respectable caste, he is made to pay a fine of sixty rupees.

16. The following is the custom in this district as regard bargains:—There are no written document taken; everything is done verbally: if any person knows how to write, he will write it down. If any quarrel arise on this account, it is settled in the following way:—If a debtor denies his entire debt, the sahokar has to swear to it in the name of his deity, but if a debtor denies a part of his debt, and acknowledges a part, the sahokar gets that portion of the money which the debtor acknowledges, and for the remaining he must make the usual oath.

2nd,—As regards interest, the following is the custom:—The debtor has to give the sahokar eight pucca seers of corn at each harvest for each rupee, until the original sum is paid up; and if anyone is unable to pay interest, and becomes insolvent, the sahokar takes his original amount in the presence of four arbitrators, and if the kooth (*viz.*, the eight seers paid annually) remain due, he foregoes it. If a debtor cannot pay his interest to the sahokar, and has to give much grain, then the sahokar makes him pay double the original debt.

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3rd,—The following is the custom with regard to debts of grain :—That for the space of one year the original quantity is increased fifty percent., and in the second year the accumulated amount, or that which remains after a part being paid back, is again increased fifty percent. If the debtor has not paid any interest, and becomes poor and insolvent, then the sahokar takes three times the original amount of his debt.

17. 1st,—In this district the most binding oath is by the Deity Mukasoon. To swear by, especially, the one in Kally Bole—*viz.*, Henoli—is more particularly binding.

2nd,—There was also the following custom prevalent in this district:—Often in cases of quarrels amongst themselves, people used to offer up at the temple of their deity stones from the khuts and mud from their houses; and that house having become the residence of their deity, fell to ruins— no person could take possession of it. In several cases deities were in the habit of ordering "land or house be freed !" and this order of the deity was made known by the Mallees, who come from Gurhwal. The Government: having thought this custom wrong, did away with it.

18. Besides persons of high caste, there are other people of low caste, such as carpenters, bajgies, kolies, blacksmiths, goldsmiths, chumars, &c., but these attend to their own trades and get pay for the work they each perform. Every zemindar gives to the blacksmith, bajgie, and carpenters only four pathas of corn;

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the chumar does the work of the master in whose service he is, if he gives him food and clothing, and gives a little land to his family.

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2. All disputes between servants and masters to be referred to arbitrators.

20. If any person steal sheep, goats, &c., and eat them or sell them, if the theft of one of these be proved, seven will be taken from him in exchange for each one he has stolen; and if the person will not give them, then he will be forwarded to the kutcherry and punished as a thief.

21. If any serious case of murder, &c., occurs, it was the custom to decide such case by punchayet. It is now no longer in the power of the people to interfere in such cases; the cases must be decided by the District Officer.

22. If there is any quarrel among the people, generally they settle it themselves, or the seana settles it; and if the seana, even, should not be able to settle it, the case is brought before the Magistrate to be settled.

23. Besides the above-mentioned customs, some of the customs of the under-mentioned khuts, viz., Churtharee, Malaitha, Kothai, Rungao, Hur-ree pore Beas, differ somewhat from the customs of the other khuts in the district of Jounsar Bawur.

2nd.—For in these khuts the entire family of the seana are entitled to receive bisouta. One person from amongst them is made the sudder seana, and whatever power the sudder

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seana has in other khuts is given to the whole of the seana's family in these. After the sudder seana, the eldest son becomes sudder seana.

3rd,—All the cultivators of these khuts are gair mouroosce; none of them have power to sell their cultivated lands. The seana has power to make them cultivate the lands, or to take away the land from them.

4th,—In the khuts of Kalsee, *viz.*, Hurreepore Beas, there is one custom quite different from the rest of Jounsar, that is to say, the revenue in this khut is not taken upon the capabilities of each one. There is plenty of cultivatable land; the seanas take the rest in bhutae; and all the remaining customs of the whole pergunnah are the same.

[Note —The "Dustoor-ool-uml," as it stands above, was drawn up by Mr. Ross in 1851. The alterations and modifications proposed by Mr. J. C. Robertson at the last settlement are shown in the second column. These were afterwards incorporated in the original rules, and the whole accepted and signed by the seanas of each khut.]

Appendix D. E.

NOTIFICATION No.236A.

Dated 17th January, 1863.

Under Section 385 of Act VIII, of 1859, and section 445 of Act XXV of 1861, the Hon'ble the Lieutenant-Governor is pleased to declare that the said acts, being the Codes of Civil and Criminal Procedure, are in force within so much of the Deyrah Doon District as lies on the left bank of the Jumna, with effect respectively from the 1st July, 1859, and the 1st January, 1862.

Appendix D. F.
NOTIFICATION No.1170 1/2 A.

Dated 29th April, 1864.

With reference to sections 11 and 12 of Act XXIV. of 1864, the Hon'ble the Lieutenant-Governor is pleased to vest the Superintendent of the Deyrah Doon with primary authority in all matters relating to the administration in all departments in Jounsar Bawur. He shall have power to assign to the Assistants of the Superintendent such duties—executive, fiscal, or Judicial—within the limitations laid down in the rules passed under Act XIV. of 1861, as they may be deemed qualified to discharge, in subordination to the Commissioner of the Meerut Division, to whom all appeals from the decisions of the Superintendent shall lie. The functionaries to be employed in the administration of civil justice are:—

The Assistants to the Superintendent.
The Superintendent.
The Commissioner of Meerut.

In revenue administration, and the administration of criminal justice:—

The Tehseeldar.
The Assistants to the Superintendent.
The Superintendent.
The Commissioner of Meerut.

The authority to be possessed by these officers, the mode of procedure, the rules as to the period and admission of appeals, will be there laid down for the corresponding grades of officers in the Turai, by the rules passed under Act XIV. of 1861, and promulgated by the Resolution of this Government No. 2664A., dated 10th October, 1861.

The Sessions Judge of Saharunpore shall perform the duty assigned to the Sessions Judge of Moradabad or Bareilly, by Clause 13 of the Rules for the Administration of Criminal Justice in the Turai.