

Correspondence re:

System of Revenue Survey and Assessment  
and its Administration  
in the  
Bombay Presidency, 1869.

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**OFFICIAL CORRESPONDENCE**

RELATING TO THE

**SYSTEM OF REVENUE SURVEY AND  
ASSESSMENT**

**AND ITS ADMINISTRATION**

IN THE

**BOMBAY PRESIDENCY.**

WITH THE PROCEEDINGS OF THE BOMBAY LEGISLATIVE  
COUNCIL AND THE DEBATES ON THE INTRODUCTION OF  
ACT I. OF 1865.

CONTAINING ALSO

THE REVISED "SURVEY RULES," ACT I. OF 1865, ACT IV. OF  
1868, AND SELECTIONS FROM THE OFFICIAL CORRESPON-  
DENCE CONNECTED WITH THE "JOINT REPORT."

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**Printed by order of the Government of Bombay.**

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1869.

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## PREFACE.

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A COMPILATION of the official correspondence on the system of Revenue Survey and Assessment carried out in the Bombay Presidency was published by Government in 1847. A revised edition of it was subsequently published in 1859, but as no copies of either are now obtainable, Government have directed the work to be reprinted.

But apart from the circumstances of the compilation being out of print, it has become imperfect as the Text Book of the Survey system owing to the many changes made since the last edition was brought out. The passing of an Act (I. of 1865) by which a legal status has been given to the operations of the Survey generally, and in connection with that measure, the introduction of a new Code of Rules for the administration of Survey settlements, in supersession of that embodied in the original Compilation, may be mentioned as the most important of the changes made.

In compiling the present edition it has been deemed advisable to reprint such parts of the correspondence embodied in the former compilation as will serve to explain the system of Survey and Settlement as originally introduced in this Presidency. The Superintendents' Joint Report, with parts of its accompanying correspondence explanatory of the early operations of the Survey Department, has therefore been introduced as the first part of the present work.

The second part begins with extracts of the Debates in the Legislative Council of the Presidency upon the Survey Act, followed by a copy of that Act. The debates have been introduced, not so much on account of their being explanatory of the measure, but because

#### PREFACE.

they contain a full and graphic description of the origin, progress and results generally of the Survey system of Settlement as applied and administered in this Presidency from its introduction to the date on which the discussion took place.

The Publication closes with the new code of administration Rules framed in accordance with the provisions of the Act, and which may be regarded as the Text Book of the survey system as it is now being administered.\*

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\* These Rules, as applicable to the Province of Mysore, will be found in the Chief Commissioner's Notification No. 39 of 1869, at page 211 to 237 of the "Mysore Government Gazette" of the 5th of June 1869.

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# PART I.

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From H. E. GOLDSMID, Esq.,  
Captain G. WINGATE,  
Captain D. DAVIDSON, } Superintendents of Survey,

To E. H. TOWNSEND, Esq.,

Revenue Commissioner, Southern Division.

SIR,—In obedience to instructions from Government, conveyed in the letter noted in the margin, we have assembled at Poona for the purpose of taking into consideration “the best means for bringing the somewhat diversified operations of the several Revenue Surveys of this Presidency into conformity, as far as practicable,” and also “for ensuring the results of the Surveys being turned to the best account, and maintained in their original integrity in the future management of the districts,” upon which points we do ourselves the honour to submit, for the consideration of the Honourable the Governor in Council, the following Report.

2. Descriptions, more or less complete, of the modes of operation in use on the three surveys have been at different times already submitted to Government; but subsequent to the dates on which these were written, modifications of the then existing practices have been from time to time introduced, so that the descriptions referred to now present an imperfect and, from the circumstances which called them forth, an unconnected view of the several systems. But in preference to entering into a minute detail of the methods of procedure followed at present on the several surveys, we shall proceed to describe, in compliance with the intentions of Government, the principles of that system of survey which, on a full consideration of the merits and peculiarities of the existing practices, we deem best suited for general adoption, and to be considered the standard for future operations, in so far as local peculiarities may admit.

3. A full consideration of the points mooted by Government would seem to require, in addition to the description of the system of Survey and Assessment, some notice of the objects to be accomplished by it, as it is only by a full comprehension of the end to be attained that we can judge of the merits of the means employed. We propose therefore, before proceeding to describe the plan of survey we have to recommend, to submit a few observations illustrative of the system of revenue administrations to which our operations are subservient.

4. The chief design of a Revenue Survey may be defined to be the regulation of the customary land tax, so that it shall at once secure an adequate revenue to Government; the progressive development of the agricultural resources of the country, and the preservation of all proprietary and other rights connected with the soil. In the districts hitherto surveyed, or under survey by us, the whole land, as generally throughout India, appertains to villages; and the lands of each village are divided into fields or estates, held upon various tenures, or unoccupied, but which, in respect of taxation may be classed under the three heads of *rent-free*, *partially assessed*, and *subject to the standard assessment*.

5. Under our Government the revenue management of the districts alluded to has generally been Ryotwur, but without joint responsibility, each cultivator being liable only for the land he cultivates, and renewing his engagement with Government from year to year. In some districts each field, or subdivision of the village lands, had its particular assessment, which was either fixed or settled from time to time, and the cultivators had, or were supposed to have, the right of relinquishing, when so disposed, any of the fields contained in their holdings, and obtaining a reduction of their liabilities, equivalent to the assessment of the lands so relinquished; in others the assessment was laid upon the entire holding of the cultivator, instead of its component fields; but in both cases the practical exercise of the right of the cultivator to relinquish any part of his farm at the expiration of his annual engagement was greatly restricted by the injudicious interference of our native Revenue servants, through their anxiety to keep up the cultivation and revenue of the villages or districts over which they had control.

6. The superior advantages of the field assessment over that by which the assessment is placed on the whole lands of a village, or the entire holdings of individuals or coparceners, whether proprietors or occupants, have been already so fully stated by two of our number in their joint Report quoted in the margin,

From Messrs. Goldsmid and Wingate, to Sole Rev. Comr., No. 1, dated 27th October 1840.

and are so generally admitted by the Revenue Officers of this Presidency, that we deem it unnecessary to enter upon any very detailed exposition of them here. It may be permitted us to remark, however, that one manifest advantage of breaking up the assessment of a village into portions so minute is the facility it affords to the cultivators of contracting or enlarging their farms from year to year, according to the fluctuating amount of agricultural capital and stock at their disposal, which is of incalculable importance to farmers possessed of so limited resources as those of the cultivating classes throughout India.

7. The loss of a few bullocks by disease or other causes may quite incapacitate a ryot from cultivating profitably the extent of land he had previously in tillage, and without the privilege of contracting the extent of his farm, and consequent liabilities on occasion of such losses, his ruin would be very shortly consummated. It is for this reason that there would be no advantage, but the contrary, in binding down the cultivators by long leases, as has often been recommended. The only advantage of a long lease to a farmer is the security it affords against any increase of rent or assessment during its continuance; while on the other hand it has the disadvantage of increasing his risks and liabilities in proportion to the length of the period for which it makes him responsible for the rent or assessment. The longer the lease, the greater scope for the employment of capital, but the greater the liabilities of the farmer and risk of failure. With farmers of large capital the security of tenure will overbalance the risk; but with farmers of small capital the case will be reversed; and for the latter class of men in any country it may safely be predicated that long leases, binding them to pay an invariable rent for a long series of years, are quite unsuitable.

8. To all classes of farmers, however, whether rich or poor, the tenure which affords the greatest security against increase of rent,

with the least extent of liability and risk of loss, is undoubtedly that most favourable to the interests of the agricultural classes, and to the progressive increase of farming capital ; and it is evident that this can only be effected by shifting the risk from the tenant to the landlord, and securing to the former all the advantages and security of a long lease without its attendant liabilities. In countries where the land is divided into properties of limited extent, landlords could not be expected to incur this risk when it is so easy to shift it on their tenants and secure their own rents ; but the case is altogether different when the whole, or a large portion of the land-rent, is levied by Government. In the latter case the interests of the rent-payer and rent-receiver are identical. With a Government the question is not the certainty and amount of rent derivable from one estate without reference to aught beyond its boundaries, but from the country at large. The land tax is obtained, not from a few individual farmers, but from the whole agricultural community, and its amount will fluctuate with the circumstances of the latter. With every diminution of the total amount of capital employed in agriculture the land revenue will decline ; with every increase it will improve. The maximum of farming capital and land revenue will be the same, as will also be their fluctuations. It appears therefore that in opposition to the case of an ordinary landowner, Government incurs neither risk of loss nor additional liabilities by giving the cultivator all the advantages of a long lease, and at the same time relieving him of its attendant disadvantages.

9. The important end here pointed out we believe to be fully attained by the fixed field assessment of our surveys administered by annual leases. The cultivator's title to the occupation of his fields is indestructible while he continues to discharge the assessment laid upon them, though his engagement for each be annually renewed, and by placing the assessment upon each field, instead of on his whole holding, he is enabled, when circumstances make the course desirable, to relinquish any of the former, or take up others which may be unoccupied, so as to accommodate the extent of his liabilities to his means to meet them. The fixed field assessment for the term of thirty years, introduced by our surveys, thus secures to the cultivator the full advantages of a thirty years' lease, without burdening him with any condition beyond that of discharging the assessment for the single

year to which his engagement extends. He has thus all the security of tenure which the longest lease could confer, without the attendant liabilities and risk, which his limited capital and precarious circumstances would be quite inadequate to meet.

10. The main objects then of our surveys is the imposition of a field assessment, and we are now to consider the most suitable means for accomplishing this.

11. The first question presenting itself for consideration is the definition of the field. In every village, as already stated, there are recognised subdivisions of the village lands, which for the most part have distinctive appellations, and have existed from time immemorial. Many of these, however, known as Thuls, Tickas, Dagh, and by other denominations, are of large size, and in the possession of several individuals. Their external boundaries may be considered permanent, but the limits of their interior portions, in the possession of distinct parties, are subject to change, through the operation of sales, transfers, annexations, partitions, and so forth. Occasionally also an old subdivision, though of large size, may be held by a single individual of larger means than usual; another, again, though not beyond, and even within the average size, may be partitioned very minutely amongst a numerous coparcenary, especially in the case of Meeras lands, which are inherited by the Hindoo common law of equal partition among the male descendants, on the death of the common ancestor. Such minor subdivisions are continually subject to change from the causes just mentioned and others; and finally, large tracts of waste, and even cultivated lands, in which all trace of the original subdivisions has been lost, are not uncommon.

12. To secure the advantages of the field assessment described in our preceding observations, it is obviously requisite that the fields upon which the assessment is distributed should be of a size suitable to the circumstances of the cultivators, so as to admit of their being readily cultivated by ryots of limited means. This could not be accomplished by constituting the ancient Thuls and Dagh into fields, as these would be generally too large for our purpose; while on the other hand, to make a field of every one of their interior subdivisions, as they exist at the time of survey, would greatly increase the labour and expense of the operation without an adequate object; for such holdings are subject to frequent change, as already explained, and no

advantage that we are aware of is to be gained by making permanent a state of things which, though representing at the time of survey the distribution of the village lands amongst the members of the community, would not continue to do so after the lapse of a very few years.

13. In the division of the village lands into fields the chief points to be kept in view appear to be—

1st.—That the fields, or at least a majority of them, should not be larger than may be cultivated by ryots of limited means.

2nd.—That they should not be made smaller than is necessary for the above object without an adequate reason.

The former of these points may readily be determined by the extent of land capable of being cultivated by a pair of bullocks, as farming cannot be prosecuted at all with a less number than this. When a ryot has only a single bullock he must enter into partnership with a neighbour, or obtain a second by some means or other, in order to be able to cultivate at all.

14. The extent of land capable of being cultivated with a pair of bullocks will vary according to climate, soil, description of cultivation, and methods of husbandry. In very dry climates, as the Deccan, where the soil is kept free of grass and weeds with comparative ease, the extent of the land will be greater than in moister districts, where vegetation is more vigorous, other circumstances connected with the cultivation being the same. A larger breadth of light, friable soils may of course be kept in tillage with the same labour than of heavier descriptions. In districts where manure is generally applied to the soils, the area capable of being cultivated will be much less than when no manure is applied. The difference between dry crop and irrigated lands will be still greater.

15. The actual extent of the several descriptions of land capable of being cultivated as above may, however, be easily ascertained in the case of any district about to be surveyed. Let us suppose, for the sake of illustration, the following to be the number of acres cultivable by a pair of bullocks in a particular district:—

20	acres of light dry crop soil.
15	„ medium „
12	„ heavy „
4	„ rice land „



These areas would, we are of opinion, form the most convenient size of fields as a general rule; but other circumstances require consideration. /

16. It is of much importance that the existing state of things in any village should be as little interfered with as conveniently practicable, and consequently that the holdings of different proprietors and cultivators, and land held upon different tenures, should not, when avoidable, be included in the same field; and though cultivators possessing only a pair of bullocks are numerous, those with a greater number are more numerous still; so that fields of double the size of the standard we have proposed might be cultivated and made the subject of transfer, &c. without difficulty.

17. On taking into account these and various other circumstances affecting the question, but which could not be clearly explained without entering into a greater detail than would be suitable in a Report such as this, we are led to propose the following general rules for the division of village lands into fields:—

#### RULES.

- 1st.—The number of acres for each description of soil and cultivation capable of cultivation by a single pair of bullocks, having been determined, the size of the fields should be so regulated as to contain from this to double this number of acres.
- 2nd.—The preceding Rule does not apply to tracts of land incapable of cultivation or unsuited for it in their present state from the presence of dense jungle or other obstruction, which should be divided into as large portions as may be convenient.
- 3rd.—Land held upon different tenures, as Meeras, Gutkool, Euam, Joodee, &c., should be measured separately, and not together, in the same field, even when of smaller area than required by Rule 1.
- 4th.—Different kinds of culture, as dry crop, rice, garden, &c. when in conformity with the usage of the district, should as far as conveniently practicable be measured into distinct fields.

5th.—Every holding\* falling within the limits prescribed in Rule 1 should be constituted a survey field.

6th.—Every holding in excess of these dimensions should be divided into two or more fields, so as to bring the area of each within them.

7th.—When a holding is of less area than the limit laid down in Rule 1, and there are other holdings on the same tenure contiguous to it, and also of less area than the Rule prescribes, so many of these are to be clubbed together to form a new field as may be requisite to bring the acres of the latter within the limit, but no more.

8th.—When a holding of less area than required by Rule 1 does not adjoin another holding similarly circumstanced, it should be made a separate field notwithstanding its deficient size.

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18. These Rules would preserve the existing divisions of the land to great an extent as seems necessary or desirable; for the subdivisions of any large holding under Rule 1 into fields of a convenient size for cultivation will in no way affect the existing rights of the tenant, as the external boundaries and extent of his land will remain unchanged. The only other case in which existing usage could at all be interfered with is that of two or more inconveniently minute holdings being thrown into one survey field under the provisions of Rule 6; but such instances would be of rare occurrence, and the field thus formed so small that there would be no difficulty whatever in arranging for the payment of its assessment by the several shareholders.

19. The size of the holdings having been determined, the next question that suggests itself is the best mode of defining their limits, and of securing the preservation of the boundaries when defined.

20. A continuous ridge or mound of earth encompassing the field is doubtless the best boundary; but such was found on trial to be too expensive, and a system of partial ridging at the angles, and at

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\* By "holding" we mean any field, estate, or occupancy, contained within a continuous line of boundary, and in the possession of one person or coparcenary.

intervals along the sides, with stones sunk at the corners and bends, has proved sufficient for practical purposes.

21. The number and size of these marks must be regulated by local circumstances, and we do not therefore propose any specific rule on the subject, further than that they ought to be of size and in number sufficient to define distinctly the limits of the fields on the completion of the survey. These marks, whatever may be the labour and cost of their construction, we consider essential to the usefulness and permanency of the survey operations. Their due preservation and improvement will form one of the most important points connected with the future administration of the survey settlements, and will receive our attention when treating of the latter subject in the sequel of this Report.

22. The division of the village lands being subsidiary to the allotment of the entire area of a district into villages, the determination and definition of village boundaries becomes a most desirable preliminary to the former operation. This measure is urgently called for, not merely with respect to its bearing on the survey, though this is most important; but in order to put a period to the numerous cases of disputed boundaries, which have not only been fruitful causes of ill-feeling and contention between the disputing parties, but have also entailed a serious loss of revenue to Government, by preventing the cultivation of extensive and often valuable tracts of land.

23. The existence of an unworkable enactment (Regulation X. of 1827) for the settlements of these disputes, and the failure of several attempts to obtain a more efficient law, added to the increasing obstruction to the survey operations caused by the frequency of such disputes in particular districts, compelled the officers in charge to resort to some practicable mode of settlement, and these attempts proved that the main hindrance to their settlement before had been the undue importance attached to them, and that no insurmountable, or even serious obstacles stood in the way of their adjustment; while the recent law (No. III. of 1846) for the construction and preservation of boundary-marks, affords ample security against the revival of any disputes once settled by the Survey Department.

24. All the more important of these disputes are of long standing, and in the majority of cases the land has been waste from time

immemorial, and rendered of little value to any party by having converted into a contested grazing ground for the cattle of the several villages claiming any part of it. There is generally no evidence whatever in proof of the original limits, beyond a few vague entries in some of the old village papers, which, even if we could depend on their authenticity, cannot be relied on as affording a true statement of the extent of the dispute at the time they were written, since it was frequently the interest and practice of the village accountant to enter the dispute as larger than it really was, in order to obtain from Government a corresponding deduction from the rental due from the village.

25. Such being the case, it seems aiming at impossibility to attempt to restore with exactness the original boundaries; and expensive or elaborate investigations having this object in view prove labour in vain, and would, by investing the case with importance, be found to strengthen the animosity of the contending parties, and to excite on both sides a renewed desire for victory; that the very elaborateness of the means taken to secure a decision, instead of promoting that end would seem to raise an additional barrier in the way of a satisfactory settlement. The importance therefore attached by the authorities to these disputes the more readily will their adjudication be effected and acquiesced in. Moreover the partition of the disputed land, however made, hardly fail to confer a benefit on all the parties interested, by enabling them to bring their assigned portions under cultivation, and to obtain a certain and often valuable return, in place of a contested pasture shared by all, and conferring little benefit on any.

26. We shall now propose some general Rules applicable to the settlement of such disputes; and in framing these we have kept in view the importance of such a mode of settlement as may best facilitate the survey operations, and so prove least expensive to Government. The occurrence of cases of disputed boundaries in the course of the detailed survey of the village has caused more interruption to work than perhaps all other sources of delay combined, and it will therefore be of the utmost advantage to make the definition of village limits and settlement of disputes, wherever practicable, preliminary to the operations of the regular establishment, which is also followed in the North-Western Provinces.

## RULES.

- 1st.—Before proceeding to the regular survey of a district, a few experienced Surveyors should be deputed to define, through the co-operation of the villigers, and aid of the local Revenue Officers, the limits of each village, and secure their preservation by proper land-marks, and the preparation of a descriptive record or map for the use of the regular Surveyor.
- 2nd.—Before proceeding to define the limits of any village, previous notice should be given to secure the attendance of the parties interested, and in the absence of any dispute, the boundaries should be marked off as pointed out by them.
- 3rd.—In event of the occurrence of a dispute, where the land is cultivated by both parties, the line of boundary is to be laid down according to actual possession.
- 4th.—Trivial disputes, not noticed in the village papers, to the extent of a few feet on either side of the possible line of boundary, to be settled summarily on the spot by the Surveyor.
- 5th.—In any case of a dispute, when the parties consent to abide by the award of one or more arbitrators, an agreement to that effect to be taken from them in writing, and the boundaries laid down accordingly.
- 6th.—In cases where the Surveyor cannot obtain the consent of the parties to refer the disputes to arbitration, the aid of the Mamlutdar, or other local officer, should be called in, who should use all his influence to effect an amicable settlement; but failing this, and in event of the dispute being of recent origin and not noticed in the village papers, he should himself inquire into and decide upon the line of boundary, which should immediately be marked off by the Surveyor.
- 7th.—Disputes of old-standing, recorded in the village papers, of which the local officer may fail to effect a settlement, should be left over for adjudication by the Survey Officers, who, after a careful consideration of the evidence adduced

by the contending parties should decide upon the line of boundary, and have the marks laid down accordingly.

*8th.*—The settlement of disputes between Government and alienated villages, which the parties will not consent to submit to arbitration (or where this course may be unadvisable from an apprehension of collusion), should be made by the Survey Officers, as in the preceding rule; but previous to the boundaries being laid down, their awards should be confirmed by the Superintendent, in accordance with the plan already sanctioned by Government for the survey of the Southern Maratha Country, in Mr. Secretary Townsend's letter of 13th December 1844, No. 4475.

*9th.*—All awards made under the preceding Rules should be in writing.

27. The enforcement of these Rules, which are similar in principle to those of the survey of the North-Western Provinces, we feel convinced would accomplish the satisfactory settlement of all disputes brought to light in the prosecution of our surveys, and that all trace of them in the course of a few years would disappear.

28. It will be observed that we have confined the formal investigation and settlement of disputes by the Survey Officers to such as have been already recognised in the Government records, and this we feel to be absolutely necessary, as the prosecution of the survey would be quite impracticable were we to extend the same form of procedure to every case, trivial or otherwise, which the villagers may choose to bring forward. The number of such recent disputes will always be found to multiply in proportion to the readiness with which complaints are entertained; and it must be borne in mind that the true boundary in such instances is perfectly well known to the contending parties, whose only reason for not pointing it out is the hope of obtaining some undue advantage by the dispute; while on the other hand, when no encouragement is afforded to the prosecution of such idle claims, the villagers soon come to an understanding amongst themselves, and find the advantage of at once pointing out the true boundaries.

29. The plans for the definition of the limits of villages and fields having now been laid before you, the next question for conside-

ration is the most suitable mode of accomplishing a sufficiently accurate survey of the land, and recording the results of the operation. It seems unnecessary to attempt any detailed description of the various possible methods of field surveying, and we shall therefore confine our attention to that which experience has led us to adopt in the surveys under our control.

30. The measurements of the former Deccan Survey were confined to the ascertainment of the area of the different fields into which the village is divided, and the preparation of a descriptive record of their name, tenures, and boundaries.

31. The present Deccan Surveys were commenced with the same objects, and on the same plan of measurement; but as the work proceeded, the imperfections of any kind of descriptive record of boundaries, especially in the case of irregularly shaped fields, became apparent, and led to the super-addition of a rough sketch map, framed for the purpose of exhibiting the position and shape of the fields, but without aiming at any degree of accuracy with respect to area. This was a great improvement on the original descriptive record, but it was subsequently found that the ordinary plan of measuring, with the cross-staff and chain, was compatible with the accurate protraction of its results upon paper, and that without the aid of theodolites or other instruments for measuring angles, or any new processes of survey, field and village maps, possessing a degree of correctness sufficient for all practical purposes, could be constructed.

32. The want of an accurate village map had been noticed by the Government of India as a marked defect of the Revenue Surveys of this Presidency, and the advantages of such a document, whether as regards revenue, or generally administrative purposes, are so unquestionable, that the present plan, by which we are enabled to furnish it, cannot but be regarded as a marked improvement on the former method. It was not at first anticipated that these maps would prove sufficiently correct for topographical purposes; but our expectations upon this head have been more than realised, and the village maps are found to possess a degree of accuracy sufficient to admit of their being united, so as to form a general map of a district or collectorate, without any further aid than is derivable from Major

Jopp's maps, on which the positions of the principal places are correctly given: or, failing this, from a triangulation subordinate to that of the grand trigonometrical survey.

33. Thus while the village map affords the most minute information as to the position, size, and limits of fields, roads, water-courses, &c. comprised within the village limits, the district map may be made to exhibit, with equal accuracy, the relative positions and extent of villages, topographical features of the country, and a variety of other information calculated to be useful to the local Revenue and Judicial authorities. These maps do not add materially to the cost of the survey, and as their protraction leads inevitably to the detection of any serious errors in the measurements, they afford an important security against inaccuracy, and may be considered to be among the most valuable documents connected with our operations.

34. We are of opinion, then, that the system of measurement should embrace the construction of accurate field, village, and district maps, even where local difficulties may cause the expense of the measure to be much greater than it has hitherto proved. The ordinary measurements by the chain and cross-staff, from which the maps are usually constructed, are inapplicable to the survey of mountainous and difficult tracts of country, where the theodolite would require to be resorted to; but as the two modes of survey may be easily combined, and there is no difficulty in instructing the more expert of the Native Surveyors in the use of the theodolite, we do not consider that any serious obstacles exist to the extension of the plan of operations we have recommended to all parts of the country where a Revenue Survey may be considered desirable.

35. We do not deem it necessary to enter into technical details regarding the construction of these maps, further than to express our opinion that those for the villages should be on a scale large enough to define clearly the limits of fields, so as to admit of the maps being used for ordinary Revenue purposes, as well as for renewing any boundaries wilfully or accidentally obliterated, and for this purpose we recommend the adoption of a scale of from 20 to 40 goonta chains (of 33 feet each) to the inch, according to the size of the divisions unless these happen to be unusually minute, when it will be necessary to give a separate map of such portions on a larger scale. For the



district map, a scale of two miles to an inch would generally be sufficient to exhibit clearly the limits of villages and the topographical features of the country without making the entire map inconveniently large. To multiply copies of these maps in the most economical and accurate manner, as well as to guard against any future fraudulent attempt at alteration, we think it highly desirable that they should be lithographed.

36. As regards the accuracy to be considered necessary in the measurement, errors to the extent of five per cent. would not affect the utility of the operation for Revenue purposes; but as a much higher degree of accuracy than this can be attained without any sacrifice of labour and time, we think that in a plain country the average error ought not to exceed one per cent., and not more than two per cent. in any district sufficiently level to admit of its being measured by the chain and cross-staff.

37. In the preceding remarks upon the measurements it will have been observed that we have confined ourselves to the results, without entering into a detail of the various processes by which they should be obtained. And we have done so because these results are of an absolute and invariable character, capable of being arrived at with equal certainty by many modes, each of which may have its peculiar advantages under particular local circumstances. It seems therefore unnecessary, and would in many instances be hurtful, to fetter the Superintending Officers with specific Rules, which could hardly be so framed as to be suitable in all cases.

38. In treating, however, of the classification of the land, which next demands our attention, we shall adopt a different course, because the results of this operation are of a much less determinate character than those of the measurement, and do not admit of being ascertained with any thing approaching to mathematical exactness. The method of procedure becomes greatly more important in the former than the latter case, as upon it will necessarily depend the uniformity and accuracy of the work.

39. The object sought to be attained by our system of classification is the determination of the relative values of the fields into which the land is divided during the process of measurement. The circumstances affecting the values of fields within the limits of the

same village, where the climate may be considered uniform, are, their natural productive capabilities, their position with respect to the village, as affording facilities or otherwise for agricultural operations, and, in the case of garden and rice lands, the supply of water for irrigation. In estimating the relative values of fields the whole or these might be considered together, and the resulting estimate of their capabilities recorded by the assessor; or the latter might record his estimate of each particular by itself. The former system, by requiring a judgment to be given on a consideration of so many distinct and varying particulars, is evidently dependent for the accuracy of its results on the ability, experience, and integrity of the assessor, and to secure any thing approaching to uniformity would require a very high standard of qualifications in the agency employed.

40. Such an agency, however, is unobtainable; for it is not possible to collect men of sufficient ability and experience; and even if it were, we could not depend on their integrity; so that it becomes a matter of necessity to frame a system of operations sufficiently clear and definite to admit of men being trained for the duty, and to enable us to keep up an effective check upon their proceedings. To accomplish this object, we have been led to separate and define, as far as possible, the various elements which combine to make up the value of a field, and from these to frame such a system of classification as will leave little to the uncontrolled judgment of the classer. With this view we have found it desirable to estimate separately the intrinsic capabilities of the soil, all extrinsic circumstances affecting its value, and the facilities it may possess for irrigation.

41. With respect to the first of these points, in the plan of operations we have to recommend, we have retained the practice of referring every variety of soil to one of nine classes, which experience has proved to afford a sufficiently minute classification for all practical purposes. But in preference to trusting entirely to the judgment of the classer for determining to what class any particular soil should be referred, we have framed a set of Rules for the purpose of determining the soils which should fall into each class. The fertility of a soil in this country, or at least in all parts of it to which our operations have yet extended, being chiefly dependent on its power of imbibing and retaining moisture, and as this quality is mainly affected by

depth, we have chosen the latter peculiarity as the principal regulating influence in the formation of our scale of values.

42. There are numerous varieties of soil, known amongst cultivators by peculiar characteristics and distinguishing names; but as many of these differ little, if at all, in fertility, and our classification has reference to the latter consideration alone, it would be out of place to notice in it any thing beyond the mere question of value. If all soils of the same depth were of uniform fertility, the depth alone would suffice to determine their class; but this is not the case. There are pure soils, that is to say, of uniform texture, and free from any admixture of deteriorating ingredients, which, although of one uniform depth, yet vary in fertility. Such soils are not numerous, however, and we deem it sufficient for the purpose of valuation to range them all under three orders, which again are distributed among the nine classes of our scale, on a consideration of their depth, as will be readily understood from the following table:—

Class.	Relative value of Class in annas or 16ths of a Rupee.	SOILS OF THE		
		1st Order.	2nd Order.	3rd Order.
		Of a fine uniform texture, varying in colour from deep black to dark brown.	Of uniform but coarser texture than the preceding, and lighter also in colour, which is generally red.	Of coarse, gravelly or loose friable texture, and colour varying from light brown to grey.
		Depth in Cubits.	Depth in Cubits.	Depth in Cubits.
1	16	$1\frac{3}{4}$	..	..
2	14	$1\frac{1}{2}$	$1\frac{3}{4}$	..
3	12	$1\frac{1}{4}$	$1\frac{1}{2}$	..
4	10	1	$1\frac{1}{4}$	..
5	8	$\frac{3}{4}$	1	..
6	6	$\frac{1}{2}$	$\frac{3}{4}$	1
7	$4\frac{1}{2}$	$\frac{1}{4}$	$\frac{1}{2}$	$\frac{3}{4}$
8	3	..	$\frac{1}{4}$	$\frac{1}{2}$
9	2	..	..	$\frac{1}{4}$

43. The first column of this table contains the nine classes of our scale; the second, the relative values of these, estimating the highest at 16 annas, or one rupee, which is the mode of valuation most familiar to natives. We have found by experience that a greater depth

than  $1\frac{3}{4}$  cubits, or about 3 feet, does not affect to an appreciable extent the fertility of soils, and we have therefore adopted this as the maximum in the case of the 1st and 2nd orders. Soils of the 3rd order are rarely found of a greater depth than one cubit, which we have made the maximum, as any occasional depth beyond this adds nothing to their value.

44. The depths entered in the table determine the classes to which the several orders of soils belong, wherever they are found free from an admixture of particular substances, or unattended by other circumstances which diminish their fertility. These deteriorating influences, when of sufficient importance to require a soil to be entered in a lower class than indicated by its depth, we denominate faults. Those of ordinary occurrence we propose to distinguish by the following conventional marks, as a short and convenient method of recording them in the classer's field-book:—

- ∴ Denotes a mixture of minute fragments or nodules of limestone.
- ∨ Denotes a mixture of sand.
- / „ sloping surface.
- × „ want of cohesion amongst the constituent particles of the soil.
- ∧ „ a peculiar mixture, more or less impervious to water.
- ≈ „ liability to be swept over by running water.
- „ „ an excess of moisture from surface springs.

45. These comprise all the important faults we have hitherto met with, and one such lowers the soil in which it is found a single class; two lower it two classes; three, three classes; and so on as will be shown in a subsequent example.

46. Extrinsic circumstances affecting the value of a field, but not its fertility, as distance from drinking water, &c., should be noted by the classer in his field-book.

47. For the purpose of effecting the classification of a field, the classer, with the aid of the village map, enters an outline of its shape in his field-book, which he divides by intersecting lines into a number of equal compartments, sufficiently numerous to give a fair average

valuation of the soil by an examination of its depth and quality in each compartment. These particulars, and the class into which the soil falls, are noted within each compartment of the classer's sketch of the field, as shown in the following example :—

## EAST.

7 ...	4 ...	$1\frac{3}{4}$ ...	1 ...	2 ...
6 1 ...	5 1 ..	4 $1\frac{1}{2}$ ..	3 $1\frac{1}{2}$ ..	3 $1\frac{3}{4}$ ..

The figure in the left hand lower corner of each square indicates the depth of the soil, and the number of dots under it, the order of soils to which it belongs; one dot signifying the 1st; two, the 2nd; and three, the 3rd order. The conventional marks in the right upper corner show the faults, each of which degrades the soil one class; from the order of soil, the depth, and the faults is determined the class of relative value to which the compartment belongs, as indicated by the figure in the left hand upper corner. To take the instance of the lower compartment on the right of the field, the depth is entered at  $1\frac{3}{4}$  cubits, and the soil is of the 1st order, as shown by the single dot immediately below. This order and depth indicate the 1st class of relative value, according to the table; but the presence of two faults (a mixture of sand and a sloping surface), indicated by the signs  $\vee /$  requires the soil to be entered in the 3rd class, as denoted by the figure 3 in the upper left hand corner of the compartment. It will also be seen from the example that a particular fault is occasionally entered twice in the same compartment, which means that it exists in so great a degree as to require the value to be lowered two classes in consequence.

48. When the classification of every compartment is completed, the classer enters in his field-book, below the sketch, an abstract, giving the number of compartments or shares of each class, together with their aggregate value in annas, according to the table; and the sum of

these annas, divided by the total number of shares, gives of course the average relative value of the field in the annas of our scale. This abstract for the field, given in the above example, would be entered as follows :—

Class.		Number of Compartments or Shares.		Value of Shares in Annas of the scale.
1	....	1	....	16
2	....	1	....	14
3	....	3	....	36
4	....	2	....	20
5	....	1	....	8
6	....	1	....	6
7	....	1	....	4½
		<hr/> 10		<hr/> 104½

10 5 average value.

The average value of the field in this case is thus shown to be 10 annas and 5 pies of the classification scale.

49. The system we have thus endeavoured to describe possesses the following important advantages: it obliges the classer to give his minute attention to every portion of the field, and by requiring a separate estimate of the value of each, his judgment is brought to bear on a very limited number of particulars, and the chance of error thereby greatly reduced. The distinct record of the valuation of each share further admits of the operation being tested in its minutest details, so that any error of judgment, or carelessness on the part of the classer, in the valuation of any one share in a field subjected to re-examination, may at once be discovered and brought home to him even if it should not affect the accuracy of his average valuation of the whole. The determinate character of the rules of this system, and the facility afforded for the application of a minute and searching test, must greatly conduce to the promotion of uniformity in the work of different classers—a consideration of immense importance where a trustworthy and experienced agency is not to be obtained.

50. The system we have described is confined to the ascertainment of the intrinsic capabilities of the soil, without reference to external influences affecting its productive powers, such as climate or water for irrigation.

51. Climate does not affect in a uniform manner every kind of soil. A change from a dry to a moister climate, for instance, will generally tend to approximate the productive powers of the higher and lower descriptions. The latter will benefit to a greater extent by the additional moisture than the former, the superior productiveness of the better soils in a dry district being in a great measure due to their retaining moisture sufficient to enable them to resist the effects of drought—an advantage which will be of less moment wherever droughts are of rarer occurrence.

52. This alteration in the relative values of the classes might be effected by increasing or diminishing the depth required to place a soil in a particular class; but rather than disturb the uniformity of our system, we prefer to make the requisite adjustment by an alteration in the relative values of the several classes entered in col. 2 of our table. By this means we are enabled to make the necessary modification at any subsequent period when we have obtained sufficient information for the purpose; whereas the alteration in the depths of the table would require to be made on commencing the classification of a district, when our knowledge of its peculiarities is comparatively limited. Such alterations, however, are rarely necessary, as the lowness of the assessment should of itself suffice to cover all the more minute variations of value arising from difference of climate.

53. But while climate does not greatly affect the fertility of the several classes of soils, with reference to each other, it constantly and materially influences the productive powers of any one class in different districts, and sometimes in different portions of the same districts. Distinctions of the latter description, however, do not in any way affect the relative classification of the soils, though they form a chief consideration in determining the absolute amount of the rates of assessment for the districts or localities in which they prevail.

54. Irrigation greatly augments the productive powers of the soil, and whenever there is a command of water for this purpose it becomes a very important element in fixing the assessment of the land for which it is available.

55. Irrigated lands may be distinguished by the terms *garden* and *rice*. This distinction is not absolute, as rice is frequently grown in garden land, but rice land, properly so called, is that in which rice is the ordinary, if not the only, irrigated crop grown. Irrigated lands may again be divided into such as are watered from wells, from dams across rivers or streams, from tanks, or from wells combined with either of the two latter.

56. In classing gardens irrigated from wells, the chief points to be considered are the following :—

1st.—The value of the soil, 'as determined by the classification already described.

2nd.—The supply of water in the well.

3rd.—The depth of the well.

4th.—The quality of the water, whether sweet or brackish.

5th.—The sufficiency, or otherwise, of extra land under the well, to allow of a rotation of wet and dry cropping.

6th.—The distance of the garden from the village, as affecting the cost of manuring.

57. Of these elements, the supply of water in the well is of most importance, and should be determined by an examination of the well, and inquiries of the villagers, in addition to a consideration of the nature of the crops grown, and the extent of land under irrigation. This is the most difficult and uncertain operation connected with the valuation of the garden, especially in the case of wells which have fallen into disuse, and therefore that to which attention should be particularly directed in testing the estimate of the classer, and fixing the assessment of the garden. The remaining elements admit of being determined with accuracy.

58. In deducting the relative values of gardens from a consideration of all these elements, which should be separately recorded by the classer, it would greatly facilitate the operation were the extent of land watered always in proportion to the supply of water in the well. But it is not so, as in many instances the extent capable of being watered is limited by the dimensions of the field in which the well is situated, or the portion of it at a sufficiently low level; and in others,



supposing the capacity of the well to be the same, and the land under it abundant, the surface watered will be more or less extensive, as the cultivator finds it advantageous to grow the superior products which require little space, but constant irrigation, or the inferior garden crops, which occupy a more extended surface, but require comparatively little water.

59. Wherever the extent of land capable of being watered is not limited by the dimensions of the field, the most convenient method of determining the portion of it to be assessed as garden land is to allot a certain number of acres to the well in proportion to its capacity. By this means the most important element of all is disposed of, and our attention in fixing the rate per acre restricted to a consideration of the remaining elements, which are of a more definite nature.

60. The relative importance of these elements varies so much in different parts of the country, that we find ourselves unable, after a careful examination of the subject, to frame a rule for determining the value to be attached to each, and the consequent effect it should have upon the rate of assessment under all circumstances. It must be left to the judgment of the Superintending Officer to determine the weight to be assigned to each circumstance affecting the value of garden land, and, this determined, it will be easy to form Tables or Rules for deducing from these the relative values of garden land under every variety of circumstance.

61. In the valuation of garden land irrigated from dams or tanks, fewer circumstances require consideration. They are generally limited to the supply of water, and the quality of the soil, although it is necessary in some instances, to allow for distance from village. In this description of cultivation there is seldom a rotation of dry cropping, and consequently the assessment must be placed on the land actually watered, which prevents the supply of water being estimated by fixing a certain number of acres to each garden, as in the former case, and it becomes therefore necessary to class the supply of water with reference to its abundance and duration. These particulars are ascertained from the number of months of the year in which the water flows, and the nature of the crops produced. The class of water thus determined, and the class of soil, as fixed by the system already described, combine to give the relative value of the land irrigated.

55. Irrigated lands may be distinguished by the terms *garden* and *rice*. This distinction is not absolute, as rice is frequently grown in garden land, but rice land, properly so called, is that in which rice is the ordinary, if not the only, irrigated crop grown. Irrigated lands may again be divided into such as are watered from wells, from dams across rivers or streams, from tanks, or from wells combined with either of the two latter.

56. In classing gardens irrigated from wells, the chief points to be considered are the following:—

1st.—The value of the soil, 'as determined by the classification already described.

2nd.—The supply of water in the well.

3rd.—The depth of the well.

4th.—The quality of the water, whether sweet or brackish.

5th.—The sufficiency, or otherwise, of extra land under the well, to allow of a rotation of wet and dry cropping.

6th.—The distance of the garden from the village, as affecting the cost of manuring.

57. Of these elements, the supply of water in the well is of most importance, and should be determined by an examination of the well, and inquiries of the villagers, in addition to a consideration of the nature of the crops grown, and the extent of land under irrigation. This is the most difficult and uncertain operation connected with the valuation of the garden, especially in the case of wells which have fallen into disuse, and therefore that to which attention should be particularly directed in testing the estimate of the classer, and fixing the assessment of the garden. The remaining elements admit of being determined with accuracy.

58. In deducting the relative values of gardens from a consideration of all these elements, which should be separately recorded by the classer, it would greatly facilitate the operation were the extent of land watered always in proportion to the supply of water in the well. But it is not so, as in many instances the extent capable of being watered is limited by the dimensions of the field in which the well is situated, or the portion of it at a sufficiently low level; and in others,

supposing the capacity of the well to be the same, and the land under it abundant, the surface watered will be more or less extensive, as the cultivator finds it advantageous to grow the superior products which require little space, but constant irrigation, or the inferior garden crops, which occupy a more extended surface, but require comparatively little water.

59. Wherever the extent of land capable of being watered is not limited by the dimensions of the field, the most convenient method of determining the portion of it to be assessed as garden land is to allot a certain number of acres to the well in proportion to its capacity. By this means the most important element of all is disposed of, and our attention in fixing the rate per acre restricted to a consideration of the remaining elements, which are of a more definite nature.

60. The relative importance of these elements varies so much in different parts of the country, that we find ourselves unable, after a careful examination of the subject, to frame a rule for determining the value to be attached to each, and the consequent effect it should have upon the rate of assessment under all circumstances. It must be left to the judgment of the Superintending Officer to determine the weight to be assigned to each circumstance affecting the value of garden land, and, this determined, it will be easy to form Tables or Rules for deducing from these the relative values of garden land under every variety of circumstance.

61. In the valuation of garden land irrigated from dams or tanks, fewer circumstances require consideration. They are generally limited to the supply of water, and the quality of the soil, although it is necessary in some instances, to allow for distance from village. In this description of cultivation there is seldom a rotation of dry cropping, and consequently the assessment must be placed on the land actually watered, which prevents the supply of water being estimated by fixing a certain number of acres to each garden, as in the former case, and it becomes therefore necessary to class the supply of water with reference to its abundance and duration. These particulars are ascertained from the number of months of the year in which the water flows, and the nature of the crops produced. The class of water thus determined, and the class of soil, as fixed by the system already described, combine to give the relative value of the land irrigated.

62. In cases where garden land is irrigated, partly from wells, and partly from dams and tanks, the important point to ascertain is which is the chief source of supply. This is valued, in the first instance, according to one of the methods just described, and the rate so obtained enhanced in proportion to the value of the aid derived from the minor source of supply.

63. In rice, as in other irrigated lands, the chief points to be considered are the supply of water, the nature of the soil, and facilities for manuring. The supply of water is often wholly, and always to a great extent, dependent on the ordinary rains. In some parts of the country, to guard against the effects of intervals of dry weather occurring in the rainy season, small tanks are formed from which the rice may be irrigated for a limited period. In estimating the supply of water there are two distinct circumstances therefore to be considered, viz. the inherent moisture resulting from the position of the field, and the extraneous aid derived from tanks, or from channels cut to divert the water from the upper slopes into the rice grounds below. The weight to be given to each of these elements in the classification of the supply of water depends so much upon local peculiarities, that we feel it impossible to frame a system of universal application; and consequently the determination of this point must be left to the judgment of the Superintending Officer. All that we can do is to indicate the principles according to which, as we conceive, the operation should proceed.

64. The classification of the soil should be effected by a system similar in principle to that already described, though modified in details to meet the peculiarities of different districts. But the circumstances of the rice countries to which our operations have yet extended appear to vary so much, that we have not been able to agree upon any detailed rules for the classification that would be suitable to all.

65. The facilities for manuring rice lands will be determined, as in the case of dry crop soils, by distance from village, or the locality from which manure is procurable.

66. We have now defined, with as great a degree of minuteness as we consider desirable, the various operations of the survey undertaken for the purpose of distributing the assessment over the fields into

which the lands of each village are divided, with reference to their extent and capabilities. It now remains for us to point out what we deem the best mode of fixing the absolute amount of assessment to be so distributed. The first question for consideration is the extent of territory for which a uniform standard of assessment should be fixed. This will depend upon the influences we admit into consideration with a view to determine the point. Among the most important of these influences may be ranked climate, position with respect to markets, agricultural skill, and the actual condition of the cultivators. The first of these may be considered permanent; the second and third less so; and the fourth, in a great measure, temporary. And as our settlements are intended to be of considerable duration, there is an obvious advantage in regulating the assessment by considerations of a permanent character, or at least such as are not likely to undergo any very material change during the term of years (generally 30) for which it is to endure.

67. In determining, then, upon the extent of country to be assessed at uniform rates, we are of opinion that the more permanent distinctions of climate, markets, and husbandry should receive our chief attention. We should not think of imposing different rates of assessment on a tract of country similarly situated in respect to these three points, in consequence of the actual condition of the cultivators varying in different parts of it. Were we to do so, we should depart from the principle, laid down by the Honourable Court of Directors, of assessing land according to its capabilities, and adopt the objectionable one of doing so with reference to the means of the person holding it. The effect of such a system, by creating different rates of profit upon capital employed in agriculture, would interfere with its natural and most advantageous distribution, by diverting it from lands actually in cultivation to the lowly-assessed waste of those vallages of which the cultivators happen to be poor. By enabling the latter to meet the Government demands without the application of the same degree of capital and skill required in the case of better cultivated villages, it would foster in the former a slovenly and unremunerative mode of husbandry. By taking into account an element so uncertain and liable to change as the condition of the cultivators in particular villages, the assessment would become less and less suitable with

every improvement in their condition. On the other hand, by basing the assessment on considerations of a durable character, we have the promise of its remaining suitable for a lengthened period, and at the expiration of the term for which it is confirmed, requiring no further alteration than a simple increase or decrease of its amount, as the exigencies of the country and Government might demand.

68. Each collectorate being divided into districts, of which the management and records are distinct, it is an obvious advantage to consider the assessment of each of these divisions separately. And were the points bearing on the distribution of the Government demand alike in all parts of any such division, one standard of assessment would be suitable for the whole. But this is seldom the case; and there is usually such marked distinctions between different portions of the same district as to require the assessment to be regulated with reference to these. The first question, then, in proceeding to the assessment of a district is to ascertain whether such distinctions exist, and to define the limits over which they prevail. This, however, will seldom be a task of much difficulty, or involving any very minute investigations, as marked differences only, calling for an alteration in the rates of assessment, require notice; and within the limits of a single district three to four classes of villages would generally be found ample for this purpose.

69. The relative values of the fields of each village having been determined from the classification of soils, the command of water for irrigation, or other extrinsic circumstances, and the villages of a district arranged into groups, according to their respective advantages of climate, markets, &c., it only remains, in order to complete the settlement, to fix the absolute amount of assessment to be levied from the whole.

70. The determination of this point is perhaps the most important and difficult operation connected with the survey, and requires, beyond all others, the exercise of great judgment and discrimination on the part of the officer on whom it devolves. The first requisite is to obtain a clear understanding of the nature and effects of our past management of the district, which will be best arrived at by an examination and comparison of the annual revenue settlements of as many previous years as trustworthy data may be procurable for, and

from local inquiries of the people, during the progress of the survey. The information collected on the subject of past revenue settlements should be so arranged as to enable us to trace with facility the mutual influence upon each other of the assessment, the collections, and the cultivation.

71. This, in our opinion, can best be done by the aid of diagrams, constructed so as to exhibit, in contiguous columns, by linear proportions, the amount and fluctuations of the assessment, collections, and cultivation for each of the years to which they relate, so as to convey to the mind clear and definite conceptions of the subject, such as it is scarcely possible to obtain from figured statements, even after the most laborious and attentive study. The information to be embodied in the diagram best suited for our purpose should be restricted to the land of the district subject to the full assessment; the extent of this cultivated in each year; the assessment on the same; and the portion of the assessment actually realised. This will exclude from the diagram several items of revenue obtained from this land, such as the rent of grazing farms, fruit-trees, sheep tax, &c., independent of the assessment hitherto levied on the cultivated land, which is the proper object of our present inquiry.

72. The hucks of hereditary officers upon cultivated land, however, having to be included in the survey assessment, and as forming a real addition in the burdens on the land, might appropriately be included in the diagram; but as no authentic records of the amount of such hucks actually realised are obtainable, we think it preferable to omit them, and to estimate separately the addition to be made on their account to the collections shown by the diagram.

73. The items of information admitted into the diagram should be alike for each year. They should have reference to the same villages; and in the event of any having lapsed to Government, or having been otherwise transferred during the period embraced in the diagram, for which information for all the years required cannot be obtained, such villages should be excluded altogether; or if it be considered preferable to include them, a proportionate increase should be made to the entries of the diagram in the case of the years for which exact data may be wanting. The cultivation and assessment for each year should be estimated in the same land measures and the

same currency, and an explanation of the value of these afforded.\* Every care should be taken to secure the accuracy of the information embodied in the diagram, and the points in which it may be considered imperfect brought to notice.

74. Furthermore, to assist in tracing the causes to which the prosperity or decline of villages, or tracts containing several villages, are to be attributed, independent statements of the annual revenue settlements of each village should be prepared: and from these again a general statement for the whole district, or any portion of it, should be framed, and its accuracy tested by a comparison with the general accounts of the talooka, and from the returns so prepared and corrected the diagram should finally be constructed. The nature and amount of the various items of land revenue and hucks excluded from the diagram should be separately noted, and taken into account in considering the financial results of the proposed assessment.

75. And finally, with the view of affording the fullest information on this important subject, detailed figured statements should be furnished, exhibiting the source and amount of every item of revenue hitherto derived from land of every description, whether Government or alienated, comprised within the limits of the villages for which an assessment is proposed.

76. The information thus collected and exhibited, with that obtained by local inquiries into the past history of the district, will generally enable us to trace the causes which have affected its past condition; and a knowledge of these, aided by a comparison of the capabilities of the district with those of others in its neighbourhood, will lead to a satisfactory conclusion regarding the amount of assessment to be imposed.

77. But instead of a particular sum at which a district should be assessed, it amounts to the same thing, and is more convenient, to determine the rates to be imposed on the several descriptions of soil and culture contained within its limits, so as to produce the amount in question. And to do this it is only requisite to fix the maximum

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\* Collections or remissions on account of outstanding balances should be included in the entries of years to which they relate, though made at a future period.



rates for the different descriptions of cultivation, when of course all the inferior rates will be at once deducible from the relative values of our classification scales.

78. The rates so determined should be applied to all descriptions of land, alienated as well as otherwise; for the settlement could not be considered complete unless the extent and value of alienated land, as well as that under the immediate management of Government, were ascertained and recorded. When the calculation of the assessment from these rates is completed, field-registers, embodying the results of the survey, should be prepared for each village separately for the use of the Collectors. These, and the village maps, form a complete record of our operations; and while they and the field boundaries exist, all the important data resulting from the survey will be preserved.

79. It will have been observed that in the description just given of the system of operations we have to recommend, we have confined ourselves in a great measure to the statement of principles and results, without entering into details upon points which are not of general application. To have attempted greater minuteness would, without answering any useful purpose, have fettered the operations of the survey by enjoining particular methods of procedure, which local circumstances might render inapplicable. And for this reason we consider it necessary to allow, with reference to these points, a considerable latitude to the judgment of the Superintending Officer, so as to enable him to accommodate the details of his operations to the varying circumstances of the localities to which they may extend.

80. There are nevertheless certain points connected with the interior management of the Survey Departments which appear to us of uniform application, and sufficiently important to be defined in the shape of general Rules, or principles for future observance. They are as follows :—

1st.—That every operation of the Survey, such as the defining of boundaries, the modes of measuring and mapping, the classification of the soil, &c. should be performed in accordance with definite Rules, which should provide, as far as possible, for every difficulty likely to be met with in practice. The Assistant Superintendents, and every

member of their establishments, should be furnished with these Rules, or such portions of them as refer to their particular duties, for their instruction and guidance.

- 2nd.*—Precautions deemed requisite for the prevention of fraud, such as particular methods of recording the survey data, injunctions regarding punctual payments for all supplies, prohibitions against residence in private dwellings, borrowing money from, or incurring obligations to, any of the inhabitants of villages under survey, &c. should also be embodied in these Rules; and the Survey Officers should be careful to see that they are uniformly acted up to, and not allowed to fall into disuse.
- 3rd.*—No alterations of, or deviations from, these Rules should be made by any Assistant, without the sanction of the Superintendent; and in order to ensure uniformity, any modification, if generally applicable, should be extended to the establishments of all the Assistants.
- 4th.*—Copies of these Rules, and all important modifications of them, should be furnished by each Superintendent to the other Superintendents of Survey, in order that each may be kept aware of the methods practised on the other surveys, and thus enabled to take advantage of every improvement applicable to his own operations.
- 5th.*—The pay of the members of the native establishments should be regulated, as far as practicable, with reference to the quantity and accuracy of the work executed by each, and the principles observed in the regulation of pay should be the same in the establishments of all the Assistants.
- 6th.*—Daily, or at least very frequent, reports of the nature and quantity of work performed by the members of the native establishment employed in the field should be transmitted by them to the Assistant Superintendent, that he may be kept exactly informed as to what every person under him is doing, and be able to adopt timely measures for preventing obstruction to his

- operations. When the establishments are not employed in the field, a record of the daily work of each member should be kept for the information of the Assistant Superintendent.
- 7th.*—A regular and frequently recurring test of the work of the Native establishments should be kept up by the Assistants in charge, and monthly Returns, showing the work of each individual employed in the field, as also the extent and result of the test with reference to each particular, should be furnished by the Assistants for the information of the Superintendent.
- 8th.*—All letters to the address of any Assistant Superintendent should be opened and replied to by himself; and in event of his absence, no Carcoon should be permitted to open, read, or reply to such communications.
- 9th.*—The measurement should always be considerably in advance of the classification, and, when practicable, we think it advantageous that these operations be prosecuted under the superintendence of separate Assistants.
- 10th.*—An annual Progress Report should be submitted by the Superintendent of each survey for his department. It should exhibit the quantity of work executed in each branch, the portion of this subjected to test, and the degree of accuracy attained, as well as the cost of the whole; and the same particulars should be given for the work executed under each Assistant. The Report should likewise afford any explanations necessary to enable Government to come to a correct conclusion regarding the operations of the year.
- 11th.*—The proposals for the assessment of each district should be made by the Superintendent, as the Assistants, from their more limited experience, and the circumstance of their duties confining them to particular districts, have not the same opportunities of acquiring all the information necessary for the purpose, and the discussion of their proposals

by the Superintendent would occasion a needless prolixity in the correspondence connected with the determination of the rates of assessment. The Superintendent, however, will find it advantageous to consult with his Assistants regarding the state and peculiarities of the districts where they may be employed, as their opinions will often be of much service to him in forming his own conclusions with respect to the rates.

**12th.**—All the accounts of the department with the Collector and Civil Auditor should pass through the office of the Superintendent. The latter should have an Account Current with the Collector, who should make advances on his requisitions to any extent necessary. The survey accounts should be made up for each month, and submitted for audit by the Superintendent; and the Civil Auditor should return them to him when passed. They should then be transferred to the Collector, who then would give the Superintendent a corresponding credit in his Account Current.

The Superintendent should have a similar Account Current with each of his Assistants, making them advances, from time to time, for their own pay and that of their establishments, and giving them credit for signed receipts and similar vouchers forwarded with their accounts, which should be furnished monthly.

**13th.**—At least two or three seasons before the probable termination of the survey of a collectorate, or other division of the country, the Superintendent should request the instructions of Government regarding the future destination of his department; that in event of Government contemplating its transfer to another quarter, he may have time to make the necessary arrangements for moving the establishments gradually into the new field, and thus avoid the risk likely to attend the sudden transfer of so large an agency into a country of which they have no experience, and where the system previously pursued may prove inapplicable.

81. In addition to the points noticed in these general Rules there are many technical details in regard to which uniformity is desirable, but we consider it would be difficult, if not impossible, for any but those who have a practical knowledge of the working of a survey to form a correct judgment with respect to them. Furthermore, as these details are not of a permanent nature, and would require modifications to meet local peculiarities, we do not consider that any good purpose would be served by attempting to define them. Greater uniformity than we have endeavoured to enjoin could not, we conceive, be effectually secured, except by placing the several Survey Departments under one controlling authority, fully conversant with the principles and details of a Revenue Survey.

82. Having now completed the first division of our subject, we turn our consideration to "the most suitable means for ensuring the results of the surveys being turned to the best account, and maintained in their original integrity in the future management of the districts."

83. The introduction of the survey settlement should, in our opinion, be effected by the Superintendent, in conjunction with the Assistant Collector of the district, in order that the latter may become fully acquainted with the system, and the former have an opportunity of observing the practical working of its details and of explaining them fully to the local Revenue Officers in charge of the district, as well as of overcoming any difficulties, and meeting objections, which may present themselves in the course of the settlement.\*

84. The future administration of the survey settlements is a subject of the utmost importance, as a successful result cannot be anticipated unless the details of revenue management be carried out in strict accordance with the principles on which the settlements are based. This subject embraces so wide a field, and involves the consi-

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\* If the Collector himself holds direct charge of the district, he will of course be present at the introduction of the survey settlement, as will he also be if the Assistant Collector in charge is not sufficiently experienced to form a correct opinion as to the merits of what is being done; or if, for any other reasons, he thinks proper to watch proceedings. The Assistant himself, though ever so inexperienced, should also be present, for he cannot be in a better school in which to learn the most important parts of his Revenue duties.—*G. L. No. 6900, paragraph 11.*

deration of so many details, that to attempt to establish the suitability of every proposition we have to make in regard to it would lead to almost interminable, and, in our opinion, uncalled-for discussion, on which account we prefer to submit our views in the form of definite Rules for the guidance of the local Revenue Officers. These rules comprise all the points which occur to us as of sufficient importance to call for notice; but in submitting them for approval, we wish it to be understood that they should be considered applicable only to the collectorates above the Ghauts, already surveyed, or in course of being so. In other divisions of the Presidency, where the husbandry and revenue system are different, great alterations might be necessary.

### RULES.\*

[These Rules are superseded by those published in the *Bombay Government Gazette* of 11th February 1869, page 105, which will be found in Part II.]

G. L. No. 5593 of  
1848, para. 25.

1st.—*With a view to the improvement of the country and people, the assessment now introduced by the Superintendent Revenue Survey, has been fixed by Government for a period of thirty years, viz. from Fuslee to*

*during which*

*period the full benefit of every improvement, such as the conversion of dry into irrigated land by the*

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\* The Rules here given have been altered, in some instances, from those of the original manuscript Report, in compliance with instructions contained in the Government letters to the Revenue Commissioner, Southern Division, No. 5593, dated 22nd September 1848, and No. 6900, dated 16th November 1849; but the Nos. of the Rules remain unchanged. The paragraphs of these letters, sanctioning the Rules as they now stand, are quoted in the margin opposite each Rule; and remarks by Government, which qualify the application of any of the Rules, are given in foot-notes to the Rules to which they refer. Where alterations have been made, the original reading is given in small type in the margin: words altogether omitted from the original manuscript are given in roman in the margin, and words added to the original manuscript are printed in roman in the body of the Rules.

*digging or repairing of wells and tanks, the planting of fruit trees, &c. will be secured to the incumbent of the land, and no extra assessment levied on that account.\**

*2nd.—All cesses upon land have been absorbed in the new assessment; consequently when there are fruit trees in a field, their produce is to be taken by the cultivator, and nothing beyond the assessment placed on the field levied on that account from him; but in the case of valuable fruit and other trees standing in fields assessed at dry crop rates, and not in cultivation at the introduction of the Survey, and the produce of which it has hitherto been customary to sell on account of Government, the right of property in these trees and of occupancy in the field, should be offered at a fair upset price, and sold once for all by public auction to the highest bidder, and nothing in excess of the survey assessment thereafter exacted. But if no one offer to undertake the culti-*

G. L. dated 28th  
February 1849, No.  
1496.

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\* A proclamation to the effect of Rule 1 should be published when the revised rates are introduced in the District, and every Patell should be furnished with a copy.—G. L. No. 5593 of 1848, paragraph 25.

Any holder of a Government field wishing to appropriate a portion of the arable land contained in it for some purpose unconnected with agriculture, as in order to build a temple, or a Dhurumsalla for the use of travellers, or a tank to provide water for public purposes, and not for irrigation, and desirous of obtaining a remission of the assessment on the land to be so appropriated, must obtain the consent of the Collector before proceeding with the work, otherwise he will have no claim to any remission of the assessment, and any petition he may afterwards make on the subject will be disallowed. This rule, however, is not to be interpreted as in any way restricting the right of the occupant to dig wells, construct tanks for irrigation, erect farm buildings, or in any other way to expend money on his field for agricultural purposes without reference to the Collector, secured to him by the 1st of the Survey Rules.—G. R. No. 3053 of 27th May 1853.

vation of the field on these terms, the produce of the trees may be sold annually, according to custom.\*

G. L. No. 5593 of 1848, para. 25.

3rd.—No field is to be let for less than the full survey assessment, on account of its having been long waste, overrun with jungle, or any other reason whatever.

G. L. No. 6900 of 1849, para. 5.

4th.—In the Survey Registers, in the case of fields containing garden and rice land, the said land is entered at so many acres bearing a certain assessment, or the latter is laid upon the well in the case of garden land, without the irrigated acres being specified. This assessment is invariably to be levied and nothing more, whether a greater or less number of acres, or none at all, be cultivated with garden or rice crops; and should there now or hereafter be garden or rice land in any field not entered having such in the Survey Registers, no extra assessment is to be levied on that account; the dry assessment therein entered is alone to be levied.

the Registers also a deduction is made on account of barren<sup>a</sup> land in certain fields, and the assessment placed on the arable land alone; but in event of cultivator bringing any portion of the land deduced as barren<sup>b</sup> into cultivation no extra assessment is to

<sup>a</sup> Unarable.

<sup>b</sup> Unarable.

\* An occupant may sublet or dispose in any way he pleases of trees bought under this Rule.

An occupant's right, or a right derived from him occupying land bought under this rule, holds good only so long as he retains the occupancy of the Revenue Survey No. in question. Should he resign the No., or transfer the occupancy to another person, the right over the trees lapses, or is transferred to the new occupant.

In case an entire Revenue Survey No. containing trees should be resigned, or lapse to Government on failure of heirs, the land and trees should be sold on account of Government at a fair price with the trees. The disposal of occupancies comprising parts of Revenue Survey Nos. is provided for by Rules 7 and 8.



levied on that account ; the assessment on the field entered in the Register is alone to be levied.\*

5th.—Every cultivator in whose name any field, or share of a field, on whatever tenure held, is entered in the village cultivation returns, is to be considered the holder of such field or share ; and so long as he shall continue to pay the survey assessment due on it, he cannot be ejected or deprived of his right by any revenue authority ; but in event of his failing to discharge the full assessment, Government reserves the power of ejecting him from any field or share of which the assessment shall at least be equal to the balance outstanding, the defaulter retaining, however, the privilege of determining the particular field or fields to be so relinquished ; and in cases when the tenure precludes summary ejection, the Collector will observe the forms necessary to give his orders the force of a legal decree.†

G. L. No. 6900 of 1849, paras. 3 and 4.

6th.—In event of a holder of Government land dying, his fields or shares are to be entered in the name

G. L. No. 5593 of 1848, para. 29.

\* This does not apply to a tank included in a Revenue Survey No. and deducted as unarable, watering other lands besides those included in that No. The occupant is not permitted to cultivate the area of the tank so deducted after the water has dried up.

† Your 10th para. (Revenue Commissioner's letter, dated 10th Sept. 1847, No. 2258) inculcates a prudent caution in respect to the insertion of the names of parties as the holders of fields. Care should be taken that the real holder is well ascertained ; and if there be a dispute, no entry should be made in the Survey Books that can give one party a right which he might not on inquiry be found to possess. It is a great object to establish our Survey Books as a complete record of the state of the occupancy at the time of the operation.—G. L. No. 5593 of 1848, paragraph 28.

In the Superintendent's remarks in paragraph 20, on the subject of Rule 5th, I quite concur, for he admits the only exceptions for which I wished to contend in my letter of 10th September 1847, viz. cases which "have been fraudulently, or through mistake, omitted to be entered." That such cases must be guarded

*of his eldest son or next heir, should he or his representatives agree to take them.*

G. L. No. 6900 of 1849, para. 7.

*7th.—When two Ryots hold a field, and one of them relinquishes his share, or dies without heirs, the share thus lapsing is to be offered, in the first instance, to the other sharer before it is offered to any other party; and in event of the said sharer declining it, and no other party applying to take it up, the former must relinquish his share too, and allow the whole field to become waste.*

G. L. No. 6900 of 1849, para. 7.

*8th. When there are more sharers than two in a field, and any of them relinquishes a share or dies without heirs, it should be offered, as above, to the sharers, in the first instance, beginning, in event of their failing to settle the matter amongst themselves, with the largest sharer, and so on to the least. If none of these, nor any other party, be found to take up the relinquished share, the whole field must be thrown up.\**

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*against Government have decided in paragraph 28 of the letter under reply, and important as I admit the rule to be, justice I think requires that the exception should be borne in mind.—Revenue Commissioner's letter No. 3195 of 1849, paragraph 6.*

*In the remarks made by you in paragraph 6, regarding the other provisions of this Rule, Government concurs.—G. L. No. 6900 of 1849, paragraph 4.*

*Rule 6 is approved, provided no Meerasdaree, or recognised heritable right, is interfered with.—G. L. No. 5593 of 1848, paragraph 29.*

*Rules 7 and 8 should, in the opinion of Government, be relaxed only in cases in which any of the co-sharers in the field have held possession of their land for upwards of 20 years, and then never but in cases in which the Collector himself or an experienced Assistant may consider the relaxation absolutely necessary to prevent considerable hardship being entailed on individuals.—G. L. No. 6900 of 1849, paragraph 7.*

*\* Resignations of parts of Joodee Enam Revenue Survey Nos. are not permissible. This Rule does not, however, extend to transfers of such shares as may be made in accordance with Rule 9.*

9th.—Whoever has a field, or portion of one, entered in his name in the Government accounts may have the said field or portion transferred to the name of any other person agreeing to cultivate the same on his making a written application to that effect in the usual "Razeenama," or petition to resign.\* G. L. No. 5593 of 1848, para. 31.

10th.—Proprietors of Enam, Joodee, and Meeras lands, having possession of the same, have the right of cutting down or otherwise disposing of all trees growing therein, and also holders of Government fields, of which they have been in uninterrupted occupancy from a period anterior to the age of the trees, or for a period of twenty years, or who have purchased the trees under the provisions of Rule 2. G. L. No. 5593 of 1848, para. 32, and G. L. No. 390 of 12th February 1847.

11th.—Holders of Government field besides those specified in preceding Rule, or occupants of Meepras, Joodee, or Enam lands, holding the same from Government\*, must obtain permission to cut down trees, and will, in event of permission being given, be required to plant two trees for every one cut, unless exempted from this condi- G. L. No. 390 of 1847, and G. L. No. 6900 of 1849, para. 12.

\* Have permission to cut down Babool, Date, and all young timber trees, with the exception of those growing on the boundaries, which are to be preserved as land marks, and fruit or large timber trees, none of which are to be cut down without permission from the district revenue authorities unless the property of the holder, by purchase, under the provisions of Rule 2.

When a Joodee Enam Revenue Survey No. is held in shares, and one of the sharers dies without heirs, or otherwise vacates his share, in the event of the remaining sharers failing to settle the matter among themselves, the payment of the Joodee due on the lapsed share should be required from each sharer in succession, beginning with the holder of the largest share. If none of them consent to pay the Joodee on the lapsed share, the Joodee tenure of the whole Revenue Survey No. will be considered as resigned, and the No. will be entered as Khalsat.—G. R. No. 609 of 27th February 1856.

\* The transfer includes the right over trees, houses, and every thing immovable in the occupancy transferred.

tion by order of the Collector. The permission to cut trees under this Rule, and also trees in Government waste fields, for any purpose connected with agricultural operations, to be granted by the Patel and Koolkurnee on application, a record thereof being kept for the inspection of the Government Officers. For other actual and immediate wants of the villagers, such as repair of houses, &c., permission to be obtained from the Mamhutar or Muhalkurree; but for cutting any large number, or for any purpose of sale or profit, the permission of the Collector or one of his Assistants to be necessary, when any conditions which may appear advisable can be imposed.\*

G. L. No. 5593 of 1848, paras. 34 and 36, and G. L. No. 6900 of 1849, para. 8.

12th.—In taking up waste for cultivation, a Ryot must agree for a whole survey field at the full assessment, and no portion of a field is, on any account, to be given for this purpose, except in the case mentioned in the next Rule; and when two or more cultivators agree together to cultivate a waste field, it must be entered in the name of one of their number, who will be considered the holder, unless the assessment of the field amount to, or exceed, twenty rupees, in which case it may be entered in the names of two or more holders, on the condition that the assessment of the share of each shall in no case fall short of ten rupees.†

G. L. No. 6900 of 1859, para. 6.

13th.—There are some survey fields, consisting in great part of\* land covered with dense jungle, or

\* Unarable.

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\* The purchaser of the Toddy farm has no right whatever over date trees in occupied land; his farm is confined to the date trees standing in unoccupied land.

† This rule only applies to unoccupied waste land on being first taken up, not to occupied land, even though bearing assessment over 20 Rupees, or to land which has been resigned since the settlement.

*otherwise unsuited in their present state for cultivation, upon which no assessment is placed in the Survey Registers. In the event of portions of such fields being brought under cultivation, rates of assessment should be fixed by the Mamlutdar upon the acres under tillage, equivalent to those of similar soils in the same village. This rule applies to all fields in the Survey Registers on which rates of assessment have not been fixed.\**

*14th.—Unless special exceptions be made by the Collector, of valuable grass lands, certain to realise rents in excess of the survey assessment, the grazing of all waste Government and Meeras land is annually to be sold by auction, field by field, at the commencement of the monsoon, a preference being given at the sale to the inhabitants of the village to which the land may belong. The bidding, however, for any waste field should not be allowed to go beyond its assessment in the Survey Register, and when it reaches this point, the field should be entered in the name of the last bidder, as other cultivated land held at the full assessment, and the persons so taking it admitted to all the privileges of a holder of land under tillage.†*

G. L. No. 5593 of 1848, para. 39.

*15th.—The grass of fields especially excepted by the Collector from the operation of the preceding*

G. L. No. 5593 of 1848, para. 39.

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\* Reference to be made to the Survey Department, so long as it is in existence in a district for fixing the assessment of land required for cultivation, and unassessed in the first instance.—G. R. No. 1069 of 2nd April 1856.

† In the vicinity of the Ghauts, and in some other districts, the quantity of land available for grazing is much more than can be required by the villagers; in these cases the officer in charge of the district will set apart a portion of grazing land in each village sufficient for the reasonable requirements of the villagers.

This reserved portion will be bid for exclusively among the villagers, and the remainder will be open to the bid of any one.

*Rule, may be sold by auction to any one, for sums in excess of the survey assessment.*

G. L. No. 6900 of 16th.—*The grazing of the unarable and other fields not subjected to as-*  
1849, para. 13.

*assessment in the Survey Registers should be sold by auction by the Collector, as in the preceding Rule, a reasonable proportion being set aside for the free pasturage of such villages as have hitherto enjoyed this right.\**

\* Of unarable land and other fields not subjected to assessment in the Survey Register, a reasonable proportion, with reference to the size of the village, should be set aside by the Collector for the free pasturage of the village cattle, and the grazing of the remainder sold by auction as in the last Rule.

G. L. No. 5593 of 17th.—*In some villages houses are attached to particular fields, and it has been customary to oblige a Ryot, throwing up one of these fields, to relinquish his house at the same time. This custom, however, is now abolished; and every cultivator is at liberty to throw up any field without his title to his house being at all affected thereby. This Rule does not apply to the case of alienated lands.*  
1848, para. 42.

G. L. No. 5593 of 18th.—*In the Survey Registers an assessment is placed on Joodee and Enam, as well as Government fields, but the Joodeedars and Enamdars are not bound thereby, and are at liberty to let out their lands on any terms they please.*  
1848, para. 42.

G. L. No. 5593 of 19th.—*In event of Enam land being confiscated or temporarily attached, it is to be let out, while*  
1848, para. 42.

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\* The time of selling the grass privileges is left to the discretion of the Collector, who must take care to provide against loss from unseasonable sales of the Farm.—Paragraph 6 of G. R. No. 11093, of 26th November 1851.

Land assigned at the settlement as free common, or for any public purpose, is not to be resumed or devoted to any other purpose, without the sanction of the Revenue Commissioner.—Paragraph C. R. No. 1036, of 17th February 1853.

*under Government management, at the survey assessment, or sold by auction, if waste, exactly as Government land. This Rule does not apply to the year in which the attachment is effected for which the existing agreements made with the Enamdar should be allowed to stand.\**

*20th.—Cultivators wishing to relinquish Fields must give in a written application to that effect (which must specify the No., Acres, and assessment of every field to be relinquished) to the Village Officer on or before the 30th April in each year. The latter must, without delay, forward the application, together with the parties concerned, to the Mamlutdar or Mahalkurree, who, after satisfying himself on the subject of it, is to ratify the application, and transmit an order to that effect to the Village Officers, when the latter will make the necessary entries in the village accounts. In the same way, when waste fields are wanted for cultivation a written application is to be made to the Village Officers, who are to forward it, with the applicants, to the Mamlutdar or Mahalkurree, who, after satisfying himself that there is no objection to giving the land applied for, is to accept their agreements, and transmit an order to that effect to the Village Officers. But the latter are not, under pain of punishment, to accept either resignations of field or engagements for waste, or to*

*\* When an enam village already surveyed lapses to Government, the Survey rates may be at once introduced, remissions being allowed for the first season, in the usual way, in all cases where the Survey settlement exceeds the amount of individual payments under the Enamdar's rates.*

*When the settlement is introduced into lapsed or alienated villages situated in a district already settled, the guarantees will be restricted to the unexpired period of the general lease of the district. This Rule is not, however, applicable to isolated villages where a 30 years' guarantee was specially given at the time of settlement.*

*make alterations in the cultivation registers without referring, as above required, in the first instance to the District Officer, and receiving his orders thereon. All accepted resignations of cultivated, and accepted applications for waste lands, are to be produced at each Jummabundy Settlement for examination, and will form the vouchers for every alteration in the cultivation Registers.\**

G. L. No. 6900 of  
1849, para. 10.

*21st.—The revenue should be collected by fixed instalments, without reference to the proportion of early or late crops grown in any one year; and consequently no field inspection for the purpose of obtaining such information should be made. In villages where early crops prevail, we recommend the collections to be made in four equal instalments, falling due on 15th December, 1st February, 15th March, and 1st May; and where the early and late crops are nearly equal, or the latter predominate, we also recommend four equal instalments, but respectively falling due a month later, viz. on the 15th January, 1st March, 15th April, and 1st June.†*

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\* The purchaser of the grazing of a Revenue Survey No. has a prior claim to the occupation of that No. for the ensuing year up to the 1st January; after that date the Kuboolayet of any other applicant is to be taken for the ensuing year, without reference to purchaser of the grazing.

† "Government is in favour of Rule 21 standing as originally proposed, but will not object to the Collector's being informed, with reference to this Rule, that if they consider necessary any alteration in the 'Kists' therein laid down, they are forthwith to state in detail their reasons for so thinking in a letter to you (Revenue Commissioner), which you will be pleased to forward to Government. The Collectors may be informed in a foot-note to English version."—G. L. No. 6900 of 1849, paragraph 10.

The particular villages in each Talooks to be considered Kurreef or Rubbee villages are to be settled by the Collectors, in communication with the Revenue Commissioner, and no charge is afterwards to be made in this settlement without sanction pre-



22nd.—*The field boundary marks erected at the survey should be preserved with the greatest care, and when injured, timely repairs must be made by the cultivators in the case of cultivated lands, and by hired labourers in the case of waste. The expense of the latter may be defrayed by the Collector, without reference, if the sum do not exceed Rs. 5 for every 1000 acres of waste, and, after reference to the Revenue Commissioner, up to Rs. 10 for every 1000 acres. The intervening strips connecting the boundary marks of a breadth corresponding with the latter are constituted the boundary of the field, and forbidden to be ploughed over or otherwise injured; and in the case of dry crop land, before preparing any field for sowing, these strips are to be distinctly marked off each year by the holder running his plough along the boundary. In event of this order being neglected, and this space ploughed up or sown, the cultivator is to be made to connect the two contiguous marks, between which the boundary had been disregarded, by a continuous ridge of earth, 1½ foot in height, and should he fail to do so within a certain number of days, the Village Officers are to report the circumstance to the Mamlutdar, who is to apply to the Collector for a notice to be served on the holder of the field, according to the provisions of Act III. of 1846; and if this be disregarded, the boundary is to be put up by hired labourers, and the amount recovered from him, as therein provided.*

G. L. No. 5593 of 1848, para. 46.

Rules (15 and 16) passed by Government on the 20th August 1852.

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viously obtained from him, and the circumstance being noticed in the Annual Revenue Reports.—G. L. No. 4866, dated the 17th July 1852.

The dates fixed in the Joint Report are those on which the realisations should commence; the revenue should be realised on that day, or as soon after as possible.—G. R. No. 11093 of 26th November 1851.

G. L. No. 5593 of  
1848, para. 46.

23rd.—Independent of the precautions specified in the preceding Rule, a regular inspection of fields for the purpose of ascertaining the state of the boundary marks, and that none of the fields entered in the accounts as waste are surreptitiously cultivated, is to be made in each village, as soon as practicable, after the first of November in each year. The results of this inspection are to be entered in a Field Register, prepared according to the form hereunto annexed. Before, however, commencing the work of inspection, the Carkoon nominated for the duty should summon the villagers to the Chowree, when he should read out and explain to them the Government Proclamation regarding the preservation of their boundary marks, of which a copy is subjoined. He should make the inspection in company with the Village Officers, and take care that the owners and occupants of the fields visited be also present. He should point out to them any repairs required to their boundary marks, and order that they be completed within a certain number of days. In event of any of the strips of boundary between the marks having been ploughed over or otherwise encroached upon, the Inspector should require the party who may have done so to connect the two adjoining marks, between which the boundary has been violated, by a continuous mound of earth, one cubit in height, as a punishment for the encroachment, and make a note to that effect in a separate Memorandum, to be kept in addition to the Register, for the purpose of recording any remarks not admissible there. When every field has been thus inspected, and the state of its boundary marks entered in the Register, a second examination, after the lapse of a sufficient time to allow of the repairs to the marks being completed, should be made of every field entered at the first inspection as requiring repairs. And should any of these still remain to be made,

*the party to whose neglect this may be attributed should be required, in addition to repairing the marks, as originally directed, to connect each incomplete mark with the one adjoining it, by a continuous ridge of earth, one cubit in height; and these particulars, with the name of the individual, should be noted in the separate Memorandum above alluded to. A notice to this effect should then be served on him in compliance with the provisions of Act III. of 1846, and in event of his failing to complete the boundary marks within the specified period, the Village Officers are to do so by means of hired labourers, and the expense incurred on this account is to be recovered from him, as provided in the said Act. The correctness of the entries regarding boundary marks in the Inspection Register should be tested in every village by the Mamlutdar, Mahalkuree, or some confidential member of their establishments, and the results of this re-examination entered in the column of the Inspection Register appropriated for the purpose.*

#### **FORM OF PROCLAMATION.**

*The Honourable the Governor of Bombay in Council hereby gives notice to all proprietors, holders, and occupants of land in the surveyed districts of this Presidency, that they are to preserve with the utmost care, and repair from time to time, as may be necessary, the boundary marks which define the limits of their several fields, as fixed at the survey; and with a view to securing this, they are hereby directed, before preparing any dry crop field for sowing, to cause a plough to be run round the boundary, leaving an untouched strip of three cubits in breadth to connect each boundary mark, which strip is to be carefully preserved as the boundary of the fields. An annual inspection of boundary marks will also be made, in the presence of the Village Officers and*

*Ryots, who are required immediately to repair any of the boundary marks which may be pointed out to them by the Inspectors as defective. A second examination, embracing those fields of which the boundaries were found incomplete, will follow after a reasonable interval, and should it then be found that the owner, holder, or occupant of any field has neglected to make the necessary repairs, he will be required, by way of penalty, not only to make the repairs originally directed, but in addition to connect each defective mark with the next adjoining by a continuous ridge of earth, one cubit in height, and a notice to this effect will be served on him according to the provisions of Act III. of 1846 ; and in event of his failing to comply with this, the specified boundary marks and connecting ridges will be completed by means of hired labour and the expense recovered from him as provided in the said Act. Any wilful injury done to any boundary mark is a criminal offence, and punishable by fine to the extent of 50 rupees, under the same enactment.*

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FORM OF EXAMINATION

Register of Field Boundary Marks in Village of  
Talooka Zilla

in 18 ..

No. of Field.	Sides of the Field on which Boundaries were out of repair at date of										Tenure.	Government.		Remarks by Mamlutdar, or other testing officer.
	1st Inspection.					2nd Inspection.						Cultivated.	Waste.	
	Date.	E.	N.	W.	S.	Date.	E.	N.	W.	S.				
1				1							Government.	1		Entries correct.

G. L. No. 5593 of  
1848, para. 46.

24th.—*From the Inspection Registers described in the preceding Rule, the Mamlutdar of each Talook should prepare and forward to the Collector on the 1st of May in each year a General Abstract according to the Form given in the next page, of the state of the boundary marks in each village of his charge at the different inspections; the repairs subsequently made, and those still requiring to be so, at the date of his Return. Under ordinary circumstances there ought to be no mark unrepaired at the date, but in event of there being any, the Mamlutdar should be held responsible for the delay, if unable to assign satisfactory reasons for it. On receipt of this Return, the Collector should immediately take measures for the completion of the repairs still to be made; or, if unable to do so, to report the circumstance for the instructions of Government.*

85. In addition to the objects provided for in these Rules, it would be most desirable to introduce a simple and uniform system of accounts throughout the surveyed districts, by which the disadvantages now attendant on the removal of European and Native officers from one collectorate to another would in a great measure be obviated, as the same system of management would then obtain in all. In order to do this effectually, however, it would be necessary to review the whole existing system, and frame the detailed accounts of villages, districts, and collectorates, with reference to the information required by the Presidency and Home Authorities: but with our limited time and opportunities, it would be hopeless to attempt an undertaking of such magnitude, and all that we can do is to refer it for consideration.

86. The subject of remissions has been purposely excluded from the preceding Rules, as we consider that all abatement of the established assessment should be regarded as exceptional to the ordinary management of surveyed districts, and ought not to be made unless for special and urgent considerations, which cannot be provided for by general Rules. The opinions of the Revenue Commissioner, the Collectors, and Superintendents of Survey have lately been elicited on this important question, which is now, we understand, before

*General Inspection Return of the State of the Boundary Marks of the undermentioned Villages of the Talook  
of, in the Collectorate of for the year ending 30th April 18 .*

(Number of Division (Mamlutdar or Mahalkurree).)	No.	Name of Village.	Total Number of Fields.	Distribution of Fields entered in Column 4, of which the Boundary marks were							Still to be repaired at date of Returns.	Remarks.
				In good repair at date of 1st Inspection.	All repaired at date of 2nd Inspection.	All repaired subsequent to date of 2nd Inspection.			Still to be repaired at date of Returns.			
						Without Notices being served.	After Notices had been served.	By hired labour at the expense of				
1	2	3	4	5	6	7	8	9	10	11	12	
Mamlutdar.	1	Chick Mulloor.	375	200	150	5	10	5	5	..		
	2	Hossoor .....	457	350	100	1	..	..	6	..		

Government, and under these circumstances we think it unnecessary to offer any further suggestions in regard to it.

87. In concluding our Report we have only further to remark that the preceding, or any other Rules for the administration of the survey settlements, cannot be expected to be fully carried out unless the principles on which the Survey and Assessment have been based be thoroughly understood by the European local authorities; and on this account we have to suggest that, in the event of the views contained in the present communication, or any modifications of them, being approved of by Government, copies of the whole correspondence be furnished to every Collector and Assistant Collector employed in any part of the country to which the survey operations have extended.

We have the honour to be, &c.

H. E. GOLDSMID,

G. WINGATE,

D. DAVIDSON,

Superintendents of Revenue Survey  
and Assessment.

*Kirkee, 2nd August 1847.*

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No. 2258 OF 1847.

From E. H. TOWNSEND, Esq.,  
 Revenue Commissioner, Southern Division,  
 To R. K. PRINGLE, Esq.,  
 Chief Secretary to Government, Bombay.

SIR,—With reference to paragraph 1 of your letter of 13th March last, No. 617, appointing Mr. Goldsmid to the temporary superintendence of the Deccan Survey, for special purposes, therein specified, I have the honour to transmit a Joint Report from the three Superintendents, dated 2nd ultimo, on the practice and objects of their respective Surveys. This Report is preceded by an Index, which divides its contents into the following eleven heads :

Received on the  
 24th August.

- 1st.—Introductory remarks.
- 2nd.—Objects of a Revenue Survey.
- 3rd.—Division into fields.
- 4th.—Field boundaries.
- 5th.—Village boundaries.
- 6th.—Measuring and maps.
- 7th.—Classification.
- 8th.—Rates of assessment.
- 9th.—General observations.
- 10th.—Rules for the Survey.
- 11th.—Rules for Revenue Officers.

2. The 1st and 2nd heads of this Report extend as far as the 10th paragraph, in which the objects of a Revenue Survey are clearly and ably set forth. My comments of mine would tend to elucidate the subject, of which a full statement is already before Government in the joint Report of Messrs. Goldsmid and Wingate, dated 27th October 1840.

Paras. 11—21.

3. The next subject is a very important one, viz. the manner of dividing the land into fields. The principle expressed on this subject (paragraph 16) that "it is of much importance that the existing state of things in any village should be as little interfered with as conveniently practicable," should, I conceive, never be lost sight of, and for this end many apparent incongruities both of size and shape now existing should be tolerated—a measure which will greatly increase the popularity of the survey. This subject is noticed in paragraphs 5 and 6 of the Government letter of 6th January 1845, No. 72. In the remaining rules and opinions of the Report on this subject I beg to state my entire concurrence.

*Boundaries.* The vast importance of preserving the field boundaries set up by the

Para. 21.

survey is well shown in this Report; it is a subject which will require the constant attention of the Revenue Officers.

Paras. 22—28.

4. Another very important subject—that of village boundaries—is next discussed. The same subject is treated of in paragraph 52 of the joint Report of 27th October 1840, and in the two Government letters quoted in the margin, from which it would appear that the question of enacting a law for the settlement of these disputes is still before the Government of India. The Report states (paragraph 23) "that the main hindrance to their settlement before had been the undue importance attached to them, and that no insurmountable nor even serious obstacles stood in the way of their adjustment;" and again (paragraph 25) "the less importance therefore attached by the authorities to these disputes, the more readily will their adjudication be effected." I am not prepared to subscribe to these remarks. The Report does not indeed

13th February  
1843, No. 444.  
13th December  
1844, No. 4475.

distinctly show what degree of importance has hitherto been attached to these disputes, and which it considers to be too great, or on what experience the above opinions are grounded. Hitherto I have viewed boundary disputes as matters most difficult to settle permanently. The show of opposition to the settling officer is not indeed great; hence perhaps he is led to think that his decision will be easily enforced; but the boundary marks which he fixes are demolished in a night, and it is most difficult to discover who has destroyed them. In many villages there are hereditary feuds springing from boundary disputes, in which both loss of life and property have occurred; and though pecuniary loss is sustained by the continuance of such disputes, and mutual advantage would result from their settlement, I doubt whether even this would compensate for the feeling of wounded pride which would ensue from foregoing the strip of land, a claim to which had from times past been asserted by the village.

5. If, however, the Superintendents of the Surveys can permanently settle village boundary disputes as easily as they seem to expect, a great point indeed will have been gained, and a constant source of strife removed. This, however, cannot be satisfactorily ascertained till the lapse of a few seasons shall test the stability of their awards. With reference to the remark at the close of paragraph 23, I can discover no authority in Act III. of 1846 for either the formation or preservation of village boundary marks.

6. The system adopted for measuring land, and for giving permanence to these measurements by village maps, is next explained. The preservation of the latter documents will form an important part of the duty of the Revenue Officers, as they, together with the

Paras. 29—37.

field boundary marks, form the principal means of perpetuating the work of the survey, which, without them, would speedily disappear.

Paras. 29—79.

7. The 7th and 8th heads are so exclusively matters on which Survey Officers, *Measurement and Classification.* or those experienced in such matters, can judge of, that I shall hardly be expected to pass an opinion on them. Government will doubtless observe with satisfaction proof in these details of the minute and careful attention bestowed by the Superintendents of the Surveys to render their work complete and correct in the important branches of measurement, classification, and division of assessment.

Para. 80.

8. The next subject which the Report embraces is a set of Rules for the guidance *Survey Rules.* of surveys generally. These are thirteen in number, and appear excellently adapted for the end proposed. The Report goes on to say that besides the Rules above specified, there are various minor details which could hardly be introduced into this Report, and that "greater uniformity than they have endeavoured to enjoin could not be secured, except by placing the several survey departments under one controlling authority fully conversant with the principles and details of a Revenue Survey." In this opinion I wholly concur, and I would respectfully suggest it for the consideration of Government, viz. the expediency of uniting the three Surveys under one Superintendent as the only really effective method for bringing all under one system, so far as local peculiarities admit.

Para. 82.

9. The Report next proceeds to consider "means for ensuring the results of the surveys being turned to the best account, and maintained in their original integrity." This is justly called "a subject of

Para. 84.

the utmost importance;" it is, in fact, the preservation of the survey system as first introduced in its integrity; and if the survey is important, so must be its "future administration." Twenty-three Rules accordingly follow for the guidance of Revenue Officers in surveyed districts, on which I would suggest the following observations:—

Rule 1st is prefatory, and calls for no remarks.

Rules 2nd and 3rd appear unexceptionable.

Rule 4th fixes the garden assessment. At the end of this Rule there is a clause to prevent any increase of assessment on a dry crop field, when any portion of it, entered in the survey accounts as unarable, comes under cultivation. This clause appears judicious, as it infers that such spots of unarable waste are small and almost valueless, and consequently that such assessment as they could pay would not be worth the trouble and interference necessary to ascertain its amount. This inference, however, appears at variance with Rule 13, on which I shall have occasion to remark presently.

10. The 5th Rule decides that a cultivator, in whose name a field is entered, is to be considered its holder so long as he pays its assessment. This Rule will, however, I think, require to be preceded by one determining in whose name the field shall be entered. Sometimes carelessness or fraudulent intention causes the Koolkurnee to enter in the village books, as possessor, the name of a person who possibly without justice claims the field; but this entry, if improperly made, should not strengthen a claim; and it is therefore important that care be taken, in the first instance, to enter in the books the name of the person who engages for the field (no other being already in possession), and then to collect the entire revenue from him alone, so long as

See the case of Guenajee wulud Hurcojee, reported on by the Revenue Commissioner on the 24th June 1846, No. 1225.

he engages for the whole field. A very careless and slovenly system is often followed in this respect, which causes many disputes and much confusion. One man perhaps agrees for a whole field: he then takes one or more partners, and when the instalments are due, he pays a *share* only, and refers the Village Officers to his partners for the remainder. A case of this sort, which has recently occurred, forms at present the subject of a lengthened correspondence between this department and the Collector of Poona, in which it appears very difficult to discover who is the real owner of the field.

11. The 6th Rule suggests no remark. The 7th Rule, which is a good one for the interests of Government, might fall heavily on a Ryot who cultivated the same field for many years, and who was unable to take up the portion of it that was left waste by his partner. To oblige a man to give up a field which he possibly inherited from his father, merely because the new boundaries of the survey enclosed it in the same field with that of a neighbour, would be a hardship; and I would therefore suggest that the Collectors be allowed a discretionary power in the enforcement or otherwise of this Rule, in cases in which the possession of the land exceeded the term of 20 years.

12. The above remarks would also apply to Rule 8th, supposing that a field of the largest size contemplated in paragraph 13 of this Report is cultivated, as here indicated, by three Ryots, A, B, and C, of whom the first cultivates one half, and the other two a quarter each, and that these divisions have existed for a long period of years. Supposing A to die without heirs, the other two Ryots might be quite unable to double the extent of their cultivation, and the alternative of obliging them to throw up their lands would be one of considerable severity.

A	B	C
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Some modification of this Rule, similar to that proposed for Rule 7, would, I submit, be expedient.

13. To Rules 9 and 10, I am aware of no objection. The 11th Rule is not quite conformable with those sanctioned by Government in the Chief Secretary's letter of 12th February last, No. 390, for regulating the power to cut down trees, and which are, I submit, sufficiently liberal, and should not therefore be altered. The 1st Clause of Rule 12 appears unobjectionable. With regard to the latter part, supposing the case imagined in the preceding paragraph, A, B, and C agree for a certain field, but it is entered in A's name only. He dies, and as there is no record to show the liability of B and C, it is possible that they may resist payment, and that in a court of law it would be difficult to enforce the demands of Government, owing to the non-entry of their respective names in the village books. A more probable result would be the collection by the Koolkurnee of their respective dues from B and C, without crediting them to Government, and the entry of the entire balance in the books as irrecoverable, A, by whom it was due, being dead. To avoid this evil therefore I would enter in the books the names of all the partners liable for the revenue of a field.

14. On what appears to me the inconsistency of Rule 4 with Rule 13, I have remarked when commenting on the former Rule. The cases contemplated in Rule 13 appear to be such fields as contain a large portion of waste land, while Rule 4 seems to refer only to those where the amount of waste is trifling; but the practical application of these two Rules will, I fear, involve some difficulty; and if many fields come under Rule 13, a duty will fall on

our Mamludars for which, I fear, that they are ill qualified. I should therefore be glad to see the cases to which Rule 13 applies reduced to the smallest number possible, if indeed they could not be wholly extinguished, by completing the classifying of all the fields alluded to in this Rule. If this is impracticable however, a statement should be left with the Collector, showing the fields in each village of his Collectorate to which this Rule is intended to apply.

15. The 14th Rule differs little from the system established by Government for letting out arable lands to the Ryots (*Grass Farms.* dated 16th October 1844, No. 3621.) It is perhaps more definite, and therefore preferable. I allude especially to paragraph 8 of the Government letter, on which I think the Rule under discussion is on the whole an improvement. But Rule 16 reserves "Gaeran" free of assessment in every village, while the Government letter grants it only where it has been hitherto enjoyed, and here I think that the existing Rule is sufficiently liberal, and that Rule 16 should be modified accordingly.

Unarable waste is at present disposed of by auction, according to the old system, to grazing farmers, who engage for the entire unarable waste lands of several districts. (*Unarable Waste.* Rule 14 proposes to blend the arable and unarable waste together in one system of letting by fields. I am hardly prepared to say which system is preferable for the unarable waste; but should the Honourable the Governor in Council think the question worth considering, I would refer it to the Collectors of this Division for their opinion and report. Rule 15 appears unobjectionable, as do Rules 17, 18, and 19.



16. The clause in Rule 20 which requires the Village Officers to send "the parties concerned," viz. those who wish to throw up fields, and "the applicants," viz. those who apply for new fields, to the Mamlutdar or Mahalkurry, is, I think, objectionable, as causing unnecessary trouble to the Ryots. The Village Officers may generally be entrusted with this duty under the control of the Mamlutdar and Mahalkurry, as proposed in this Rule; but the attendance of the different applicants in person at the District Cutcherry would, I submit, be in ordinary cases superfluous. With reference to the period fixed (end of April) for throwing up lands, it no doubt would be desirable that the District Officers had the earliest possible intimation of all such changes; but many Ryots might not be able to determine, at so early a period, the extent of their cultivation for the ensuing year; and I should think that the "Mrig-sal," or 5th June, would be in practice a better date to fix for this purpose.

17. The subject of revenue instalments is already before Government, in a letter from this Department, dated 6th January 1846, No. 22; and I beg to state that I quite concur with my predecessor in thinking the end of April full late for the latest instalment in Collectorates above the Ghauts. So far therefore I dissent from the 21st Rule, which fixes the last instalment for late crops on 1st June. Here it is, I think, worth considering, that whenever the Cholera prevails, it is worst during the hot months, especially April and May; consequently that which might have been collected easily in March may be lost altogether by death if deferred till June.

18. With reference to the first part of this Rule, which forbids field inspection for the purpose of

ascertaining the extent of early or of late crops, I would observe that in many villages the comparative extent of early or late cultivation depends wholly upon the fall of rain: when that is early, so is the crop; and when the early rains are scanty, the land is reserved for a late crop. When they collect the instalments from the different Ryots, the Village Officers must know whether their crops have been early or late, to regulate the time of levying the instalment; and to make this knowledge perfect, field inspection is necessary. This is more especially the case in some seasons when at first the rain falls plentifully, and the Ryots are induced to sow early crops, but the after-rain failing, they are obliged to plough up their lands again, and sow a late crop. In such cases field inspection is especially requisite to enable the Village Officers to ascertain the proportions of either crop when they are collecting the instalments: such an inspection is moreover required by Rule 23, and the one inspection may accomplish both purposes.

19. The 22nd Rule, for the preservation of field boundary marks, is an important *Field Boundaries*. one. So are Rules 23 and 24, which are for the completion of the same object, and most necessary for the preservation of the labours of the Survey.

20. In their 85th paragraph, the Superintendents allude to the importance of introducing "a simple and uniform system of accounts through all the surveyed districts," but state that, for the attainment of this object, their other duties did not afford them sufficient time. It were much to be wished that officers so qualified as the framers of the accompanying Report had had leisure to remodel all our village and district accounts. The subject is one of those referred to the two Revenue Commissioners

by Government, in their letter dated 24th April 1846, No. 1925, and we hope shortly to lay before Government some revised forms of village accounts, which are intended to combine simplicity with uniformity, and to lessen the number of documents which the Koolkurnees are now required to prepare. The subject of district accounts will also engage our attention.

21. The subject of remissions, alluded to in paragraph 86, is before Government in the letter from this department quoted in the margin. Letter No. 467,  
dated 12th March  
1847.

22. In conclusion, I would respectfully suggest that this valuable Report be lithographed, and a copy of it sent to each Collector and Sub-Collector and each Survey Establishment, and that a copy be also forwarded to the Government of Madras, as suggested in paragraph 3 of my letter of 4th August, No. 1856, to whom, I observe from the list which accompanied the Government letter of 28th May last, that the Joint Report of 27th October 1840 has been already sent.

I have the honour to be, &c.

E. H. TOWNSEND,  
Revenue Commissioner S. D.

*Poona, Revenue Commissioner's Office,  
10th September 1847.*

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No. 5593 OF 1848.

## TERRITORIAL DEPARTMENT, REVENUE.

From J. G. LUMSDEN, Esq.,  
Secretary to Government,

To E. H. TOWNSEND, Esq.,  
Revenue Commissioner, Southern Division.

SIR,—I have been directed by the Right Honourable the Governor in Council to acknowledge the receipt of your letter No. 2258, dated the 10th September 1847, submitting a Joint Report from the officers named in the margin on the practice and objects of the Revenue Surveys under their charge, and in reply to communicate to you the following observations on the propositions and remarks contained in the Report, classed under the different heads into which it is divided.

Mr. Goldsmid, (late) Supt. of the Revenue Survey and Assessment, in the Deccan; Captain Wingate, Supt. of the Revenue Survey and Assessment Southern Maratha Country; Captain Davidson, (late) Supt. of the Revenue Survey and Assessment, Ahmednuggur.

2. Among the questions discussed in these paragraphs of the Joint Report is that of the superiority of an annual settlement with each Ryot according to his actual holding for any year, over a settlement by lease for a certain number of years, and His Lordship in Council does not feel quite assured that the decision at which the Committee has arrived is correct. It is at least not so clearly exemplified as to remove all doubt as to the accuracy of the result.

Introductory remarks, including a detail of the objects of a Revenue Survey, and advantages of a Field Assessment—Paragraphs 1 to 10.

3. The arguments in favour of the annual settlement are, that it permits the Ryot to contract or extend the sphere of his labour according to the means at his immediate command—a privilege of immense importance in a country where the capital of the agriculturist is not only small in itself, but subject to great fluctuations, from the effect of variations of the seasons (*vide* paragraph 44 of

Mr. Goldsmid's and Captain Wingate's Report of the 27th October 1840), and that it gives him all the advantages of a long lease, without any of its disadvantages (paragraph 8 of present Joint Report).

4. The arguments on the other side are, His Lordship in Council considers, very strong, and he would regret to see it laid down as an unchangeable maxim, applicable to all districts and to all states of Indian society, that an annual settlement must be made with each Ryot for the land which he may choose to hold.

5. A poor Ryot, having a small agricultural stock, cannot well be bound by a lease. His few cattle may die, and then, however favourable may be the terms of his lease, he must relinquish his fields, or the lease must be broken up. But let it be hoped that this is not the case with all. It cannot be that we have not now, and never are to have, any accumulation of agricultural capital. Our farmers will not always be dependent on the results of one season, nor will they necessarily be ruined, if it bring with it scanty crops, loss of cattle, or other misfortunes. The very object of the revision of the Assessment throughout our Provinces is to eradicate the hand-to-mouth system which has so long prevailed with the agricultural classes, and to create agricultural capital; and we should endeavour to combine with this object those of inducing these classes to look more to the future; of exciting in them feelings of independence; of exempting them, as much as possible, from the pupilage and surveillance of the Government officers; and of attaching them to the soil and to their own particular portion of it.

6. It is not apparent how these objects can be attained more decidedly than by the grant of leases for lengthened periods; while in the continuance of the system of annual settlements Government can foresee, although the great object of leaving the Ryot free is gained, that the others run the risk of being wholly neglected.

7. A Ryot who, looking beyond the present year, knows that he will have to provide for the payment of a certain revenue for many years to come, must necessarily acquire more prudent and thrifty habits than he who looks to the present year alone, and who knows that, if preferring idleness to industry, he abandon or contract his cultivation, he in that proportion relieves himself of responsibility.

8. The independence of feeling which every man ought to possess can seldom arise when a man knows that he holds his land as it were by an annual tenure; that if he fail to till a certain field, and it be omitted from his holding for one year, his rival may step into his place and perhaps deprive him of it for ever; and probably nothing tends more to diminish such right feeling than the inquisitorial visits of Government officers, inquiring what is the extent of his cultivation, and regulating the fluctuating amount of his rent.

9. A lease imposes a wholesome responsibility upon the Ryot, and secures the Government against fluctuation in the revenue. That responsibility the Ryot cannot be expected to incur without some equivalent, nor should the Government expect to gain the security without some sacrifice. His Lordship in Council considers this point has not been sufficiently attended to in our attempts to introduce leases, and hence our failure in parts of Gujerat. We desired to secure everything to Government without making any sacrifice in favour of the lessee.

10. If a farmer possesses ten fields, assessed at Rs. 10 each, or together at Rs. 100, it cannot be expected that he will bind himself to pay Rs. 100 for 30 years for those fields. He would pay no more if he took out no lease, and might often have to pay less. But if the Government, in order to secure a certain, unfluctuating revenue, consent to give him a lease for 30 years at Rs. 95, it might be well worth the while of a Ryot possessing some capital to take such lease. This is the principle on which, His Lordship in Council is of opinion, leases might successfully be granted.

11. The observations contained in these paragraphs of the Joint Division of village lands into fields, and definition of fields by suitable land marks —Paragraphs 11 to 21. Report, on the division of the land into fields and on boundary marks, are considered judicious.

12. Nearly every boundary dispute of any importance in the Deccan has probably been made the subject of investigation previously to the survey, with a view to settlement, but it will probably be found that not one in a hundred of these disputes has been actually disposed of.

Determination of village boundaries, and settlement of disputes connected with them—Paras. 22 to 28.

13. In the Dharwar Collectorate there have been up to this time about 1,000 villages surveyed, and His Lordship in Council is informed that, with a few exceptions of no great consequence, the whole of the boundary disputes within them have been investigated and settled during the progress of the survey; that the results afford evidence that no insurmountable difficulties are in the way of the settlement of such disputes by the Survey Officers, and that the awards of the latter will be respected.

14. Until, however, the details of these results are in the possession of Government, no decided opinion as to the practicability of the plan advocated by the three Superintendents can be formed, but in the meantime I am desired to observe that, considering the important object sought to be attained, it is deemed well worthy of a fair trial, and of every assistance and co-operation the local officers can afford.

15. As in the plains, village boundary marks must at the same time define the limits of some particular fields, it follows that their construction and preservation are provided for by Act III. of 1846. Moreover wilful injury and destruction are also punishable under Clause 3 of Section 42 of Regulation XIV. of 1827.

Measuring and mapping  
the land—Paragraphs 29  
to 37.

16. His Lordship in Council is happy to observe the great importance attached to the preparation of the village maps.

17. I am desired to express his full concurrence in all that is recorded by the three Superintendents on the subject of the measurements, and to add that, although it is, no doubt, "unnecessary, and would in many instances be hurtful, to fetter the Superintending Officers with specific Rules" as to the manner in which they are to attain the desired results, still the Revenue Commissioners ought from the first to have been informed of the different modes of proceeding, so that they might have guarded against the adoption or continuance of any that are defective, and have prevented any improvements introduced by one Superintendent being unknown to, or unnecessarily rejected by another.

18. *Classification.*—This is one of the most important, and at the same time the most difficult, operations of the survey. The Joint Report explains, with much minuteness, the principal points on which this operation depends, and although, as you justly observe (paragraph 7), these are matters on which practical men alone can fully judge, yet it may safely be said that the system, as it is explained as applicable to all but rice lands, is founded on just principles, and that the particulars are given in a manner which shows the subject to have been well considered and canvassed by the three Superintendents. Government therefore approves of the system and the details, the observance of which they advocate. As regards the land forming the exception (rice), His Lordship in Council will be glad to learn that the present Superintendents of the Survey have been able to agree on some Rules for its right classification. Before doing so, however, they should avail themselves of the experience of Mr. Tytler, and examine the Rules drawn out for the guidance of that officer's establishment in the Dangs.

Settlement of the rates of Assessment—Paragraphs 66, to 78.

19. The explanation given of the mode in which this closing process of the survey is conducted is very clear and explicit.

20. The Right Honourable the Governor in Council is aware that Government must be almost wholly dependent upon the Superintendents of Surveys for the right conduct of many of the details of their operations, for he does not think that the Revenue Commissioners can do more than exercise a very general supervision over them. Few Revenue Commissioners possess the knowledge, and none could devote the time necessary for a minute scrutiny into them. Those only who have been trained to survey, and with whom all the details of the process are familiar, can venture to offer opinions opposed to those of a Superintendent on many points, and even where a doubt may arise it may be impossible to set it at rest without such minute interference and inquiry as would divert the attention of the Revenue Commissioner from his more ordinary duties so as to cause much inconvenience to the public service.



21. The Governor in Council will not therefore require from the Revenue Commissioners a greater degree of responsibility than they are capable of fulfilling. But at the same time he thinks that they may reasonably be expected so far to control all the Superintendents under them as to secure a great degree of uniformity in their proceedings.

22. The Right Honourable the Governor in Council agrees with you that the thirteen Rules proposed in the Joint Report, for the interior arrangement of the Survey Department, appear excellently adapted for the end in view, and that their general enforcement should be at once ordered.

23. The proposition contained in the 83rd paragraph is also approved, with the proviso that, if the Assistant Collector in charge of the district is not an officer of some experience, and in the opinion of the Collector and Revenue Commissioner, qualified to form a judgment of the system and of the manner in which its details will work, some more experienced Assistant, or the Collector himself, should be associated with the Superintendent. This, however, it is feared may not always be practicable. Hitherto it has not been found so, and the Superintendent has, in most cases it is believed, alone introduced the rates in each district as soon as the sanction of Government to them has been obtained.

24. *Rules.*—In regard to the Rules proposed for the guidance of the Revenue Officers in respect to the future administration of the survey (paragraph 84 of Joint Report), I have been directed to communicate the following remarks.

25. Rules 1 and 3 are approved. A Proclamation to the effect of Rule 1 should be published when the revised rates are introduced in a district, and every Patell should be furnished with a copy.

26. On Rule 2 the opinion of Dr. Gibson will be called for.

27. Rules 4 and 13. These, as they affect unarable land included in a field, may be open to the objection urged against them by you in paragraph 9. Probably the difficulty arises from terming land covered with dense jungle "unarable," in Rule 13. This term

might be strictly defined. Land covered with vegetation, trees, or bushes can hardly be included properly in it, as the presence of this vegetation proves the productive quality of the soil, and its capability of being brought under the plough.

28. Rule 5. Your 10th paragraph inculcates a prudent caution in respect to the insertion of the names of parties as holders of fields. Care should be taken that the real holder is well ascertained, and if there be a dispute, no entry in the Survey Books should be made that can give one party a right which he might not on inquiry be found to possess. It is a great object to establish our Survey Books as a complete record of the state of the occupancy at the time of the operation.

29. Rule 6. is approved, provided no Meerasdaree, or other recognised heritable rights, are interfered with.

30. Rules 7 and 8. The observations made by you on these Rules are considered just; and to avert the hardships you contemplate, a discretionary power may be granted to the Collectors as to their enforcement, without, however, making the limitation as to time (20 years) in cases in which the holder of a portion of a field may have been in occupation previously to the survey. The act of including his field and those of his neighbours in one number is one in which he has no voice, and it should not place him in a worse position than that in which he stood previously.

31. Rule 9 is approved.

32. Rule 10 being in conformity to the views expressed in the Government letter (No. 390), of the 12th February 1847, is approved.

33. Rule 11. His Lordship in Council is of opinion that the Rules prescribed in the Government letter last quoted, for regulating the power to cut down trees, should be upheld, and that when one tree is felled two should be required to be planted.

34. Rule 12. The objects of this Rule, as well as that of Rules 7 and 8, His Lordship in Council understands to be to discourage the subdivision of fields, so that by being retained entire their sale and transfer, under the provisions of Rule 9, may be promoted.

35. It would be a hardship to refuse to recognize shares of fields already entered in the Government Books, and the rights of the holders of such shares are protected by Rules 5, 6, 7, 8, and 9. In

giving out waste for cultivation, however, which is the case provided for in the Rule under consideration, no prior rights are involved, and we have merely to look to the method best calculated to promote the interests of the Ryots and Government.

36. If fields are to be permitted to be split up without limit, and the occupant of every fractional share recognised as holding direct of Government, the inevitable results will be the ultimate subdivision of the whole land into very minute occupancies, accompanied by the impoverishment of the whole agricultural class. Farms will become so small as barely to provide subsistence for those occupied in their tillage, and the surplus, from which the assessment is to be paid, so trifling, that the slightest deficiency in the ordinary crop will suffice to annihilate it. With every precaution it may be impossible to prevent the subdivision of farms as population increases, but assuredly no opportunity should be lost of checking this tendency.

37. In the case of a Ryot in whose name a field is entered, and who holds it jointly with others, dying, the want of a record to show the liability of the other sharers would be of but little consequence, for they would be amenable for the revenue under the provisions of Sections 3 and 5 of Regulation XVII. of 1827; and the desire of retaining possession of the land would more probably make the inferior holders anxious to defray their shares of the revenue in order to obtain receipts from the Village Accountant, with a view to strengthen their claims to continue in possession.

38. But were even the Rule to involve the certain sacrifice of balances of revenue due by Ryots dying under the circumstances contemplated by you, instead of the remote possibility of such a contingency, it would still be better to submit to the loss, than to sanction the alternative of an unlimited subdivision of fields.

39. Rules 14 and 15 are approved.

40. Rule 16 only reserves for free pasturage a portion of the fields alluded to in Rule 13, as unsuited in their then state for cultivation, and unassessed. This indulgence will therefore be limited to the villages in which such waste fields are to be found, and His Lordship in Council agrees with you in thinking that the further restriction

(already imposed in Government letter of the 16th October 1844, No. 3621) of the privilege, to the case of villages which have hitherto enjoyed the right of free pasturage, should be continued.

41. The practice of selling the waste, field by field, enjoyed by this Rule, promises to be more acceptable to the villagers, and more productive of revenue to Government, than the plan of selling the entire wastes of several villages or districts in the lump, to parties engaging for the whole.

42. Rules 17, 18, and 19 are approved.

43. Rule 20. His Lordship in Council considers there is some force in your objection to the Ryot wanting to take up new land being obliged to proceed for this purpose to the Mamlutdar's Kutcherry. In villages very distant, and especially during the few first years after the introduction of the Survey, when it may be presumed that much new land will be taken up, the Collector may be authorised to dispense with the strict observance of the Rule.

44. Adverting to your suggestion that the period for giving notice of intention to throw up lands be extended to the Mrigsal, Government considers that if notice of resigning a field be not given earlier, it will be too late for any other party desiring it to come forward to cultivate.

45. Rule 21. The Governor in Council doubts whether the question of the instalments should be mixed up in these Rules with matters immediately connected with the introduction of the survey. He would prefer the separate consideration of the subject, especially as local peculiarities may render it necessary that different periods for the payment of the revenue should be in use in different districts.

46. Rules 22, 23, and 24 are approved.

47. His Lordship in Council is confident that the introduction of District and village accounts—Paragraph 85. a simple and uniform system of accounts through all the surveyed districts would add so much to the efficiency of our native establishments as to render unnecessary additions, now urgently required, to their numerical strength, and would also considerably lessen the labour of the Collectors and their assistants in checking the work of the subordinate Hoozoor, District, and Village agents.

48. I am directed to request that you will immediately report how far, and with what results, you have carried into effect the instructions conveyed in the Government letter of the 24th April 1846, (No. 1925), and that you will transmit, for the opinion of Captain Wingate, whatever forms of accounts you may have approved in concert with the Revenue Commissioner, Northern Division.

49. The instructions of Government on the subject of remissions were conveyed in the Government letter to you, No. 3899, of the 5th October 1847.

Remissions—Paragraph 86.

50. In conclusion, I am directed to convey the acknowledgments of the Right Honourable the Governor in Council to Mr. Goldsmid, and Captains Wingate and Davidson, for the able and lucid Report they have now laid before him. It will serve as a Manual in all future Surveys, and it should be printed as soon as any modifications to be made in the Rules contained in it have been determined.

I have the honour to be, &c.

J. G. LUMSDEN,  
Secretary to Government.

*Bombay Castle, 22nd September 1848.*

—————→  
No. 239 of 1848.

To E. H. TOWNSEND, Esq.,  
Revenue Commissioner, Southern Division.

SIR,—I do myself the honour to submit the following observations on certain points connected with the Joint Report of 2nd August 1847, which appear to me to require further elucidation and discussion in reference to the comments made upon them in the Government letter of 22nd September last, No. 5593.

2. In the argument for the superiority of the fixed field assessment of our surveys, administered by annual leases, over other modes of revenue management, contained in the introductory paragraphs of

the Joint Report, the use of the terms "annual leases" and "annual engagements" has conveyed to Government an impression of the nature and operation of our settlements very different from what was intended, and as it is of the utmost importance that no misconception should exist in reference to what may be considered the basis of our whole system, I will devote a few remarks to an attempt to clear up the obscurity resting on our original exposition.

3. The arguments contained in the 4th, 5th, 6th, 7th, and 8th paragraphs of the Government letter, in favour of long leases, by which farmers are bound to pay an invariable assessment for the whole of their lands in the lump, are adduced as advantages which are not to be found in the system of settlement enjoined by the Joint Report. And an apprehension is expressed that the important objects of inducing the cultivating classes to look more to the future; of exciting in them feelings of independence; of exempting them from the pupilage and surveillance of Government officers; and of attaching them to the soil, and to their own portion of it—run a risk of being wholly neglected under our system of engagements annually renewed. Government further observe "that the independence of feeling which every man ought to possess can seldom arise when a man knows that he holds his land, as it were, by an annual tenure; that if he fail to till a certain field, and it be omitted from his holding for one year, his rival may step in and deprive him of it for ever; and probably nothing tends more to diminish such right feeling than the inquisitorial visits of Government officers inquiring what is the extent of his cultivation, and regulating the fluctuating amount of his rent."

4. To the justice of the conclusions set forth in the last quotation I most fully subscribe, and if the description of annual settlement here given were applicable to the survey system, the latter must be admitted to be in many important respects defective. But I am happy to have it in my power to remove so serious a misapprehension of its nature, and trust to be able to show that the Survey Rules will not less effectually render the title of the cultivator to his land secure, exempt him from the interference or surveillance of Government officers, and hold out to him inducements to lay out capital in the improvement of his land, than the system of long leases, characterised by Government as possessing these important advantages.

5. You will observe by referring to Rule 5 of the Joint Report that the only way in which the title of a cultivator to any field can be vitiated is through his failing to discharge the assessment laid upon it. And he will be called upon to pay this assessment upon every field entered in his name in the village books without reference at all to the circumstance of its being waste or cultivated. So long as he pays the assessment, no field can, under any circumstances, be struck or left out of his holding, except upon his own written application to that effect, under the provisions of Rule 20 ; and it will thus be evident that no rival or other party could by possibility step in and supplant him in the way supposed by Government. It seems to me difficult to imagine a more secure title to occupancy than this. It is absolutely free from all conditions, except the simple one of discharging the Government land-tax, and this condition it is evident could not be dispensed with under any plan of management whatever.

6. The occupant is, moreover, wholly relieved from the interference or surveillance of the Government officers. Their power is limited to the collection of the assessment due from him for the land entered in his name. They cannot demand more or less, nor even the assessment itself, except at the stated periods fixed for the collections. So long as he is ready with the money due at such times they have absolutely no power at all of meddling in his affairs. They have no right to interrogate him as to whether his fields are waste or cultivated, his crops good or bad. The payment of his assessment affords a valid and sufficient answer to all objectors. A more completely independent position for a farmer to occupy than this it is hard to imagine. His own industry provides the means of paying his assessment, and he is absolutely free to exert this industry as may seem to him best, without having occasion to defer to the wishes or ideas of any one. I believe that in no country of the world are the cultivators so thoroughly independent as they will be in our surveyed districts when the rules of the Joint Report shall be fully enforced. In the Dharwar Collectorate, where they are already in operation for the most part, their effect is readily observable in the bold bearing the cultivators quickly assume towards their village officers, and other influential parties, subsequent to the introduction of the new settlement.

7. Further, while thus securing to the cultivator a simple and secure title to his land, freedom from interference or surveillance on the part of Government officers, and complete personal independence, the survey settlements may, I think, be shown to be more favourable to the accumulation of agricultural capital, and its application to the improvement of the land, than a system of leases for a term of years.

8. Owing to the laws and customs in regard to inheritance obtaining in this country, and the few opportunities for the employment of capital, except in the cultivation of the soil, the land has at all times been very much subdivided, and with these conditions, the existence or creation of a body of large wealthy farmers seems hardly compatible. We may hope, under good management, to see agricultural property very widely diffused, and a very numerous class of small farmers enjoying comfort and independence; but there would seem to be few grounds for anticipating the establishment of a class of wealthy agriculturists cultivating large farms under any circumstances in India. And I do not know that this is to be regretted; for the problem, as to the best distribution of national wealth, has been by no means so satisfactorily solved as to enable us, in my opinion, to pronounce decidedly in favour of one or other of these systems. However this may be, our measures have to be framed for the class of small farmers who now prevail universally; and for this class it is admitted that a tenure, involving much responsibility, like that by which the landholder has to pay an invariable assessment for a long term of years, would hardly be suitable.

9. But let us also try the applicability of the survey system to the case of our wealthier farmers, say that of a cultivator holding ten fields assessed at 150 Rupees in all, or 15 Rupees each, and let us suppose that his agricultural capital is increasing, and that the more favourable mode of investing his profits is in the permanent improvement of his land; for example, by digging a well for the purpose of supplying the means of irrigation to a portion of it.

10. Under these circumstances, let us consider which tenure would afford the greater encouragement to such an investment of capital, viz. that by which the cultivator is bound to pay the assessment on his whole farm—150 Rupees for a long course of years,



or that by which he pays 15 Rupees for each of his ten fields separately, with the privilege of relinquishing any of them when so disposed. In the former case he is burdened with a heavy responsibility, which he might not be able to meet should misfortune overtake him, and in this case he would risk the loss of his whole farm, together with all the capital laid out upon it. In the latter he has the power of contracting his cultivation, and diminishing his payments from year to year, as circumstances might make desirable, and would thus be able to retain his most valuable fields, and especially those he had invested capital in improving. Can it be doubted that the diminished responsibility of the tenure by which the cultivator engages to pay the assessment upon each of his fields for one year only offers in itself the most direct and palpable encouragement to the investment of capital in the improvement of the soil? Every cultivator holding several fields values most highly some one of them, and upon this he will naturally incline to invest money in improvements. And will not that system most dispose him to do so which would enable him to retain this most prized and valued portion of his possessions, even if misfortune should compel him to part with all the rest?

11. Further, it appears to me certain that the greater freedom to contract or extend cultivation from year to year, ensured to the Ryot by the survey settlements, will be most conducive to the securing of a certain in fluctuating revenue to the State. The revenue depends on the condition of the cultivators. Whatever system is most advantageous to the latter will best enable them to meet the Government demand, and necessarily be most conducive to the stability of the revenue. Reductions in the extent of the holding of individual cultivators, permitted by the survey settlements, have no perceptible influence on the revenue of a district. Such reductions are met by equal enlargements of the farms of others, and when once cultivation has become general over the land of a district, the effect of these fluctuations on the revenue will become wholly insignificant.

12. The real danger to be guarded against, as well as the greatest obstacle to the permanent success of the survey settlement, will arise through an increase of the population, and is described in the 36th paragraph of the Government letter under consideration "as the

ultimate subdivision of the whole land into very minute occupancies, accompanied by the impoverishment of the whole agricultural class." This indeed may be a remote evil, but, not the less requiring to be taken into consideration on that account, and further reflection inclines me to think that some further provisions with a view to its timely prevention might be added with advantage to those contained in the Joint Report.

13. The most effective means at our command for preventing the land becoming the inheritance of a pauper, or at least poverty-stricken peasantry, is to afford the greatest possible facilities for its conveyance from one party to another, so that when a cultivator becomes impoverished, and, by his inability to cultivate his land properly, deprives the community of the wealth it is capable of producing, that the land may get into the hands of some one better able to turn it to advantage. The customs and Native revenue systems of India are adverse to such transfers, and it is therefore all the more necessary to adopt measures for giving them effect. Until very lately ejectment for the non-payment of the Government assessment was nearly unknown, and paupers were allowed to linger on year after year in the possession of land they had no means of cultivating, the Revenue Officers contenting themselves with screwing out of them what they could and remitting the remainder. This was particularly the case with Meeras land in the Deccan, which, when the Meerasdar was poor, generally remained in a most neglected condition, and for all the benefit derived by the community from it might almost have been as well sunk under the sea.

14. Rules 3 to 9, and Rule 12, of the Joint Report have all been framed with a view to guard against the excessive subdivision of land, and to facilitate transfers; but though the power of ejectment is distinctly reserved by Rule 5, in event of the assessment not being paid, it occurs to me that the course to be pursued in such an event is hardly indicated with sufficient precision.

15. At present the ordinary mode of enforcing the payment of the revenue is by placing Mohussuls over the defaulter, or by attachment and sale of moveable property; but I think it would be a preferable course to resort, in the first instance, to an attachment of one or more fields, of which the assessment might about equal the balance

due, giving the defaulter the option of pointing out the fields to be so attached, as provided in Rule 5, and publishing, in the usual way, that, in event of the balance due not being paid by a certain date, the defaulter's right of occupancy in the said field or fields would cease and be sold to the highest bidder, in event of more than one person being desirous of obtaining possession. In event of the right of occupancy being saleable, the sum realisable should go to defray the balance due, and if more than sufficient for this purpose, the portion of it remaining over should be given to the defaulter. In event of the title to the occupancy of the field being unsaleable, and no one agreeing to cultivate it, the ejectment of the defaulter should nevertheless take place, and the field be permitted to revert to waste. In this case the sums due by the defaulter might be remitted, unless it appeared that the balance was withheld from some other cause than inability to pay, when the usual means, by Mohussuls or attachment and sale of property, might further be put in force.

16. I am inclined to think the process for ejectment just described would prove a very effective expedient for realising the revenue, and when it failed in this, it would yet have the obvious advantage of getting land out of the hands of a person unequal to the discharge of the responsibilities connected with its occupancy, and wherever there happened to be a demand for land, secure by the sale of the title to the highest bidder, that it should fall into the possession of a person of means. By thus bringing land into the market, traders, pensioners, and other parties having capital would probably be induced to lay it out in the purchase of land, to the great benefit of agriculture and the community at large. Some remarkable instances of this have come under my notice in the Dharwar Collectorate, and it is my belief that they will be numerous when it becomes generally understood that land may be sold and purchased like any other commodity. When the process of ejectment is used in the case of Meeras land, the Meerassee tenure should, in my opinion, always be declared forfeited, and the land entered in the accounts thenceforward as Government. The ordinary tenure of Government land under the Survey Rules is perhaps as favourable as could be devised and being free from the objections connected with subdivision, by inheritance, and insecurity of occupancy to which the Meeras is liable,

it would, in my opinion, be very desirable to substitute it for the latter, whenever practicable.

17. I will now proceed to notice, *serialim*, the Rules of the Joint Report which have been reserved by Government for further discussion.

19. In reference to the remarks upon Rules 4 and 13, I would observe that the former Rule refers to portions of unarable surface, such as rocky ground, nullas, &c., but not land covered with jungle, included in fields suited for cultivation, upon which an assessment has been fixed. The latter, on the contrary, refers to fields entered in the Survey Registers as wholly unarable, and upon which therefore no assessment has been fixed. The two Rules therefore apply to distinct cases, and cannot, I think, be misapplied in practice. Some of the fields coming under Rule 13 are not from the nature of the soil unarable, but from the circumstance of their being now covered with jungle, which did not permit of their being subdivided into fields of the usual size, and classified in the course of the survey: These, or portions of them, may be expected in the course of time to be cleared and cultivated, but should not be allowed to be so until the fields upon which an assessment has been fixed have been all, or nearly all occupied. It is probably only in rare instances that the Mamludars will have to fix an assessment on the cultivated portions of such fields under Rule 13. I think therefore no risk of misapprehension will occur through both Rules being allowed to stand as at present.

20. In regard to Rule 5th, I have to observe that in the survey of the Southern Maratha Country the preparation of a trustworthy and correct Register of the holders of fields is effected in introducing the survey rates of assessment. Every person having a field entered in his name, or having claim to land, is summoned to attend at the settlement, and when the assessment of each field has been fully explained to the holder or holders, the field is entered in the Register in his or their names for the ensuing year, in event of their agreeing to cultivate it at the survey assessment, and all disputes as to occupancy decided by the European officers on the spot. Copies of these Registers, which may be considered among the most important documents connected with the survey, are then taken by the village

accountants, who are required to prepare their Cultivation Returns in strict accordance with them, and the originals are deposited with the Collector. I am having the forms in which the Registers are prepared lithographed, in order to render it impossible for any fictitious documents to be substituted for the originals at any future time; and whenever the correctness of the village books happens to be called in question, they will afford the means of settling the point. Rule 5 is to be considered applicable to *bonâ fide* entries in the village books; but if we admit claims to the possession of land from parties whose names do not appear in them, and have not been fraudulently, or through mistake, omitted to be entered, I see no probability of the tenure of land becoming sufficiently simple and secure to admit of its being freely sold and transferred. If any other title to the possession of land than that of being entered in the public accounts as the party responsible for its assessment be recognised, I feel certain that the most important eventual benefits to be anticipated from the survey will never be realised. I consider Rule 5 perhaps the most important in the Joint Report, and would strongly recommend that it be retained without qualification.

21. After weighing, to the best of my ability, the arguments adduced in the 11th and 12th paragraphs of your letter, and in the 11th paragraph of Mr. Secretary Lumsden's, I incline to the opinion that it would be advantageous to retain Rules 7 and 8, without allowing a discretionary power to permit, under certain circumstances, a sharer in a field to cultivate his own portion only, while the rest is allowed to become waste. Such a permission would, I much fear, lead eventually to great laxity of management, while it recognises a departure from the cardinal principle laid down in Rule 3, that no field is, for any reason whatever, to be let for less than the survey assessment. Fields generally contain good and bad soil, and when once a share of a field is allowed to become waste, how are we to prevent the holder of the remaining share from appropriating the best part of the field as his particular portion, and leaving the inferior land as the thrown up share, so as thus to take away all chance of the whole field being again brought under cultivation? The boundaries of the interior shares of a field are not marked out or described, and could not be so without incurring the danger of introducing confusion

into the survey records ; and even if this were done, the permission would entail the evil of an annual inspection and measurement to ascertain that the Government waste was not being encroached upon.

22. I believe that cases of real hardship under the Rules in question would rarely, if ever, occur ; but I feel certain that if the latter are allowed to be broken through under particular circumstances, the exceptional cases will multiply to an extent likely to vitiate the whole survey system. Every general plan of management must involve hardship in occasional instances to individuals ; but if calculated to promote the general good, I should deeply regret to see its integrity broken in upon for the sake of a few exceptional cases. The preservation of the integrity of the survey fields appear to me an object of such paramount importance, as far to outweigh the hardship of saddling a cultivator with a little more land than he wants, or even compelling him to relinquish some fractional portion of his paternal inheritance. If his means are so small as only to enable him to cultivate a fraction of a survey field, it would be a public benefit, in my opinion, to get the land out of his hands, and thus admit of the whole field in which his fractional share is included being transferred to some more substantial cultivator. There is danger on the side of over-leniency, as well as over-severity ; and I am well persuaded that our revenue management generally is more open to the former than to the latter charge. Small farmers in particular parts of Europe have been got rid of with a degree of unscrupulousness that may have merited censure, but the Rules of the Joint Report, when administered with even the most unbending strictness, will, it may be feared, hardly suffice to prevent the survey fields becoming split up into fractional shares to a greater extent than at present.

23. I have requested you to furnish me with a copy of the Rules regarding the cutting down of trees, contained in the Government letter No. 390, of 12th February 1847, which Government desire to be substituted for Rule 11th of the Joint Report, and in event of their appearing to call for any remark on my part, I will submit my sentiments in regard to them in a separate communication.

24. The object sought to be attained by Rule 12th is described and approved of in the 34th, 35th, and 36th paragraphs of the Government

letter; but subsequent to the date of the Joint Report instances have come under my notice when the strict enforcement of Rule 12 would have perhaps needlessly prevented the cultivation of a large survey field bearing a high assessment; and I would therefore propose the addition of a clause to the Rule, to the effect that when the assessment of a waste survey field amounts to or exceeds 20 Rupees, it may be entered in the names of two or more holders, on the condition that the assessment of any single share shall not fall short of 10 Rupees. This would effectually prevent its subdivision into small patches, and at the same time facilitate the cultivation of any fields of more than the ordinary size and value, for which there might be no single individuals willing to engage.

25. With reference to the remarks in paragraph 43 of the Government letter upon Rule 20th of the joint Report, I would observe that the giving up of an old, or taking up of a new field, may be considered a most important act to a cultivator, and that it therefore does not appear hard to require him to undertake a journey to the Kutcherry with a view to its being duly ratified. The object of the Rule is to give additional security to the tenure of the holder of land by making the act of relinquishing or entering upon possession a public formal transaction requiring the sanction of the Mamlutdar or Mahalkurree to its validity, so as to prevent the chance of any one being deprived of his land through collusion with the village officers, or otherwise. The relaxation of the Rule in particular villages for a year or two subsequent to the introduction of the survey, while much new land is being taken up, might not be followed by any injurious consequences, but I would strongly recommend that it be strictly adhered to in all cases connected with the relinquishment of land previously cultivated.

26. In reference to the remarks on the same Rule, regarding the date fixed for receiving notices to resign fields, I am of opinion that the object of enabling the cultivator to make up his mind in regard to giving up any field at so early a date as the 30th April, would be accomplished by the addition of a clause to the Rule making it incumbent on the Village Officers to assemble all the Ryots on the above date, and after explaining to them that they would have no other opportunity of relinquishing any of their fields, take down at

once the names of all those wishing to do so, and send the list with the parties concerned to the Mamlutdar. A public settling day of this kind would deprive the Ryot of any plea for remissions on account of uncultivated fields, owing to forgetfulness of their exact date for resigning, and such like excuses, which it would be desirable to prevent, if possible.

27. Government think it preferable that the periods to be fixed for the payment of the instalments forming the subject of Rule 21 be disposed of apart from the ordinary Survey Rules; and though not disposed to dissent from this arrangement, I would yet respectfully submit that the settlement of those periods is of very great importance to the success of the survey settlements, and I trust therefore it will not be considered irrelevant to offer in this place the following arguments in favour of those fixed by Rule 21. The proposed instalments would fall due on the 15th December, 1st February, 15th March, and 1st May, in the case of districts when the early crops on an average of seasons predominate, and a month later, viz. on 15th January, 1st March, 15th April, and 1st June, in the remaining districts. Three principal objects were in view in selecting the periods in question:—*Firstly*, To enable the cultivator to provide funds for the payment of his assessment from *bonâ fide* sales of produce. *Secondly*, To distribute the collections over a period of six months, instead of four, as at present is generally the case, in order to afford the cultivator greater facilities for the disposal of his produce, and prevent prices becoming needlessly lowered during the collecting season, by forcing sales of produce at a sacrifice, which will always be the case when the instalments follow each other too closely. *Thirdly*, To have the instalments invariable, under all circumstances, for each district, that the cultivators may be taught to use foresight, and adopt timely measures for providing the funds necessary to the liquidation of their rents, by removing the uncertainty, and opportunities for jobbing and favouritism, attendant on the plan of collecting the revenue by variable instalments, according to the report of Village Officers as to the proportion of early and late crops grown in each particular season. All of these objects I deem very important; and all will, it seems to me, be fully attained without the entailment of any countervailing disadvantages, by the adoption of the periods for the collection of the instalments mentioned in the Rule.



28. In the earliest districts, viz. those lying immediately east of the Ghauts, in which the whole crop, with some few exceptions, belongs to the early harvest, no part of it could be got ready for market and sold much before the 15th of December; but by making an effort a cultivator could manage to sell by that time sufficient produce to make up the first instalment, which is only one-fourth of his whole assessment. An earlier date, then, than the 15th of December could not be fixed upon anywhere without defeating one main object of the Rule, which is to enable the assessment to be provided by actual sales of produce, instead of by funds taken up at an excessive rate of interest from money-lenders. In these early districts a considerable portion of the crop would be ready for market before the 1st of February, and there would be no difficulty in selling it in time to provide the 2nd, 3rd, and 4th instalments. In the case of the latter districts there would be everywhere a sufficient proportion of early crops grown to furnish the means of paying the first instalment, falling due on 15th January, and the late crops could be got ready and sold in time for the payment of the remaining three instalments.

29. In the case of both early and late crops, I feel assured that the adoption of a shorter interval than six weeks between each instalment would either have the effect of forcing sales of produce and bringing down prices, or of driving the cultivators to the money-lenders, from the want of time and opportunity to dispose of a sufficient portion of their crop to meet each succeeding instalment. I have frequently conversed with intelligent cultivators on this subject, and they have always been sensible of the great advantage that would result to them from lengthening the intervals between the instalments from a month to six weeks, and have freely admitted that, under such circumstances, they would never have occasion to borrow, or dream of doing so, in order to raise money for the payment of their rents.

30. The only objection occurring to me as likely to be raised against the adoption of these instalments has been alluded to in the 17th paragraph of your letter of 10th September 1847, in which you express an apprehension that, by deferring the last instalment to so advanced a period of the year as the 1st June, in the case of late districts, there would be danger of a portion of the revenue being never

realised at all. In regard to an untried experiment we can only reason from analogy, or state probabilities; but my own experience—and I have had more than once opportunities of observing the effect of deferring the instalments to later periods than had previously been in force—leads me most confidently to anticipate that the effect of the proposed change will be quite the reverse of that apprehended, and as surely facilitate the punctual realisation of the revenue, as it would, without doubt, prove of advantage to the Ryots. Deaths by cholera have been very numerous in the settled districts of the Dharwar collectorate before the close of the collecting season, but I believe it will be found that they have never occasioned the loss of a rupee to Government. In every instance, or at least in so many that the exceptions become of no moment, the fields of deceased cultivators are retained by their heirs, who pay the balance gladly in order to secure possession of them. When the forfeiture of the field is made the penalty of non-payment, I do not believe that one instance out of a hundred would occur in which the balance could not be realised, and even in this case it would be necessary to suppose that the previous incumbent died a pauper, for otherwise the balance could be raised from the property left by him, or from his heirs, whether they retained possession of his fields or not. I firmly believe that in practice it would be found that the postponement of the instalments would not in the least degree increase the loss of revenue which has hitherto occurred through deaths.

31. And if it be said that it would, however, occasion loss in the case of very poor cultivators, whose necessities might compel them to part with their whole produce before the last instalment became due, and who had nothing besides from which it could be realised, I would reply that nothing more desirable could occur, and that the sacrifice of revenue here contemplated would be far more than counterbalanced by the advantage that would accrue from ejecting such paupers from their occupancies, so as to allow of the land falling into the hands of substantial cultivators. I believe, however, that instances of this kind would very rarely occur.

32. I have only further to suggest the advantage of re-arranging the Rules, when the various additions, omissions, and alterations to be made have been finally settled, and that Marathi and Canarese

translations of these amended Rules, after having received the approval of the Revenue Commissioner, should be lithographed, and furnished to the several Collectors for the use of their district and village establishments. In my opinion the records of every village should be supplied with a copy of the Rules, for unless this be done, I do not see how the Village Officers and people generally are to acquire an adequate knowledge of the principles and practice of the survey settlements, which will have so important a bearing on their future welfare.

I have the honour to be, &c.

G. WINGATE,

Supt. Revenue Survey and Assessment S. M. C.

*Belgaum Districts, Superintendent's Office,  
at Camp Baba-Nuggur, 23rd December 1848.*

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No. 17 of 1849.

To E. H. TOWNSEND, Esq.,

Revenue Commissioner S. D.

SIR—In accordance with the instructions conveyed in your memorandum No. 3330, of 13th October last, along with which were received copies of your letter to Government, No. 2258, of 10th September 1847, transmitting a Joint Report from the three Superintendents of Revenue Survey, dated 2nd August 1847, and Mr. Secretary Lunsden's reply, No. 5593, of 22nd September last, I have the honour to submit such remarks as appear to me to be called for by the purport of the Government letter.

2. A perusal of the correspondence leads me to conclude that it is only necessary that I should state such additional arguments as occur to me regarding those questions brought forward in the Joint Report which are still under discussion, and this I shall therefore proceed to do as briefly as possible.

3. In paragraphs 4 to 10 of the Joint Report the objects of a Revenue Survey are described, and along with other questions the superiority of an annual settlement with each cultivator, according to his holding for the year, over a lease binding him down for a longer period, is discussed. With reference to this subject it is stated in paragraph 2 of the Government letter that "His Lordship in Council does not feel quite assured that the decision at which the Committee has arrived is correct. It is, at least, not so clearly exemplified as to remove all doubt as to the accuracy of the result." As I cannot hope to express my sentiments in favour of the annual settlement more clearly than has been done by the Committee, I shall not attempt to do so at all. It may not be out of place, however, to consider how both systems would work if carried out in practice, or whether, under the existing deficiency of capital and the generally impoverished condition of the cultivators throughout the districts hitherto surveyed and those under survey, it would be practicable to introduce any satisfactory system whereby the survey settlements could be administered by long leases. The following statements relative to the talooka of Rahooree, of this collectorate, and which, with respect to farming capital and capabilities is perhaps on the whole not an unfavourable specimen of a Deccan district, may tend to elucidate this mode of viewing the question.

4. In the above district there are about 200,000 acres of arable land, of which from 60 to 80,000 acres are at present under cultivation. There are only 8,475 working bullocks in the district; and from my knowledge of the general poverty of the cultivators, I should think it no exaggeration to assume that four-fifths of this class are more or less involved in debt. It is evident that even under the influence of fixed and equitable rates of assessment, the district can only slowly and gradually recover from such a state of depression, and that a long period must elapse before farming capital can be accumulated to the extent required for the complete development of its agricultural wealth. Unless the present amount of farming stock were at once trebled or quadrupled, it would be impossible immediately to bring under proper cultivation all the lands of the district. The revised survey rates, by securing a fair profit to the cultivator, and enabling him by degrees to free himself from his liabilities, and to add to his resources, will doubtless in a great measure effect this, but

only slowly and progressively ; and that the result can be attained at all, it seems essential that the cultivators be left entirely independent and unfettered.

5. In introducing revised rates into a district similar to that described above, it would, I conceive, be very dangerous to attempt to bind cultivators by long leases. The settling officer would have no satisfactory data whereby to ascertain whether a cultivator, desirous of entering into a contract of the kind mentioned in paragraph 10 of the Government letter, possessed sufficient capital to enable him to meet his engagements. Were a cultivator to contract for more land than his means warranted, or were he at any time to be deprived, by adverse circumstances, of a portion of his farming stock, he would have to resort to the money-lender or become bankrupt, and throw up his entire holding; and in either case he would be in a much worse condition than before. A more general view of the question would exhibit the same results on an enlarged scale. Were all the lands in the district leased out, and a succession of unfavourable seasons to occur, during which period the cultivators could neither earn an income sufficient to meet their own wants and the Government demands, nor be able to contract their cultivation and liabilities according to their diminished returns, they would have as a matter of course to encroach on their capital; or in other words the district might be placed in the position of a person who is living beyond his means and who, finding the interest on his capital insufficient for his expenditure, is obliged to resort to the principal, and who thus in time effects his ruin.

6. But allowing that the settling officer could originate, in a satisfactory manner, the scheme of leasing out the holdings for lengthened periods, the general condition of the cultivators would only admit of a very small portion of the district being taken up for cultivation on such terms at the time of the introduction of the revised rates; and should the system gradually be brought into operation during the period of 30 years for which the latter are fixed, it is to be apprehended that in its working it would afford much room for the display of the intriguing propensities of our Native officials, and that it would necessarily involve a more minute scrutiny into, and interference with, the affairs of the cultivators than would be

compatible with those feelings of independence which it is so desirable to excite in them.

7. The above considerations alone would lead me to conclude that in those districts to which the survey operations have hitherto extended it would be difficult, if not impracticable, to introduce leases for lengthened periods with any hopes of successful results, and that it is only by means of annual settlements that the revised rates can be administered. Fluctuations in the cultivation and revenue are not to be attributed to short leases, but to the deficiency of capital in a district, the general poverty of its inhabitants, and the obstacles presented to them in the acquisition of gain. No fears, I should think, need be entertained of the cultivators becoming, under favourable circumstances, prosperous and independent. They are, as a class, most persevering, industrious, and shrewd, and the prospect of success alone is wanting to stimulate their energies in the pursuit of gain. Were the cultivators, as a body, in good circumstances, and agriculture a profitable occupation, remissions and inspections of crops might be entirely done away with without danger to the interests of the Ryot or eventual loss of revenue to Government.

8. The subject of the settlement of village boundary disputes is treated of in paragraphs 22 to 28 of the Joint Report, paragraphs 4 and 5 of your letter, and paragraphs 12 to 15 of the Government reply, and as the only doubt regarding the practicability of the scheme proposed by the Committee relates to the permanency of the settlements effected by the Survey Officers, I have no hesitation in stating my conviction that if the decisions be considered by the local officers as binding and unchangeable, and upheld accordingly, there will not be the slightest difficulty in preserving them.

9. The great difficulty in maintaining former settlements has been in most cases the impossibility of ascertaining from the written descriptions thereof the boundaries intended to be defined, and the consequent inability of the officer, to whom at any subsequent period a reference regarding a settlement might be made, to judge of the merits of the case without examining an immense mass of contradictory documents, any attempt to elucidate which, by recording further evidence, only tended to nullify the settlement, and to leave the dispute in a somewhat more complicated state than before.

10. The boundaries settled by the Survey Officers are defined by marks, and are permanently recorded in the village maps. It is true that the marks may be destroyed, but as their destruction constitutes an offence which renders the perpetrators liable to severe punishment, according to the Regulations, such will very seldom occur, and the settlements would not be affected thereby, as the line of boundary can easily be established and renewed by means of the map. I beg to remark, however, that although it might be difficult in some cases to obtain legal proof as to the parties actually engaged in the destruction of the marks, such a work could very seldom be effected without the knowledge and connivance of the Village Officers, as the boundary marks are numerous and of large size, and to remove them entirely would occupy much time and labour.

11. A further consideration of the subject of rice classification does not enable me to bring forward any Paragraph 18 of Government letter. Rules which would be generally applicable to all the surveys. The rice lands of this collectorate differ very much from those of Dharwar. Mr. Tytler, whom I have consulted, informs me that he observes that there is even a great difference between the Desh and Dang rice lands of this zilla. There is probably a much greater difference still between the rice lands of the countries above and below the Ghauts. I am therefore of opinion that until we have more certain data to guide us, it would be inexpedient to attempt to draw up general Rules for the classification of rice land.

12. With reference to paragraph 23 of the Government letter, I would beg to suggest that paragraph 83 of the Joint Report be modified, and stand as follows:—

83. The introduction of the survey settlements should, in our opinion, be effected by the Superintendent, in conjunction with the Collector, when circumstances admit of this officer's presence without interruption to the other duties of his charge, in order that the latter may be enabled to judge of the system, and the former have an opportunity of observing the practical working of the details, and of explaining them fully to the local Revenue Officers in charge of the district, as well as

of overcoming any difficulties, and meeting any objections, which may present themselves in the course of the settlement. In case of the Collector not being able to attend, he should nominate an experienced Assistant to be associated with the Superintendent on the occasion.

13. The concluding part of Rule 4 of paragraph 84 of the Joint Report, as surmised in the 14th paragraph of your letter, only applies to cases in which small internal portions of land are deducted as "unusable" from fields on which an assessment has been fixed, and therefore does not appear to call for amendment. Rule 13, on the contrary, applies to fields on which no assessment has been fixed, but which hereafter might be brought under cultivation; for instance, tracts of dense jungle, which it would be impossible at the time of survey to break up into numbers, and classify, but which might contain very good arable land. The fact of these fields being entered in the Registers without any assessment having been fixed on them would sufficiently indicate them to the local officers, but the latter might have some difficulty in fixing rates at a future period should the fields, or portions of them, be taken up for cultivation. To obviate this I would propose that the lowest rate per acre entered in the Registers for other dry crop lands of the village be levied. This appears just, as, though the lands might actually be capable of paying higher rates when cleared and prepared for cultivation, a considerable expenditure of labour and capital would, in the first instance, be required. It would not perhaps be advisable to enter rates for such lands in the Registers, as they might tend to mislead, should the assessment be revised at the termination of the period of 30 years, for which the settlements are binding. Rule 13 might be modified as follows:—

13. There are some survey fields, consisting in great part of land covered with dense jungle, or otherwise unsuited in their present state for cultivation, upon which no assessment is placed in the Survey Registers. In the event of portions of such fields being brought under cultivation, rates of assessment should be fixed by the Mamlutdar upon the acres under tillage, equivalent to the lowest rates for dry crop soils in the same village. This



Rule applies to all fields in the Survey Registers on which rates of assessment have not been fixed.

14. During the progress of the survey operations all disputed claims to the occupation of fields are noted, and they are investigated and settled by the Superintendent when introducing the revised rates, and agreeing with each cultivator for the land to be taken up by him. With regard to fields, the occupation of which is not disputed, the rights of the *bond fide* holders are maintained, and their names are entered in the Cultivation Returns accordingly. After the introduction of the settlement the proper insertion of the holder's name in the Cultivation Returns is, I conceive, provided for by Rule 20, which does not give Village Officers the power of making entries on the subject in the village account without an order from the Mamlutdar or Mahalkurree. Under these circumstances no alteration suggests to me by which Rule 5 would be improved.

15. Very few cases in this collectorate would come under the provisions of Rules 7 and 8, as the holdings are generally of larger area than that required by Rule 1 of paragraph 17 of the Joint Report. As these Rules, however, only contemplate a cultivator being obliged, under certain circumstances, to enlarge his holding to a size capable of being cultivated by a single pair of bullocks, and no more (*vide* Rules 5 and 7 of paragraph 17), I can anticipate no obstacles to their satisfactory working. The Rules modified according to the tenor of the remarks contained in paragraph 30 of Government letter would stand as follows:—

7. When two Ryots hold a field, and one of them relinquishes his share, or dies without heirs; the share thus lapsing is to be offered in the first instance to the other sharer before it is offered to any other; and in event of the said sharer declining it, and no other party applying to take it up, the former must relinquish his share too, and allow the whole field to become waste, unless, on an appeal being made by the party concerned, the Collector shall, from inquiry into the case, see fit to decide otherwise.

8. When there are more sharers than two in a field, and any of them relinquishes a share, it should be offered, as above, to the sharers in the first instance, beginning, in event of their failing to settle the matter amongst themselves, with the largest sharer, and so on to the least. If none of these nor any other party be found to take up the relinquished share, the whole field must be thrown up, unless, on an appeal being made by the parties concerned, the Collector shall, from inquiry into the case, see fit to decide otherwise.

16. According to the purport of paragraph 33 of the Government letter, Rule 11 would require to be modified as follows. I have assumed that the Rules prescribed in Government letter No. 390, of 12th February 1847, for regulating the power to cut down trees, do not apply to cases in which the trees might become the property of a holder of Government land by purchase under the provisions of Rule 2:—

11. Holders of Government fields, or occupants of Meeras, Joodee, or Enam fields, holding the same from Government, have no right to cut down trees growing therein, unless by express permission, and according to the Rule sanctioned in Government letter No. 390, of 12th February 1847. Those trees, however, which have become the property of the holder by purchase under the provisions of Rule 2, may be cut down without permission. In all cases trees growing on the boundaries of fields must be preserved as land-marks.

17. With reference to the remarks contained in paragraph 41 of the Government letter, I beg to suggest that Rule 16 be modified as follows:—

16. The grazing of the unarable and other fields not subjected to assessment in the Survey Registers should be sold by auction by the Collector, as in the preceding Rule; a reasonable proportion being set aside for the free pasturage of such villages as have hitherto enjoyed this right.

18. With respect to the clause in Rule 20 which requires those Ryots who relinquish fields or take up new ones for cultivation to attend at the Mam-

\*Paragraph 16 of your letter.

shares by co-heirs of the Khatedar, the Khatedar can in no way interfere. The names of the younger sons or other persons inheriting as co-heirs may only be separately entered in the accounts to any whole Revenue Survey Number, or parts of Numbers, constituting an entire occupancy, if the eldest son or next heir as Khatedar gives his written Razeenama, according to Rule 9, in person to the District Authorities.

5. Should a Khatedar proceed under Rule 9 of the Joint Report to transfer to any third person a Khate, including the share of a person holding by right of co-heirship, the circumstances are to be reported to the Collector for orders. Any transfer by the Khatedar of a share of his occupancy, held directly or indirectly by a subtenant, under right of co-heirship, in no way affects the rights of that co-heir or any rights derived from him.

6. A Khatedar can treat as an ordinary subtenant any co-heir cultivating a part of his own (that is the Khatedar's) individual share of an inheritance.

7. A co-heir may sublet, lease, mortgage, or hand down to his heirs his inheritance, his rights over land, and the rights derived from him are equally strong with those of the Khatedar himself, though no name but that of the Khatedar appears in the accounts.

8. If a person holding land by right of co-heirship without the Khate should die without heirs, his lien over his share lapses to the Khatedar.

9. The claim of a subtenant cultivating without any written agreement is considered to expire at the end of each year.

10. If a subtenant cultivating under a Khatedar without any written agreement declines to vacate on the requisition of the Khatedar, the Collector will, on the petition of the Khatedar, within six months of the beginning of the year, place the Khatedar in possession, on his paying at a valuation effected by Panchayet or by mutual consent, for any improvements of a permanent nature effected, or for any standing crops.

11. If a subtenant holds land under a Khatedar by written agreement, the Revenue authorities will not aid the Khatedar in interfering with such subtenant, so long as it appears to them that the terms of the agreement are observed, and there are reasonable grounds for believing the agreement to be genuine.

12. The rights of a subtenant under a written agreement cannot be interfered with by the Khatedar, and should the Khatedar transfer his Khate under Rule 9 to any third person, that third person has no more power over the subtenant than the original Khatedar.

13. If a Khatedar sublets land by written agreement without mentioning any precise period for the duration of such agreement, the claim of the subtenant only holds good during his (the Khatedar's) lifetime. If, however, only a specific number of years is mentioned in the lease or agreement, such lease or agreement is binding on the persons originally concerned and their heirs till the period of the lease is completed.

14. If a Khatedar resigns a Khate to Government which he has sublet, the lessee under him shall have a claim prior to that of any other person to have his name entered to the Khate resigned.

15. The mere production of a paper stated to be a written agreement is not to bar proceedings according to paragraph 9 ; should there appear after investigation reasonable grounds for doubting the genuineness or applicability of the paper in question, the Khatedar will be placed in possession according to paragraph 9, and the subtenant left if he chooses to sue in a Civil Court on the paper in question.

16. In case of lease or mortgage, no transfer of the Khate is to be made to the leaseholder or mortgagee without a Razeenama in the regular form being given.

17. No transfer of a Khate is allowable unless it include an entire Revenue Survey Number, or the entire Khate of one person in one Revenue Survey Number.

18. A Razeenama transferring a Khate to any named person under Rule 9 of the Joint Report, may be given at any period of the year ; the person to whom the land is transferred becoming responsible for whatever balance of the current year's revenue may be due upon the Khate.

19. The number of Khatedars entered in the Laonee Pheisul Putruk to any one Revenue Survey Number cannot be added to without breaking some Rule. The number of Khatedars in any one Revenue Survey Number may be reduced under the operation of Rules 7, 8, and 9 of the Joint Report, and once reduced cannot be again increased.

20. Under the operation of the Joint Report Rules, and of the above interpretations, no Revenue Survey Number can be part occupied and part unoccupied ; all must be either occupied or all unoccupied.

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**PART II.**

## PART II.

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### STATEMENT OF OBJECTS AND REASONS FOR INTRODUCING ACT I. OF 1865.

Revenue Surveys have been in operation in this Presidency since 1836-37.

The design of these surveys is the regulation of the assessment on land, so as to secure an adequate revenue to Government, the progressive development of the agricultural resources of the country, and the preservation of proprietary and other rights connected with the soil. The operations of these surveys have been completed in many of the districts of this Presidency and are still in progress in others.

The result is a progressive increase of cultivation and of the Government revenue, and a marked improvement in the condition of the agricultural classes.

The measures which have brought about this result, although in accordance with custom and usage, and not at variance with any law in force during the period of their operation, have in some instances been questioned for want of specific legal sanction.

The object of the present Bill is therefore to give a legal status to these Revenue Surveys, by placing beyond question acts done in connection therewith which have been, or may be, in accordance with the rules approved by Government, to provide for the Revenue administration of the country under these surveys, and for the future revision of assessments from time to time as guarantees expire.

The general principles and rules which form the basis of survey operations, and guide the revenue administration of surveyed districts, are described in the printed compilation of "Official correspondence on the System of Revenue Survey and Assessment

in the Bombay Presidency." These rules, and others, specially sanctioned by Government, have been followed by Survey officers, whose proceedings in conformity therewith it proposed to legalise by the present Bill, which accordingly confirms all existing settlements.

The Bill empowers the Governor in Council to order, whenever expedient, a Revenue Survey for the settlement of the Land Revenue, and the record and preservation of proprietary and other rights connected with the soil, for which an authority is given him to appoint, subject to the general control of the Government of India, such establishments as may be deemed requisite.

The functions of Survey officers are defined, and sufficient powers for the successful performance of them are given.

The determination of field boundaries, and the erection and repair of field boundary-marks, are carefully provided for, and the few simple rules, which furnish a practicable mode of settlement of disputes regarding village boundaries, will supersede Regulation X. of 1827, which, having proved unworkable, has remained almost a dead letter.

Boundary disputes, though generally unimportant in themselves, are a most fruitful source of ill-feeling and contention. It is therefore highly desirable to settle them expeditiously on the best data available. Survey officers have the best opportunities of ascertaining the correct boundaries of the villages to which their operations extend, and they have therefore been able, even without the power of enforcing the attendance of witnesses, to settle many thousands of boundary disputes; but it is necessary to give a finality to their decisions, and to place them in a position to obtain all procurable evidence relative to the subject of dispute.

Provision is made in the Bill for the Revenue administration of surveyed districts. The Governor in Council is empowered to guarantee, for any period not exceeding thirty years, assessments to which his sanction has been given; and the recognition of proprietary title is authoritatively declared.

Hitherto there has been but the simple guarantee by Government of the permanency, for a certain fixed period, of certain



assessments, and of the occupancy of land so long as the fixed assessment was paid. By this Bill the benefit of all improvements from private capital and resources is secured to owners and occupants of land; and the right of occupancy, upon the sole condition of payment of the fixed assessment, is declared to be a transferable and heritable property, continuable without question, after the expiration of each guaranteed term, on the same sole condition of payment of the fixed assessment. A simple and secure title is thus given to each occupant of Government land.

The preservation of divisions of land, as laid down by the Survey, from subdivision into minute occupancies by process of law, is provided for by Rules embodied in the 43rd Section of the Bill.

This Bill should be translated into the Marathi, Gujerati, Canarese, and Sindee languages.

(Signed) J. D. INVERARITY.

Poona, 10th Augus 1864.

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## PROCEEDINGS OF THE LEGISLATIVE DEPARTMENT, BOMBAY.

*Abstract of the Proceedings of the Council of the Governor of Bombay assembled for the purpose of making Laws and Regulations under the Provisions of "The Indian Councils' Act, 1861."*

The Council met at the Council House at Poona, on Wednesday, the 10th August 1864, at 11 A.M.

### *Present.*

His Excellency Sir H. B. E. Frere, *K.C.B.*, Governor of Bombay, *presiding.*

His Excellency Sir W. R. Mansfield, *K.C.B.*

The Honourable W. E. Frere.

The Honourable J. D. Inverarity.

The Honourable A. D. Robertson.

The Honourable Rustomjee Jamsetjee Jejeebhoy.

The Honourable Jugonnath Sunkersett.

The Honourable Premabhai Hemabhai.

The Honourable W. R. Cassels.

The Honourable W. Hart.

In moving for leave to bring in "A Bill to provide for the Survey, Demarcation, Assessment, and subsequent Management of Lands held under the Government in the Districts belonging to the Bombay Presidency, and for the registration of the rights and interests of the occupants of the same," the Honourable Mr. Inverarity said—

"Sir,—In moving for leave to introduce this Bill into the Council, I may be permitted to make a few observations on the rise and progress of Surveys in the Bombay Presidency. On our occupation of this part of India, War was succeeded by Peace. War prices of agricultural produce disappeared. But the burden of a heavy and unequal assessment remained. The necessity for providing relief for the agricultural interests was soon felt by Government, and surveys were instituted in various parts of the country. These, however, did not fulfil anticipations, and a description of that provided for the Deccan under the denomination of "the Survey and Assessment of the Deccan" will serve as an example of the system which ended in failure. Had the eminent talent and sterling worth of the English gentlemen who presided over these surveys availed, these surveys would have answered every expectation; but however good the theory of them might have been, the application of that theory was bad. The detailed operations were entrusted to the hands of a subordinate Native agency, whose work was supervised and checked by a superior Native agency, which result proved to be inadequate to the task. Nevertheless where an expenditure of upwards of eight lakhs of rupees had been incurred it was right and necessary, before setting aside all that had been done, that a minute and searching inquiry should be instituted. This duty was entrusted to Lieutenant Shortrede, a practical surveyor and a gentleman who had been engaged for some time in topographical and trigonometrical surveys. The result of his inquiries proved beyond a doubt that the burden

of assessment, instead of being removed, had been intensified and increased. There are but a very few now remaining who have a personal knowledge of the depressed state of agriculture some thirty years ago, and of the feeling of utter hopelessness that pervaded the ryots of that time. To those few who are acquainted with the large paper revenues that swelled the accounts, with the enormous remissions, and accumulating balances that were shown year after year, it will be unnecessary to detail the miseries of the agricultural population some thirty years ago. But for the benefit of those who have not thus been brought into contact with the ryots of that distant period, I may be allowed to give from the pen of the Revenue Commissioner of that time a description of the survey, and of the defects of that survey as described by Lieutenant Shortrede, and of its effect upon the agricultural population. Writing in 1836, the Revenue Commissioner says—

‘Of false classification and unequal assessment, Lieutenant Shortrede’s report contains so many and such strong examples, that it appears reasonable to conclude that those errors pervade and have vitiated the whole survey. In 45 out of 50 villages examined the errors are beyond all moderate bounds, as neither the classification nor the rate of assessment have any connection with the qualities of the soil.’

“Lieutenant Shortrede enumerates several places where the injustice of the assessment was very apparent. Fields were entered as being of the very best sort of soil, which were really of a very inferior quality. Soils were found wrongly classed in almost every village. It was not this nor that field which was wrongly described. The errors ran through whole Thuls, and were not occasional or accidental, but continual and systematic. Holders of alienated or private lands had been greatly favoured. Exemplifications were given of the partial manner in which they had been assessed. Assessable lands, held by hereditary officers, were recorded in a lower class to that to which they properly belonged. Lieutenant Shortrede mentions several villages which he had himself visited where he found that the best lands were scarcely ever entered as such. In several instances the

class at first assigned by the assessor was tolerably correct; but this had been changed by the head assessor almost everywhere. In the field belonging to the patells, koolkurnees, or mirasdars in good circumstances, a chief characteristic and leading objection of the survey rates consists in that partiality which assesses the superior lands at a lower rate than the inferior, and one of the striking defects of the work has been to lower the assessment on the land whose superior fertility and produce enabled it to pay the highest rates, and to increase the rates on the poorer soils, where they pressed more heavily on the ryots and were more difficult to collect, thus occasioning inequality of assessment, and that sort of inequality from which Government chiefly suffers, for thereby the revenue that was most secure was diminished, and that which was most precarious increased. In fact over-assessment of the poorer lands, and under-assessment of the richer lands, were the characteristics of that survey.

“The errors of measurement which Lieutenant Shortrede attributes to the survey are considerable. Out of upwards of 79,000 acres examined, there are 23,013 which are rated for 3,855 more than they contain, making an average error against the ryot of  $16\frac{1}{2}$  per cent. There are also 53,593 acres rated at 10,321 less than their true measure, making an average error against Government of  $19\frac{1}{4}$  per cent.

“The acknowledged principle of an equitable land assessment is that Government is entitled to a certain share of the produce of the land, the deduction of which leaves the cultivator a wide margin of profit after payment of expenses. This share of the produce converted into a money payment forms a fair money assessment. Lieutenant Shortrede shows that this money assessment when levied at the rates of the survey to which he refers was by no means equitable; that those rates generally bore no fixed proportion to the capacity of the soil; and that consequently the proportion of the produce which the ryots had to surrender, in order to pay them, varied, not only between village and village, but often between two adjoining fields in the same village. The Revenue Commissioner of that time says that during the preced-

ing 18 years, territorial produce had not been worth half of what it was during the 18 years before that period, so that a beega that was lightly assessed at 1 rupee 20 years before was at that time highly assessed at 12 annas, while if the former rate or even 14 annas had afterwards been exacted, the land would have been thrown out of cultivation, and its occupants thrown into poverty. That such effects have been produced by the high rates in the Deccan every one who has minutely examined the condition of the villages and the effect of the land assessment will bear witness. Cultivation has been declining, and, but for the wise and humane measures adopted by Government to arrest that decline, there is reason to fear that the revenue would have gradually fallen off till it did little more than pay the current district disbursements. Had the past system and high rates been adhered to, there can be no doubt that the country would have gone fast to ruin. And, except where measures had been taken to improve the system, ruin was in very many places progressing up to the period to which I have referred. Up to 1834-35 cultivation and revenue had been gradually decreasing, and the onerous assessment had the effect of driving our cultivation to private estates, or to the neighbouring countries of the Nizam or the Raja of Sattara. 'But,' says the Revenue Commissioner, 'the pecuniary loss, heavy as is, which Government sustains from such a system is not its worst consequence. Its demoralising effect, always observable, has exhibited itself in a very extensive form in the Deccan. It has spread with a force that has carried its poison not only into every district, but to almost every village, as well as to almost every family having any connection with the fiscal affairs of the country.' The large and constant remissions, for which over-assessment afforded a just plea, were perverted to the base ends of fraud, oppression, and injustice. Heavy and accumulating arrears paralysed agricultural industry. The cultivator's cattle, the last support of the indigent, were mercilessly sold; and, to extort rents, the persons of the unhappy defaulters, who were already reduced to beggary, were sometimes barbarously tortured. 'Had I not the honour,' says the Revenue Commissioner, 'to address a Government that has had, and very recently had, abundant proof of the extensive existence

of these enormities, I might have felt it necessary to enter into details to substantiate what, in the eyes of the uninformed, might appear in the light of exaggeration.'

"Such, Sir, was the old system, now happily but a tradition, as described by the Revenue Commissioner of 30 years ago, than whom there was no one more conversant with the condition of the agricultural population, and to whose untiring and energetic advocacy we are indebted for the more excellent system to which I shall now refer.

"Government abandoned a survey, and sacrificed the immense expense and labour it had cost the State without regret. The work done was unfitted to its end. The cost was unfortunately worse than thrown away. The outlay had been attended with the dilapidation of the resources it was intended to improve and consolidate, and with the impoverishment of the people whose condition it aimed at ameliorating. Meanwhile, peculiarly qualified officers were employed in various parts of the country in obtaining, by personal intercourse with the people, information and data on which to base a complete revision of the assessment, an object which was to be effected only by patient, searching, and accurate inquiry. A survey so conducted fulfilled, as might have been expected, every anticipation; and as a contrast to the gloomy picture given of the former survey, I will now describe the result of the survey and assessment which superseded it in Indapoor, which was the first talooka brought under its operation. This description was given towards the close of 1838 by the same Revenue Commissioner, to whose enlightened views and liberal advocacy the country is indebted for much of the improvement which we now see around us. His description may be summarised as follows:—

(1) The <sup>res-</sup>urvey measurements in acres were carefully tested, or where any considerable error was discovered the land was remeasured.

(2) A new classification was made of the land according to its soil, situation, and other capabilities for cultivation, and every field was entered under one or other of nine classes.

(3) The field boundaries which had been effaced were ascertained and marked afresh.

(4) A complete land register was framed in which the name, number, position, boundaries, tenure, extent, class, and all other particulars relating to the field were carefully entered.

(5) An assessment was fixed on the land according to its class and capabilities.

(6) The land was let out on lease at the assessment so fixed; each man's holding and the assessment he had to pay being so described in the lease as to leave little room for defrauding either him or Government.

(7) The whole work was conducted on a system of such strict checks and supervision as to guard as far as possible against errors arising either from carelessness or fraud.

“After describing this survey the Revenue Commissioner says—

‘It now remains to be seen what effects have been produced by these improvements, as they must be acknowledged to be when it is considered that, previous to the commencement of this work, neither the measurements, boundaries, nor classification entered in the records could be depended upon as correct; that the assessment was so heavy that little more than one-third of the arable land had been cultivated for the last ten years, and that though in that period remissions were given in all but one season, and they four times in twelve years exceeded the amount left to be collected as Government revenue, yet the latter was collected with so much difficulty that heavy balances were left unrealised at the end of the year, and the district generally <sup>was</sup> reduced to the extreme of poverty, and that the effect of the <sup>the</sup> heavy assessment and all this uncertainty regarding it was to give <sup>rise</sup> to a system of oppression and fraud to which the records of <sup>the</sup> Government afford few parallels.

‘The effects of the revision of the assessment as seen in the past year, which was, be it remembered, not better than an average one, were:—(1) Since the revision commenced, cultivation has increased to an extent very far beyond what it has been for

the last twelve years, and though it is difficult to compare the present acres with the vague *beegas* in which the land was registered previous to 1827-28, yet the quantity of land now under cultivation is as much if not more than when we first got possession of the pergunna, which was then more prosperous, and cultivation more extensive, than it has been before or since. (2) As the nominal rental has been so much reduced, it is to be expected that the gross *jummabundy* would be so also; nevertheless it was higher than in seven of the nineteen years preceding. (3) After deducting *huks* and remissions, the net revenue to be collected on account of Government is higher than it was in nine and lower than it was in ten of the preceding years. (4) The sum actually collected and paid into the Government treasury in the course of the year—the chief point to be looked to in the question of mere pecuniary profit and loss to Government—has never been so great, except during the first four years of our occupation, when it is generally acknowledged, our demands were much too high. (5) The outstanding balances have never yet been so low at the end of the official year as they were last year.

‘In short, at an expense, every item included, of Rupees 12,165-14-1, or about one-third less than the average of the balances outstanding at the end of the year during the first seventeen years of our possession of the country, a light and equitable assessment paid punctually and without difficulty by a contented and grateful body of ryots has been substituted for a heavy nominal paper assessment, never realised to its full amount, and yielding less actual cash to the Government coffers, and even that exacted from a population that was yearly sinking towards ruin.’

“These effects were produced by a large infusion of the European element into the survey, the chief feature which distinguished it from its predecessor being the care and attention with which all details were executed, and the sound good sense and the strict adherence, where practicable, to former usage. Its leading principle was to fix an assessment so moderate and so simple as to be easily and readily paid by a poor and simple population.

“The success which attended this survey in Indapoor was followed by similar results in the other districts to which it was



extended. I will not occupy the time of the Council by entering into details which might be tedious, but will merely give a few facts which show the extent of the success in the poorest of the collectorates that have been surveyed. In the Poona collectorate the realisable land revenue in 1838-39 was Rs. 5,67,319, in 1862-63 it amounted to Rs. 9,97,414. In 1851-52 the percentage of waste to culturable land in this collectorate was  $19\frac{1}{2}$  per cent. In 1862-63 this percentage was reduced to  $6\frac{1}{2}$  per cent. In the Ahmednuggur collectorate the realisable land revenue in 1838-39 was Rs. 10,72,225, in 1862-63 it was Rs. 19,27,277. The percentage of waste to culturable land in this collectorate in 1851-52 was  $39\frac{1}{2}$  per cent. ; in 1862-63 this percentage of waste was reduced to  $14\frac{1}{2}$ . In the Sholapoor collectorate in 1838-39 the realisable land revenue was Rs. 6,98,106, in 1862-63 it was Rs. 13,10,575 ; the percentage of waste to culturable in 1851-52 was  $23\frac{1}{2}$  per cent. ; this percentage in 1862-68 was reduced to 8 per cent. These figures place in a strong light the benefits of the survey as it now exists, and similar results are to be found in every collectorate in the Deccan, the Southern Maratha Country, and Gujarat to which this survey has been extended. So convinced are the people themselves of the great advantage derived from the system, as now organised, that private individuals, feudal chiefs, and people foreign to the Bombay presidency have introduced it into their lands and territories. The benefits of this system, as shown by the logic of facts, are incontestable, and the survey as it now exists has placed the ryots of this presidency in a position to take advantage of the opportunities afforded them by the Crimean and American wars to provide an exportable produce, to their own great and immediate profit. Such, Sir, is the survey now proposed to be legalised by the Bill for the introduction of which I now request permission. The Statement of Objects and Reasons attached to the Bill gives some of the reasons which render such legalisation necessary."

The Honourable Mr. Inverarity then gave a copy of the Bill, and of the Statement of its Objects and of the Reasons for it to the Secretary (thus introducing the Bill), and said that much time would be saved if the Bill could now be read a first time and

referred to a Select Committee. The Bill was a most important one, and it was very desirable that the Select Committee should thoroughly consider its provisions, and that the Council should not be hurried in discussing it towards the close of their present sittings, which would be the case if the ordinary routine were followed in the case of this Bill, and the first reading deferred till the next meeting of the Council.

The Honourable Jugonnath Sunkersett pointed out the great importance of the Bill to the whole agricultural community, and the necessity for having the translations widely published and fully considered; but on being assured that the suspension of the rules to enable the Bill to be read a first time would not interfere with the grant of ample time for the consideration of its details, he intimated that he would not object to the first reading being taken at once.

His Excellency the President suspended Rule 15 of the Rules for the conduct of business at meetings of the Council.

The Bill was then read a first time, and, on the motion of the Honourable Mr. Inverarity, was referred to a Select Committee composed of—

The Honourable Mr. Frere,

The Honourable Mr. Hart,

The Honourable Mr. Robertson,

The Honourable Mr. Jugonnath Sunkersett,

The Honourable Mr. Madhowrow Vithul Vinchoorkur,

and the Mover, with instructions to report at the second meeting of the Council to be held in September 1864.

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The Select Committee appointed to report upon the Survey and Settlement Bill beg to report that they approve of the principal of the Bill. They have made a few alterations in it which they consider to be improvements, and they recommend that the Bill be passed with these amendments.

This Report should be translated into the Marathi, Gujarati, Canarese, and Sindhi languages.

(Signed)

J. D. INVERARITY.

W. E. FRERE.

JUGONNATH SUNKERSETT.

A. D. ROBERTSON.

W. HART.

*Poona, 25th August 1864.*

The Honourable Mr. Inverarity, in moving the second reading of the Survey and Settlement Bill, said—

“ Sir,—In moving the second reading of the Survey and Settlement Bill, I wish to offer a few remarks on the petitions which have been presented to the Council on the subject of this Bill. There is first the petition of Sorabjee Jehangeer and brothers. On the last occasion of our meeting I noted a want of information in regard to the terms on which these proprietors held their villages. This information has been promptly supplied to me by the petitioners, and I shall request the Under-Secretary to return the copy of their title which they have forwarded, with an expression of my thanks for the courtesy they have displayed. They request the extension to their villages of the provisions of the Survey Bill now before the Council. In doing so they give important testimony to the value of the Bill, and evince an enlightened appreciation of the benefits they and their ryots will derive from its operation. Their request is most reasonable, and I propose to comply with it by introducing, on the Bill being taken into consideration in detail, an additional section which will give the applicants all that they desire.

“ The second petition is signed by Cursetjee Nusserwanjee Cama, Vishwanath Narayen Mundlik, and others. It is of a different character and written in a very different spirit from that to which I have just referred. On first reading it my impression was that it had been written under some grave misapprehension of the objects and intentions of the Survey Bill. On re-perusal the petition appears to me not to have been written in good faith for the purpose of bringing to the notice of this Council

any substantial error or defect in the Bill. In effect it is calculated to convey erroneous impressions to those who will not analyse the Bill and make themselves acquainted with its different sections, and the relation each section bears to the existing rules upon which the Revenue Survey and Assessment of the country has long been proceeding. The petition appears essentially such a one as might be got up by an uninformed writer *ad captandum vulgus*. It contains so much indefinite and irrelevant verbiage that, if not impossible, it is certainly difficult to discern how the writer intends that its several paragraphs should be connected with or opposed to any of the provisions of the Survey Bill. I will, however, with the permission of this Council proceed to remark *seriatim* on the subject of each paragraph.

“The first two paragraphs are as follows:—

‘That your Excellency’s Government has recently introduced into the Legislative Council of Bombay ‘ A Bill to provide for the survey, demarcation, assessment, and subsequent management of lands held under Government in the districts belonging to the Bombay presidency, and for the registration of the rights and interests of the occupants of the same.

‘2. That this Bill sanctions the settlements now being made and confirmed under the authority of your Excellency in Council.’

“These paragraphs simply recite the title of the Bill, and state a couple of facts.

“The third paragraph is as follows:—

‘3. That the grounds upon which these settlements are based have not been laid before the Legislative Council, nor is the public generally aware of what they are, or how they will influence the rights of proprietors generally.’

“These assertions are incorrect. The member in charge of the Bill mentioned the most really important grounds on which the settlements are based, and have all along been proceeding; and referred those who desire further details to the official correspondence on the system of Revenue Survey and Assessment in the Bombay presidency which has for years past been before the

public in a compilation printed by order of Government, the last revised edition of which was published in 1859.

“ The fourth paragraph runs as follows :—

‘ 4. That the Survey Rules which were published some years ago appear to provide for the registration of what may be called Ryotwarri holdings, but they seem to ignore the existence of the different classes of landed proprietors whose powers of freely enjoying their lands have been crippled, and whose property is being thus deteriorated in value to an immense extent by the restrictions which the rules impose as to the sub-letting of their holdings.’

“ It criticises the Survey Rules as ignoring the existence of the different classes of landed proprietors. It may be said that Rules which are made for a particular object would not be Rules, but impertinences, were they to meddle with what they had no concern. So far as Government or the Survey Rules or this Survey Bill are concerned, landed proprietors have full power of freely enjoying their lands, and no restrictions whatever are imposed on them either in the sub-letting of their holdings or in any other way. The only way in which the Survey Rules affect property is by adding to its value, inasmuch as they concede to the holder of land, wherever it is possible to do so, such right of property therein as may belong to Government. Classes of proprietors who are not in any way affected by those rules are not mentioned in them ; but they cannot therefore with any justice be said to be ignored by them. The assertions made in this paragraph are simply opposed to fact.

“ The fifth paragraph is as follows :—

‘ 5. That Nos. 10 and 11 of the Survey Rules interfere with the rights of proprietors to the trees and forests in their lands, which they have been enjoying from time immemorial and with which this Bill interferes.’

“ The assertion made in this paragraph is incorrect. The 10th of the Survey Rules, so far from interfering with existing property, concedes the Government right in trees to holders of mere Ghut-kool land, who have been twenty years in possession, and Rule 11 provides that those who have been a shorter time in possession

may also cut trees (really the property of Government) on certain conditions. These Rules, however, have no place in the Survey Bill, and it is contrary to fact to assert that any provision in this Bill in any way authorises interference with the rights of proprietors, as stated by the writer.

“The sixth paragraph is as follows:—

‘6. That besides holders of Miras, Jodi-inam, and Inam lands, there are proprietors of villages absolutely sold by Government; proprietors of villages with a permanently settled land-tax; proprietors of villages and parts of villages who hold their estates subject to such assessment as may be imposed at the general survey of the district called Prant-Pahani; proprietors of lands held under different kinds of leases from Government; proprietors of reclaimed lands called Shilotridars, Isafatdars, Sutidars, &c. &c.’

“The information contained in this paragraph may or may not be correct, but in either case its connection with the Survey Bill is not obvious.

“The seventh paragraph is as follows:—

‘7. That the proposed enactment deprives the proprietors of their remedies against the Collectors by recourse to the Civil Courts for redress, and this change is sought to be made apparently without a due consideration of the vast interests at stake, and the character of the changes sought to be introduced, in a constitutional point of view.’

“The assertion made in this paragraph is incorrect. The Bill in certain matters shows the procedure to be followed by Survey Officers and others, being Revenue authorities, but does not in any way affect any procedure in the Civil Courts, or any right of bringing a suit against the Collector therein.

“The eighth paragraph is as follows:—

‘8. That a survey of private lands and villages has been made compulsory, whereby a great deal of annoyance and expense will be unnecessarily caused to their proprietors, who had hitherto the power and the right—which this Bill

threatens to deprive them of—of surveying and assessing their own estates at their own convenience, and according to their own means.'

"The assertion made in this paragraph is contrary to fact. The survey of private lands and villages has never been made compulsory. It is of course necessary in surveying Government lands to fix the boundaries between them and lands not belonging to Government; but this is necessary as part of the survey of such Government lands. It is only reasonable that a man who holds an Inam field in a Government village should go to the trouble and expense of defining the boundaries of what he thus holds, by grant or sufferance, from Government as an exceptional privilege. The Bill does not make the survey of Inam villages compulsory, neither does it deprive the proprietors of such villages of the power and right of surveying and assessing their own estates at their convenience and according to their means, as incorrectly and ignorantly stated by the writer.

"The ninth paragraph is as follows:—

'9. That the inquiry into the proprietary and other titles of holders of land by means of the Survey Department being entrusted to an ill-paid and practically irresponsible agency, is replete with danger, and will, we feel certain, open the door to fraud and abuses of various kinds.'

"This paragraph would make it appear that the Survey Department inquires into and decides upon questions of proprietary and other titles to land. This assertion is altogether contrary to fact.

"The tenth paragraph is as follows:—

'10. That the settlement of boundary disputes, by the agency of the Survey Officers, without any appeal to the regularly constituted tribunals of the country, is a measure to be much deprecated. That the people have not, except by appeal to Government, hitherto resisted these proceedings is no sufficient ground for the Legislature to legalize them. The effects of suppressed dissatisfaction may not be immediately perceptible.'

“ This paragraph is written *ad captandum vulgus*. Boundaries must be settled on the spot by some one, and according to some procedure. What the writer calls the regularly constituted tribunals of the country cannot attend the Revenue Survey operations in the field or in a district. If the writer of the petition, or those who have signed it, can show more fair and more feasible Rules of procedure for the guidance of Revenue Survey Officers than those which have been laid down after the test of years of experience and of practical benefit to all affected by them, let them do so, and in the meanwhile they may see, if they will study the Bill, that there is not in it a single provision which deprives any one of any legal remedy for wrong, now belonging to him.

“ The eleventh paragraph runs thus :—

‘ 11. That these officers, though versed in their professional duties of surveying, are, as a rule, unacquainted with the principles of the law; that they have no rules of procedure; that they are generally guided in their work by the petty Surveyors on low salaries, which lays them open to great temptation; that those low-paid subordinates are already inflicting great and wide-spread injury and oppression on the people in different ways is a matter of notoriety, and the increase of their authority is calculated to inflict a thousand times greater loss on the people than the apparent advantage which it may be thought to be securing to Government.’

“ This paragraph is utterly unfounded and incorrect in its assertions, as any one may satisfy himself is the case if he will only study the Rules for the guidance of Native Establishments of the Revenue Survey Department and the Official correspondence on the system of Revenue Survey and Assessment already referred to.

“ The twelfth paragraph is as follows :—

‘ 12. That the Courts of these officers are entirely faulty in their constitution, irregular in their management, open to no checks from the bar, and subject to no appeal to the Civil Courts of the country. Secluded by their very distance from publicity and the safeguards which it gives rise to, these



tribunals would be the means of inflicting grievous and lasting injury on the best interests of the inhabitants.'

"This is written *ad captandum vulgus* as regards the opinions put forward, and is, to use the mildest term, utterly incorrect as regards the assertion of facts.

"The thirteenth paragraph is as follows:—

'13. That the proposed Act deprives the people of the remedies left open to them by the Regulations of the Elphinstone Code.'

"This statement is substantially untrue. The only part of the Elphinstone Code affected by the Bill is Regulation X. of 1827, which has, for all practical purposes, remained a dead letter because it was found impossible to work it, its provisions being found to be altogether inapplicable to the state of things for which they were proposed as a remedy.

The fourteenth paragraph is as follows:—

'14. That the Legislative Council is getting on very precipitately\* with the Bill, so that your

\* Draft of the Bill first published on the 10th August 1864.

First reading and reference to a Select Committee, 10th August 1864.

Report of the Select Committee published on the 24th August 1864.

Second reading fixed upon for the 2nd meeting in September 1864, which will be on the 10th instant.

petitioners and their fellow-countrymen have not had sufficient time to study its provisions minutely, and respectfully to submit such suggestions and emendations as their welfare, upon which depends the proper government of this empire, may in their humble opinion call for.'

"The Mover has admitted the importance of the Bill, and has acknowledged the desirability of thorough consideration and discussion of its provisions.

"The fifteenth paragraph is as follows:—

'15. That your petitioners are ready and willing at all times to pay and advise their fellow-countrymen to pay such taxes and cesses as the necessities of the State may render it necessary to impose; but they beg respectfully to deprecate the

undue haste with which the above measure is being hurried through, feeling assured that it is calculated to inflict deep injury, directly and indirectly, upon landed property in the country. And your petitioners therefore beg that your Excellency's Government will press the following points upon the consideration of the Legislative Council :—

*1st.*—That property of all kinds connected with land be respected, and nobody's interest sacrificed, except on proved public necessity, and without due compensation.

*2nd.*—That the proprietors of villages and fields be left unfettered in the management of their estates.

*3rd.*—That the ownership of trees on private land be not interfered with.

*4th.*—That owners of Inam, permanently sold, and permanently assessed lands, be left free to survey as well as to assess their own estates without any interference by the Survey Department.

*5th.*—That the operations of the Survey be strictly confined to the survey and assessment of lands (so that Government may have a faithful registry of them and their assessable values), but that they should not in any way interfere with the proprietary titles of the holders or occupants.

*6th.*—That the settlement of boundary disputes be left to the regular Courts of law as now; and

*7th.*—That the right of appeal to the Civil Courts, now enjoyed, may not be disturbed.'

“Every member of this Council will no doubt cordially support every one of the principles urged upon their consideration in this paragraph, with a slight modification of the 6th point so far as it affects the settlement of boundaries necessary for the conduct of the Survey. The writer and signers of this petition will learn with satisfaction that the Survey Bill does not in any way interfere with any one of the points which they press upon the consideration of the Legislative Council. (1) Property of all kinds

connected with land is respected, and nobody's interest is sacrificed by this Bill. (2) Proprietors of villages and fields are left unfettered in the management of their estates by this Bill. (3) The ownership of trees on private lands is not interfered with by this Bill. (4) Owners of inam lands are left free to survey and assess their own estates. (5) The operations of the survey are strictly confined to the survey and assessment of lands, and do not in any way interfere with proprietary titles. (6) The Bill in no way interferes with the jurisdiction of the regular Courts of law in suits for land or other property; and (7) in no way interferes with the right of appeal to Civil Courts which petitioners desire may not be disturbed. Not interfering with any of the points thus urged upon our consideration, the Bill effectually renders the title of the occupant or cultivator secure; it exempts him from the interference of Government officials; it holds out to him inducements to lay out capital in the improvement of his land; it gives him the utmost freedom to contract or extend his cultivation from year to year as circumstances may require; it gives him a proprietary interest in the soil, and is to the Ryot a very charter of his rights, in the full enjoyment of which he is now being raised to a condition of comfort and independence. The survey and assessment of the country, devised and carried out in a liberal spirit, has been before the public for a quarter of a century. It has fulfilled every expectation, and it is the intention of the present Bill to confirm the benefits so conferred upon the agricultural interests. I do not think that I incur the risk of any imputation of precipitancy or undue haste if I now proceed with this Bill. On the other hand we incur by delay the danger of leaving our Ryots open to the disturbing influences of exaggerated and alarming statements, and to the machinations of those who have objects of their own to gain.

“ I shall defer consideration of the Bill in detail until the next meeting of the Council, in order that Messrs. Cursetjee Nusserwanjee Cama, Viswanath Narrayen Mundlik, and other objectors may, if they feel so inclined, appear before the Select Committee in this Council Room at 11 o'clock on the forenoon of Wednesday next, and state their objections to any of the Sections

of the Bill. Meaningless as the petition of these objectors is, probably the Council will agree with me that an opportunity of gaining enlightenment should be afforded to those who have written and signed them. Apologising for having detained the Council with these remarks, I propose now to advance the Bill a stage by moving that it be read a second time."

The Honourable Mr. Madhowrow Vittul Vinchoorkur presented the following written observations on the Bill, which were read by the Secretary :—

"My opinion regarding the 'Bill to provide for the survey, demarcation, assessment, and subsequent management of lands held under Government in the districts belonging to the Bombay presidency, and for the registration of the rights and interests of the occupants of the same,' is as follows :—

"It is stated in Section 11 of the said Bill that 'it shall be lawful for any Survey Officer to enter for the purposes of measurement, fixing boundaries, classing soils, or for any other purpose connected with the Survey, any lands, whether belonging to Government or to private individuals, and whether partially or wholly exempt from assessment ;' but I beg to state that if the word 'lands' in this Section includes alienated villages, a provision to the following effect should be added, viz. provided that the Survey Officer shall not, in the absence of any lawful reasons, classify and assess lands in an alienated village without the consent of the holder thereof.' There was a similar provision in the former 16th Section of the Summary Settlement Bill for the Southern Division, but it was, after much consideration, omitted from it.

"In case where the holder of alienated lands will not consent to his lands being surveyed and classified, the Survey Officer may simply survey the lands without classifying the soils, but shall not assess the charges incurred thereby on the owner or occupant of the lands. A provision to the above effect should be added to the above Section.

"In Section 21 it is provided that it shall be lawful to require the attendance of any person whose presence or evidence

may be necessary for the settlement of a village boundary or for the investigation of a boundary dispute, by serving a written notice on him; but in my opinion a provision similar to the one in Section 22 of the Code of Civil Procedure should be added, viz. that the Survey Officer shall not require the personal attendance, by a written notice, of persons who are exempted by Government from attendance.

“Section 29 runs as follows:—‘It shall be lawful for the Governor in Council to impose any cess for the use of water available in consequence of the construction, improvement, or repair of any irrigational work, or for purposes of local improvement, such as schools, roads, &c.’ but I think this Section should be divided into two parts, and that some alterations should be made therein. I have accordingly drafted two Sections, one regarding the cess to be levied for the use of water, and the other regarding the cess to be levied for public improvements; but before I submit them, I beg to make a few observations on the advantages and disadvantages arising from the cess. As the limit of the cess which is to be levied in accordance with the above Section has not been fixed, one cannot estimate the amount which the cultivators may be liable to pay at any time. They will always suffer from anxiety as to how much they may have to pay at any time on account of the cess. The people may also think that the rate of this cess is unlimited. If therefore the limit of the cess be fixed, the apprehension of those liable to pay it will be removed, and the public will also not say that it is unlimited. I have therefore drafted rules for the limitation of the cess, and if they be adopted the cess will be beneficial to those liable to pay it, and they will also find it easy to pay it.

“Jeerayut (dry crop) lands will no doubt be much improved by the use of water rendered available at the expense of Government, or of any Company authorised by Government. It will be a great convenience, and also a source of profit to the public, and particularly to the cultivators, if dry crop lands are converted into garden lands. If water be rendered available by incurring an expense, and if the people are benefited by it, it is proper to impose a water cess upon them, and they will willingly pay it. Govern-

ment does at present levy a higher assessment upon garden lands according to the rate fixed for such lands.

“ The other cess to be levied for public improvement is calculated to benefit the people paying the Imperial land revenue, and they will not, I believe, object to pay it, for to establish schools and dispensaries, to construct roads, &c. are praiseworthy acts. I have lately personally witnessed the condition of the cultivating classes throughout this presidency, excepting four zillas. They have become very rich and are now in good condition, and there does not appear any objection to levy such a cess from them. As there is no possibility of Government paying for such works of public improvement, it is, I think, just and proper to levy the under-described cess from the cultivating classes. Moreover in some parts of the Khandeish zilla the people have willingly agreed to pay such a cess.

“ The following are the Sections which I propose may be substituted for Section 29 of the Bill:—

‘ 29. The guarantee given in the preceding Sections in regard to the Imperial land revenue shall not be applicable to the water cess, which under this Section it shall be lawful for the Governor in Council to levy for the use of water rendered available in consequence of the construction, improvement, or repair of any irrigational work by or at the expense of Government, or of any Company legally authorised by Government: Provided that such water assessment shall not exceed the authorised rate of assessment of the district for irrigated lands, and that such garden land assessment, when once fixed, shall be the Imperial land revenue.

‘ *Clause 2nd.*—Provided also that the above-described garden land assessment fixed on account of the use of water shall be subject to revision with other assessment at the expiration of the period of Survey settlement.

‘ 30. It shall also be lawful for the Governor in Council to impose, in addition to the Imperial Land Revenue assessed under the preceding two Sections, a cess, not exceeding one anna for each rupee, leviable on account of the said land revenue, the proceeds of which cess shall be applied exclusively to objects of

public improvement, such as schools, dhurmshallas, dispensaries, water supply and the like, and shall be spent as far as possible in the talooka, and under no circumstances beyond the district within which the said cess is levied.'

" This is my opinion."

The Honourable Mr. Jugonnath Sunkersett presented a Memorandum on some of the provisions of the Bill, which he had received from Mr. Gowreeshunker Oodeyshunker, Prime Minister to the Chief of Bhownuggur.

His Excellency the President said that he had received a further petition from Messrs. Cursetjee Nusserwanjee Cama and Vishwanath Narayen Mandlik, which he would request the Secretary to read.

The following Petition was then read :—

" To His Excellency the Honourable

Sir H. BARTLE FRERE, *K.C.B.*,

Governor and President in Council, Bombay.

The humble Petition of the under-  
signed landholders and others, resid-  
ing in the Presidency of Bombay,

RESPECTFULLY SHOWETH,

" That your petitioners, along with several others, have submitted a representation, dated 9th instant, to your Excellency in Council, regarding ' A Bill to provide for the survey, demarcation, assessment, and subsequent management of lands held under Government in the districts belonging to the Bombay presidency, and for the registration of the rights and interests of the occupants of the same.'

" 2. That your petitioners have therein brought to the notice of your Excellency in Council the haste with which such an important measure affecting the best interests of a large number of landed proprietors in this presidency is being carried.

" 3. That your petitioners are now still more impressed with the injustice certain to be inflicted upon a large number of Her Majesty's subjects, whom the Legislative Council is giving no opportunity to submit their observations on and objections to the Bill.

"4. That the translations of the Bill were only published in Bombay on the 20th ultimo, and the people in the Mofussil have hardly been able to get them; [in fact one of your petitioners could hardly get a dozen copies to send;] so that it cannot be expected that they should be able to come before your Excellency unless some reasonable time is allowed them.

"5. That your petitioners are firmly persuaded that there are grave objections both to the principle of the Bill and the procedure it prescribes; but they submit that at least three months' time should be allowed them and their fellow-subjects within which to come before your Excellency with detailed objections to the Bill and suggestions such as may occur for its improvement.

"6. That the interest of thousands of Her Majesty's subjects committed to the care of your Excellency's government are involved in the fate of this Bill, and it is highly desirable that light should be allowed to come in from all sides before the Council proceeds to legislate on a question which will affect lakhs of rupees worth of property, and the hereditary holdings held by thousands of people for generations.

"7. Under these circumstances your petitioners humbly but earnestly solicit your Excellency in Council to grant them at least three months' time to frame their respectful representations about this Bill in detail.

And your petitioners, as in duty bound, shall ever pray,

CURSETJEE NUSSEERWANJEE CAMA.

VISHWANATH NARAYEN MANDLIK."

*Bombay, 15h Sepeember 1864.*

His Excellency Sir William Mansfield said that Government had lately received a letter from the Commissioner in Sind which contained some very remarkable statements, showing the benefits which the country had derived from the operations of the Revenue Surveys. Considering the facts disclosed in this letter, he had no hesitation in saying that the allegations made in the memorials which they had heard read were utterly without foundation. He would not read the whole letter, but trusted that the Council would order it to be printed for general information, as it threw so much



light on the subject of the Bill they were now discussing. He would only quote some of the figures contained in the statements he referred to. It appeared that in the year 1850-51 there were 12,691,111 acres under cultivation in the thirteen collectorates of this presidency. In the year 1860-61 there was a cultivated area of 17,992,757 acres. In eleven years therefore the cultivation had increased by upwards of five million acres, that is to say, upwards of 40 per cent.—a result which he (Sir W. Mansfield) doubted could be paralleled in any other part of India. This increase of cultivation indicated an increase in the welfare of the agricultural classes. This increase was altogether due to the working of the revenue survey and assessment in force in this presidency. With these results before him he could not but consider the statements contained in the petitions they had heard (to say the least of them) as very incorrect, and these results quite justified the very strong rebukes passed by Mr. Inverarity on the tone of these petitions. It appeared also from the statements he had received that in eleven years the percentage of waste to cultivated lands was decreased by two-thirds; and moreover that although cultivation was increased, litigation in connection with land was diminished in a marked degree. These results, when considered in connection with the fact that Government revenue had steadily increased with cultivation, show in a strong light the advantages of the system which it was the object of this Bill to perpetuate.

The Honourable Mr. Premabhai Hemabhai trusted that the Council would not proceed to the third reading of the Bill until they had had time to consider the objections raised in the several petitions which had been presented.

His Excellency the President said that after what had been stated in the petitions laid before the Council that day, he was unwilling to let the Bill be read a second time without bearing his personal testimony to its being a most valuable and necessary measure, and one, as far as he could judge, singularly free from all the objections which had been stated against it. Nearly thirty years had passed since he was personally connected with the operations which led to the commencement of the Survey in this presidency, and was himself employed in the districts in which the Survey was first introduced. It was impossible to give any one who had not seen the country at

the time he was speaking of an idea of how this India, which is always said to be so immutable, had changed for the better, and how much of that change was due to one good measure of administration steadily and consistently carried out.

The principle of the Bill was twofold—*1st*, It stereotyped the change to which he had adverted by confirming the past proceedings of the Survey Department; and *2ndly*, It made provision for the future prosecution of the same beneficial process hereafter. To give some idea of the state of this part of the country before the changes in this Revenue system to which he alluded had been introduced, he would briefly describe the condition of the people of the Deccan as he saw them in the year 1835, when, shortly after his arrival in this country, he was employed as an Assistant of Mr. H. E. Goldsmid, whose name could never be mentioned without regret at the early loss of one of the most valuable and devoted servants this Government had ever possessed. Mr Goldsmid was sent to inquire into certain charges of mismanagement in some of the districts of the Poona collectorate. The whole of the Deccan had been more or less exhausted by the errors and mismanagement of former Governments. The removal of the Native Court and Army had destroyed the local market for produce; no foreign trade adequate to supply its place had grown up; the prices of agricultural produce and of labour had for years been steadily falling, and the Government revenue was as steadily decreasing. But what most attracted the attention of Mr. Williamson Ramsay, so well known as the sole and most able Revenue Commissioner of that time, was the extreme difficulty with which even an inadequate amount of revenue was extorted from the cultivators; and he deputed Mr. Goldsmid and Lieutenant (now Colonel) Shortrede to inquire into the truth of the charges of oppression which had been made against the Revenue officers of the district he referred to. The situation was shortly this: Rarely more than two-thirds of the culturable land in any district were under cultivation. Frequently as much as two-thirds of the land were waste. Villages almost deserted were frequently to be met with; some were “*bèchiragh*,” without a light in them, utterly uninhabited. The people were sunk in the lowest depths of poverty; they had few recognised rights in the land; the boundaries of the

different villages and different estates were often unsettled, and gave rise to disputes which there were not the means of finally deciding. The revenue to be derived from the land was practically dependent on the discretion of the local officers. There were, it was true, fixed customary rates which nominally regulated the assessment to be paid ; but they were so much higher than could possibly be paid at the then existing prices of produce, that it was necessary to grant remissions of the necessity for an extent of which the local officers were the sole judges, and it was thus practically left to a very ill-paid class of inferior officials to decide what should be taken from the people.

The results of such a system might be easily guessed. In good seasons the people were forced to pay to the uttermost farthing, without having the certainty that what they paid really went to the Government treasury. In bad seasons, if they were unable to obtain remissions, they had no resource but to leave the country and seek subsistence elsewhere.

“ He (the President) had seen many of the victims of this most wretched system. People had been brought before Mr. Goldsmid who deposed to having been tortured in the most cruel manner in consequence of their inability to meet the demand of the Native Collectors. They had been exposed to the heat of the sun, and were forced to stand with large stones on their heads, or to lie down with heavy weights laid on their chests. This state of things was reported by Mr. Williamson Ramsay, the Revenue Commissioner, to the Government. He showed that the fault lay less with the under-paid officials than with the Government itself, who required from their servants an impossibility, viz. to realise the assessments of the most prosperous day of the Maratha empire, when prices had fallen far below their former amount. He urged the injustice of entrusting such powers to ill-trained officials at a distance from all effective control, without taking the proper precautions of giving them such a salary as would place them above the influence of temptation. He pointed out a truth which is now generally recognised and acted on—that the true secret of a good land revenue system is moderation in demand ; that if the demands were moderate, cultivation would certainly increase ; that the cultivators would be sure to prosper ; and that in their

prosperity the State would share. It so happened that these suggestions fell on kindly ground. Sir Robert Grant was then Governor of Bombay, than whom a more able statesman or larger hearted philanthropist has never been at the head of the government of any presidency. On receiving the Revenue Commissioner's reports he cordially sympathised with his views, and charged him to see that the great principles to which he had given expression were effectively carried out. In execution of these orders Lieutenant Wingate was associated with Mr. Goldsmid with a view to devise a complete plan for a general Survey, and an equitable assessment of all Government land. These gentlemen were ably seconded by several officers chiefly drawn from the Army. And he (the President) might remark that this was only one of the many occasions on which the Government of India had been indebted to the Army for officers who had rendered the most effective aid in the general administration of the country. He should only weary the Council if he were to describe the different parts taken by these officers in the operations of the Survey. He could not, however, refrain from mentioning the names of some of the gentlemen to whom at the outset the supervision of this duty was entrusted, and to whose zeal and ability in laying the foundation the excellence of the superstructure is mainly due.

“Lieutenant Nash, of the Bombay Engineers, one of the first and ablest of their number, was now no more. Lieutenant (now Colonel) Gaisford, and Lieutenant (now Major) Davidson, had long since retired from the service, and were both, he believed, still living a life of active benevolence in their native country. Two of the original officers, however, of that time—Majors Francis and Anderson—had been throughout in active charge of Survey operations, and were, he was glad to say, now at the head of the Survey Department. They had never ceased to preserve with religious fidelity the great principle which had been laid down by Messrs. Wingate and Goldsmid. It was but a small part of the praise to which these officers were richly entitled to say that the success of the Revenue Survey in the Bombay presidency depended in a great measure upon their high qualifications and tried character.

“The results of the Survey have been summarised in that most striking statement from which extracts had that day been quoted by

**His Excellency Sir William Mansfield.** It might be said that it was sometimes difficult to judge of practical results from mere statistical statements, but he (the President) was convinced from personal observation that this was not the case in the present instance. If any one were now to visit the places of which he had spoken, he would find that the statements which had been laid before them that day failed to give any adequate idea of the whole truth. In fact bare figures could not describe the progress that had taken place in any district where the Survey rates of assessment had been long in operation. Cultivation had increased to a truly remarkable extent, so much so that he (the President) believed it would be a difficult matter now to find anywhere in the Deccan even a thousand acres of unoccupied culturable land available to any one wishing to take up land for cultivation. Land was not only occupied but valued, as the Honourable Mr. Premabhai had described it, "as their lives" by those to whom it belonged; whereas it formerly often happened that the ill-governed territories of the Nizam and other native princes gave a refuge to those who had been forced by over-assessment to abandon their ancestral lands in our own territory.

"The increase in the public revenue was perhaps still more striking than the increase in cultivation. But he (the President) would always, in estimating the benefits of the Survey, give but a secondary place to the increase of Government revenue; for it had been clearly laid down by the Government which originated the Survey that financial considerations were to be held of minor importance, and that they would look rather to the indirect results of fixity of tenure and moderation of assessment, and to the consequent improvement in the condition of the Ryots, than to the direct increase of land revenue. It had always been felt that if these objects were kept in view revenue would also be indirectly improved; and in attaining these objects the Government had always had the hearty co-operation of the Survey Officers themselves. In judging of these results it was impossible to over-estimate the obligations of the Government and the country to the Survey Officers who year after year had devoted themselves to the very important but most monotonous and trying duties of their department, with a perseverance and zeal which are beyond all praise.

“ If he (the President) wished to show a foreigner how the English keep India, he would show him men of this stamp, who, living habitually far remote from our presidency towns and large stations, by their free association with the people of the country, and by the expression of a sincere sympathy with their wants, promoted their welfare, and attracted the affection and respect of the agricultural classes to the British Government.

“ But it was not only in the regulation of the land revenue that the labours of the Survey Officers had been conspicuously useful. They had had a large share in some of the most useful measures for the general improvement of the country, and conspicuously so in all matters relating to the improvement of roads and means of transit. He remembered coming, nearly thirty years ago, from Bombay to Poona *via* Panwell by a Post cart—the only wheeled postal conveyance then existing in India. During the whole journey he did not recollect seeing a dozen carts. The only means of transporting merchandize was by Brinjaree bullocks. Of these the traveller from Panwell to Poona in those days met tens of thousands, carrying down cotton and grain to Panwell, and taking back salt, cloth, and other imported goods to the interior. Beyond Poona carts were then very rarely seen. In five months he remembered seeing only three carts in the districts between Poona and Sholapore, and these were brought from some Madras station. The only indigenous cart-wheels were at that time mere discs of stone; the carts were large lumbering contrivances, and remained as heir-looms in families for generations. They were so heavy that it took eight or ten bullocks to draw them when loaded. They were not used for the carriage of ordinary produce, but only for carting manure to the fields. Now the first step towards improving the physical condition of an agricultural people in a low state of civilization is to give them increased facilities of communication. Lieutenants Wingate and Gaisford early apprehended this fact, and applied themselves to increase the facilities of transit in the Deccan, They had at first very small means at their disposal for the attainment of this object. The Government at first gave Lieutenant Wingate small sums, often as low as Rs. 5 per mile, for the improvement of roads. Little could of course be done for such an amount beyond removing the most serious impediments to wheeled traffic along

existing tracks; but even this was a great boon to the country. Lieutenant Gaisford then applied himself to improve the country cart. The ordinary Deccan cart in its present form was the result of his labours, and it would be difficult to convey to any one who had not witnessed it an adequate notion of the amount of time, trouble, thought, and contrivance which were applied to invent a cart which should meet all the conditions required. It was to be as light and cheap as possible, and yet strong enough to be used in a stony country where roads were almost unknown, and where artificers capable of repairing the most simple wheeled vehicle were often not to be found within fifty miles.

“Lieutenant Gaisford set up a manufactory for these carts at Timboornee in the Sholapore districts, and there he not only made carts, but trained artificers from the villages around to repair them. At first it was difficult to find any one who would buy the carts even at cost price, except as a favour; now they have entirely replaced not only the old carts with stone wheels, but the Brinjaree bullocks, which formerly did the whole carrying work of the country. And the carts have in their turn helped the improvement of old roads and the opening of new lines of communication. If the Survey had conferred no other benefits on the country than by contributing, as they had done, towards the formation of good roads and a good description of wheeled carriage, it would have more than repaid all the expense that had been incurred on account of it.

“Other equally important improvements in the general administration of the country had been greatly aided by the officers of the Survey, whose advice and assistance had always been found to be most valuable by the fiscal and magisterial officers of Government—by none more than by the present Revenue Commissioners and the honourable member in charge of the Bill.

“One main object of the Survey has been to ascertain and confirm the rights of the occupants of the land. There could be no doubt as to the existence of proprietary rights in land in the Deccan in former ages, but they had been so impaired by years of misgovernment and over-assessment, that their very existence was made the subject of formal inquiry during the early years after our conquest of the country, as will be seen by a reference to Mr. Mountstuart

Elphinstone's first report on the Deccan provinces. It was always a fundamental principle in the Survey operations not to attempt to force on the country any particular theory as to the ownership of land, or the rights and liabilities of occupants and proprietors. Their object was simply to ascertain and record facts as they existed. But as regarded the rights of occupants as against Government, this Bill made a most important concession by affirming the right of all occupants to continued possession after the expiration of the period of settlement; and the Council will be glad to hear that since this Bill was drafted, the Secretary of State had given his sanction to the view held by this Government on this subject. The Honourable Mr. Jugonnath Sunkersett would bear him out in the statement that the result of the policy adopted by this Government had been to raise the value of land in the Deccan to an extent which it would have been vain to hope for ten years ago.

“In one of the petitions which had been read to them it was insinuated, rather than broadly stated, that there was great risk of the agricultural classes being oppressed by the ill-paid officials of the Survey Department. He (the President) could only say that since his return to this presidency after an absence of some years, he had not heard of a single complaint of any subordinate in that department making an improper use of his powers as a survey officer. It might perhaps be thought that this assertion proved too much, and that in such large establishments there must be occasional cases of malversation, but he might state that, as a rule, these establishments are well looked after. Deserving members are quickly promoted, and a good survey officer will find his way into the general administration of the country. The promotion of trustworthy men, and the emulation thus excited, would no doubt partly account for the remarkable absence of complaint against the department, but the system has also been very carefully arranged so as to minimize the possibility of a subordinate officer making illicit gains. The work has been so divided that any one member of the establishment has but a small idea of the effect his own work will have on the general result of the settlement. Little temptation therefore is left to persons affected by the settlement to bribe subordinate officers.



“ Looking to all these facts to which he had very briefly alluded, he (the President) thought the Survey system might fairly be described as the great Charter of the rights of the agricultural population. That the Khotee petitioners failed to see this was only natural. They, like the Zemindars in Bengal, occupied the position of middlemen between the Ryot and the Government. Every measure calculated to promote the interests of the Ryots must to some extent trench on the profits and powers of a middleman, and where any doubt existed as to the precise operation of a measure like this, some alarm and mistrust would naturally be excited. The tone of some of the petitions need therefore cause no surprise. Indeed, if no objections had been raised by these petitioners, there would have been some reason to doubt how far the Bill was likely to benefit the occupants and actual owners of the land. The petitions came, he believed, exclusively from the Southern Concan Khoties, in whose villages the Survey had not yet been introduced, and he (the President) had no doubt that when the operations of the Survey were extended to that district, the Khoties would find, as all connected with the land had found everywhere else, that the Survey would confer on them very great and substantial benefits.

“ The Council had been charged with precipitancy in pressing on this Bill, but this assertion had been very fully met by the remarks of Mr. Inverarity. Some twenty years ago the necessity for a Survey Bill had been recognised, but whenever a Bill was drafted, it was always found that before six months had elapsed it required to be amended. The circumstances of the country had altered so rapidly that a measure that was suitable one year became no longer applicable to the wants of the country in another. The Survey system was, however, so popular that no law was formerly required for its enforcement. In time, however, the people naturally forgot the old days of oppression. They began to calculate the cost of providing flag-men and other expenses for surveys, and as in their improved circumstances time became valuable to them, they grudged to give the assistance which the Survey Rules required. Rights acquired under the Survey Rules have also become so valuable as to become the subject of litigation in our courts. These rights, however, are not as yet recognised by law, and it has become necessary therefore to give them legal sanction. Every provision

of this Bill has been before the Mofussil public for at least ten years. There is not a Village Patell in any surveyed district who is not practically acquainted with them. He (the President) was quite certain that if any solitary provision of the procedure now proposed to be legalised had been found to be onerous, the Government would have heard of it long ago.

“He entirely agreed with the amendments proposed by the Honourable Mr. Madhowrow Vittul Vinchoorkur. His proposals fell in entirely with the general scheme of Survey, and with the original suggestions of Major Wingate on this very subject; but this was not the proper time to discuss them. For the present he would only thank the honourable member for the suggestions.

“He was sorry to detain the Council so long; but he thought it only just to the petitioners and to the Survey Department to state his views at some length. Mr. Inverarity, he knew, would give ample time for the consideration of all reasonable objections that might be raised, but he trusted that no unnecessary delay would be allowed in passing this most valuable measure into law.”

The Honourable Mr. Robertson said that, with the view of affording further evidence of the great benefits which had been conferred on this presidency by the settlements that had been effected by the Revenue Survey to which His Excellency the President had alluded, he would wish to note the immense value land had acquired. When the Revenue Survey was instituted land was worth nothing, whereas the right of occupancy under the Survey settlements was now valuable property. He had made inquiries about two years ago, with the view of ascertaining the value of the right of occupancy. From returns he had received he found that at auction sales by the Civil Courts land that was sold in execution of decrees realised on an average seven years' purchase of the annual assessment. In private sales, however, it realised a much higher price, probably on an average 20 times the Government annual assessment. But that he might not be supposed to exaggerate, and to be within the actual amount, he would assume the right of occupancy to be worth on an average only ten times the annual Government assessment. Now the effect of this was to create property in land worth ten times the land revenue of this presidency, and by these very settlements they

had thus increased the wealth of the country by nearly 35 millions sterling; but the benefits of the Survey did not extend to those holding leases under it on whom capital to the above extent had been conferred, but the property of all holders of rent-free lands, and of all the landholders of the presidency, had increased as the value of the lands held from Government increased, and it was not too much to say that this one measure alone had made the people richer by 50 millions sterling at the very least.

The Honourable Mr. Cassels thought Mr. Robertson had decidedly understated the rise in the value of the land. Land was now commonly sold at 30 years' purchase, and he had known it to fetch much more than even that. He had intended at first to give a silent vote in favour of the second reading of the Bill, as he was naturally uninformed in regard to a measure of the present character, and in such a case a silent vote would be better than a weak support. But as he had the means of supporting Mr. Robertson's argument, he gladly took the opportunity of saying how cordially he approved of the present Bill. There could be no two opinions as to the advantages of the measure, and he trusted no time would be lost in passing it.

The Honourable Mr. Hart said that one of the good results of the Survey Settlement was the diminution in the amount of outstanding balances of revenue. Formerly these balances of uncollected revenue were of large amount, but now they are almost unknown. From a statement which had been furnished to him by the Collectors in the Southern Division it appeared that in all the collectorates in that Division the total Government demand in the year 1859-60 exceeded by more than 7 lakhs of rupees the average annual demand for the seven preceding years on account of land revenue on lands which had been Khalsat from a period antecedent to the introduction of the Revenue Survey, and which were brought under the Survey Settlement. But though there was so great an increase in the Government demand on these lands, the amount remaining uncollected at the end of the year 1859-60 was only Rupees 422-8-9 for all the collectorates, whereas the average annual outstanding balance of the seven preceding years was very nearly 1½ lakhs of rupees. This was a most satisfactory result, and conclusive as to the benefits of the settlement. It showed how lightly the settlement presses upon the

people, and is at the same time most advantageous to Government. The revenue is certain, and collected quickly and without difficulty.

On the motion of the Honourable Mr. Inverarity the Bill was read a second time.

The Honourable Mr. Inverarity proposed that the consideration of the Bill in detail be postponed till the next meeting. He wished to give the petitioners an opportunity to state their objections to the Bill, and if the Council should so direct, the Committee would meet on Wednesday next at 11 o'clock to hear objections.

The consideration of the Bill in detail was postponed till the next meeting, and the Secretary was directed to inform Mr. Cursetjee Nusserwanjee Cama, Mr. Wiswanath Narayen Mundlik, and Mr. Vinayek N. Bagwat that the Select Committee would meet at the Council Chamber on Wednesday, the 21st instant, at 11 A.M., in order to hear, consider, and report to the Council on any objections which they might wish to offer to the provisions of the Bill.

The Council met at Poona on Saturday, the 24th of September 1864, at 11 A.M.

The Council then proceeded to the Order of the day.

The Honourable Mr. Inverarity, in moving that the Bombay Survey and Settlement Bill be considered in detail, said that, as directed by the Council at the last meeting, the Select Committee on the Bill had met on the 21st instant for the purpose of hearing objections from the petitioners. No objections, however, were made. The petitioners appeared by Counsel, who requested time to enable him, as he expressed it, "to hunt up" witnesses to give evidence on the provisions of the Bill. He trusted the Council would not accede to the request for more time. Surveys had been going on in the presidency for the last twenty-eight years; ample time had therefore been given for the statement of all objections to the proposed Bill, which merely legalised existing settlements. If there was a new provision in the Bill, it was the concession of rights to landholders and of this the petitioners had no reason to complain.

On the motion of the Honourable Mr. Inverarity, the further Report on the Bill was read. It was as follows:—

"The Select Committee appointed to consider the Bombay Survey and Settlement Bill have the honour of reporting that, in accordance with the instructions of the Council, they met on Wednesday, the 21st instant, to hear objections to the provisions of the Bill.

"Mr. C. P. Cooper, Advocate, and Mr. Venayek Narayen Bhagwat, Inamdar, appeared before the Committee.

"The following letter from Mr. Cooper was read:—

'To H. BIRDWOOD, Esq.,

Under-Secretary to Government.

'DEAR SIR,—It is the desire of the petitioners opposing the passing of the Bill to provide for the survey, demarcation, assessment, and subsequent management of lands held under Government in the districts belonging to the Bombay presidency, and for the registration of the rights and interests of the occupants of the same, that they may appear before the Select Committee of the Council appointed to report on the Bill by Counsel, who will be prepared to call evidence, and state and prove the objections of the said petitioners to the Bill. Before Select Committees of the Houses of Lords and Commons at home, Counsel or Agents are always heard on behalf of parties opposing the passing of a Bill interfering in the slightest manner with the vested rights of a large body of Her Majesty's subjects. I beg to refer you to 'May's Parliamentary Practice' and to the Lords' debate on the Australian Colonies Bill (the 10th of June 1850). I believe the question a most important one as regards the liberty of Her Majesty's subjects in this presidency. Whether they have a right to appear by Counsel before Committees of the Legislative Council, and be heard in reference to opposing a Bill referred to such Committee, has not yet been mooted. I am retained on behalf of the aforesaid petitioners, and am entrusted to present to the Select Committee to-day a petition praying for further time for them to instruct Counsel, and to provide evidence to support and prove their objections. Could you please inform me the course or practice I should pursue to obtain my recognition as Counsel appearing on behalf of the petitioners by the Select Committee.

I am, &c.

Poona, 21st September 1864.

C. P. COOPER.

“The propriety of petitioners appearing before a Select Committee by Counsel having been recognised by Her Majesty’s Secretary of State in his despatch to the Government of Fort St. George, No. 4, dated the 31st July 1863, the Committee heard Mr. Cooper on behalf of the petitioners whom he represented.

“Mr. Cooper remarked that he had only received instructions from his clients (Messrs. Cursetjee Nusserwanjee Cama and Vishwanath Narayen Mandlik) the day before, and that he had not had time to read the Bill, and he was not therefore in a position to urge specific objections to the several provisions of the Bill. He objected, however, to the undue haste with which this Bill had been hurried through its earliest stages. The first notice that the public had had of the measure was its publication in the *Government Gazette* on the 11th ultimo. The Marathi and Gujarati translations of the Bill, as amended by the Select Committee, did not appear in the *Gazette* till the 8th instant, and another translation not till the 14th instant. There could be no doubt that many of the provisions of the Bill were of an inquisitorial character, and would certainly interfere with the vested rights of many of the landholders in this presidency. The persons affected by the Bill had, in common justice, a right to be heard in opposition to it. But no proper opportunity had been given the public of expressing their views on the measure. The petitioners, on whose behalf he appeared, had presented two separate memorials to the Council, one of which had been read on Saturday last, and it was only on Sunday evening that the petitioners received a letter from the Under-Secretary, informing them that the Select Committee would meet on Wednesday to hear, consider, and report to the Council on any objections which they might have to offer to the Bill. In this short time it was quite impossible for his clients to ‘hunt up’ witnesses to examine in support of the statements put forth in their memorials. He was confident that, after taking evidence, the Committee would modify the objectionable parts of the Bill, and he trusted therefore that the Committee would postpone the consideration of the Bill for three months, in order to give the memorialists time to procure the attendance of their witnesses.

“Mr. Cooper then read the following Petition:—

“ To His Excellency the Honourable

Sir H. B. E. FRERE, *K.C.B.*,

Governor and President in Council, Bombay.

The humble Petition of the undersigned  
landholders and others residing in  
the Presidency of Bombay,

RESPECTFULLY SHOWETH,

‘ That your petitioners, by two petitions dated respectively the 9th and 15th instant, have addressed your Excellency on the subject of their objections to a Bill recently introduced into your Excellency’s Council ‘to provide for the survey, demarcation, assessment, and subsequent management of lands held under Government in the districts belonging to the Bombay presidency, and for the registration of the rights and interests of the occupants of the same.’

‘ 2. That in answer to their said petitions your petitioners have received a letter dated 17th September 1864 from Mr. H. Birdwood, Under-Secretary to Government, informing them that ‘the Select Committee of the Council appointed to report on the Bill will meet at the Council House at Poona on Wednesday, the 21st inst. at 11 o’clock A.M., when they will be prepared to hear and consider and report to the Council on any objections which you may have to state to the Bill.

‘ 3. That in the short time which will elapse between the receipt of that letter and the meeting of the Select Committee it is utterly impossible for your petitioners to prepare their case for the consideration of the Select Committee, or to obtain the evidence which will be necessary to substantiate their objections.

‘ 4. Your petitioners most respectfully submit that in view of the important interests affected by this Bill, the landholders in the remoter districts of this presidency, whom the translations of this Bill have not yet reached, should have an opportunity of considering the measure, and of being heard, if they are so minded, with your petitioners, against it.

‘ 5. Your petitioners therefore respectfully submit to your Excellency that as they are undoubtedly entitled as British subjects to be heard against a Bill so materially affecting their proprietary and pecuniary interests, they should be allowed a sufficient time, as

requested in their former petitions, wherein to bring their objections in proper form before your Excellency's Council, and your petitioners humbly pray that the further consideration of the said Bill may be postponed for the purpose.

'And your petitioners, as in duty bound, shall ever pray,

CURSETJEE NUSSERWANJEE CAMA.

VISHWANATH NARAYEN MANDLIK.'

*Bombay, 20th September 1864.*

"The Chairman of the Committee informed Mr. Cooper that his remarks would be submitted, with the petition he had just read, to the Council on the 24th instant.

"The Committee then adjourned *sine die*.

J. D. INVERARITY.

W. E. FRERE.

A. D. ROBERTSON.

MADHOWROW VITTUL VINCHOORKUR.

JUGONNATH SUNKERSETT.

W. HART."

*22nd September 1864.*

The Honourable Mr. Jugonnath Sunkersett said that Mr. Cursetjee Nusserwanjee Cama had been unable from illness in his family to appear before the Select Committee. Mr. Vishwanath Narayen Mandlik was now in Poona, and had given him a memorandum of observations on the several provisions of the Bill, which he had made over to Mr. Ellis.

His Excellency Sir William Mansfield had reason to believe that the opposition to this Bill was not altogether disinterested. He made no accusations against any one, but he thought it right to state to the Council that he had heard that there was an agitation going on in the country with the view of exciting the feelings of the Ryots against this Bill, the object of which was to render their rights indefeasible. It was said that persons were agitating whose object was to take advantage of their ignorance and groundless alarm to obtain possession for themselves of the Ryots' land, knowing well how the value of occupancy would increase if the present Bill were to become law. The Council were aware how mischievous the effect of such an



agitation in this country might be. The best way of checking it would be to lose no time in passing the proposed Bill into law. No one would have any cause for complaining that such legislation would be hasty, for the survey operations which it was proposed to legalise had been in existence for a number of years. If the law were passed, it would at once settle the minds of the people.

The Honourable Mr. Cassels said that under ordinary circumstances he would have given a silent vote on a motion of the present character, but as petitions had been made against the Bill, he thought that the independent members of that Council ought to give expression to such testimony as they could afford as to the effects of the Survey. He could certainly say that the effects of the Survey had been most beneficial to the Ryots of this country, and it was for the Council to protect the interests of the Ryots. Against the Bill there was one petition which scarcely contains a correct statement, and which makes up by strong language for its want of argument. The Council ought not to delay in passing a most useful measure simply because a few men, whether from ignorance or interested motives, asked for delay without showing any reason for it.

The Honourable Mr. Ellis said that though His Excellency and Mr. Cassels spoke of general objectors to the Bill, he believed that all the objections they had heard came from one class of people—the Khotés of the Southern Concan. Although no settlement had been made in khotée villages 20 or 25 years ago as in some other districts of the presidency, yet a khotée settlement had been made in one district four years ago (in 1860-61), and had been followed by settlements in other districts in 1861-62 and 1862-63. As far as Khotés were affected there was nothing new in this Bill, which proposed not to interfere with the khotée settlements already made, but on the contrary to confirm them (just as settlements made in other districts were confirmed by the Bill), and to extend the same mode of settlement as the Survey operations proceeded. There being no mention of Khotés in the Bill, it was not unnatural that the Khotés should feel some alarm lest they were to be entirely ignored, especially as on a former occasion an attempt had been made to carry out a settlement on principles very different from those now adopted in the Survey under Major Francis. If the Khotés were expressly recog-

nised in the Bill now before Council, he thought they would have no reason to be alarmed. With the view therefore of recognising the rights which they certainly possessed, he proposed at the proper time to add two additional clauses to the Bill.

The Honourable Mr. Scott was of opinion that the Bill should be proceeded with. He entirely concurred in what Mr. Cassels had said.

His Excellency the President remarked that the application for more time to consider the provisions of the Bill did not, when carefully examined, seem to him to rest on any reasonable foundation. Some opposition was naturally to be expected from superior holders, for their rights were to a certain extent similar to those of Government. The Bill proposed to restrict by legal enactment the action of Government officers in regard to the demands from occupants, and to this extent superior holders were also affected. But as the petitioners had had ample time to state specific objections and had urged none, he saw no reason for delay. The petitioners had, he thought, had quite sufficient time to criticise the measure. The Council had received a very fair criticism on several matters of detail from a gentleman living in Kattywar. If Mr. Gowreeshunker Odeyshunker, the able Dewan of the Thakore of Bhownuggur, could find time for considering the details of the Bill, surely it was scarcely fair for men living in Bombay to complain of the haste with which the Bill was being hurried through its stages. If the petitioners had any really valid objections to make to the Bill, he (the President) felt sure that they would have put these objections in a tangible and specific shape. They were both of them men of note and education. Mr. Cama was a gentleman who was well known to all classes of the community, and Mr. Vishwanath Narayen Mandlik was most favourably known to the public as a gentleman of the highest education, as well able to write or plead in English as any gentleman at that table, and one of the ablest Vakeels of the High Court. Mr. Cama could not say how his interests were specifically affected by the Bill. Mr. Mandlik is himself, by family connection, a Khote. Apparently he cannot make up his mind as to what provisions he objects to. Instead of appearing himself, as he was every way qualified to appear, and when he would have been sure of a most

attentive hearing from the Select Committee, he appears by a Counsel who sets out by saying he is not acquainted with the details of the measure and requires time to study it and get up a case against it. If there were a shadow of ground for delaying the consideration of the Bill, he (the President) would gladly have acceded to the request of the petitioners. As it was, he did not think they would be justified in agreeing to an indefinite postponement of so useful a measure on such a vague statement of objections to it.

On the motion of the Honourable Mr. Inverarity, the Council decided on proceeding to consider the Bill in detail.

On the question that Section 2 stand part of the Bill, the Honourable Mr. Inverarity moved that the words "under Government" be inserted between the words "right" and "recognised" in line 48.—*Carried.*

On the question that Section 3 stand part of the Bill, the Honourable Mr. Ellis said that this would be the best place to consider the objections which had been raised on the part of the Khotas of the Southern Concan. He had in his hand the Memorandum on the Bill referred to by Mr. Juggonath Sunkersett. It was drawn up by one of the objectors to the Bill, Mr. Viswanath Narayen Mandlik, and though it could not be said whether this Memorandum contained all the objections that had to be made, yet at least it included all that the objectors had thought fit to put forward. The Memorandum was as follows:—

"Section 3 of this Bill confirms all existing settlements of land revenue made under the authority of the Governor in Council. But nothing has been laid before the Council to enable it to understand the nature and duration of the settlements, and to see how far the present Bill may affect them. These are specially necessary for the Council to know, inasmuch as there appears to be, in some particulars, considerable difference regarding the nature of these settlements, as contemplated by the existing law on the subject (Regulation XVII. of 1827) and that now before the Council. While the former authorises settlements to be made with the person holding the

highest recognised right by the custom of the country, the joint rules only recognise those in whose names the land is entered in the survey record, and the survey record recognises only those who actually cultivate the land, leaving aside the various kinds of middlemen spread over a considerable part of the Southern Concan and a small portion of the Northern Concan. The rights of these superior landlords are thus thrown into confusion and background. But as the value of these holdings is very great indeed, the Council cannot thus allow them to be thrown overboard without a sufficient cause, which has not yet been laid before the public, as far as can be perceived, and the Council ought not to proceed without clearing this point, and laying before the public the principles on which it is thus proceeding. Such a procedure, while it will clear the understanding of the law, will also secure the approval of those superior holders who now seem to be under an impression that their property is either being lost or materially deteriorated."

It seemed to him (Mr. Ellis) that the only objection made against this Section was a want of information. Though he could hardly suppose that Mr. Mandlik was ignorant of the details of a settlement which had been in progress in the Concan for the last four years, yet he was fully prepared to satisfy any reasonable demand for information, and he could easily do so, as there were ample records available. He had before stated that it was not proposed to deviate from the present mode of settlement, the details of which he would now lay before them, and he hoped to satisfy the Khotes that their rights under this settlement will in no way be interfered with by the proposed law. The Khotes most certainly had rights. These rights had been questioned by some Revenue Officers, but however they might be questioned, it seemed to him (Mr. Ellis) to be beyond doubt that the Khote has an interest (though not an unqualified one) in the lands of his village, and that this interest is a transferable and heritable property. It was very necessary to recognise this right in so many words. Its recognition by no means implied that the rights of the Khote's tenants (where these have any proprietary or occupancy rights) would be ignored. The clauses which he would propose at the proper time would, he trusted, be sufficient to define the right

of the Khote and of his tenants, and thus, by defining what is now undefined, place their relations on an equitable and satisfactory footing. For the present, however, he would only describe the exact position of the Khotes as recognised by Government. The information on the records of Government on this point was not sufficiently known, but if it were better known, much of the apprehension that had been felt would be allayed. He would not describe from his personal knowledge what he knew to be the exact status of the Khotes, but he would quote from a Resolution of Government in which the whole subject was fully discussed. This Resolution was not, like most Resolutions, the decision of one Government only, but it had met with the approval of two successive Governors. It was passed by the late Lord Elphinstone just before he resigned the reins of Government, but it was not then issued, for it was felt that the subject was one of such importance that Lord Elphinstone's successor should not be committed to the views enunciated in the Resolution without having an opportunity of forming an opinion in the matter. The Resolution was accordingly reserved for the consideration of Sir George Clerk. In the constitution of Sir George Clerk's government the public had an ample guarantee that the interests of neither party affected by the Resolution would be overlooked. The Honourable Mr. Reeves was a warm advocate of the rights of the Ryot. Sir George Clerk, on the other hand, by his early training and associations, was personally predisposed in favour of the claims of superior holders. The Resolution to which he alluded had the approval of both Sir George Clerk and Mr. Reeves, and he would now, with the permission of the Council, read some extracts from it, which he knew would tend to clear away many of the difficulties that had been felt by Mr. Vishwanath Narayen Mandlik and others as to the possible result of the enactment of the provisions contained in Section 3. If the view of the Khote's rights as described in this Resolution were distinctly recognised in the Bill, the Council might reasonably hope for the completion of a settlement satisfactorily begun, and the result would be an avoidance of that chronic state of ill-feeling between superior holder and tenant of which they had heard so much in other parts of India. The Resolution he had referred to was Resolution No. 1832, dated the 18th May 1860, and was passed on a Memorandum by the Revenue Commissioner N. D., relative to a plan of settlement

for Khotee villages in the Sub-Collectorate of Colaba. He would read the following extracts from it:—

“ The settlement for which sanction is now requested is of more than ordinary importance, inasmuch as the villages to which it relates are all held on the khotee tenure, and any settlement which may now be sanctioned must in a manner regulate future proceedings in regard both to the remaining talookas of the Sub-Collectorate and the greater part of the Collectorate of Rutnaghiree.

“ 2. It is unnecessary here to enter on a discussion as to the origin of the Khotes and their former position. These points have been amply treated of in previous reports, and the accurate determination of historical questions involved in uncertainty would be of little use as a guide to the practical settlement of present difficulties.

“ 3. The actual position of the Khotes must be taken as the basis of future treatment, and in endeavouring to reform the present system, it is the desire of Government to maintain all existing rights so far as may be compatible with justice and with a sound scheme of Revenue management, and to adopt rather than overthrow institutions which, whatever their origin, have become so firmly rooted in these districts that their sudden eradication, supposing it to be possible, would amount to a social revolution.

“ 4. Some uncertainty prevails in regard to the present system, the relations between the superior holder and his sub-tenants being the point on which there is the greatest difference of opinion. It seems, however, to be established beyond question—

1st.—That Government has a right, on occasion of a general Survey, to revise and alter the revenue payable by the Khote.

2ndly.—That the Khote has the right of settling with Government in the gross, and of deriving a profit by sub-letting the land to others.

3rdly.—That the Ryot has a right to protection from over-exaction on the part of the Khote.

“ 5. Government therefore is entitled to fix the Khotes' annual payment at whatever sum may, on a consideration of the qualities

of soil and other circumstances, appear equitable. This the Survey under Captain Francis has already accomplished.

“6. The Khote’s privilege of settling with Government in the gross will be confirmed to him. His right of sub-letting the land is neither more nor less than the right of receiving the balance of rent which remains after satisfying the Government dues. This also will be confirmed, but as this right is undoubtedly derived from the State, it will remain with Government to prescribe how far, with due regard to the general interests of the community, it should be exercised without control.

“7. The discussion of the question involves a decision on the 3rd point above noted—the right of the Ryot to protection from over-exaction. The difficulty is to determine the degree or extent to which protection should be afforded.

“8. The basis of the settlement lately attempted in Rutnaghree was the recognition of a right of occupancy on the part of the Ryot, and his title to deal with Government direct for the assessment of his land, the Khote being regarded as an agent only. To this settlement, inasmuch as it involved a surrender of some privileges highly prized by them, it is scarcely possible to obtain the consent of the Khotes.

“9. The opposite opinion on this much-debated topic would admit the Khote to the unlimited proprietorship of the village for the revenue of which he engages (a position he never yet enjoyed), and would abandon to his mercy, as mere tenants-at-will, all Ryots, whatever their claims to consideration from long and unquestioned occupancy.

“10. The adoption of these views would place the Ryot in a far worse position than he now holds, and there can be no hesitation in rejecting such a basis of settlement. Even under the Zemindaree system of Bengal, legislation has recently provided for the protection of the Ryot, and restricted the power of the Zemindar to eject him.

“11. The settlement now proposed appears to His Excellency in Council to avoid both extremes. Of course it may be presumed that the Khotes would have been better pleased had their hitherto

confirmed without any concession on the other hand, would doubtless give them greater independence and the Government are based upon undefined claims been formally confirmed on their part; while the Ryots, who have preferred a settlement giving them larger profits. But the proposals before the principle of maintaining the relations superior holder and the sub-tenant, and modification only so far as change is obviously and urgent settlement ought therefore to be acceptable to both not precisely what either would have chosen.

"12. According to this settlement, khotee will be given to the Khote at the Survey rates on a lease for 30 years, and the Khote will in turn give leases for the same period to the permanent occupants of khotee lands, a maximum assessment beyond which the Khote will not be permitted to tax the sub-tenant.

"13. As these leases will constitute the Ryot's charter, it will be necessary to frame them with great care. Captain Francis has judiciously proposed to leave the precise terms to the time of settlement, when the details can be fixed on the spot in presence of the Khote and Ryot. The engagement for the whole village should be entered into until the individual sub-tenants' leases have been formally completed, and the registry of these will form an important part of the record of the new settlement.

"14. His Excellency in Council is of opinion that the sub-tenants' leases should contain the following particulars:—

- Survey number according to map and assessment,
- Term of lease,
- Amount payable annually,
- Time of payment,

and should be signed by all the Khotes whose names are entered in the Government engagement, or by one of their number duly authorized on their behalf.

They should further secure the right of heirs of the lessee to provide for the resignation of the land, if the lessee should so desire. The deed of resignation should be in the name of the lessee and should be valid only after registry in the District Office will



registering it, that the lands are resigned by the lessee of his own free will."

It would be observed that the lands were to be resigned to the Khote and not to Government, the interference of Government officials being only so much as was required to secure the Ryot's free agency in making the transfer. The Resolution having disposed of the question of resigning lands, thus dealt with the debated point of the right of transfer—

"17. Another question will arise with regard to the Ryot's right of transfer. To give him the right unrestrictedly in all cases would probably be to confer a new privilege, and to lessen unduly the rights of the Khote."

For this reason provision has been made in the leases given by the Khotes to the Ryots, reserving to the former the right of veto upon any transfer. The Resolution ran as follows in respect to the terms to be settled between the Khote and Ryot :—

"22. The Khote land Ryot will be left to make their own arrangements, subject to the proviso that the rent do not exceed half as much again as the survey assessment. His Excellency in Council would have desired to give the Ryot the full benefit of cash rates in lieu of the grain rental hitherto paid to the Khote, but such a change would have been unpalatable to the Khotes, and it is doubtful whether the Ryots would have found sufficient means to avail themselves of the full privilege, even if it had been allowed to them.

"23. Under these circumstances the plan described in Captain Francis' 6th paragraph is approved. For every rupee of survey assessment, one maund of rice may be levied. If more than this be taken, the payment must be in cash, and may not exceed eight annas for every rupee of survey assessment."

He (Mr. Ellis) would here mention that in practice this clause had been modified. It was found that in some districts both parties preferred a cash settlement, and the Superintendent of Survey was authorised therefore to register leases binding the Ryots to pay wholly in cash. It should also be stated that owing to the rise in prices the settlement is far more favourable to the Khotes than was anticipated, for one maund of rice, then valued as equivalent to one rupee, is

now worth more than two rupees, and the Khote therefore would obtain from the Ryot fully double what he pays to Government.

“ 24. This payment will include all levies, such as fuskee and penda and other extra cesses. If the Khote desire to receive straw in part payment of his rental, he can do so, remitting an equivalent amount of grain. But it must be distinctly understood that the payments fixed in the lease are in liquidation of all demands, and that further levies will be punished as undue exactions.

“ 25. It will be the duty of the officers making the settlement to see the prescribed limit is not exceeded in any of the agreements which the Khotes may bring for registry and confirmation at the Jummabundy.”

With regard to this clause he thought that when an agreement of long standing was produced, it should be admitted, on special grounds being shown for its admission, and to this extent the Settlement Officer should be empowered to relax the rule. A similar provision followed in the Resolution in respect to agreements below the sanctioned limit.

“ 26. When the parties are satisfied, the existing terms should be adhered to, as far as possible. Care should be taken that the Khotes do not raise existing rentals when they do not reach the maximum allowed; for if they do, a provision intended for the benefit of the Ryot will be perverted to his injury. When the present rental, however, is below the Survey rate, the Khote should of course be permitted to raise it to the Survey assessment.”

After discussing some questions with which it was not necessary to detain the Council, the Resolution proceeded as follows:—

“ 29. With respect to the Khote's management, reform is chiefly needed in villages held by several sharers. It is absolutely necessary, not only for the convenience of Government, but for the protection of the Ryot, that the management should be in the hands of a single individual.

“ 3. In all cases one person, and one only, should be directly responsible to Government for the year's revenue.

When the village lands have been divided, and their revenue apportioned among sharers, each may be permitted to manage his own share, subordinate to the chief manager of the village; but where this is not the case, it is indispensable for the security of the Ryot that he should know to whom his revenue is payable, and that his liability should be confined to a single individual.

“31. It is therefore necessary that in lieu of the existing practice of entering a number of names in a single agreement without any definition of the responsibility attaching to each sharer, the general agreement should hereafter contain a distinct declaration, dividing the thirty years' lease into convenient periods among the sharers in the Khoteship. The manager for the year will be held responsible, as suggested in paragraph 13 of Captain Francis' Report, and those who may succeed by heirship, sale, or decree of Court, will take the turn of management belonging to the sharer from whom their title may have been derived.

“32. His Excellency in Council approves of the arrangement suggested by Captain Francis in the event of a sharer declining to officiate in rotation.”

\* \* \* \* \*

“34. But with regard to security, it may be remarked that if the sharers in the Khoteship offer themselves collectively and individually as sureties for the due performance of the conditions of the lease, by the manager for the year, no other security should be demanded. This relaxation will be a boon to the Khotesh; while on the other hand, if every sharer possessing an interest in the village bind himself to the full extent of his property, it is evident that there can be little or no risk to Government.

“35. A definite penalty should be inserted in the lease, providing for the breach of any one of its provisions, otherwise, pending a legislative enactment, it will be difficult to enforce a compliance with the terms agreed upon.”

The next Section which he would read was of importance, for the Khotesh were under an impression that the proposed law would deprive them of a right. They claim a number of petty exactions which they now levy under various denominations. It will be seen

that under an old law Government had full power to stop such levy, and the Bill before the Council will confer no new power whatever in this respect.

“ 37. A revision of assessment having now been sanctioned, a notification under Act XX. 1839 will be issued, prohibiting, in the Sanksee Talooka, the future levy of atwel, karsae, and other items of revenue long since abolished by Government, but the levy of which by Khotes has not hitherto been declared penal pending a revision of assessment. A similar notice should be issued in the several villages in accordance with the 3rd Section of the Act above quoted.”

The only other clauses with which he would trouble the Council were the following :—

“ 42. Care should be taken to record the rights of Government over the patches of land reserved for forest, whether of teak or other jungle wood. The full right of the Khote to all wood on other unoccupied land not so reserved should be conceded, and he should be distinctly informed that the wood which he may find means to preserve beyond the tract reserved by Government, and with reservation of any rights of occupants, will be his sole property.

“ 43. The existing right of Government to take, without compensation, any waste land that may be required for roads or other public purposes, remains unaffected by the terms of the settlement.

“ 44. The extra cess of one anna per rupee for local improvements should be levied in the Khotee, as well as in the Ryotwar Villages of this Talooka already settled on condition of paying this item.”

If this Resolution were published with the report of the present proceedings, there would be no ground for saying that sufficient information had not been given to the public in regard to the nature of the settlements in Khotee villages which it was proposed to legalise.

His Excellency Sir William Mansfield asked if the Survey Officers had ever had any difficulty in settling differences between the Khotes and their Ryots.

The Honourable Mr. Robertson said that in one or two cases the Khotes had refused the settlement, but had ultimately agreed to it. These Khotes had at first objected to the provisions of the Government Resolution that had been read to them. He (Mr. Robertson) thought the Khotes had no reason to disapprove of the present Bill. He could not see the force of the remarks made by Mr. Vishwanath Narayen Mandlik. If anything, the Bill conceded too much to the Khotes whose villages had been settled. The settlement conceded rights to them which they did not really possess. The Khotes referred to by Mr. Ellis were of two kinds. There were, first the persons whom the Peishwas had allowed to take up land in the wilder parts of the Konkun, on the condition of their paying an annual rental on it. These men might either have found persons already in occupation of such lands, or they might have employed persons to cultivate waste lands for them. The cultivators would, in the one case, be the occupants of the soil, and in the other they would be the Khote's tenants-at-will. In either case the Khote would be the medium for conveying the Land Revenue from the cultivators to the State. The second class of Khotes were those who held their land by direct sunnud. These were the only class of Khotes who could be said to have a proprietary interest in the soil. In time, however, the circumstances under which the first class of Khotes was allowed to collect the revenue were forgotten. Their tenures were not properly looked into, and the right of Khoteship was assumed by men who were simply farmers of the revenue. Finding matters in this unsettled state, the British Government resolved to circumscribe the claims of these middlemen. They took annual leases from them for the payment of the revenue due on account of their villages. The Government did this in order to retain the power of closing the leases at any time. This was a power which it was very necessary for the Government to possess. At present the existence of a class of middlemen prejudicially affected the interests of Government. The Khotes take 25 or 50 per cent. of the revenue paid by the Ryot. If there were no Khote, Government would certainly be a gainer. He (Mr. Robertson) would be glad to see some provision introduced in the Bill to restrain the power of the Khotes over their Ryots.

The Honourable Mr. Ellis said that it was his intention to

propose two new Sections especially to define the relations between the Khotas and their tenants. When these Sections were put Mr Robertson would have an opportunity of opposing them.

The Honourable the Advocate General asked what tenures were proposed to be settled by Section 3. The Section appeared to him to be very vague. He should like to know what was, and what was not, confirmed by this Bill.

The Honourable Mr. Inverarity said that the Section did not relate to tenures, but to settlements of the Land Revenue.

His Excellency the President said that while this Section affirmed all previous sanctions given by the Governor in Council to Survey Settlements which were still in force in this presidency, it gave a legal sanction to all acts and proceedings of Survey Officers who had carried out the orders of the Government in connection with the Survey operations. The Bill would give a fixity to such operations, and would prevent any future Government from modifying, without express legal sanction, the system which was now to be legalised.

On the motion of the Honourable Mr. Frere, the word "Survey" was inserted between the words "existing" and "settlements" in line 1 of Section 3.

On the motion of His Excellency Sir William Mansfield, the words "according to the guarantee given in Sections 28 and 29, and" were omitted in lines 6, 7, and 8 of the Section.

On the motion of the Honourable the Advocate General, the word "other" was omitted in line 8 of the same Section.

On the motion of the Honourable Mr. Frere, the last sentence of the Section was omitted, on the understanding that the provision contained in it should be adopted after the close of Section 28.

Before Section 3 as amended, was put, His Excellency Sir W. Mansfield said that as he was anxious to obtain information in reply to the question he had asked regarding differences between Khotas and their tenants, he had, while the discussion on Section 3 was going on, put a written query on the subject to Major Francis which, with his reply, he would read to the Council. His query was "Have the differences between the Khotas and the Ryots been generally settled to the satisfaction of both parties; that is to say, within the

provisions of the Government Resolution? I do not refer to such Khotas as tried to set aside the Resolution, as stated by Mr. Robertson." To this Major Francis replied as follows :—

"I do not recollect a case in which a difference between the Khotas and Ryots was not effected at the time of settlement. There were some villages in which the whole body of the Ryots refused the terms of the settlement altogether, and they were left to make their own arrangements with the Khotas in such cases. But the latter must be considered as exceptional cases, in the same way as with villages in which the Khotas refused the settlement. In all villages, however, in which the settlement was carried out, any differences between Khotas and Ryots were disposed of by the provisions of the Government Resolution."

He (Sir William Mansfield) begged that this reply, as furnishing information regarding the working of the Resolution, be recorded with the Minutes of their proceedings.

Section 3, as amended, was then agreed to.

On the question that Section 9 stand part of the Bill, the word "respective" was inserted, on the motion of His Excellency Sir William Mansfield, between the words "their" and "immediate" in line 4.

On the question that Section 11 stand part of the Bill, the Honourable Mr. Madhowrow Vittul Vinchoorkur remarked that in Jagheer or Inam Villages, Survey Officers ought not to have the power of entering upon lands for any of the purposes referred to in that Section without the permission of the Jagheerdar or Inamdar.

The Honourable Mr. Ellis agreed so far with the honourable member that Survey Officers should not enter for the purpose of assessment without leave, but it was necessary that they should be absolutely empowered to measure village boundaries.

The Honourable Mr. Madhowrow Vittul said that his object would be sufficiently met if the following proviso were added to the Section :—

"Provided that it shall not be competent to the said officer to fix any assessment in alienated villages without the assent of the alienee."

On being assured by the Honourable Mr. Inverarity that it was his intention to introduce a clause after Section 48 that would meet the difficulty felt by him, the Honourable Mr. Madhowrow did not press his amendment.

On the motion of the Honourable Mr. Ellis, the words "villages or" were inserted between the words "of" and "fields" in line 6 of Section 12.

On the motion of the Honourable the Advocate General the words "owners or occupants" were substituted for the word "occupant" in line 16 of Clause 2 of the same Section.

On the question that Section 14 stand part of the Bill, the word "may" was, at the suggestion of the Honourable Mr. Inverarity, substituted for the word "shall" in line 4 of Clause 2.

His Excellency Sir William Mansfield suggested that a clause should be added to this Section showing that a Ryot had redress by a civil action against the decision of a Superintendent of Survey in regard to any boundary determined by him under the provisions of this Section. It was true that if a Ryot felt himself aggrieved by an act of a Survey Officer he could under the existing law appeal to the Civil Court. The existing law (Regulation XVII. of 1827) was not affected by the present Bill, but it was not every Ryot who would feel confident of this fact, and he thought it as well to disclaim, in so many words, in the measure itself, the finality of the proceedings of the Superintendent of the Survey.

The Honourable Mr. Inverarity explained that the boundaries put up by the Survey Officers in no way affected title to the land. In placing them, the Survey Officers made no inquiries regarding title. The Survey marks were simply put up for Survey purposes, and there was no reason whatever why the Civil Courts should have anything to say in regard to the placing of these marks.

The Honourable Mr. Ellis thought it would be most inconvenient to allow an appeal to the Civil Court from the decision of the Superintendent of Survey. The Civil Courts had ample power to decree possession of land to its owner. The Survey marks, however, had nothing to do with private property. The boundaries of a Survey number might or might not be the boundaries of a private estate.



They might comprise one or many estates, but had no necessary connection with the boundaries of such private property. They were simply placed for the purpose of mapping out the country, each area included between certain boundary-marks being an assessable item of village land paying revenue to the State.

His Excellency the President thought it should be clearly stated in the Bill that boundary marks did not affect private rights.

The Honourable Mr. Frere concurred with Mr. Ellis. He thought that, in practice, no difficulty would be felt. He was Judge at Dharwar when the Survey was first introduced into that district. Cases constantly arose in which the boundaries settled by the Survey Officers intersected private estates. But occupants of land soon understood that their private rights were in no way affected by the operation of the Survey.

His Excellency Sir William Mansfield thought that the real object of placing boundary marks should be distinctly recognised in the Bill. He would propose the addition of the following provision to Section 14 :—

“ Provided that the determination of any boundary under this Section shall not debar any one claiming any right in the land from any legal remedy he would otherwise have for dis-possession.”

The Section, as thus amended, was agreed to.

On the question that Section 17 stand part of the Bill, the Honourable Mr. Jugonnath Sunkersett suggested that, as proposed by Mr. Gowreeshunker Oodeyshunker, a form of the *razeenama* referred to in this Section should be annexed to the Act.

The Honourable Mr. Ellis said that it would be better not to settle any form of *razeenama*, as different forms would be required in different districts. And if it should ever so happen that in any case the form adopted were not exactly in accordance with the form provided in the Act, some legal difficulty might be raised as to the validity of the *razeenama*.

The Honourable Mr. Jugonnath Sunkersett did not press his suggestion.

On the question that Section 20 stand part of the Bill, the Honourable Mr. Inverarity moved that the words "at his discretion" be omitted in lines 6 and 7 of the Section.—*Carried.*

The Honourable Mr. Ellis moved that the words "when confirmed by the Superintendent of the Survey" be inserted between the words "decision," in line 11, and "shall," in line 12, of the Section.—*Carried.*

The Honourable Mr. Premabhai Hemabhai was of opinion that provision should be made for extending the time referred to at the end of the Section.

On the motion of the Honourable Mr. Ellis, the words "unless he see fit to extend the time" were inserted between the words "Officer" and "to" in line 15, and the word "otherwise" between the words "as" and "provided" in line 16.

On the question that Section 21 stand part of the Bill, the Honourable Mr. Madhowrow Vittal Vinchoorkur suggested that persons exempted from personal appearance in the Civil Courts should also be exempted from appearing before Survey Officers under this Section. He moved that the following words be added to the Section :—

" Provided that exemptions under Section 22 of the Code of Civil Procedure shall be applicable to requisition for attendance under this Section."—*Carried.*

The Honourable Mr. Jugonnath Sunkersett proposed that the word "sixty" be substituted for the word "thirty" in line 9 of Section 24.—*Carried.*

On the question that Section 28 stand part of the Bill, the Honourable the Advocate General proposed that the words "existing settlements and all assessments" be substituted for the words "an assessment" in line 9.

The Honourable Mr. Robertson considered the amendment unnecessary, as Section 3 provided all that was wanted in regard to the confirmation of existing settlements. Section 28 simply aimed

at giving authority to the Governor in Council to declare all settlements hereafter to be made fixed for any period not exceeding thirty years.

The Council divided on the Advocate General's amendment.

*Ayes*—6.

The Honourable the Advocate  
General.

The Honourable Mr. Cassels.

The Honourable Mr. Premabhai  
Hemabhai.

The Honourable Mr. Frere.

The Honourable Mr. Ellis.

The Honourable Mr. Inverarity.

*Noes*—4.

His Excellency Sir W. Mansfield.

The Honourable Mr. Madhowrow  
Vittul Vinchoorkur.

The Honourable Mr. Scott.

The Honourable Mr. Robertson.

The amendment was therefore carried.

On the motion of the Honourable Mr. Frere, the following words were inserted at the end of Section 28 :—

“The expiration of periods so guaranteed shall from time to time be published by authority of Government in the *Government Gazette*.”

On the question that Section 29 stand part of the Bill, the Honourable Mr. Cassels moved the insertion of the words “virtue of” between the words “in” and “the” in lines 1 and 2 of Clause 1 of the Section.—*Carried*.

The Honourable Mr. Madhowrow Vittul Vinchoorkur proposed the omission of the 7th, 8th, and 9th lines, and the words “Government or” in line 10 of the same Section, and said that, in his opinion, it tended to create confusion to make any mention of a special water tax in a clause which referred only to imperial land revenue. If these words were omitted he would propose the following new Section :—

“It shall be lawful for the Governor in Council to impose, in addition to the assessment imposable under the preceding Section, a water rate for the use of water rendered available for irrigation in consequence of the construction, improvement, or repair of any irrigational work, by or at the expense of Government or of any Company, legally authorised by Government. Provided

that such water rate, together with the ordinary land assessment, shall not exceed the authorised assessment of the district for irrigated lands, and provided that it be subject to revision with other assessments at the expiration of the period of Survey settlement."

He would only press the adoption of this clause if the proposed omission of the words in Section 29 were carried.

The Honourable Mr. Robertson said there might be a difficulty in regard to the working of the Section proposed by the honourable member inasmuch as in many districts there are no irrigational works, and in such districts there would be no basis for fixing the rate of assessment to be imposed. He thought it desirable to fix no restriction. If private companies constructed works of irrigation, it would be for their own interest not to charge rates which would render it unremunerative to the Ryot to take the water. In his opinion it ought to be left to the Ryot to decide for himself whether it would suit his means or convenience to take water on the terms offered.

The Honourable Mr. Ellis approved of the clause proposed by Mr. Madhowrow. It was impossible to make any mistake as to its meaning, and in no district which had been surveyed and settled could there be any doubt about the rates of assessment for irrigated lands.

His Excellency Sir William Mansfield thought it much better to omit any reference to a water rate. If legislation was required, it should take the form of a separate enactment. The primary object of the clause was simply to state that the guarantee referred to was limited to imperial land revenue. There was no necessity therefore to specify the cesses to which it did not apply. He did not besides approve of the form of the proposed Section. It would be just as reasonable to enact that persons should use a steam-engine as to legislate for the use of water by compulsion. There were many reasons for restricting this Bill to the object for which it was intended. To load it with a reference to water rates would cause great difficulties. The question of fixing such rates was very difficult, and was exciting attention in various parts of India. He should certainly

vote against the amendment proposed by Mr. Madhowrow Vittul Vinchoorkur.

The Honourable the Advocate General said that as the Bill related to land revenue, it was going beyond the principle to make any reference to water rates.

The Honourable Mr. Inverarity approved of the Section as it stood.

The Council then divided on the Honourable Mr. Madhowrow's amendment to omit lines 7, 8, and 9, and the words "Government or" in line 10 of Section 29.

*Ayes*—3.

The Honourable Mr. Madhowrow  
Vittul Vinchoorkur.  
The Honourable Mr. Ellis.  
The Honourable Mr. Premabhai  
Hemabhai.

*Noes*—7.

The Honourable Mr. Frere.  
The Honourable Mr. Scott.  
The Honourable Mr. Robertson.  
The Honourable Mr. Inverarity.  
The Honourable the Advocate  
General.  
His Excellency Sir William  
Mansfield.  
The Honourable Mr. Cassels.

The amendment being lost, the Honourable Mr. Vinchoorkur did not move the adoption of the clause he had proposed.

The Honourable Mr. Frere said that it was very desirable that every precaution should be taken to prevent the idea gaining ground that the present Bill interfered with guarantees already given. It was most important that the Government should keep faith in the matter. He proposed the addition of the following words to Clause I of Section 29:—

“ Provided that no guarantee of any existing Survey assessment already given by Government shall be held to be cancelled by this Act.”

The Honourable Mr. Ellis saw no necessity for the introduction of the proposed words. He presumed that the object of introducing them was to prevent any additional cess being levied on the land for expenditure on local improvements. But if this was the object of

the honourable gentleman, the proviso would prove quite inoperative, for it was clear that the guarantee referred to in the Section applied only to imperial revenue. If at any time a law were to be proposed to levy an additional cess on the land for local objects, the guarantee already given would be no bar to such taxation, and he believed that the honourable member himself would support a proposition for such a law.

The Honourable the Advocate General saw the difficulty felt by Mr. Frere. If an assessment were now settled on the land, and if that assessment were guaranteed for a term of years, the people had a right to expect that no additional cess would be placed on the land. It mattered little whether the additional cess was levied for imperial or local purposes. It would, in either case, be a cess on the land, and the payments of the Ryot would be greater than he anticipated at the time of the settlement.

His Excellency Sir William Mansfield was of opinion that Mr. Frere's objection would be met if only the first three and half lines of the Section were retained. It would be sufficient to state that the guarantee applied only to land revenue, and if any question were to arise as to any revenue to which it did not apply, the Courts of law were quite competent to decide such questions. If it were absolutely necessary to make a reference to the possibility of further legislation for local objects, the following words might be substituted for the last seven lines of Clause 1 of Section 29 :—"is irrespective of all considerations of local taxation for local purposes." He had no wish, however, to press such an amendment as this. He saw no objection to the Section as it stood.

His Excellency the President considered it safer to leave the Section as it stood. The necessity for imposing new local taxes might at any time occur. It would be very inexpedient to adopt a proviso which would embarrass Government in the carrying out of any measure for local taxation which might become necessary. It was true the words might be really inoperative; but still, if they were adopted, and if an additional cess for local purposes were hereafter to be levied, the idea would no less be favoured that Government had broken faith with the taxpayer. The purport of such a proviso

was far too vague. In Bengal, as they knew, the Income Tax had been objected to as contrary to Lord Cornwallis' guarantee. If the proposed amendment were carried, similar difficulties might arise in this presidency. The words "land assessment" might be held to include any species of taxation, and if Government were forced, on grounds of public policy, to raise local taxes, a breach of faith would be imputed to them. It was not advisable to hamper Government in any such manner.

The Honourable Mr. Frere said, in reply, that if, as stated by Mr. Ellis, the adoption of the proviso would be no bar to local taxation, there could be no possible harm in adding it to the clause. He was quite conscious that the guarantee applied only to Imperial Revenue, and that there was an obvious distinction between local and imperial taxation. But nevertheless equity and good faith both demanded the adoption of some such proviso as proposed by him.

The Council then divided on the Honourable Mr. Frere's amendment.

*Ayes—3.*

The Honourable Mr. Frere.

The Honourable the Advocate General.

The Honourable Mr. Premabhai Hemabhai.

*Nocs—7.*

The Honourable Mr. Ellis.

The Honourable Mr. Scott.

The Honourable Mr. Robertson.

The Honourable Mr. Inverarity.

His Excellency Sir William Mansfield.

The Honourable Mr. Cassels.

The Honourable Mr. Madhowrow Vittul Vinchoorkur.

The amendment was therefore lost.

On the question that Section 32 stand part of the Bill, the Honourable Mr. Inverarity moved that the words "in unalienated villages" be inserted between the words "lands" and "for" in line 3, and that the words "otherwise appropriated or assigned" be substituted for the word "cultivated" in line 9 of the Section.—*Carried.*

The Honourable Mr. Cassels objected to the wording of Section 36. In the second sentence of this Section the right of occupancy was declared to be transferable and heritable property, and in the first sentence it was declared that the occupant shall not be deprived of this right. Surely such an enactment was quite superfluous. They might as well enact that a man shall not have his pockets picked. He would suggest the following as a more logical Section than the present :—

“ So long as any person lawfully and authorisedly in occupation of any field or share of a field shall continue to pay the assessment due thereon in virtue of any existing settlement lease, or the rate which may be assessed on his land at a revision of assessment, the right of occupancy of a survey field or recognised share of a field or number is hereby declared to be a transferable and heritable property.”

The Honourable Mr. Inverarity preferred the Section as it stood.

His Excellency Sir William Mansfield said that the difficulty felt by Mr. Cassels would be removed if the first sentence and a part of the second were transposed. This would render the omission of the word “ conditional ” in the second sentence necessary. The Section would then run as follows :—

“ The right of occupancy is declared to be a transferable and heritable property, and the occupant of a survey field or recognised share of a field or number shall not be deprived of his right of occupancy in the said field or recognised share of a field by any Revenue Officer so long as he continues to pay the assessment due thereon; and any person lawfully and authorisedly in occupation of any land at the expiration of settlement lease who shall consent to the rate which may be assessed on his land at a revision of assessment shall be continued in his occupancy without question.”

He (Sir William Mansfield) had no wish, however, to press the suggestion. He saw no objection to the Section as it stood.



The Council divided on Mr. Cassel's amendment.

*Ayes—2.*

The Honourable Mr. Cassels.  
The Honourable the Advocate General.

*Noes—8.*

His Excellency Sir W. Mansfield.  
The Honourable Mr. Frere.  
The Honourable Mr. Inverarity.  
The Honourable Mr. Robertson.  
The Honourable Mr. Madhowrow  
Vittul Vinchoorkur.  
The Honourable Mr. Premabhai  
Hemabhai.  
The Honourable Mr. Scott.  
The Honourable Mr. Ellis.

The amendment was therefore lost.

The Honourable Mr. Ellis said that he would now propose the two Sections of which he had previously spoken. They were as follows:—

“*Section 37.* Wherever in the Rutnaghiree collectorate and in the Ryghur, Rajpooree, and Sanksee talookas of the Tanna collectorate, the survey settlement is introduced into villages or estates held by Khotes, it shall be competent for the Superintendent of Survey or Settlement Officer, with the sanction of the Governor in Council, to grant the Khote a lease for the full period for which the settlement may be guaranteed, in place of the annual agreements under which such villages have hitherto been held; and further, the provisions of Section 36 in respect to the right of permanent occupancy at the expiration of survey settlements shall hold good in regard to these villages of estates.

“*Section 38.* It shall also be competent to such officer, with the sanction of the Governor in Council, to fix the demands of the Khote on the tenant at the time of the general survey of a district, and the terms thus fixed shall hold good for the period for which the settlement may be sanctioned. But this limitation of demand on the tenant shall not confer on him any right of transfer by sale, mortgage, or otherwise, where such did not exist before, and shall not affect the right of the Khote

to the reversion of all lands resigned by tenants during the currency of the general lease."

The reason why it was necessary to specify the talookas to which the provisions of these Sections were to be made applicable was that there were other Khotas besides those in the Southern Konkun. In the Salsette talooka there was a class of landholders called Khotas who had nothing but the name in common with the Khotas of the Southern Konkun. They held their villages at a permanently fixed rental, and usually under specific grants; and the nature of the tenure in each case depended on the terms of the deed. The proposed Sections therefore had reference only to the Khotas of the Southern Konkun—a class of superior holders whose rights were of a very long standing. The settlement of the revenue had been made with them, just as in Ryotwar villages the settlement is made with the cultivator. For many years past annual agreements had been entered into with the Khotas for the land revenue due from their villages. But when the survey settlement was introduced into Khotee villages, it was only fair that the Khotas should have the same advantages in regard to permanency of tenure as is guaranteed in other surveyed districts. There was no reason why the guarantee should not be extended to them as to other occupants. The first Section proposed by him would effectually secure this object, and by recognising the rights of this class of superior holders to the villages in their possession, would remove their apprehensions, and induce them to accept the benefits of the Survey with the same satisfaction that had been evinced by the Ryots everywhere. The second of the clauses proposed would confirm that portion of the Khotas' settlement which prevented the Khotas from exacting more than was fair from the inferior holder. At first sight such a provision might appear to interfere with the rights of the Khotas, but the actual cultivators of the soil had also rights recognised by the custom of the country which the Khotas could not invade. These rights might justly form the subject of legislation, and indeed, in a Bill like the present, could not be safely ignored.

The Honourable Mr. Cassels objected, so far as he was at present informed, to the clauses proposed by Mr. Ellis. The Bill confirmed all existing settlements. It confirmed therefore—but he spoke under correction—any settlements made in Khotee villages. There was no

necessity therefore for introducing a special clause in regard to these villages when no such special clause was proposed for other villages.

His Excellency the President explained that the clauses proposed by Mr. Ellis would provide that security for the Khotes of the Konkun which the Survey Rules provided for the Ryots of the Deccan.

The Honourable Mr. Robertson thought that the introduction of these clauses was opposed to the principle of the Bill, as they recognised by name one particular tenure, whereas in all the rest of the Bill no other tenures were spoken of. The Bill had nothing to do with tenures as such. It simply regarded all persons in possession of land as liable, more or less, to the payment of land revenue. Mr. Ellis had stated that doubts had been raised as to the applicability of the bill to the Khotes, but in this opinion there could be no doubt that the Bill was applicable to them. If they once accepted the survey, their rights as occupants were settled, and there was no necessity for saying this in the Bill. So far as Government was concerned it was immaterial whether the settlements were made with the Khote or with the Ryot. If the Khote's right to enter into an agreement for the revenue were acknowledged to the exclusion of the right of the Ryot, much injustice would be done to the latter. If the Khote's supposed rights were ignored in the Bill, no evil results need be apprehended. They need fear no such results here as had been experienced in the indigo districts. The second clause proposed by Mr. Ellis appeared to him to be objectionable in so far as it restricted the power of the cultivator, who was the real occupant of the soil, from dealing with his land in the way of transfer or sale as he pleased. The demands of the Khote upon the cultivator might also be very exorbitant for all that the proposed clause provided to the contrary.

The Honourable the Advocate General saw no reason why distinction should be made in favour of Khotes more than other landholders. He agreed with Mr. Robertson that the proposed clauses involved a departure from the principle of the Bill.

His Excellency the President said that nothing that had been urged against the clauses met the great argument that there was in favour of them. There could be no doubt that the tenures in this presidency might be broadly divided into two classes :—(1) the

*Ryotwari*, in which the actual cultivator of the land paid the revenue direct to Government; and (2) the *Khotee*, in which a superior holder, who did not necessarily cultivate land, was answerable for the Government demands, and possessed the right of taking rent from the cultivators who held under him. The Bill, as introduced, did not recognise this distinction of tenures. It apparently ignored the rights of *Khotes*, and recognised the cultivators as the only persons possessing rights of occupancy. It was not to be wondered at therefore that the *Khotes* took alarm. If Mr. Ellis' clauses were adopted the *Khotes* would get all that they could reasonably ask for, if not all that they wanted. It would prevent future strife to pass these clauses. It would place the respective rights of Government, the *Khote*, and the tenant on a satisfactory and intelligible footing, and would certainly be the means of avoiding a great amount of discontent.

His Excellency Sir William Mansfield approved of the clauses. From what they had heard in opposition to them it was clear that there was much danger of the rights of the *Khotes* being ignored unless made the subject of express enactment, and that the petitioners were therefore justified in the apprehensions they had expressed.

The Honourable Mr. Ellis remarked on the confusion of thought shown in Mr. Robertson's observations on the *Khotes*. At one time he called them occupants, and at another ignored them altogether and called the tenants the occupants. If Mr. Robertson was not certain who was the occupant according to the Bill as first proposed, then it was clear that there was some necessity for a recognition of the exact status of the *Khote*. That the *Khote* had an interest of a very high order in the soil was a fact, to ignore which was to commit a manifest injustice. On the other hand, he had no intention whatever of asking the Council to ignore the rights of the actual cultivators. It was a peculiarity of the *Khotee* tenure that the *Khote* and the tenant had each an interest with the State in the soil; and the rights of parties ought to be recognised. As the first clause had been proposed in the interest of the *Khote*, so the second clause was framed to protect the tenants. It restricted the power of the *Khote* in regard to his claim against his tenant, and as the clause expressly guarded the right of the *Ryot* to transfer his land when such right before existed, the

proposed clause did not prejudice the tenant's rights, as supposed by Mr. Robertson.

The Council divided on the first Section proposed by Mr. Ellis.

*Ayes*—8.

The Honourable Mr. Ellis.  
 The Honourable Mr. Scott.  
 The Honourable Mr. Inverarity.  
 The Honourable the Advocate General.  
 His Excellency Sir William Mansfield.  
 The Honourable Mr. Cassels.  
 The Honourable Mr. Premabhai Hemabhai.  
 The Honourable Mr. Madhowrow Vittul Vinchoorkur."

*Noes*—2.

The Honourable Mr. Robertson.  
 The Honourable Mr. Frere.

The motion was therefore carried.

The Council divided on the second Section proposed by Mr. Ellis.

*Ayes*—9.

The Honourable Mr. Ellis. •  
 The Honourable Mr. Scott.  
 The Honourable Mr. Inverarity.  
 The Honourable the Advocate General,  
 His Excellency Sir William Mansfield.  
 The Honourable Mr. Cassels.  
 The Honourable Mr. Premabhai Hemabhai.  
 The Honourable Mr. Madhowrow Vittul Vinchoorkur.  
 The Honourable Mr. Frere.

*Noes*—1.

The Honourable Mr. Robertson.

The motion was therefore carried.

On the question that Section 38 (or amended Section 40) stand part of the Bill, the Honourable Mr. Ellis moved that the wo

‘ in all future settlements’ be inserted between the words “ shall ” and “ include ” in line 3 of the Section.— *Carried.*

On the question that Section 40 (or amended Section 42) stand part of the Bill, the Honourable Mr. Ellis moved that a second clause be added to the Section to the following effect :—

“ Provided that in villages held on the nurwa, bhagdaree, or other similar tenure, the above clause shall not relieve any shareholder from his liability for the assessment of all lands for which he may be, according to the custom of the village, responsible jointly with the other sharers.”

In framing this clause he had had the advantage of being assisted by Mr. Pedder, Settlement Officer in Gujarat, who had first pointed to him the necessity for this proviso.

The proposed clause was agreed to.

On the question that Section 42 (or amended Section 44) stand part of the Bill, the Honourable Mr. Ellis moved that the last four lines be omitted.— *Carried.*

On the question that Section 43 (or amended Section 45) stand part of the Bill, the Honourable Mr. Ellis proposed the addition of the following clause to the Section :—

“ Provided that nothing in this Section shall affect the provisions of (Bombay) Act V. of 1862.”

*Carried.*

On the question that Section 46 (or amended Section 48) stand part of the Bill, the Honourable Mr. Inverarity said that, with a view to meet the wishes of the landholders in Salsette and other places, who might wish to have the benefits of the proposed Act extended to their estates, he would move that the following new Section be adopted :—

“ The provisions of this Act shall not, except for the purpose of defining village boundaries, be applied to villages held exempt from payment of Land Revenue, or under Act II. or Act VII. of 1863 of the Council of the Governor of Bombay, or under a grant or lease fixing the Government demand in perpetuity.

Provided that it shall be competent to the Governor in Council to apply all or any of the provisions of this Act to Government lands in alienated villages, and further to extend, by notification in the *Government Gazette*, such of its provisions as he may deem applicable to every such village, on application to be made, in writing, by the holder thereof."

This Section was agreed to.

On the motion of the Honourable Mr. Ellis, the word "administration" was substituted in the title for the words "subsequent management."

The third reading of the Bill was deferred to the next meeting of the Council.

*Poona, 24th September 1864.*

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The Council met at Poona, on Saturday, the 1st October 1864, at 11 A.M.

*Present.*

His Excellency Sir H. B. E. Frere, *K.C.B.*, Governor of Bombay, *presiding.*

His Excellency Sir W. R. Mausfield, *K.C.B.*

The Honourable W. E. Frere.

The Honourable J. D. Inverarity.

The Honourable the Advocate General.

The Honourable M. H. Scott.

The Honourable B. H. Ellis.

The following papers were presented to the Council :—

1. Petition of Messrs. Bhawoo Daji, Munguldass Nathoobayee, and 63 others, relative to the Bombay Survey and Settlement Bill.

The terms of this petition were the same as those of the petition from Messrs. Cursetjee Nusserwanjee Cama, Vishwanath Narayen Mandlik, and Venayek Narayen Bhagwat, presented to the Council on the 17th ultimo.

2. The following Petition relative to the Bombay Survey and Settlement Bill:—

To His Excellency the Honourable

Sir H. B. E. FRERE, *K.C.B.*,

Governor and President in Council, Bombay.

The Memorial from the undersigned landholders, residing and holding lands in the Presidency of Bombay,

RESPECTFULLY SHOWETH,

1. That your Excellency's Government has recently introduced into the Legislative Council of Bombay "a Bill to provide for the survey, demarcation, assessment, and subsequent management of lands held under Government in the districts belonging to the Bombay Presidency, and for the registration of the rights and interests of the occupants of the same."

2. That the draft of this Bill was not published until the 10th of August in this year, on which day it was read a first time and referred to a Select Committee.

3. That this Bill has since been passed through its various stages with undue haste.

4. That the character of this Bill is inquisitorial, and its operation certain to be confiscational in by far the greater number of instances in which it is designed to apply it to the investigation of the rights of Khotes and other landholders not specially exempted from its provisions.

5. That this Bill is meant to and will affect vested interests of vast magnitude among others and to a great extent those of many of your memorialists.

6. That this Bill is not only retrospective in its action, but in future will partly found its operations upon rules not yet framed, and as to the scope and bearing of which your memorialists are necessarily in the dark. That such rules may, and probably will, greatly affect the vested interests of your memorialists and other landholders.

7. That your memorialists cannot view without apprehension and alarm the passing of a Bill bearing with it powers so



prejudicial to proprietary and other rights. That your memorialists and others have at different times, and at the various stages of this Bill, protested against its progress being advanced without reference to or inquiry into their rights, but that your memorialists, while only urging their proper constitutional rights to be heard in opposition to the progress of a Bill through your Excellency's Council, have been referred to as "discontented persons," seeking to "hunt up" evidence against a measure notoriously beneficial in its general scope and purport.

8. That your memorialists, while expressing no opinion upon the alleged beneficial nature of this measure, respectfully submit that it is irreconcilable with that "unwritten constitution" and the provisions of those "Acts of Parliament," which your memorialists are advised that your Excellency's Council are bound to observe, to sacrifice vested interests of vast magnitude to the alleged public benefit without ample previous notification, the fullest information and the most deliberate progress.

9. That your memorialists appeared and were heard by Counsel before a Select Committee appointed to consider and report upon this Bill, who presented a written protest signed by your petitioners against the progress of this Bill, praying that its further consideration might be postponed for the purpose of allowing your memorialists sufficient time to produce evidence necessary to substantiate their objections thereto, yet your memorialists' reasonable protest has been disregarded, nor have they been afforded sufficient time or opportunity to produce evidence in stay of the progress of this Bill. That your memorialists having consulted with Counsel learned in the law, have been advised that more than one course will be open to them, even after the Bill is passed, for defeating its operations in their regard, but your memorialists, in their reluctance to place themselves in opposition to constituted authorities, would ask your Excellency to give them an opportunity of stating their objections to the Bill before its passing, in the hope of being able to prevent that result. That your memorialists, so far from being, as they have been represented to be, "discontented persons," seeking to "hunt up" evidence in opposition to this Bill for

factions and improper purposes, are loyal subjects of the British Government, having solid and substantial interests at stake, who are prepared with great numbers of witnesses to the character and nature of those interests. Your memorialists therefore, in the exercise of their undoubted constitutional right, and in accordance with the practice of Imperial Parliament in cases of a like nature, ask your Excellency's permission to appear and be heard by T. C. Anstey, Esq., and T. C. Hayllar, Esq., Barristers-at-Law, at the third reading of this Bill on Saturday, the first day of October next.

CURSETJEE NUSSERWANJEE CAMA.

VISHWANATH NARAYEN MANDLIK.

KRISHNAJEE BULLAL, Khote of Raha-  
tagur.

KRISHNAJEE VENAYEK, Khote.

*Bombay, 28th September 1864.*

This petition was read.

His Excellency the President said that the question raised by the petitioners, viz. their right to appear before the Council by Counsel, was one that had engaged the attention of Her Majesty's Secretary of State, who had recorded an opinion, which was based on a Minute by the Honourable Mr. Maine, to the effect that the right to appear by Counsel should be restricted to appearance before a Select Committee. He would request the Secretary to read the Despatch from Her Majesty's Secretary of State containing the opinion he referred to.

The following paper was read :—

*Despatch from the Right Honourable Sir C. Wood., Bart., Secretary of State for India, to His Excellency the Honourable the GOVERNOR in COUNCIL, Fort Saint George, dated India Office, London, 31st July 1863, No. 4.*

“ 1. With reference to my despatch No. 2, dated 25th May last, I herewith transmit copy of No. XVII. of the Rules for the conduct of business at Meetings of the Council of the Lieutenant-Governor of Bengal for the purpose of making Laws and Regulations, also of Mr. Maine's Note thereon, dated the 17th March last.

"2. In the observations contained in that note I entirely concur, and am of opinion that it would be advisable to restrict the power of appearing by Counsel, if regulated by rule at all, to appearance before Select Committees, and that Advocates should be placed under the control of the Chairman.

*Copy of No. XVII. of the Rules for the conduct of business at Meetings of the Council of the Lieutenant-Governor of Bengal for the purpose of making Laws and Regulations; also copy of Mr. Maine's Note thereon, dated 17th March 1863.*

" RULE XVII.

" If a Bill be pending peculiarly affecting private interests, and any person whose interests are so affected apply by petition to be heard by himself or his Counsel upon the subject of the Bill, an order may be made upon the motion of a member, allowing the petitioner to be so heard either before the Select Committee on the Bill, or before the whole Council, provided the petition be received by the Secretary before the report of the Select Committee on the Bill is sent to him. In no other case or manner shall any stranger be heard by himself or by his Counsel."

When and how petitioners may be heard.

*Copy of Mr. Maine's Note.*

" The alterations seem to me to be unimportant with two exceptions, and unobjectionable with one.

" In Rule XV. Section 5 words have been introduced making the report of a Select Committee the report of the majority, and the rule, no doubt, gains in precision by the change.

" The new rule which now stands as Rule XVII. appears to me to introduce a very formidable novelty. I have obtained some Bengal papers which show that it was *not* recommended by the Select Committee, but added afterwards at a meeting of the full Council. Some discussion on the proposal, which came from one of the Native members, is said to have taken place, but none is reported. The Lieutenant-Governor, Mr. Eden, and the Advocate General, voted against it, but no one else.

"I cannot help suspecting it was entered by surprise, and without due reflection. It does not seem to have struck the Council that, while these rules furnish ample security against irregularity or disorder on their own part, there is nothing to be found in the rules which can be used to check the license of the counsel who may be addressing them. The hearing may be one in full Council with reporters present, and I do not see what is to prevent any conceivable subject from being dragged in, on the score of private interests being somehow implicated with it. The House of Commons has, it is true, no special rules for controlling counsel, but the House of Commons has always in reserve the power of sending an offender to Newgate.

"The Bengal Council could, I imagine, refuse to hear any longer an Advocate who misconducted himself; but if the topic were exciting, this would probably not be done, if it were done, without a protest from a minority, and would result at all events in much public scandal.

"I do not see why the power of appearing by counsel should not at least be confined to appearance before a Select Committee (which, except on extraordinary occasions, is the practice at Home), and there should be, I think, a rule placing Advocates under the control of the Chairman.

"It may, however, be worthy of consideration whether, in a country in which discussion on paper is the ordinary rule, persons whose private interests may be concerned might not be left to state their case in petition. Advocates are only employed at Home in deference to ancient usage, or perhaps because petitions have dwindled to a form."

His Excellency the President considered it would be expedient to follow the course indicated by Her Majesty's Secretary of State. The Council had given every opportunity to the petitioners to state their objections before the Select Committee. The petitioners could not now reasonably expect that the Council would further postpone the consideration of the Bill in order to enable them to appear by Counsel. He would propose that the Secretary be instructed to write an answer to the memorialists pointing out that an opportunity was afforded them of stating by counsel before the Select Committee any objections they might have to allege against the Bill, either in prin-

ple or detail; that they failed to take advantage of the opportunity thus afforded them, and that the time at which such objections can be heard by counsel before a Select Committee is now past; that if the memorailists have any thing specific to urge against the Bill as it now stands, the Council are ready to consider any such objections which may be stated in writing before the Bill is read a third time and passed; but that unless such objections are so laid before the Council in writing on or before Wednesday, the 5th instant, they cannot now be considered.

This proposal was agreed to.

The Honourable Mr. Inverarity said that before proceeding to the third reading of the Survey and Settlement Bill, which was the business for the day, it would perhaps be advisable to make some verbal alterations in the Bill, as amended at the last meeting of the Council.

The following alterations were agreed to :—

In Section 3, line 6, the word "the" was substituted for the word "all," and in line 7 the word "of" was substituted for the words "contained in."

In Section 4, line 5, the words "of a survey" were inserted between the words "extension" and "to"; in line 6 the words "of a survey" were omitted, and in line 7 the word "to" was inserted between the words "and" and "the."

In Section 6, line 7, the words "in like manner" were inserted between the words "and" and "upon"; and in line 8 the words "or other officers appointed under Section 5, of this Act" were substituted for the words "in like manner."

In Section 11, line 2, the words "or may be" were inserted between the words "been" and "ordered."

In Section 38, line 16, the word "his" was inserted between the words "by" and "tenants."

The Honourable Mr. Frere moved, in accordance with a notice given by him, that the words "Provided, however, that such assistance shall not exceed the levy of the survey assessment, and such excess as may be sanctioned by Government for superior holders," be added at the close of Section 44. The Section as it originally stood

provided that occupants of land in surveyed villages should be entitled to the assistance provided for superior holders in Regulation XVII. of 1827, in regard to the recovery of dues from tenants, provided that such assistance did not exceed the levy of the survey assessment and such excess as might be sanctioned by Government. The proviso to the Section was struck out at the last meeting without any discussion. He was strongly opposed to the omission, but as the proposal to omit the words was made late in the day, after he had been occupied either in the Council or on Committee for nearly eight hours, and was so far worn out that he felt quite unable to grapple with what appeared to him a most important question, he therefore determined to reserve the remarks he wished to make till the Bill should come on for consideration at another meeting. He accordingly sent a notice of the amendment he had now proposed to the Secretary immediately after the last meeting, and he only regretted that the present meeting was so thinly attended. He could have wished that Mr. Robertson and Mr. Cassels could have been present, as they would have supported the amendment which he had proposed. But being aware that neither of these gentlemen could attend, he had asked them their opinion on the subject, and they both entirely approved of the proposed amendment. He had therefore the less hesitation in bringing it forward. Under the existing law, as contained in Chapters VI. and VII. of Regulation XVII. of 1827, the superior holder has not the unlimited power which Section 44 of the present Bill would, as it stands, confer on occupants. The superior holder cannot in any year increase the assessment paid the preceding year. If he considers himself entitled to a larger amount he can make application in writing to the Collector, whose decision must be obeyed and acted on until superseded by a decree of a Civil Court in a suit instituted against him under Section 9, Clause 2. For the purpose of enforcing the payment of his claims, the superior holder may, under the authority of the Mamlutdar, employ Mohussuls, or have recourse to the arrest, detention, or imprisonment of defaulters, or to the attachment and sale of their property. The superior holder may also apply to the Collector to enforce the payment of revenue by any of the compulsory modes which the Collector is authorised to employ, and which are described in Chapters II and III. of Regulation XVII. of 1827. The powers

given to superior holders by Regulation XVII. are continued to all occupants by the present Bill. But if the Bill were passed as it now stands, a difficulty would be felt in declaring what were the dues which the occupant is authorised to levy by summary process from his tenants. Section 44, as it now stands, is opposed to the whole principle of the Bill. The object of a Survey Settlement is to fix for a term of years the payments to be made by occupants. This object would be violated if occupants were to be supported by Government officers in any attempts they might make to increase from year to year the payments to be made to them by their tenants. And yet Section 44 would force Collectors to assist occupants in recovering any amount of rent from their tenants, if the proviso he had proposed were not added to it. The omission of this proviso would nullify, for instance, the provision in Section 28 to the effect that the Superintendent of Survey shall fix the demands of a Khote on his tenant at the time of the general survey of a district. Suppose the Government revenue, assessed on an acre of land in a Khotee village were Rs. 1, and suppose that the Khote's demand on his tenant were fixed at Rs. 1-8-0, and suppose that the Khote wished to take a rent of Rs. 2 from the tenant. If Section 44 were allowed to stand as it is, there would be nothing to prevent the Khote from calling the Collector to be judge between him and his tenant, and the Collector would be bound to put in force all the summary process sanctioned by the law for enforcing payment from the tenant of the full amount demanded by the Khote. It was with the view of guarding the rights of the tenant that he (Mr. Frere) proposed the amendment of which he had given notice.

The Honourable Mr. Ellis said that as it was on his motion that the proviso originally attached to Section 44 was omitted, he would state why he had made the motion. But he would first notice that it was not at all remarkable that Mr. Robertson should give a certificate of his approval of Mr. Frere's amendment, as Mr. Robertson had from the first shown a desire to ignore the rights of superior holders. However, to recur to the proviso that originally formed part of the present Section 44 : in proposing its omission he had no especial reference to the case of Khotas, who under the clause as it originally stood would have no difficulty in obtaining the aid of

Revenue Officers to help them to recover their dues from their tenants, but he referred mainly to Nurwardars and others who are shareholders of villages and settle for the revenue of their villages in the gross. These Nurwardars, under the summary settlement, pay revenue on waste land as well as on that which is cultivated, and according to the recognised custom of the village they make a settlement with their tenants, so that their profits on the cultivated land compensate them for any portion of the assessed land that may be lying waste. If the tenant objects to pay the rent which by the custom of the village he is bound to pay, the Collector applies all the remedies for the enforcement of payment that the law allows for villages under direct Government management. It must always be remembered that the Collector's order is not final. The Civil Courts are open to the tenant. But it is a remarkable fact that these Courts are very seldom resorted to, and the Collector's orders are hardly ever reversed; and the reason is clear: the Collector exercises some caution in deciding such cases, and as a further step is open to the superior holder who may resort to a regular suit, the Collector would be disposed not to assist whenever the dispute involves a long and intricate inquiry. If the superior holder failed to make out a good *prima facie* case, he would probably be referred to the Civil Court. He (Mr. Ellis) saw no objection to leaving Section 44 as it now stood. It was necessary to assist the Khotes and other superior holders, and if Nurwardars and Bhagdars were not to get assistance from the Revenue authorities, they would be placed at a disadvantage and Government would suffer. If the words proposed by Mr. Frere, which originally formed part of Section 44, were inserted and formed part of the proposed law, the greatest inconvenience would be occasioned to all superior holders everywhere. Without these words the rights of tenants would be fully protected, for according to the Regulations already in force the tenant could always assert his right in the Civil Courts. He (Mr. Ellis) was sure that if the Native members of the Council had been present they would have supported his view of the case.

The Honourable Mr. Inverarity agreed with Mr. Ellis. He thought the words proposed by Mr. Frere should not be re-inserted in Section 44.



The Honourable the Advocate General wished to know the state of the present law on the point involved in Mr. Frere's amendment.

The Honourable Mr. Ellis explained that occupancy under the Survey Settlement was not a tenure recognised by any existing law. The Bill, however, proposed to give Survey occupants the advantage in regard to the recovery of dues from tenants that are possessed by superior holders under Regulation XVII. of 1827. A superior holder could always, on showing sufficient cause, obtain assistance from the Collector in recovering rent in excess of the Government assessment on his land so long as the amount demanded did not exceed the customary rental according to the established rates of village. Assistance would also be given in cases in which the tenant had agreed beforehand to pay a certain sum in excess of the assessment. If there were no custom to guide the Collector, and if no specific agreement had been entered into, the Collector would only give assistance in recovering to the extent of the assessment of the previous year.

His Excellency Sir W. Mansfield did not consider that the difficulty stated by Mr. Frere had been removed by Mr. Ellis. After stating the object of the Bill, he put the case of a Khote, placing a rack-rent on the soil. Suppose the assessment sanctioned by the Government was one rupee, and the Khote, taking advantage of the unwillingness of a tenant to give up the land, was to demand Rs. 10, would the Collector assist him in recovering this sum? In short, was Government to be the collector of rents beyond the assessment, as recognised by the Survey, on account of superior holders?

The Honourable Mr. Ellis said that such a case could never occur under the Survey Settlement in Khotee villages, for the Government fixes the limit of the rates to be paid by sub-tenants.

The Honourable Mr. Frere wished to know which Section of the Bill provided that a limit should be placed on the demands of the Khote on the tenant.

The Honourable Mr. Ellis explained that Section 38 provided all the protection that was required by tenants who had a permanent interest in the soil. But there were many grades and classes of tenants, beginning with the Dharekurree or tenant from whom only the Survey assessment could be demanded, and reaching down to those who occupied a position hardly better than that of hired

labourers. It was easy to decide by local inquiry at the time of settlement which of the sub-tenants were of this class, and which of them of the class possessing a higher interest in the soil than that of tenants-at-will.

His Excellency Sir W. Mansfield could not consider this as any answer to the question he had put. He wished to be informed what security there was in such a case as he had described against Government being compelled by law to recover the collection of oppressive rents which were not sanctioned by the Survey. There was nothing in Section 38 to prevent this so far as he could see; and he hoped no provision would be agreed to which might put the Collector in a position in which he would become the means of enforcing an agrarian tyranny. For his own part he did not see why Government should be called on at all to collect rents for superior holders. If a Collector were made a judge between the occupant and his tenant, there would be no security for uniformity of practice in different districts. At one place a Collector with strong feelings in favour of the rights of superior holders would be inclined to press hardly on the actual cultivator. On the other hand, an officer impressed with the virtue of Ryotwarri might be inclined to treat the superior holder unfairly. Surely some provision was required in the Bill to prevent an arbitrary exercise of such powers as those here ascribed to the Collector. The Bill as it stood might be partial in its operation whichever way it was taken. It seemed very desirable to give some definite rule for the guidance of officers. By doing so the rights of all parties would be guarded.

The Honourable Mr. Ellis explained that in practice little inconvenience would be occasioned by the fact that different officers entertain different views of the nature of the tenures of a district. After a settlement was once introduced into any village, no officer, whatever his tendencies, could depart from the rates fixed by Government and the ascertained custom of the country, as formally recorded in the Survey papers. These would be a sufficient guide to Revenue Officers to enable them to deal justly by all parties.

His Excellency the President said that it might be impracticable to attempt what His Excellency Sir William Mansfield wished. Unless an Act was passed for every village in the country, it would

be impossible to fix exactly what should be done in each case. In practice there would be found to be no objection to investing the Collector with unlimited power to assist the superior holder in recovering his dues. The nature of the Collector's decision in cases of this character had been ably commented on by the Honourable Mr. Premabhai Hemabhai at a late discussion on another Bill. The Collector's was not a court of final jurisdiction. But the Collector's decision had this advantage, that it was speedily given and was based on evidence the value of which the trying authority had peculiar opportunity of appreciating. The Collector was familiar with the subject-matter of the dispute, and his decision, though only of an *ad interim* character, and liable to be reversed by a decree of a Civil Court, did in practice prevent much litigation, for the parties were generally satisfied with a decision passed under the conditions he had described.

The Honourable Mr. Frere said that if a tenant were aggrieved by a Collector's decision he could, it was true, seek redress from the Civil Court. But why should the defendant be forced to court? The superior holder should rather be made to apply himself to the Civil Court for his rents, if the Collector does not award him all that he demands when his demand is more than is equitable. It was with this object that he had proposed an amendment of Section 44.

The Honourable Mr. Inverarity said that if Mr. Frere would modify the amendment in the following manner he would not oppose it. He would propose that the addition to Section 44 be as follows:—

“Provided, however, that such assistance shall not exceed the levy of the Survey assessment, and such additional amount as may be leviable by the custom of the villages, or under a settlement sanctioned by Government.”

The amendment, as proposed to be modified by Mr. Inverarity, was put and agreed to.

On the motion of the Honourable Mr. Inverarity the wording of Section 49 was amended as follows:—

“The provisions of this Act shall not, except for the purpose of defining village boundaries, be applied to villages held exempt from payment of land revenue, or under Act II. or

Act VII. of 1863 of the Council of the Governor of Bombay, or under a grant or lease fixing the Government demand in perpetuity: Provided that it shall be competent to the Governor in Council to extend, by notification in the *Government Gazette*, all or any of the provisions of this Act to every such village, on application made, in writing, by the holder thereof, and further to apply the provisions of this Act to all Government lands situated in alienated villages.

On the motion of the Honourable Mr. Inverarity it was decided that the Bill, as amended, should be reprinted and published in the *Government Gazette* on the 3rd. instant.

The Council met at Poona on Saturday, the 8th October 1864, at 11 A.M.

*Present.*

His Excellency Sir H. E. Frere, *K.C.B.*, Governor of Bombay, *presiding.*

His Excellency Sir W. R. Mansfield, *K.C.B.*

The Honourable W. E. Frere.

The Honourable J. D. Inverarity.

The Honourable the Advocate General.

The Honourable Rustomjee Jamsetjee Jejeebhoy.

The following papers were presented to the Council:—

(1) The following Petition from Messrs. Cursetjee, Nusserwanjee Cama, Vishwanath Narayan Mandlik, and others, relative to the "Bill to provide for the survey, demarcation, assessment, and administration of lands held under Government, in the districts belonging to the Bombay Presidency, and for the registration of the rights and interests of the occupants of the same."

To His Excellency the

Honourable Sir H. BARTLE FRERE, *K.C.B.*,

Governor and President in Council, Bombay.

The Memorial of the undersigned  
landholders, residing and holding  
lands in the Presidency of Bombay,

RESPECTFULLY SHOWETH,

That some of your now memorialists, by a previous memorial

bearing date the 28th day of September, petitioned your Excellency to be allowed to appear, and be heard, by T. C. Anstey, Esq., and T. C. Hayllar, Esq., Barristers-at-law, before the Legislative Council of Bombay, against the third reading of a Bill, introduced by your Excellency's Government to the Legislative Council, entitled "A Bill to provide for the survey, demarcation, assessment, and subsequent management of lands held under Government in the districts belonging to the Bombay Presidency, and for the registration of the rights and interests of the occupants of the same."

2. That in reply thereto an official communication was received on Sunday morning, the 2nd instant, from H. Birdwood, Esq., Under-Secretary to your Excellency's Government in the Legislative Department, in the words following, that is to say:—

No. 178 OF 1864.

LEGISLATIVE DEPARTMENT.

To,

CURSETJEE NUSSERWANJEE CAMA, Esq.

VISHWANATH NARAYEN SHANDELIK, Esq.

KRISHNAJEE BULLAL, Esq.

KRISHNAJEE VENAYEK, Esq.

GENTLEMEN,

I am directed to acknowledge the receipt of your memorial dated the 28th ultimo, in which you request to appear by Counsel at the third reading of the Revenue Survey and Settlement Bill, for the purpose of stating your objections to the measure, and in reply I am directed to point out that an opportunity was afforded you, on the 21st ultimo, of stating by Counsel, before the Select Committee of the Council of the Governor of Bombay, any objections you might have to allege against the Bill either in principle or detail; that you failed to take advantage of the opportunity thus afforded you, and that the time at which such objections can be heard by Counsel before a Select Committee is now past.

2. I am further directed to state that if you have anything specific to urge against the Bill, as amended by the Council this day (a copy of the amended Bill is hereto annexed), the Council are ready

to consider any such objections which may be stated in writing before the Bill is read a third time and passed. Unless, however, such objections are so laid before the Council in writing on or before Wednesday, the 5th instant, they cannot now be considered.

I have the honour to be,

Gentlemen,

Your most obedient Servant,

(Signed) H. BIRDWOOD,

Under-Secretary to Government.

*Poona, 1st October 1864.*

3. That your memorialists, while they respectfully express themselves unable to concur in the reasons advanced in the above letter for your Excellency's refusal to permit them to appear and be heard by Counsel, are still willing to avail themselves of your Excellency's permission to urge their objections in writing against the Bill, so far as the brief time granted them will allow of their so doing : but that at the same time your memorialists consider that the various and important changes effected in the Bill since its second reading, which have certainly taken your memorialists by surprise, and the generally difficult and complicated nature of the measure itself, should have disposed your Excellency to grant your memorialists longer time to prepare and bring in their statement, which cannot possibly under existing circumstances be framed so as to embrace the numerous objections to which this Bill is open.

4. That some of your memorialists already suggested, in their former memorial hereinbefore alluded to, some of the grounds on which this Bill is obviously dangerous to their common interests and welfare. That your memorialists are now prepared to substantiate their objections and others which they now produce, by reason and by reference to an analysis of the Bill itself.

5. That the objections which your memorialists wish to urge against the passing of this Bill, as it now stands, into law, are chiefly, that it is—

1st.—Inquisitorial.

2nd.—That it legislates in the dark.

3rd.—That it does and will oust the jurisdiction of the properly constituted Courts of law.

4th.—That it does and will place the decision of important questions of law in the hands of irregularly constituted tribunals.

5th.—That it interferes with valuable vested interests without making due provisions for their protection.

6th.—That it is in its general scope opposed to the principles of law under which this country is professedly governed.

7th.—That it is obscure in its details, and embarrassing in its general provisions.

6. That your memorialists, before proceeding to analyse *seriatim* the various Sections of this Bill, will, for the sake of convenience and lucidity, set forth broadly to your Excellency the reasons on which the aforesaid seven objections are based.

7. That this Bill is (1) inquisitorial, because it invests your Excellency in Council with the power to send an unlimited number of Surveyors, with their servants and underlings, to enter upon lands belonging to "private individuals" (Section 11); because it confers upon certain officers connected with the Revenue Survey the extraordinary and arbitrary power of calling on landholders to produce for inspection their title-deeds and other documents relating to their lands (Section 14); because it empowers officers, in all probability totally unqualified to judge of such necessity, to require the attendance of any person whose presence or evidence may be necessary for certain purposes under criminal penalties for disobedience (Section 21); because it opens a wide door for oppression, corruption, and fraud among the lower subordinates of the Survey Department, to whom the carrying out many of the measures of the Bill must necessarily be entrusted.

8. That (2) this Bill legislates in the dark, in that it legalises and confirms existing settlements of Land Revenue Survey (Section 3), evidence of which has not been laid before your Excellency's Legislative Council; and because it deals with rights, interests, and properties, as hereafter will more particularly appear, without any reliable evidence as to their nature, extent, value, or importance.

9. That this Bill (3) does and will oust the jurisdiction of the properly constituted Courts of law, and (4) place the decision of important questions of law in the hands of irregularly constituted tribunals, is obvious from Section 8, which gives Revenue Survey Officers of all grades cognisance of *all matters* connected with survey, and from Section 9, which, so far as it is comprehensible, may be taken to place as the supreme appellate tribunal, from the proceedings and orders of his subordinates, in the hands of the Superintendent of Survey only, subject to certain limitations, at the hands of the Commissioner of Survey, under 'the general control of the Governor in Council.'

10. That your memorialists most urgently beseech your Excellency to reconsider these two Sections before they pass into law, inasmuch as when read in connection with the remainder of this Bill, especially Section 27, they place in the hands of inexperienced Judges, provided with no proper machinery for administering justice, and in the general majority of cases, unilluminated with any knowledge of the rules of the law of evidence, the power of deciding upon the most important questions affecting landed and other interests to an incalculable extent, as may be more particularly seen from a reference to Sections 37 and 38, added since the second reading of the Bill.

11. That (5) it does, and will, interfere with and sacrifice valuable landed interests. That your memorialists consider that, for confirmation of this objection, it is not necessary to look beyond the newly added Sections, numbers 37 and 38, with proviso appended to the latter clause, which, while professing to protect the rights and privileges of the Khotas, practically destroy them.

12. That the clause above mentioned prejudicially affects property worth millions of rupees, belonging to persons living over a wide extent of country. That your Excellency's Legislative Council, has not, as has been already urged, before it one title of evidence with regard to the nature of value of those interests, and that in spite of repeated petitions in that regard, no opportunity has been afforded your memorialists of laying before your Excellency's Council, by the mouths of trustworthy witnesses, any account relating to them.

13. That your memorialists claim for the Khotee tenure an origin of, in many instances, remote in all respectable antiquity. And your memorialists further beg to represent to your Ex-



cellency that in the Southern Konkan, and the greater part of the Colaba Sub-Collectorate, the Khotes first settled the country, reclaimed it from the jungles and the sea, and peopled it. That from time immemorial they have been allowed hereditarily to possess and enjoy, undisturbed, the land, the fruits of their labour and expenditure. That sunnuds and other documents of ancient date are in the possession of the Khotes, copies of some of which, there being no time for translation, are hereto annexed marked (A), which confirm to the ancestors of their present possessors absolute titles in the nature of English fee simple in lands and villages now held upon Khotee tenure. That in many instances the origin of the tenure is naturally wrapped in doubt, being only referable to immemorial custom. That various opinions have been propounded to account for these tenures by the different officers of Government entrusted with the duty of investigating them; but that it is to be remarked that however differing on points, important and unimportant, all have agreed that the Khotes have *rights* of a tangible nature which should and ought to be respected.

14. That your memorialists fail to see any respect paid to these rights in this Bill, which places the nice questions regarding them, hereinbefore indicated, at the mercy of the Survey Department, without the privilege of a reference to the constituted law courts of the country. Your memorialists therefore respectfully but urgently protest on this ground against the sanction of your Excellency's Legislative Council being given to this Bill without further investigation of the tenure of the Khotes. That your memorialists, in support of this objection, beg also to refer your Excellency to Sections 32 and 35, which prejudicially affect districts already surveyed and assessed.

15. That this Bill is opposed to the settled principles of law under which this country is professedly governed, inasmuch as (1) it will operate retrospectively, in support whereof your memorialists refer to Section 3, which enforces existing settlements of Land Revenue Survey, and thereby, for ever, deprives parties already having grievances to complain of under those settlements of their right of referring them to the decision of the properly constituted law courts, and sets up instead, as the tribunal for the trial of such past grievances, the irregular courts of the Survey Department.

16. That your memorialists cannot fail to regard this as a most serious and vital injury to their constitutional rights and privileges, the more so as the Rules under which the greater part of these existing settlements have been made are open to the objection of illegality, as may be seen upon reference to Clause 3 of Section 4 of Regulation XVII. of 1827, which requires that such rules should be instituted by Regulation alone.

17. That this Bill is (2) further opposed to the principles of the law of this country, because it will be confiscational in its operation—(*vide* Sections 32, 35, 37, and 38).

18. That this Bill is generally obscure in its definitions, and confused and embarrassing in its provisions.

19. That the short time granted to your memorialists to prepare their statement will not permit them to substantiate their objection to this Bill contained in paragraph 18, as fully as they could otherwise do (as indeed is the case with all the foregoing objections); that the following objections are not therefore exhaustive.

20. That the preamble of this Bill refers to persons and classes *owning* and occupying land; that in the body of the Bill no definition is given of *ownership*; that, having regard to the intricate and difficult nature of the tenures to be dealt with, this is a most important omission, and leaves too wide a field for the exercise of the ingenuity of the Executive Department.

21. That the term “occupant” is most unsatisfactorily defined in Section 2; that Clause (i) of Section 2 which defines this word when read in connection with Section 3 of Regulation XVII. of 1827, and Clause number 5 of the Survey Rules, which rules having been framed to carry out Regulation XVII. of 1827 are now apparently to be further enforced by this Bill, becomes entirely incomprehensible. That to prevent this and the like confusion your memorialists respectfully recommend that the Survey Rules should be embodied in the Bill.

22. That Section 2 of the Survey Rules guarantees the permanency of the assessment made thereunder. That by Section 3 of this Bill “existing settlements” have been enforced; that this assessment includes cesses on roads, schools, &c.; that yet in Section 29 of this Bill your memorialists find that the guarantee of permanency

is strictly limited to "Imperial Land Revenue;" that this provision applies to the whole Presidency where Surveys have already been introduced under the sanction of the Survey Rules; and that therefore this limitation is a breach of faith as regards the guarantee contained in Section 2 of the abovementioned Rules. That furthermore your memorialists beg leave particularly to object to the vagueness and uncertainty introduced into Clause 1 of Section 29 by the term '&c.,' which, read with the context, embraces every object which the Executive Department may choose to think necessary for purposes of local improvement, whatever may be its nature or extent.

23. That Section 8 of this Bill, which invests the persons therein mentioned "with the cognisance of *all matters* connected with Survey and Assessments," places far too wide and extensive a discretion in the hands of the executive. That this Bill should define with greater accuracy what those "matters" are.

24. That to Section 9 your memorialists respectfully recommend should be added a proviso to the effect that this Section should not debar parties, aggrieved by the measures of this Bill, from seeking their remedies in the properly constituted Courts of law.

25. That your memorialists suggest that in line 7 of Section 10 after the words "occupants of lands" should be added the words "in person or by recognised agent"—(*vide* Section 27 of the Civil Procedure Code).

26. That to Section 22 after the words "such decision, when confirmed by the Superintendent of Survey, shall be final" should be inserted words to the effect that such decision should be final "unless it has left undetermined the points to be decided, or has decided points not referred to it: or the decision is indefinite or illegal on the face of it"—(*vide* Sections 312 to 325 of the Civil Procedure Code.)

27. That Section 20 should provide for examining sick or infirm persons, or persons residing at a distance, by commission; and further should provide for the return of the documents which the Survey Officer is empowered to call for.

28. That the rules mentioned in Section 25 should be incorporated in this Act, and should provide for the preservation of all civil remedies.

29. That your memorialists consider Section 27 as open to the most serious objections. That it will lead to the most harassing inquiries. That it leaves it uncertain how far the "record" to be prepared by the Survey Officer is binding upon the landholders. That words should be added to it to the effect that "this record should be no bar to the proprietary rights or legal remedies of any person."

30. That Section 32 should give some definition of the term "alienated villages."

31. That your memorialists having now indicated such of the leading objections to this Bill as time would allow, respectfully suggest to your Excellency that they have made out a case against it sufficiently strong to induce your Excellency to consider the propriety and expediency of postponing the passing of this Bill, and of taking evidence with regard to the tenures, especially those of Khotes, affected by it, either before your Excellency's Legislative Council, or a Select Committee thereof re-appointed for the purpose.

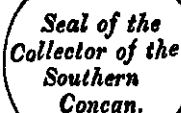
(Signed)	CURSETJEE NUSSERWANJEE CAMA.
"	VISHWANATH NARAYEN MANDLIK.
"	GOPAL SHEWRAM KHOTE.
"	KRISHNAJI ABAJI KURNDIKUR.
"	BHASKUR BAPUJI.
"	VENAYEK NARAYEN BHAGWAT.

*Bombay, 4th October 1864.*

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*Translations of the Documents referred to in paragraph 13 of the  
Petition.*

No. 163.



Seal of the  
Collector of the  
Southern  
Concan.

*Translation of a Kowl from JOHN ALEXANDER FORBES, Collector of the Southern Concan, on behalf of the Government of the English Company Bahadoor, to SHAIKH WULEE MAHOMED, son of Shaikh Noor Mahomed, Soobedar Major, Commanding the Concan Rangers, inhabitant of Rutnaghiree.*

On the 21st June 1832 you submitted a petition requesting that the Khotee wuttun of Moujey Oopplen, turf Hurchuree, talooka Rutnaghiree, might be granted to you: whereupon an order, No. 210, dated the 10th October 1832, was issued to Azum Bajee Bullal Lotleekur, the mamlutdar. On the 11th November 1832 he submitted a report of the result of his inquiries, No. 317, and sent with it the late Wuttundars of the said village, and two acquittances executed by them and two depositions. On personal inquiry into the matter it appeared that the Wuttundars having made over the village to Government, its management had been, for the last 30 or 40 years, conducted by Government, and that no other person than Government had a claim to it. On this a report was made to the Honourable the Governor in Council, and an order dated the 12th March 1833 was received from Government, directing the Government half share of the aforesaid village to be granted to you in (khote). Orders, dated respectively the 18th March and 13th June 1833, Nos. 83 and 119, were thereupon issued to the mamlutdar and a draft kowl was obtained. The Government has been pleased to declare you wuttundar khote of the Government share in the above village, and to grant to you a kowl as follows:—

1. The Chief of Vishalgur is entitled to half a share of the whole of the aforesaid village. That share is to be set aside, and for

the other half share belonging to Government you are to pay assessment for a period of 15 years, beginning with the current year, as follows : Moroo Dinkur Kale, Tallathe, of the aforesaid village has this year, during his management on behalf of Government, realised as follows :—

Receipt into the village treasury as follows:—

Cash .....Rs. 107 0 97

During the Tullattee's management grain was received this year according to the produce. Out of the grain consisting of three kinds, viz. bhat (rice in husk), naglee (raggy), and wurree (*coix barbata*), a half was set aside, and the value of the other half of the three kinds of grain was fixed as follows. The rates obtained at auction sale during 5 years from Sun tisa Ushreen to Sun Sullas Sullaseen, for the whole quantity of each of the three kinds of grain, were added together, and a fifth of the total was fixed to be the rate according to which (the revenue in kind) was converted into cash as follows :—

1½ candies 4½ maunds 2½ pailies and ¾ seer of bhat at .....	Rs. 13 1 20....	19 3 7
2¾ candies 1½ maunds ½ pailies and ¼ seer of naglee at.....	„ 16 3 25....	46 2 78
1 candy 3¼ maunds 2¼ pailies and ¾ seer of wurree at.....	„ 12 1 85....	14 2 46
½ candy 3½ maunds 1¾ pailies and ½ seer of hurreek ( <i>Paspalum frumentaceum</i> ) at .....	„ 6 1 65....	4 1 52
½ candy ¾ maunds 1¾ pailies and ½ seer of black sesamum at ....	„ 25 2 79....	7 2 33
1 maund ½ pailie and ¾ seer of kooleeth ( <i>Dolichos biflorus</i> ) at..	„ 15 0 90 ....	0 3 24
1½ pailies of ooreed ( <i>Phaseolus Radiatus</i> ) at .....	„ 23 0 90 ....	0 0 68

Inamut as follows :—

To Shree Vishnoo Tarleshwur—

Cash.....Rs. 0 1 50

Out of revenue .. ,, 2 3 25

—————3 0 75

To Shree Gramdeo, out of the

revenue in kind .....1 2 38

—————4 3 13

To Mahar Foujdar .....6 0 19

Itlak allowance in cash to Govind Bhut bin

Mahadeo Bhut Katre.....1 0 0

—————213 0 37

Grain by measure.

Of the  $2\frac{3}{4}$  candies  $4\frac{1}{2}$  maunds  $2\frac{1}{2}$  pailies and  $\frac{3}{4}$  seers of bhat, a half, viz.  $1\frac{1}{4}$  candy  $4\frac{1}{2}$  maunds  $2\frac{1}{2}$  pailies and  $\frac{3}{4}$  seers, is carried to the cash account, and the remaining received in kind.....

Candies.	Maunds.	Pailies.	Seers.
$1\frac{1}{4}$	$4\frac{1}{2}$	$2\frac{1}{2}$	$\frac{3}{4}$

Of the  $5\frac{1}{2}$  candies 1 maund 1 pailie of naglee, a half, viz.  $2\frac{3}{4}$  candies  $\frac{1}{2}$  maund and  $\frac{1}{2}$  pailie, is carried to the cash account, and the remaining is received in kind.....

$2\frac{3}{4}$	$\frac{1}{2}$	$\frac{1}{2}$	0
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Of the  $2\frac{1}{2}$  candies  $1\frac{3}{4}$  maunds  $1\frac{3}{4}$  pailies and  $\frac{1}{2}$  seer of wurree, a half, viz. 1 candy  $3\frac{1}{2}$  maunds  $2\frac{1}{2}$  pailies and  $\frac{3}{4}$  seers, is carried to the account, and the remaining received in kind.....

1	$3\frac{1}{2}$	$2\frac{1}{2}$	$\frac{3}{4}$
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$5\frac{1}{2}$	$3\frac{1}{2}$	$2\frac{1}{2}$	$\frac{1}{2}$
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Thus the assessment, consisting of Rs. 213-0-37 in cash, and  $5\frac{1}{2}$  candies  $3\frac{1}{2}$  maunds  $2\frac{1}{2}$  pailies and  $\frac{1}{2}$  seer in grain, should, from the current year Sun Arba Sullaseen to Sun Summan Arbyne, being a period of fifteen years, be paid from year to year. The amount in cash should be paid by eight instalments, and the grain should be delivered during the year for which it is due, according to such orders as may be issued, and a receipt for the same should be taken.

You are to pay every year the hucks and other bulootas of the Huckdars according to the practice of the mahal, and also the village expense, in addition to the aforesaid amount due to Government. (?)

You are to pay to the respective parties, according to the orders which Government will issue to you every year, the Itlak allowance Inamut and the amount due to the Mahar Fouzdar, which are included in the aforesaid fixed amount. If the payments are prohibited the amount should be paid into the Government treasury.

In the course of the aforesaid fifteen years should a free Revenue Settlement of the aforesaid talooka be made, and the amount of the assessment changed, the amount so modified shall not be applicable to your aforesaid village of Ooplén for a period of fifteen years from the current year.

The assessment, as fixed by the revenue settlement, shall from the sixteenth year be recovered from you. But should a fresh revenue settlement be not made during the period for 15 years, you should continue to pay every year the aforesaid sum of Rs. 213-0-37 in cash, and  $5\frac{3}{4}$  candies  $3\frac{1}{2}$  maunds  $2\frac{1}{2}$  pailies and  $\frac{1}{2}$  seer in grain, until a revenue settlement is made. When a fresh settlement is afterwards made, you should, according to the practice of the country, pay from that year the assessment fixed by the settlement.

Having settled the above three clauses, this kowl has been issued to you, and you are to recover the Government assessment, &c. according to the aforesaid conditions; to consider the said Government half share of the village as your wutnee-property; to enjoy from generation to generation, both by male and female descent, the "huck luvazeema," "manpan," "kañoo kayuda," and "fur furmas," according to the practice of the other Khotes in the aforesaid turf; to cultivate the aforesaid village and recover the revenue encouragingly, and live happy. You shall not be subjected to any extortion. This is the promise. Let this be known to you.—Dated 28th Mohurram, corresponding with 17th June 1833.

(Signed) J. A. FORBES,  
Collector.



An order on the subject, No. 122, dated 17th June 1833, has been received from the Hoozoor, and has been entered in the Soobha book.

(Signed) SIVARAM GOPAL BAPUT,  
Karkoon.

*Translation of a Sunnud from DINKAR WISHVANATH, Sobhedar of Talooka Rutnaghiree, to BALAJEE GUNGADHUR and SIVARAM ANNUT KHANDEKUR, Khotes of Moujey Ghativelen, Turf Deolen, Prant Rajapoor, Soorsun Mua Tune wu Uluf.*

A sunnud from the Sir Soobha, dated the 25th Mohurram of the current year, has been received at the Soobha. It is stated in it as follows:—Balajee Gungadbur and Sivaram Anunt Khandekurs, khotes of Moujey Ghativelén, turf Deolén, talooka Rutnaghiree, represented at the Sir Soobha of Poona that ever since their great-great-grandfather Govind Anunt acquired the khotee wutnee of the aforesaid village, their family had been enjoying it from generation to generation; that their papers having been destroyed by fire along with their house, they had no old dakhula (evidence) left to them to enable them to enjoy (their khotee wuttun); that a representation of the matter having been made to the Punt Prutimidhee of the fort of Vishalgur, he had been pleased to grant to them letters dated the 16th Jumadilakhur of the current year, and that orders should be given to grant them similar letters on the part of the Sirkar. It is further stated in the sunnud that, taking into consideration the circumstance that, although the Khandekurs' old papers connected with the wuttundaree have been destroyed by fire along with their house, the family has been enjoying the khotee wuttun ever since its acquisition by their great-great-grandfather Govind Anunt, and having inspected the letters granted by the Punt Prutimidhee of Vishalgur, the khotee wuttun has been confirmed to the Khandekurs in the manner it has uninterruptedly been held by the family, and having taken from them for the khotee wuttuna nuzur according to the revenue derived, this sunnud has been issued to you by the Sir Soobha. You are therefore to continue to the Khandekurs from generation to generation the "manpan" and "kanod kayuda" on account of the khotee wuttun of the above village in the manner it

has hitherto been enjoyed by them, and to recover the Government assessment according to the usual practice. You are to take a copy of this sunnud and to return to them the original, to enable them to enjoy their khotee wuttun. To the above effect a sunnud has been received. As from the time your great-great-grandfather Govind Anunt acquired the khotee wuttunee of the aforesaid village your family has been enjoying the khotee together with the "manpan" connected with it; but as the papers you had in support of your enjoyment have been destroyed by fire along with your house, and as you have no papers remaining with you, the khotee wuttunee is, according to the orders from the Sir Soobha, confirmed to you by the Soobha authorities, and this letter is issued to you. You are therefore to enjoy from generation to generation the khotee wuttun of the aforesaid village, and the "manpan" connected with it, in the manner you have hitherto enjoyed them; to pay the Government assessment according to the practice of the country, and to live happily.—Dated 2nd Suffur.

Mortub  
Sood.

*Translation of a Letter from LUXIMON RAM, Soobedar of Talooka Rutnaghiree to WISWANATH PURBHOO DESHMOOKH, Turf Hurchurree, Prant Rajapoor, Soorsun Tissa Tisyne Mya wu Uluf.*

Having come to the Soobha you represented that the "moolepun" and khotee of Kusba Hurchurree is your old wuttun; that as a "Konbawa," consisting of some "tikans" and lands out of the two warees of Deopat and Boeopat, being a part of Pachowden held by Rungde Prubhoo on account of his half share in the wuttun, was assigned to the ancestors of Appajee Ram and Chinto Ram Bhoputkurs, Ryot Warra Bhoopat, Kusba Hurchurree, they, the said Bhoputkurs, taking advantage of the circumstance, forged some letters, and claimed Rungde Prubhoo's share of the "moolepun" and khotee, and began to quarrel with you; that the Hoozoor having disposed of the case in Sun Sumaneen, placed Chinto Ram under restraint, and having taken from Appajee Ram and Yejeetputra,\*

\* The writing furnished by the party cast in a suit, and admitting his failure.

dated the 21st Jumadilakhur Sun Ihide Sumaneen, attested by the signature of the Zumeedars (admitting that they had forged papers in regard to the said "moolepun" and khotee; that the claim which they advanced was false, and that neither they nor their kinsmen had any claim to the said wuttun), gave it to you; that accordingly you uninterruptedly held the "moolepun" and khotee of the aforesaid kusba, including the "koonbawa" of the said two warees, but that two or three years after Chinto Ram had been set free in Sun Summan Sumaneen, he represented to the late karbharee, Purushram Ramchundra, that there was some benefit in the said "koonbawa;" that the karbharee, bearing in mind the benefit, did not address a letter to the village, but sent a karkoon in the year Ihide Tisyne to carry on the management of the "koonbawa," consisting of "tikans" and lands in the said two warees; that as your representation was not listened to on account of the benefit, the "koonbawa" was up to this time managed direct by the Soobha authorities; that from the year Issune Tisyne there was a loss in the "koonbawa," and the Government demand remained unrecovered; and that when you, in consequence of being the wuttundar, were pressed to pay off the balance, you stated that if all the papers connected with the management carried on by the Soobha authorities be made over to you, and the "koonbawa" restored to you, you would pay off the outstanding balances. That the dispute which the Bhoputkurs, after having forged documents, carried on with you in regard to Rungde Prubhoo's share of the "moolepun" and khotee was disposed of by the Hoozoor, and Rungde Prubhoo's wuttun was continued to you, is proved by Government letters and by the Bhoputkur's "yejeetputra." On a consideration of the letters it appears that the Soobha authorities, looking to the benefit, irregularly undertook the management of the aforesaid "koonbawa." This is not proper. As there was loss in the management by the Soobha authorities of the "koonbawa" in the two warees of Deopat and Bhoopat, there remained unrecovered a balance of Rs. 203 and annas 3 from the year Sun Issune Tisyne to the current year Tissa. Of this sum Rs. 131 annas 1 and pies 3½ was due for the two years Khummus and Seet, and Rs. 72 annas 1 and pies 9 was due for the four years Issune Tisyne, Subba, Summa, and Tissa Tisyne. Having recovered from you the whole amount of the loss Rs. 203 and

annas 3, and having made over to you the papers connected with the management, the "koonbawa" in the aforesaid two warees has been restored to you, and this letter is issued to you. You are therefore to enjoy from generation to generation your "moolepun" and khotee wuttun of the aforesaid kusba, including Rungde Prubhoo's share and the aforesaid "koonbawa," situated in the two warees of Deopat and Bhooepat, which was managed by the Soobba authorities, and to pay the "dewan dust" (Government due.)—Dated 29th Jilhej.

*Translation of a Kowl from JOHN ALEXANDER FORBES, Esq., Collector of the Southern Koncan, on behalf of the Government of the English Company Bahadoor, to MAHOMED IBRAHIM, son of Abdool Gufoor Purkar, Kote of Moujey Sakhrolee, Turf Khuir, Khote, Mookuddum and Koolkurnee of Moujey Mahapru and Kananulee Khoord, Turf Vesree, Talooka Sovereन्द्रoog,—Inamdar of the Khar in Moujey Musundree, Tikan Wuttun Inamdar of Turuf Bankote, Inamdar of the Khar in Moujey Sudundeeree, Turf Govule, Khote of Moujey Dharowlee, Moujey Katwar, and Moujey Vave, Turuf Beewaree, Talooka Rygur,—Tikan Inamdar of Moujey Ratagur, and Moujey Zoorgaum, Kuryat Mewren, and new Khote of Moujey Agawen, Turf Hurchurree, Talooka Rutnaghiree, and inhabitant of Moujey Ratagur, Soor Sun Arba Shumseen Myu Tyne wu Uluf.*

A kowl is granted to you as follows :—

Under date the 13th September 1832, and previously to it, under date the 12th February 1831, you submitted petitions stating that if Moujey Agawen, Turf Hurchurree, Talooka Rutnaghiree, which was lying unclaimed, and which was managed by the Sirkar, be granted to you as Khotee wuttun, you would use your best exertions to bring it under cultivation. Whereupon a reference was made to Uzum Bajee Bullal Lotleekur, Mamlutdar of Talooka Rutnaghiree. That officer having instituted an inquiry, submitted his report, together with papers connected with the matter. On examining those papers, &c. it appeared that there was no fixed old Khotee on the said village; that a dispute having arisen among the parties who had taken the Khotee, the village was

ruined; that as they were unable to pay the Government due, they executed a deed of acquittance and made over to the Peshwa's Government the village, together with its land, "manpan," &c; that accordingly the management of the village was uninterruptedly, carried on by Government for the last 40 years; that, excepting Government, no other person had any claim to the village on account of wuttun, &c., and that there was every year a loss in the revenue. Considering that the village would not prosper unless some one had been made a wuttundar khotee thereof, a report was made to the Right Honourable the Governor in Council. On this an order, dated the 2nd April 1833, was received from Government, directing the Government share of the village to be granted to you as Wutnee Khotee. Therefore the khotee wuttun of the Government share of the village, exclusive of the share of the Chief of Vishalgur, has been granted to you. The following are the conditions in regard to the grant and the Government revenue :—

1. The Chief of Vishalgur is entitled to a half share of the whole of the aforesaid village, and according to the collections made in the year Sullas Sullaseen the amount of the revenue of the Government share of the village is as follows :—

Receipts into the village treasury as follows :—

Cash.....Rs. 99 0 8

Out of the grain received, consisting of three kinds, viz. bhat (rice in husk), naglee (raggy), and wuree (*coix barbata*), a half was set aside for (the Punt Prutidhee), and the value of the remaining half was fixed according to the average of the auction rates obtained during 5 years from Sun Tissa Ushreen to Sun Sullas Sullassen, as follows :—

3½ maunds and 1¼ pailies  
of bhat, at Rs. 12, at  
67 per candy.....Rs. 2 0 85

1¾ candies 11¼ pailies and  
1 scerde of naglee,  
at Rs. 13-3-15 per  
candy....., 27 3 72

$\frac{1}{2}$ candy and $1\frac{1}{2}$ maunds of wuree, at Rs. 11-1-90	Rs. 6 1 34
$\frac{3}{4}$ candy $4\frac{3}{4}$ maunds $2\frac{3}{4}$ pailies and 1 seer- dee of hurreek, at Rs. 6-0-75	..... ,, 6 0 73
$3\frac{1}{4}$ maunds and $\frac{3}{4}$ pailies of black teel, at Rs. 25-2-20	..... ,, 4 0 93
$1\frac{1}{4}$ pailies and seerdee of kooleeth, at Rs. 16-0-4	..... ,, 0 0 35
	—————46 3 92
	—————146 9 0

Inamut as follows :—

To Gramdeo	..... 2 0 45
To Shree Luxoomee Ceshoo	..... 5 0 50
	————— 7 0 95
To Mahar Foujdar	..... 3 3 19
	—————157 0 14

The revenue to be received in kind is as follows :—

	c.	m.	p.	s.
Bhat	0	$3\frac{1}{2}$	$1\frac{1}{2}$	2
Naglee	$1\frac{3}{4}$	$\frac{1}{4}$	$1\frac{1}{2}$	2
Wuree	$\frac{1}{2}$	1	$\frac{1}{4}$	3
		—————	$2\frac{1}{2}$	0 $\frac{1}{4}$ 3

Thus the annual assessment, consisting of Rs. 157-0-14 in cash, and  $2\frac{1}{2}$  candies 3 seers  $\frac{1}{4}$  pailee in grain, has been fixed for the period of 15 years, from Araba Sullaseen to Summan Arbyne: and you are to pay it every year as it becomes due.

2. In the course of the aforesaid 15 years, should a fresh revenue settlement of the aforesaid talooka be made, the amount fixed by the settlement shall not be applicable to this village for 15 years from the current year. From the 16th year the assessment fixed by the settlement will be levied from you for the different kinds of lands described in the kowl No. 152, dated the 7th March 1831, corresponding with the 21st Mohurram, Ibid Sullaseen Maya-tyne wu Uluf, granting to you in wuttun certain Government lands, and for the

other lands according to the usual practice. Should a fresh revenue settlement be not made during the said period of 15 years, the aforesaid Government share of the revenue, viz. Rs. 157-0-14 in cash and  $2\frac{1}{2}$  candies  $\frac{1}{2}$  pailee and 3 seerdeers in grain, shall be levied from you from year to year.

3.. The conditions which have been entered into by——— Saheb in the kowl alluded to in the preceding clause 2 shall be observed.

4. You are to pay direct to the respective parties the Inamut and the amount due to the Mahar Fouzdar, which have been included in the amount described in the first clause.

Should Government prohibit the payment to those parties, you should pay the amount into the Government treasury.

5. You are to pay direct the "hucks" and other "belootos" of the huckdars, according to the practice of the mahal; you are also to pay the village expense.

The Sirkar has settled the above five clauses, and this kowl has been issued to you. You are therefore to \* \* \* to promote cultivation, to consider as your wutnee property the lands of the village, including the trees and shrubs, watercourses, hay, wood, and stone; to enjoy from generation to generation the "huck luwazima," "manpan," "kanoo kayuda," "furfurmas," "veth beegar," &c. connected with the wutnee khotee according to the practice of the other Khotes in the said turf, and to live happily. You shall not be subjected to any extortion or molestation. This is the promise. Let this be known to you. Dated 7th Rubeelawul, corresponding with Thursday the 9th Shrawun Shood Shuké 1755, and 25th July 1833.

Seal.

*Translation of an order from JOHN ALEXANDER FORBES, Esq., Collector of the Southern Concan, on behalf of the Government of the English Company Bahadoor, to the Ryots of Moujay Agawe, Turf Hurchuree, Talooka Rutnagiree, Soor Sun Arbee Sullaseen Mya Tyne wa Uluf.*

The Wuttundar Khotes having returned to Government the aforesaid village, its management was hitherto conducted on behalf

of Government. Uzum Mahomed Ibrahim, son of Abdool Gufoor Purkar, Khote of Moujey Sakhrolee, and mooküddum of Moujey Mahaprul, residing at Rutnaghiree, having applied for the grant of the village as wuttun to him, the Government share of the village has been, agreeably to the orders of the Honourable the Governor in Council, granted to him as wuttunee khotee, and a separate kowl has been issued to him. You are therefore to give him the "manpan," "kanookayuda," "huck luwazim," "furfurmas," "veth beegar," &c. connected with the khotee of the village, to promote cultivation, and to act according to his wishes and orders. Let this be known.—Dated 7th Rubbeelawul, corresponding with Thursday, the 9th Shrawun Shood, Shuke 1755, and 25th July 1833.

(True translations)

(Signed) VENAYEK WASSODEW,  
Oriental Translator to Government.

(2) Letter from the Government of India, No. 2922, dated the 26th September 1864, relative to the amended Rules for the conduct of business at meetings of the Council of the Governor of Bombay held for the purpose of making Laws and Regulations.

The Honourable Mr. Inverarity, in moving the third reading of the Bombay Survey and Settlement Bill, said—

"Sir,—I wish to make a few remarks on the memorial which has just been presented to the Council. The memorialists, after expressing themselves unable to concur in the reasons given by the Council for refusing to permit them to appear and be heard by Counsel, proceed to state the grounds on which, in their opinion, the Bill is obviously dangerous to their common interests and welfare. Their objections to the Bill, as it now stands, are, that it is—

1st.—Inquisitorial.

2nd.—That it legislates in the dark.

3rd.—That it does and will oust the jurisdiction of the properly constituted Courts of law.

4th.—That it does and will place the decision of important questions of law in the hands of irregularly constituted tribunals.



5th.—That it interferes with valuable vested interests without making due provisions for their protection.

6th.—That it is in its general scope opposed to the principles of law under which this country is professedly governed.

7th.—That it is obscure in its details, and embarrassing in its general provisions.

“The reasons on which the above objections are based are then set forth; they are as follows:—

“In paragraph 7 the petitioners state—

‘That this Bill is (1) inquisitorial, because it invests your Excellency in Council with the power to send an unlimited number of Surveyors, with their servants and underlings, to enter upon lands belonging to “private individuals” (Section 11): because it confers upon certain officers connected with the Revenue Survey the extraordinary and arbitrary power of calling on landholders to produce for inspection their title-deeds and other documents relating to their lands (Section 14); because it empowers officers, in all probability totally unqualified to judge of such necessity, to require the attendance of any person whose presence or evidence may be necessary for certain purposes under criminal penalties for disobedience (Section 21); because it opens a wide door for oppression, corruption, and fraud among the lower subordinates of the Survey Department, to whom the carrying out many of the measures of this Bill must necessarily be entrusted.’

“Now with regard to the several objections stated in this paragraph, I have to remark (1) that the power of entering upon land for purposes of survey is one of obvious necessity, and one that is recognised in all civilised countries. There is nothing in the Act inquisitorial in the sense in which the memorialists use the term. (2) It is necessary to call for deeds to enable the Survey Officers to define the boundaries of the lands described in them. The option of producing their deeds for inspection is left to the holders. Surely there is nothing extraordinary or arbitrary in this. (3) The Survey Officer being by universal consent the person best qualified to lay down boundaries, it follows as a matter of course that he must have the power of calling for evidence to enable him to ascertain the facts of

each case as it arises. The assertion that a Survey Officer is "in all probability totally unqualified to judge" of the necessity for the evidence or attendance he may require cannot, I think, be characterised otherwise than as a gratuitous impertinence on the part of the memorialists, and a most unjust reflection on a body of highly qualified and honourable officers. (4) The statement that a wide door is opened by the Bill for oppression, corruption, and fraud is a vague assertion, which is met by the simple fact that the whole system of Survey and Assessment is one of checks, under which not a single ulterior measure is entrusted to a subordinate of the department. The commonest operations of measurement and classification are always tested by superior agency.

"The second objection is, that the Bill legislates in the dark, in that it legalises and confirms existing settlements of land Revenue Survey (Section 3), evidence of which has not been laid before your Excellency's Legislative Council; and because it deals with rights, interests, and properties, as hereafter will more particularly appear, without any reliable evidence as to their nature, extent, value, or importance."

"It is difficult to understand what evidence memorialists would have. The evidence of the Joint Rules and of the official correspondence on the system of Revenue Survey and Assessment has been before the world for years, and the arrangements made in 1860 with regard to Khotee villages were detailed at length at a recent meeting of the Council by the honourable member who introduced the 37th and 38th Sections of the Bill. The Bill does not deal with any rights, interests, and properties regarding which evidence is necessary.

"In regard to the third and fourth objections, the memorialists write as follows in paragraph 9:—

'That this Bill (3) does and will oust the jurisdiction of the properly constituted Courts of law, and (4) place the decision of important questions of law in the hands of irregularly constituted tribunals, is obvious from Section 8, which gives Revenue Survey Officers of all grades cognisance of *all matters* connected with Survey, and from Section 9, which, so far as it is comprehensible, may be taken to place as the supreme appellate

tribunal, from the proceedings and orders of his subordinates, in the hands of the Superintendent of Survey, only subject to certain limitations at the hands of the Commissioner of Survey, under 'the general control of the Governor in Council.'

" In reply to this I would say that (1) This Bill does not, and will not, oust the jurisdiction of the Courts of law, and could not do so if it would. (2) It is only natural that cognisance of all matters connected with Survey and Assessment should be given to Survey Officers, but it is not thereby implied that cognisance of questions of law is given to such officers. As already repeatedly explained, the determination of a boundary mark for topographical and fiscal purposes does not in any way affect title or claim to property in land, such claim being now, as always, cognisable by the Courts of law.

" In paragraph 10 the petitioners write—

'That your memorialists most urgently beseech your Excellency to reconsider these two Sections before they pass into law, inasmuch as when read in connection with the remainder of this Bill, especially Section 27, they place in the hands of inexperienced Judges, provided with no proper machinery for administering justice, and in the general majority of cases, unilluminated with any knowledge of the rules of law of evidence, the power of deciding upon the most important question affecting landed and other interests to an incalculable extent, as may be more particularly seen from a reference to Sections 37 and 38, added since the second reading of the Bill.'

" As Section 27 has thus been referred to, it may be necessary to state for the information of the memorialists that the record required by that Section does not confer on any one any rights not already in existence. Survey Officers do not decide upon questions affecting landed and other interests. They merely prepare a record of what they find in existence.

" In regard to their fifth objection, the memorialists say that the Bill does, and will, interfere with, and sacrifice valuable, landed interests. 'That your memorialists consider that, for confirmation of this objection, it is not necessary to look beyond the newly added Sections, numbers 37 and 38 (with the proviso appended to the

latter clause), which, while professing to protect the rights and privileges of the Khotas, practically destroy them.' To this it may be replied that Sections 37 and 38 protect the rights and privileges of both Khotas and Ryots. That they do not practically destroy the rights of Khotas is proved by the fact that under the principles laid down in these Sections, settlements are now in force under which Khotas continue to flourish.

“ Paragraphs 12, 13, and 14 of the memorial are as follows:—

‘ That the clause above mentioned prejudicially affects property worth millions of rupees belonging to persons living over a wide extent of country. That your Excellency’s Legislative Council has not, as has been already urged, before it one tittle of evidence with regard to the nature or value of those interests, and that in spite of repeated petitions in that regard, no opportunity has been afforded your memorialists of laying before your Excellency’s Council, by the mouths of trustworthy witnesses, any account relating to them.

‘ That your memorialists claim for the Khotas tenure an origin of, in many instances, remote in all respectable antiquity. And your memorialists further beg to represent to your Excellency that in the Southern Konkan, and the greater part of the Colaba Sub-Collectorate, the Khotas first settled the country, reclaimed it from the jungles and the sea, and peopled it. That from time immemorial they have been allowed hereditarily to possess and enjoy, undisturbed, the land, the fruits of their labour and expenditure. That sunnuds and other documents of ancient date are in the possession of the Khotas, copies of some of which, there being no time for translation, are hereto annexed, marked (A), which confirm to the ancestors of their present possessors absolute titles in the nature of English fee simple in land and villages now held upon Khotas tenure. That in many instances the origin of the tenure is naturally wrapped in doubt, being only referable to immemorial custom. That various opinions have been propounded to account for these tenures, by the different officers of Government entrusted with the duty of investigating them, but that it is to be remarked that however differing on points, important and unimportant, all have agreed that the Khotas

have *rights* of a tangible nature which should and ought to be respected.

‘That your memorialists fail to see any respect paid to these rights in this Bill, which places the nice questions regarding them, hereinbefore indicated, at the mercy of the Survey Department, without the privilege of a reference to the constituted law courts of the country. Your memorialists therefore respectfully, but urgently, protest on this ground against the sanction of your Excellency’s Legislative Council being given to this Bill without further investigation of the tenure of the Khotas. That your memorialists, in support of this objection, beg also to refer your Excellency to Sections 32 and 35, which prejudicially affect districts already surveyed and assessed.’

“With regard to these paragraphs it may be said that this Survey Bill does not touch questions of title or tenure. These are cognisable by the ordinary law courts; but the Survey Bill confirms settlements which have recognised and maintained Khotas, and proposes to extend such settlements to the rest of the districts in which Khotas are found. There being no desire or intention of destroying the Khotee system, evidence of its origin and nature is uncalled for in this place, even if these were not already sufficiently well known. It must be again repeated that there are no nice questions regarding Khotas and their rights left to the mercy of the Survey Department, and I am not aware that our Courts of law, by which all questions of tenure are adjudicated, have yet ruled that a Khotee wuttun possesses, as claimed for it in the 13th paragraph of this memorial, ‘the nature of English fee simple.’ Referring to the closing sentence of the 14th paragraph of the memorial, it may be said that the 32nd and 35th Sections of the Bill cannot in any way prejudicially affect districts already surveyed and assessed, because the former Section has reference to unoccupied lands only, and the latter merely legalises existing practice.

“On their sixth objection the petitioners write as follows :—

‘That this Bill is opposed to the settled principles of law under which this country is professedly governed, inasmuch as (1) it will operate retrospectively, in support whereof your memorialists refer to Section 3, which enforces existing settlements of

Land Revenue by the Survey, and thereby for ever deprives parties already having grievances to complain of under those settlements of their right of referring them to the decision of the properly constituted law courts, and sets up instead, as the tribunal for the trial of such past grievances, the irregular courts of the Survey Department.

‘That your memorialists cannot fail to regard this as a most serious and vital injury to their constitutional rights and privileges, the more so as the Rules under which the greater part of these existing settlements have been made are themselves open to the objection of illegality, as may be seen upon reference to Clause 3 of Section 4 of Regulation XVII. of 1827, which requires that such rules should be instituted by Regulation alone.’

“The objection here made amounts simply to this, that although it has long been in contemplation to pass a Bill to legalise Survey settlements, and although the want of such legislation has long been felt, no such Bill shall now be passed because it was not passed many years ago. The objection carries with it its own answer. The memorialists in these Sections continue to suffer from the hallucination that the ordinary Courts of law are superseded. It can only be repeated that the Bill does not contain a single provision which deprives any one of any legal remedy for wrong, now belonging to him.

“In paragraph 177 the petitioners go on to say—

‘That this Bill is (2) further opposed to the principles of the law of this country, because it will be confiscational in its operation—(*vide* Sections 32, 35, 37, and 38).’

“To this it may be said that concession and not confiscation appears to be the predominant feature in the Sections quoted by the petitioners.

“The seventh objection, that the Bill is obscure in its details and embarrassing in its general provisions, is illustrated in paragraph 23 of the memorial.

as  
from Paragraph 20 runs as follows:—

‘That the preamble of this Bill refers to persons and classes owning and occupying land; that in the body of the Bill n

definition is given of *ownership*; that, having regard to the intricate and difficult nature of the tenures to be dealt with, this is a most important omission, and leaves too wide a field for the exercise of the ingenuity of the executive department.'

"Definition of ownership has been considered to be unnecessary, inasmuch as it is desired that the word should have as wide and unrestricted a meaning as possible, so as to include every kind and class of owner. Questions of ownership are most appropriately left to the decision of our Courts of law.

"Paragraph 21 runs as follows:—

'That the term 'occupant' is most unsatisfactorily defined in Section 2; that Clause (i) of Section 2 which defines this word, when read in connection with Section 3 of Regulation XVII. of 1827, and Clause number 5 of the Survey Rules, which Rules having been framed to carry out Regulation XVII. of 1827, are now apparently to be further enforced by this Bill, becomes entirely incomprehensible. That to prevent this and the like confusion, your memorialists respectfully recommend that the Survey Rules should be embodied in the Bill.'

"The definition of occupant is that which has always been accepted and adopted under the Survey system, and is well understood by all who hold land under the Survey settlement. It is not clear why or in what respect the memorialists find the definition incomprehensible when taken in connection with the Regulation and the Survey Rules they quote. The Survey Rules are not enforced by the Bill further than to the extent to which they are embodied in it. The most important principles of those Rules have been specifically provided for in the Bill. It would be absurd to give the force of law to minor details which vary with the circumstances of various districts.

"Paragraph 22 runs as follows:—

'That Section 2 of the Survey Rules guarantees the permanency of the assessment made thereunder. That by Section 3 of this Bill, 'existing settlements' have been enforced; that this assessment includes cesses on roads, schools, &c.; that yet in Section 29 of this Bill your memorialists find that the guarantee of permanency is strictly limited to "Imperial Land Revenue;" that this provision applies to the whole Presidency

where Surveys have already been introduced under the sanction of the Survey Rules ; and that therefore this limitation is a breach of faith as regards the guarantee contained in Section 2 of the abovementioned Rules. That furthermore your memorialists beg leave particularly to object to the vagueness and uncertainty introduced into Clause 1 of Section 29 by the term ‘&c.,’ which read with the context embraces every object which the executive department may choose to think necessary for purposes of local improvement, whatever may be its nature or extent.’

“ The guarantee of Section 2 of the Survey Rules is continued in Section 18 of this Bill ; but such guarantee did not, as supposed by memorialists, include local cesses for roads or schools, the cesses referred to in that guarantee being those which under various denominations were levied and credited to the State as part of the Imperial Revenue. The ‘&c.’ so particularly objected to is, I believe, harmless. It does not, as stated by memorialists, embrace every object which the ‘executive department may choose to think necessary’ for purposes of local improvement, but such only as it shall be lawful for the Governor in Council to impose for schools, roads, and such like objects ; but as ‘&c.’ is objected to, it might, with the words ‘such as schools, roads,’ be omitted altogether, if the Council approve.

“ Paragraph 23 is as follows :—

‘ That Section 8 of this Bill, which invests the persons therein mentioned, ‘with the cognisance of *all matters* connected with Survey and Assessments,’ places far too wide and extensive a discretion in the hands of the Executive. That this Bill should define with greater accuracy what those ‘matters’ are.’

“ For information as to matters connected with Survey and Assessments the memorialists might consult the printed official correspondence, and the printed compilation of Rules for the guidance of the native establishments of the Survey. Full particulars on all subjects connected with Survey and Assessment will there be found.

“ The memorialists then proceed to propose some amendments to the Bill as it at present stands.



“ In paragraph 24 they recommend that a proviso be added to Section 9, to the effect ‘ that this Section should not debar parties, aggrieved by the measures of this Bill, from seeking their remedies in the properly constituted Courts of law.’ It is mere surplusage to say that a person who has a legal remedy shall continue to enjoy it. It is obvious the legal remedy must remain.

“ I see no objection to the adoption of the suggestions made in paragraphs 25 and 26, to the effect that the words ‘ in person or by recognised agent’ be added after the words ‘ occupants of land’ in Section 10, and that the words ‘ unless it has left undetermined the points to be decided, or has decided points not referred to it : or the decision is indefinite or illegal on the face of it’ be added after the word ‘ final’ in Section 20. Should any member wish to move the insertion of these words in Sections 10 and 20, I shall offer no opposition. The provisions of the Civil Procedure Code are not barred by any provision of this Bill.

“ The memorialists suggest that Section 20 should provide for examining sick or infirm persons residing at a distance by commission. I do not see the necessity of such a provision. They suggest also that provision be made for the return of the documents which the Survey Officer is empowered to call for. It is needless to adopt the suggestion. A Survey Officer is empowered to call for documents for inspection only—(*vide* Section 14). If he detains such documents he lays himself open to an action at law, or to a criminal prosecution.

“ The memorialists recommend further that the rules mentioned in Section 15 should be incorporated in the Act, and should provide for the preservation of all civil remedies. It is impossible to embody in an enactment rules which cannot be of universal application, but which must change according to circumstances, and which contain a body of minute details varying according to the circumstances of different districts. The powers of Survey Officers are subjected to ample check, and, as already so often stated, there is no where a bar to civil remedies.

“ In paragraph 29 the memorialists write as follows:—

‘ That your memorialists consider Section 27 as open to the most serious objections. That it will lead to the most harassing inquiries. That it leaves it uncertain how far the

'record' to be prepared by the Survey Officer is binding upon the landholders. That words should be added to it to the effect that 'this record should be no bar to the proprietary rights or legal remedies, of any person.'

"Memorialists express alarm unnecessarily. The 27th Section of the Bill merely gives the power to collect, collate, and record a mass of valuable statistical information which it has hitherto been the custom to obtain and arrange. No proprietary rights are interfered with, but the record will be most valuable to proprietors as showing the state of things at the time of survey.

"The petitioners suggest in conclusion that a definition be given of the term 'alienated villages.' A definition seems unnecessary. Unalienated villages are obviously those the revenue and management of which have not been alienated from the State, and alienated villages are those the revenue and management of which have been alienated from the State.

"And now, Sir, having considered all the points raised in this memorial, I have no hesitation in expressing my opinion that the memorialists have failed in making out a case against this Bill such as to induce its further postponement. Their difficulties originate in their inability to distinguish between survey duties and judicial administration. This Bill professes to deal with the former; the ordinary Courts of law can take care of the latter. Evidence regarding tenures which memorialists pray may be taken is not required when the subject of tenures is not before this Council. As neither substantial error nor defect has been shown from any quarter to exist in this Bill, I think we may now safely proceed with it through its remaining stage, and I shall accordingly to-day move that it be read a third time and passed."

The Honourable Mr. Ellis thought that some of the suggestions made by the petitioners might be profitably adopted by the Council. In accordance with one of these suggestions he would move that in line 6 of Section 14 the words "in person or by legally constituted agent" be inserted between the words "land" and "and."

The Honourable Mr. Frere had no objection to this proposal provided the words "duly instructed and able to answer all material questions" were added after the word "agent."

The Honourable Mr. Ellis' amendment, as proposed to be modified by the Honourable Mr. Frere, was agreed to.

The following alterations were also agreed to :—

- (1) The first 12½ lines of Section 20 were made the first clause of the Section, and the remainder of the Section the 3rd clause, the following words being adopted as Clause 2:—"Provided that the Superintendent of the Survey shall have power to remit the award or any of the matters referred to arbitration to the reconsideration of the same Committee, for any of the causes set forth in Section 323 of the Code of Civil Procedure."
- (2) In line 11 of Section 29 the words "village and district roads, wells, accommodation for travellers, and the like," were substituted for the words, "roads, &c."
- (3) In line 17 of Section 37 the words "a settlement lease" were substituted for the words "Survey Settlement."

The Honourable the Advocate General wished to have some further information as to the manner in which the records referred to in Section 27 were prepared. Mr. Inverarity had alluded to the subject in answering one of the objections made by the memorialists. But for his own satisfaction he should wish to know more fully how information was obtained for these records as respected landed tenures. How were the rights and interests of the various classes of the community determined? It had repeatedly been said that the Bill had nothing whatever to do with tenures. The language of the Section would, however, lead persons who were uninformed like himself, in regard to the manner of conducting business in the offices of the village accountants or other subordinate revenue officers who might be charged in the first instance with the preparation of village records, to suppose that some judicial inquiry was made regarding tenures, and that the result of such inquiries would be an interference in some way or other with rights in the soil. It was obviously very desirable to prevent the possibility of any such impression arising, and perhaps the framers of the Bill might consider it right to alter the language of the Section with this object.

The Honourable Mr. Ellis said that the record referred to in Section 27 was most useful to all persons having an interest in land as well as to Government. The inquiry which the Section

authorised Survey Officers to make in order to enable them to prepare the records was not of a judicial character, and would affect no private rights.

His Excellency the President explained the nature of the record referred to. In every survey made throughout India information was always recorded regarding the statistics of each village. It was usual to frame a table containing returns regarding the population, buildings, live stock, agricultural implements, and the extent and nature of cultivation. The information so procured was most valuable evidence in regard to rights existing at the time when the tables were prepared, but conferred no rights nor interfered with existing rights. For instance, if in any village register a certain field is entered as "inam," such an entry will always be good evidence against Government, as showing that the Government officers considered such land to be inam when they prepared the register. On the other hand, if a certain field were entered as assessed to the land revenue, this would prove nothing against the occupant. The entry would simply be of the nature of a private memorandum recording the opinion of the Government officers of the time, but in no way conclusive as to the nature of the tenure on which the land was held. Similarly, census returns had a corresponding value as evidence. If a person enters his age at a certain figure in a census return, it may safely be presumed, till the contrary is proved, that his age has been correctly given. The return would be good evidence in regard to age. So also the village records were good evidence so far as they went, but they were not conclusive evidence, and might always be rebutted by evidence of higher value.

His Excellency Sir William Mansfield said that the important point mentioned by His Excellency the President had been often alluded to, yet it had not been so clearly put before. Much misapprehension might have been avoided if it had been clearly stated that the Revenue Survey record did not in any manner carry with it the character of a judicial decision, but on the other hand was *prima facie* the best of evidence in a Court of law in its results. It was not too late now to attempt to remove all doubt on the point, and he (Sir William Mansfield) appealed to his honourable friends Mr. Inverarity and Mr. Ellis to give, as they well could, full information in

regard to the nature of the records referred to in Section 27, and the effect of the inquiry that Survey Officers would be authorised to make under that Section.

The Honourable Mr. Inverarity said that it was scarcely necessary for him to discuss the value of the Survey records as evidence in Courts of law, as there were, he believed, in existence cases which showed that these records were good evidence of possession at the time of survey.

The Honourable Mr. Ellis concurred with Mr. Inverarity, and would repeat that the Survey record, though it affected no rights, was still good evidence of actual possession, and, in default of better evidence, entries in Survey registers were often of value to establish rights.

The Honourable Mr. Frere observed that the record could only be good evidence against Government. Against tax-payers it was not conclusive evidence. The information supplied by the records would of course have a value in Courts of law, but only a value similar to that of tradition. Perhaps it would be as well to insert the words "fiscal and statistical" before the word "record" in line 4 of Section 27.

The Honourable the Advocate General expressed himself quite satisfied with the information that had been afforded by His Excellency the President. He had no wish to propose any alteration of the Section as it stood.

His Excellency the President observed that there was another point connected with the objections which had been raised to the Bill that it would be as well to notice. It had been urged that some of the provisions of the Bill were inquisitorial, and would authorise harassing conduct on the part of the subordinate Survey Officers. To show how groundless these fears are he would refer now to the state of things which had become obsolete since the Survey was commenced. Mr. Frere, Mr. Inverarity, and Mr. Ellis would recollect that before regular surveys were introduced it was the practice of Revenue officers to call for rough returns of village statistics. These returns included information regarding the village officers, and gave minute details as to the population, live stock of the village, the

number of houses, extent of land, the number of beegas that were under cultivation, or waste, or taken up for roads, tanks, or hill country. Land was also characterised as either rent-free, or, if paying land tax, as miras, or gutkoolee or eksalee, and the details of cultivation were also given, the yield of each kind of produce being shown. Sometimes the returns of one year were copied from those of the previous year, and were seldom very accurate. But their regular preparation was a part of the annual duty of every village accountant. The villagers were by custom bound to give him all this information every year. Still the practice of preparing these returns was never held to be a grievance, much less ought a complaint to be made against the preparation of the Survey records which would only be taken in hand once in thirty years, and which had moreover this advantage that they embodied a really careful census of the country. But to recur to the rough returns of which he had spoken: when the people of any village had prepared these, they gave them to the Revenue Officer of Government, and received in return a paper showing the amount of revenue due from their village and the instalments by which it was to be paid. This rough system of settling the revenue has been immemorially in force in this part of India. In the Guicowar's, Nizam's, Holkar's, and Scindia's territories it is still in force. The practice of making inquiries in the manner he had described had lapsed in British territory, but it had never been held to be inquisitorial, and he did not think that any such objection could be fairly taken against the improved system of the Revenue Survey which had superseded it.

The Honourable the Advocate General thought that the publication of the statements now made would help to disabuse the public mind of the idea that the Bill interfered with any proprietary rights. It was a misconception on this matter that really underlay all the objections made to the Bill.

His Excellency Sir William Mansfield wished to know if it was not practicable to meet the wishes of the memorialists by giving a definition of the term "alienated village."

The Honourable Mr. Inverarity thought no definition necessary. There could be no doubt as to the meaning of the term. As he had

already said, "alienated villages" are those the revenues and management of which have been alienated from the State.

The Honourable the Advocate General saw no objection to this being stated in the Bill.

The Honourable Mr. Frere said that there was nothing technical in the words "alienated" and "unalienated." No definition seemed to him to be required.

The Honourable Mr. Ellis remarked that alienated villages were sufficiently described in Section 49. The only villages that are alienated are those held exempt from the payment of land revenue, or under Bombay Act. II. or Act. VII. of 1863, or under a grant or lease fixing the Government demand in perpetuity.

His Excellency the President said that if the words "held and managed" were substituted for the word "held" in the description given in that Section, that description would sufficiently define alienated villages.

The following definition was then agreed to, and was inserted as definition (e) in Section 2:—

"An alienated village is a village held and managed by private individuals, exempt from payment of land revenue, or under Act II. or Act VII. of 1863 of the Council of the Governor of Bombay, or under a grant or lease fixing the Government demand in perpetuity."

The Honourable Mr. Ellis then moved that the word "alienated" be inserted between the word "to" in line 4, and the word "villages" in line 5 of Section 44, and that the words "held," in line 5, to "perpetuity," in line 9, be omitted.—*Carried.*

On the motion of the Honourable the Advocate General, the words "to ascertain and settle the obligations and to record the rights" were substituted for the words "and to ascertain, settle, and record the obligations, rights," in lines 6, 7, and 8 of the Preamble.

On the motion of the Honourable Mr. Inverarity, the Bill was read a third time and passed.

## BOMBAY.

ACT No. I. OF 1865.

PASSED BY THE GOVERNOR OF BOMBAY IN COUNCIL.

[Received the assent of the Governor on the 18th October 1864, and of the Governor-General on the 6th January 1865, and published by the Governor of Bombay on the 21st January 1865.]

*An Act to provide for the survey, demarcation, assessment, and administration of lands held under Government, in the Districts belonging to the Bombay Presidency, and for the registration of the rights and interests of the occupants of the same.*

Whereas a moderate assessment of Land Revenue is equally conducive to the interests of Government and the well-being of its subjects; and whereas it has been and is the desire of Government to equalise assessments, to ascertain and settle the obligations, and to record the rights, interests, and privileges of persons and classes owning and occupying land; and whereas it is proper to maintain by law, during their currency, all existing settlements which have been made under the authority of Government; and whereas it is necessary to continue and introduce Revenue Surveys wherever they may be required in the Presidency of Bombay: It is enacted as follows:—

Preamble.

I. This Act shall be called the “Bombay Survey and Settlement Act,” and shall take effect from the date on which the assent of the Governor-General of India thereto shall be published in the *Government Gazette of Bombay*.

Title and commencement of the Act.

II. The following words or expressions used in this Act are declared to bear the definitions or meanings hereby attached to them, unless there be something in the subject or context repugnant to such construction:—

Interpretation.

(a) Words importing the singular number include the plural, and words importing the plural number include the singular.

Number.



(b) Words importing the masculine gender include the Gender, feminine.

(c) "Survey Officer" means the Superintendent of Survey, or the Officer in charge of a Survey for the time being, or any person acting under the orders of either.

\* (d) "Village" includes all lands belonging to any village "Village." or township.

(e) An "alienated village" is a village, held and managed by private individuals, exempt from payment of land revenue, or under Acts II. or VII. of 1863 of the Council of the Governor of Bombay, or under a grant of lease fixing the Government demand in perpetuity.

(f) "Estate" means any land, or interest in land, wherever situated, vested in any person or body of persons, and separately recognised in the public accounts.

(g) "Field" or "Number" means a Revenue Survey division of the village lands, of a specified area upon which a distinct assessment is or may be recorded under a Number in the Survey Register, and in the public accounts of the village.

(h) "Holding" means the aggregate of the Fields of Numbers in any village entered in the public accounts in the name of one person or body of persons.

(i) "Recognised share of a field" means the portion of a field entered in the name of any one in the Survey papers or other public accounts.

(j) "Occupant" is the person whose name is entered authorisably in the Survey papers, or other public accounts, as fessible to Government for

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\* By Section 21 of Act IV. of 1868, it is enacted that whenever the Act (I. of 1865) is applied in towns and cities, the word "village" shall be held to include towns and cities.

payment of the assessment due upon any field, or recognised share of a field.

(h) "Superior holder" is the person having the highest right under Government recognised by the custom of the country, or resting on specific grant, to hold land or engage with Government for the land revenue due on account of any village or estate.

(l) "Tenant" is the person holding under an occupant or superior holder, by a right derived from him, and otherwise than by ownership or inheritance.

III. Existing Survey settlements of Land Revenue made, approved, and confirmed under the authority of the Governor in Council shall be, and are hereby declared to be, in force, subject to the provisions of this Act.

Maintenance of existing settlements of Land Revenue.

IV. It shall be lawful for the Governor in Council, whenever such a measure may appear to him expedient, to direct the extension of a Survey\* to any part of the Presidency, with a view to the settlement of the Land Revenue, and to the record and preservation of proprietary and other rights connected with the soil, and such Survey shall be called a Revenue Survey.

Government may direct the extension of a Revenue Survey to any part of the Presidency.

V. The control of a Revenue Survey and Settlement in any part of the presidency shall vest in and be exercised by the Governor in Council, who may from time to time, subject to the general control of the Governor-General of India in Council, appoint, for the purpose of carrying out such Survey and Settlement, public servants, under the designation of Commissioner of Survey and Settlement, Superintendent of Survey and Settlement, Settle-

Control of Revenue Survey and Settlement, and appointment of Officers.

\* Act I. of 1865 is declared applicable to towns and cities by Act IV. of 1868.

ment Officer, and Assistant, or under such other designation as may seem requisite.

VI. The Governor in Council may confer upon Commissioners and Superintendents of Survey and Settlement, or Settlement Officers, any of the powers of a Collector, within any specified charge, and in like manner upon Assistant Superintendents or other Officers, appointed under Section V. of this Act, any of the powers of an Assistant Collector.

Government may confer on Survey and Settlement Officers the powers of a Collector or Assistant Collector.

VII. The appointment of all subordinate members of the establishment for Survey and Settlement shall, under such rules as the Governor in Council may from time to time sanction, rest with the Commissioners, Superintendents of Survey and Settlement, and Settlement Officer, who may at any time, after inquiry recorded in writing, fine, dismiss, suspend, or reduce any members of their respective establishments so appointed who shall be remiss or negligent in the discharge of duty, or unfit from any cause for the discharge of the same.

Appointment, &c., of subordinate members of the Survey establishment.

VIII. Subject to the orders of the Governor in Council and to the powers reserved by law to the Revenue Commissioners and Collectors, the Commissioners, Superintendents of Survey and Settlement Officers are vested with the cognisance of all matters connected with Survey and Assessment, and with the adjustment of boundary disputes according to the provisions hereinafter enacted.

Commissioner and Superintendent of Survey and Settlement Officers vested with cognisance of Survey matters and with adjustment of boundary disputes.

IX. All the proceedings and orders of subordinate Survey Officers are appealable to their respective immediate superiors, and all the proceedings and orders of Assistants, or other superior Survey Officers, are appealable to the Superintendent of Survey, whose proceedings and orders are subject to the direction and decision of the Commissioner of Survey, or other officer specially authorised on that behalf, under the general control of the Governor in Council.

Proceedings and orders of subordinate and superior Officers appealable.

X. It shall be lawful for the Superintendent or officer authorised by him to require by general notice, or by summons, the attendance of owners or occupants of land, in person or by legally constituted agent, duly instructed and able to answer all material questions, and the presence of Talook and Village Officers who in their several stations and capacities are legally, or by usage bound to perform service in virtue of their respective offices, and to require from them such assistance in the operations of the Survey, and such service in connection therewith, as may not be inconsistent with the position of the individual so called on.

XI. In any district in which a Revenue Survey has been or may be ordered by the Governor in Council, it shall be lawful for any duly authorised Survey Officer to enter, for the purposes of measurement, fixing boundaries, classing soils, or for any other purpose connected with the Survey and Settlement, any lands, whether belonging to Government or to private individuals, and whether assessed to the public revenue or partially or wholly exempt from assessment.

XII. *Clause 1st.*—It shall be lawful for any Survey Officer authorised by a Superintendent of Survey, or Settlement Officer, to cause to be erected or repaired boundary marks of villages or fields, whether cultivated or uncultivated, and to assess all charges incurred thereby on the owners, occupants, or others having an interest therein.

*Clause 2nd.*—Nothing in the preceding clause shall prevent such Officer from requiring owners or occupants of land to erect or repair their boundary marks, and in that case it shall be competent for him to issue a notification which shall be posted in the Chowree or other public place in the village, directing the owners or occupants of fields to erect or repair, within a specified time, the boundary marks of their respective fields, and, on their failure to comply with the requisition so made, the Survey Officer shall then erect or repair them, as provided in the Clause last preceding; and may

recover from the owners or occupants the expenditure made in so doing.

*Clause 3rd.*—A general notification, issued in the manner prescribed in the last Clause, shall be held to be good and sufficient notice to each and every person having any interest in any field within the limits of the village in which such notification is published.

A general notification held to be good and sufficient notice of requisition.

*Clause 4th.*—The size, material, and description of boundary marks shall be such as may be deemed necessary by the Superintendent of Survey, according to the requirements of soil and climate.

Description of boundary marks.

XIII. It shall be the duty of every owner or occupant of land, whether subject to the payment of land revenue or not, to point out to the Survey Officer, at the time of measurement and of classification, the boundaries of his holding. If the owner or occupant, or his duly constituted agent, fail to do so, it shall be competent to the Survey Officer, in the absence of the said owner, occupant, or agent, to fix the boundary on such other evidence as may be available.

Owners of land to point out the boundaries of their holdings.

\* XIV. *Clause 1st.*—In conducting an inquiry respecting boundaries as aforesaid, it shall be lawful to a Superintendent of Survey, or other Officer authorised by him, to call on any owner, occupant, or agent of the owner or occupant, to produce for inspection all sunnuds, kowls, and leases, and all other title-deeds and documents whatever, relating to his land, and if, within a reasonable period, to be fixed in writing by the said Survey Officer, the said owner, occupant, or agent fail to produce such documents, the boundaries of the land may forthwith be determined on such evidence as may be available.

The Survey Officer may inspect title-deeds, &c. when making inquiry respecting boundaries.

*Clause 2nd.*—If the boundary of a field be undisputed, and its correctness be affirmed by the village Officers then present, it may be laid down as pointed out and, if disputed, it shall be fixed by the Survey

Determination of field boundaries.

Officer according to the village records, or failing these, according to occupation as ascertained from the Village Officers, the cultivators of adjoining lands, or other evidence.

*Clause 3rd.*—No appeal against the determination of a boundary laid down according to the preceding Clauses shall be admitted, unless formally preferred within six months of the date of the boundary marks being erected.

Appeal admissible within six months of the date of erection of boundary marks.

*Clause 4th.*—But it shall be competent to a Superintendent of Survey, on due cause shown, to alter any boundaries within one year after the introduction of the revised Survey rates.

A Superintendent of Survey may, on due cause shown, alter boundaries within one year after introduction of revised rates.

Provided that the determination of any boundary under this Section shall not debar any one, claiming any right in the land, from any legal remedy he would otherwise have for dispossession.

Proviso.

XV. It shall be lawful for the Survey Officer to call upon all owners and occupants of land to assist in the measurement and classification of the lands of their villages by furnishing flag-holders; and in the event of a necessity for employing hired labour for this, or other similar object, incidental to survey operations, it shall be lawful to assess the cost thereof with all contingent expenses, on the owners, and occupants of the lands of the village, for collection as a revenue demand.

Assistance to be given by owners and occupants in the measurement and classification of the lands of their villages.

XVI. The boundaries of villages shall be fixed, and all disputes relating thereto shall be determined, by Survey Officers, who shall be guided by the rules and procedure prescribed in the following Sections.

Determination of village boundaries.

XVII. When the Patells and other Village Officers of any two or more adjoining villages, and in cases in which the revenues of either village do not belong to Government, the holder thereof, or his duly constituted agent, shall voluntarily agree to any given line of boundary as the boundary common to their respective villages,

Village boundaries may be settled by agreement.

the Survey Officer shall require the said parties to execute an agreement (*razeenama*) to that effect, and shall then mark off the boundary fixed in the manner agreed upon. And any village boundary fixed in this manner shall be held to be formally and finally settled, unless it shall appear on inquiry that the agreement has been obtained by fraud, intimidation, or any illegal means.

**XVIII.** If the Patells and other Village Officers, and, in cases where the revenues of either village do not belong to Government, the holder thereof or his duly constituted agent, do not agree to fix the boundaries of their respective villages, in the manner prescribed in the preceding Section, or if there be any pending dispute, then the Survey Officer shall make a survey and plan of the ground in dispute, exhibiting the land claimed by the contending parties, and all particulars relating thereto, and shall inquire into the claims of the said parties, and thereafter make an award in the case, and such award shall be final, unless reversed or modified on appeal as hereinafter provided. If, however, the revenue of either of the villages concerned be wholly or partially alienated, an award made by a Survey Officer shall not be final unless made or confirmed by the Superintendent of Survey.

**XIX.** When there is a boundary dispute between a village belonging to the British Government and a village belonging to a Foreign or Native State, the dispute shall be settled in such manner as may be agreed upon by the two Governments, and any settlement so made shall be final.

Settlement of boundary disputes between British and Foreign villages.

**XX.** *Clause 1st.*—If the several parties concerned in a boundary dispute agree to submit the settlement thereof to a *punchayet* or arbitration committee, and make application to that effect in writing, the Survey Officer shall require the said parties to nominate a committee of not less than three persons, within a specified time, and if within a period to be fixed by the Survey Officer the Committee so nominated arrive at a decision, such decision, when confirmed by the Superintendent of the Survey, shall be final.

Settlement of boundary disputes by arbitration.

*Clause 2nd.*—Provided that the Superintendent of the Survey shall have power to remit the award, or any of the matters referred to arbitration, to the reconsideration of the same committee for any of the causes set forth in Section 323 of the Code of Civil Procedure.

*Clause 3rd.*—If the Committee appointed in the manner aforesaid fail to effect a settlement of the dispute within the time specified, it shall be the duty of the Survey Officer, unless he see fit to extend the time, to settle the same as otherwise provided in this Act.

**XXI.** It shall be lawful for the Survey Officer to require the attendance of any person whose presence or evidence may be necessary for the settlement of a village boundary or for the investigation of a boundary dispute, and any person refusing to attend in compliance with the terms of the notice (which shall be in writing) issued by a Survey Officer, shall be liable to the punishment provided by law for contempt of the lawful authority of Public Servants: Provided that exemptions under Section 22 of the Code of Civil Procedure shall be applicable to requisitions for attendance under this Section.

The Survey Officer may require the attendance of persons whose presence or evidence may be necessary. Exemptions from personal attendance.

The Survey Officer may take evidence on oath or solemn affirmation.

**XXII.** It shall be lawful for a Survey Officer charged with inquiring into boundary disputes to take evidence on oath or solemn affirmation.

**XXIII.** Proceedings connected with the settlement of boundary disputes shall be recorded in the Vernacular of the District: Provided that the Survey Officer making the investigation shall record in English a summary of the evidence, the reasons for his decision, and the final settlement of the case.

Proceedings to be recorded in the Vernacular of the District, a summary of the evidence, &c. being also recorded in English.

**XXIV.** *Clause 1st.*—All decisions or awards fixing village boundaries, or settling village boundary disputes, if made by a Survey Officer below the rank of Superintendent, shall be subject to appeal to the Superintendent of Survey, provided the appeal be made within sixty days of the laying down of the permanent boundary marks.

Appeals against decisions of subordinate Survey Officers to be made to Superintendent of Survey within sixty days.



*Clause 2nd.*—Decisions or awards in such cases by a Superintendent of Survey shall be appealable only to the Commissioner of Survey, who shall not admit any appeal unless made within sixty days after delivery of the order appealed against.

Appeals against decisions of Superintendents of Survey to be made to Commissioner of Survey within sixty days.

XXV. It shall be lawful for an Officer in charge of Survey to assess to the land revenue, under such general and local rules as may be in force in the Survey under his charge, all lands cultivated or uncultivated, and whether hitherto assessed or not, provided that such assessment shall not be levied for more than one year, until the sanction of the Governor in Council shall have been obtained thereto, and provided that it shall not be leviable from any land held and entered in the Land Registers as wholly or partially exempt from payment of land revenue, except to such amount as is in accordance with previous practice, or any law which has been, or may hereafter be, enacted relating to lands so held.

An Officer in charge of a Survey may assess lands to the land revenue under certain restrictions.

XXVI. The power to assess under the preceding Section shall include power to assess whether directly on the land, or in the form of a rate or cess upon the means of irrigation, or in any other manner whatsoever.

The assessment so made may be on land, or on means of irrigation, &c.

XXVII. It shall be the duty of the Survey Officer, on the occasion of making or revising settlements of land revenue, to prepare a record showing the area and assessment of each field, and containing all necessary information in regard to landed tenures and the obligations, rights, interests, and circumstances of the various classes of the community. | In the execution of this duty the Survey Officer shall be authorised to summon and examine such witnesses as he may require to enable him to prepare the record, and all persons so summoned shall be legally bound to give the Survey Officer the information necessary to the preparation of such record.

Preparation of statistical and fiscal records.

XXVIII. It shall be lawful for the Governor in Council, from time to time, to lay down rules for the administration of the Survey Settlements, not at

Government may lay down rules for the ad-

ministration of Survey Settlements, and may fix settlements and assessments for periods not exceeding thirty years.

exceeding thirty years. The expiration of periods so guaranteed shall from time to time be published by authority of Government in the *Government Gazette*.

**XXIX. Clause 1st.**—The guarantee given in virtue of the preceding Section is strictly limited to Imperial Land Revenue, and shall not apply to any cess which it shall be lawful for the Governor in Council to impose for the use of water, available in consequence of the construction, improvement or repair of any irrigational work by or at the instance of Government, or for purposes of local improvement, such as schools, village and district roads, wells, accommodation for travellers, and the like.

Extent of power to assess lands not assessed at the general assessment.

**Clause 2nd.**—The power of Government to assess surveyed lands and levy assessment thereon shall extend to any resumed rent-free land, alluvial accretions, reclamations, waste or other lands which may not have been assessed at the general settlement.

**XXX.** It shall be lawful for the Governor in Council to direct at any time a fresh survey or classification of soils or revision of assessment or all or any of these combined, but the assessment so revised should not take effect till the expiration of the period of previous guarantee given as provided in Section XXVIII. Such revised assessment shall be fixed, not with reference to improvements made by the owners or occupants from private capital and resources during the currency of any settlement under this Act, but with reference to general considerations of the value of land, whether as to soil or situation, prices of produce, or facilities of communication.

Assessment to be levied at such dates and in such instalments as the Government may direct.

**XXXI. Clause 1st.**—The assessment under a Revenue Settlement, whether it be fixed directly on the land or indirectly as a cess for water privileges, or in whatsoever manner, or for whatsoever purpose it may be imposed, shall be leviable at

such dates, and according to such instalments as may from time to time be determined under the orders of the Governor in Council.

*Clause 2nd.*—If any instalment of the assessment be not fully paid

If an instalment is not fully paid on the date fixed, interest, &c. may be charged.

on the date fixed, it shall be lawful for a Collector to levy, in addition to the assessment due, such charges, on account of interest and fees for the serving of notices and other processes, as may be authorised according to a scale to be fixed for each Collectorate, from time to time, under the orders of the Governor in Council.

**XXXII.** A Survey or Settlement Officer may set apart unoccupied lands in unalienated villages for free pasturage for the village cattle, for forest reserves, or for any other public or municipal purpose, and lands assigned specially for any such purpose shall not be otherwise appropriated or assigned without the sanction of the Revenue Commissioner.

Lands assigned for special purposes not to be otherwise appropriated without sanction of the Revenue Commissioner.

**XXXIII.** Any person who shall unauthorisedly cultivate or otherwise appropriate any portion of land so assigned shall be liable to pay an assessment not exceeding ten times the ordinary assessment for similar land, and to the forfeiture of any crop he may have raised on the said lands, which crop shall be disposed of as the Collector may direct: Provided, however, that nothing in this Clause shall exempt any person guilty of any criminal offence, in addition to the appropriation of land as aforesaid, from the punishment provided by law for such offence.

Penalty for appropriation of land assigned for special purposes.

for similar land, and to the forfeiture of any crop he may have raised on the said lands, which crop shall be disposed of as the Collector may direct: Provided, however, that nothing in this Clause shall exempt any person guilty of any criminal offence, in addition to the appropriation of land as aforesaid, from the punishment provided by law for such offence.

**XXXIV.** In the event of any village or estate not belonging to Government coming under the temporary management of Government Officers, it shall be lawful for the Collector, under the control of the Revenue Commissioner of the Division, to let out the lands thereof at the rates of the Survey assessment, or at such other fixed rates as he may deem to be reasonable, and to sell the occupation thereof, if waste, by auction, and otherwise to conduct the revenue management thereof, under the rules for the management of lands belonging to Government, so far as such rules may be applicable, and for so

Revenue management of villages or estates not belonging to Government that may be temporarily under Government management.

as he may deem to be reasonable, and to sell the occupation thereof, if waste, by auction, and otherwise to conduct the revenue management thereof, under the rules for the management of lands belonging to Government, so far as such rules may be applicable, and for so

long as the said village or estate shall be under Government management: Provided, however, that any written agreements relating to the land made by the owner thereof shall not be affected by any proceedings under this Section.

**XXXV.** It is hereby declared that an occupant of any Government land is entitled, in virtue of his occupancy, to erect farm-buildings, construct wells or tanks, or make any other improvements thereon for the better cultivation of the land. But if an occupant wishes to appropriate the land in his occupancy to any purpose unconnected with agriculture so as to destroy or injure it for cultivation, he shall first obtain the Collector's permission, which shall be given on payment of a fine fixed according to such rules as may from time to time be prescribed under the orders of the Governor in Council, and on entering into a written agreement to pay, in addition to such fine, the annual assessment which may have been fixed on such land at the settlement then current, and which shall remain liable to revision at any future settlement of the district.

**XXXVI.** The occupant of a survey field, or recognised share of a field or number, shall not be deprived of his right of occupancy in the said field or recognised share of a field by any Revenue Officer so long as he continues to pay the assessment due thereon. This right of conditional occupancy is declared to be a transferable and heritable property; and any person, lawfully and authorisedly in occupation of any land at the expiration of a settlement lease, who shall consent to the rate which may be assessed on his land at a revision of assessment, shall be continued in his occupancy without question.

**XXXVII.** Whenever, in the Rutnaghiree Collectorate and in the Ryghur, Rajpooree, and Sanksee talookas of the Tanna Collectorate, the Survey Settlement is introduced into villages or estates held by Khotes, it shall be competent for the Superintendent of Survey or Settlement Officer, with

Rights in virtue of occupancy of Government land. Appropriation of land to purposes unconnected with agriculture.

Right of occupancy conditional on payment of assessment declared to be a transferable and heritable property, and to be continuable without question, at the expiration of a settlement lease, on the occupant's consenting to the revised rate.

Leases for the full period for which a settlement is guaranteed may be granted to Khotes in Rutnaghiree and in certain talookas of the Tanna Collectorate.

the sanction of the Governor in Council, to grant the Khote a lease for the full period for which the settlement may be guaranteed, in place of the annual agreements under which such villages have hitherto been held; and further, the provisions of Section 36 in respect to the right of permanent occupancy at the expiration of a settlement lease shall hold good in regard to those villages or estates.

**XXXVIII.** It shall also be competent to such officer, with the

The Superintendent of Survey or Settlement Officer may fix the demands of the Khote on the tenant at the time of the general survey of a district.

sanction of the Governor in Council, to fix the demands of the Khote on the tenant at the time of the general survey of a district, and the terms thus fixed shall hold good for the period for which the settlement may be sanctioned.

But this limitation of demand on the tenant shall not confer on him any right of transfer by

**Proviso.**

sale, mortgage, or otherwise where such did not exist before, and shall not affect the right of the Khote to the reversion of all lands resigned by his tenant during the currency of the general lease.

**XXXIX.** Any person desirous of taking up unoccupied as-

Written permission required previously to taking up unoccupied assessed land. Penalty for taking possession of land without permission.

essed land must, previously to entering upon occupation, obtain the permission in writing of the local Native Revenue Officer (Mamlutdar or Mahalkuree); and in the event of his cultivating or otherwise taking possession of any

portion of a Number without his application having been formally allowed, it shall be lawful for the Collector to levy from the said person a special assessment, not exceeding five times the assessment ordinarily chargeable on the entire Number, and to summarily eject him from the land unauthorisedly occupied.

**XL.** The permission to occupy land provided for in the preced-

Permission to occupy land includes the concession of right to trees not specially reserved.

ing Section shall in all future settlements include the concession of the right of Government to all trees growing on that land which are not then specially reserved.

**XLI.** If a wrong entry of an occupant's name have been made

Wrong entries in the settlement or village papers may be corrected.

in the settlement or village papers at the introduction of the Survey, either through fraud, collusion, omission, or otherwise, it shall be

competent to a Collector or Superintendent of Survey to remove the name thus entered and to substitute that of the person found upon inquiry to be the *boná fide* occupant of the said Number or recognised share of a Number, provided that the petition for the correction be made within two years after the introduction of the settlement. If any clerical error shall be discovered, it may be corrected by the Collector or Superintendent of Survey at any time.

**XLII. Clause 1st.**—An occupant may relinquish his occupancy in whole or in part, provided the land so relinquished comprise whole fields, or recognised shares of fields, and provided that he shall, on or before the 31st March of the current year, give a written notice of such relinquishment to the local Native Revenue Officer of the revenue division of the district in which the land of such occupancy is situated. In default he shall be liable for the revenue due therefrom for the following revenue year.

Relinquishment of occupancy.

**Clause 2nd.**—Provided that, in villages held on the Nurwa and Bhagdaree or other similar tenure, the above Clause shall not relieve any shareholder from his liability for the assessment of all lands for which he may be, according to the custom of the village, responsible jointly with the other sharers.

The provisions of Clause I. not to relieve shareholders in certain villages from certain liabilities.

**XLIII. Clause 1st.**—A tenant holding under a superior holder or occupant as a yearly tenant shall be obliged to give notice of the termination of his tenancy at least six months before the commencement of the cultivating season next after that for which rent has been accepted, before he can rid himself of his character of tenant.

Notice of termination of tenancy to be given by yearly tenant.

**Clause 2nd.**—Every such tenant shall be entitled to receive from his landlord notice of the termination of his tenancy at least six months before the commencement of the next cultivating season.

Notice of termination of tenancy to be given to yearly tenant.

**XLIV.** Occupants of land in surveyed villages shall, as regards

Occupants to be regarded as superior holders, and entitled to assistance in the recovery of dues from tenants.

the assistance to be given to them in the recovery of their dues from their tenants, be regarded as superior holders, and entitled to the assistance provided for that class of holders in Chapters VI. and VII. of Regulation XVII.

of 1827 : Provided, however, that such assistance shall not exceed the levy of the Survey assessment, and such additional amount as may be leviable by the custom of the village or under a settlement sanctioned by Government.

Proviso.

**XLV.** \* *In case of a decree of a Civil Court for the division*

Rules for partition of an estate paying revenue to Government.

*of an estate under Section 225 of Act VIII. of 1859 (the Civil Procedure Code) or by any other process of law, the following rules shall be enforced by the Collector for the partition of such estate:—*

*Clause 1st.—The estate shall be divided according to Survey Numbers or recognised shares of Numbers, as far as may be possible, without subdividing any Number or recognised share of Number.*

*Clause 2nd.—When the decree cannot be executed without subdivision of a Number or recognised share of a Number, the Collector shall so report to the Court issuing the decree, and according to the orders he may receive from the Court, he shall either transfer the Number or recognised share of a Number, undivided, to any party named by the Court, or sell the Number or share of the Number, undivided, with its rights and liabilities, and pay over the proceeds as the Court may direct.*

Proviso.

*Clause 3rd.—Provided that nothing in this Section shall affect the provisions of (Bombay) Act V. of 1862.*

**XLVI.** When the sanction of the Governor in Council has

Collector to have charge of boundary marks after introduction of the Survey Settlement.

been obtained under Section 25 of this Act, the Survey Settlement shall be held to have been introduced into a district, and the charge of the boundary marks shall then devolve on \*

\* Repealed by Section 16 of Act IV. of 1868.

the Collector, and it shall be his duty to take measures for their maintenance and repair, in the manner provided for Survey Officers in this Act.

**XLVII.** Every occupant shall be responsible for the maintenance and good repair of the boundary marks of his field; and it shall be the duty of the Village Officers and servants to prevent the destruction or alteration of the village boundary marks.

Occupants responsible for the maintenance of field boundary marks.

Village Officers and servants to prevent destruction or alteration of village boundary marks.

**XLVIII.** All dues and charges of whatsoever nature, leviable under this Act, shall be collected in the manner prescribed for the recovery of revenue demands according to the Rules and Regulations which may be in force for the time being.

Dues recoverable as revenue demands.

**XLIX.** The provisions of this Act shall not, except for the purpose of defining village boundaries, be applied to alienated \* villages: Provided that it shall be competent to the Governor in Council to extend by notification in the *Government Gazette* all or any of the provisions of this Act to every such village, on application made, in writing, by the holder thereof, and further, to apply the provisions of this Act to all Government lands situated in alienated villages.

Act not to apply, except for defining boundaries, to alienated villages: but may, on written application, be extended to such villages, and may be applied to Government lands in such villages.

\* L. Regulation X. of 1827, and Sections 2, 3, and 4 of Act III. Laws repealed. of 1846 are hereby repealed.

LI. † This Act shall be read and taken as part of Regulation XVII. of 1827.

Construction.

\* *Vide* Section 19 of Act IV. of 1868.

† Repealed by Section 20 of Act IV. of 1868.



ACTS PASSED BY THE GOVERNMENT OF BOMBAY.

The following Act of the Governor of Bombay in Council received the assent of the Right Honourable the Governor of Bombay on the 4th December 1868, and the assent of His Excellency the Governor General on the 12th January 1869, and is published for general information :—

BOMBAY.

Act No. IV. of 1868.

*An Act to make further provision regarding the application of (Bombay) Act I. of 1865 to Towns and Cities ; and to restrict the application of (Bombay) Acts II. and VII. of 1863 in Towns and Cities, and otherwise to amend (Bombay) Act I. of 1865.*

Whereas it is desired to make further provision regarding the application of Bombay Act I. of 1865 to towns and cities, and to restrict the application of (Bombay)

Acts II. and VII. of 1863 and I. of 1865 in towns and cities, and otherwise to amend (Bombay) Act I. of 1865 : It is enacted as follows :—

Bombay Act I. of 1865 applicable to Towns and Cities.

I. (Bombay) Act I. of 1865 is hereby declared applicable to towns and cities.

II. (Bombay) Acts II. and VII. of 1863 not to be applied to towns and cities except so far as is provided in this Act.

II. (Bombay) Acts II. and VII. of 1863, except in so far as they repeal former Regulations, shall not after the passing of this Act be applied to towns and cities except so far as is provided in this Act.

III. Assessment on lands in Towns and Cities may be fixed for a term of years or in perpetuity.

III. Subject to such rules as may from time to time be prescribed by Government, the assessment on assessable lands in towns and cities, whether imposed under (Bombay) Act I. of 1865 or any other Act for the time being in force, may be fixed for a term of years or in perpetuity, anything in Section 28 of the (Bombay) Act I. of 1865 notwithstanding.

IV. Titles in towns and cities confirmed.

IV. The existing right of occupancy of all lands in towns and cities is hereby confirmed so far as the interest of Government is concerned, only excepting the case of encroachments, as provided for in Section 8 of this Act.

V. *Clause 1.*—In towns and cities the Collector shall, on the application of the owner or occupant, confirm existing exemption from the payment of Government Land Revenue in the following cases: that is to say—

*1st.*—In any town or city where there has been in former years a survey which Government recognise for the purposes of this Section, all lands shown in the maps or other records of such survey as being held wholly or partially exempt from the payment of Government land revenue.

*2nd.*—In any town or city, all lands shown on summary inquiry before the Collector to have been held wholly or partially exempt from the payment of Government land revenue for a period of not less than five years before the application of (Bombay) Act I. of 1865 or of this Act to such town or city.

*3rd.*—In any town or city, lands, for whatever period held, shown on summary inquiry before the Collector to have been held partially or wholly exempt from payment of Government land revenue under a deed of grant or of confirmation issued by an officer whom Government recognise as having been competent to issue such deed.

*Clause 2.*—A sunnud from the Collector certifying that one or other of the conditions above stated has been fulfilled shall be sufficient proof of a right to exemption, and such sunnud shall be produced by any occupant making application under the preceding Clause.

VI. In any town or city all other lands, not coming within the provisions of Section 7 of this Act, which have been held for a period of less than five years preceding the date of the application of (Bombay) Act I. of 1865 or of this Act to such town or city, will be liable to be assessed to the full amount of the survey rates, and if such lands have been held for a period of less than two years preceding the said date, the holder will also be liable to pay the occupancy valuation, to be determined according to the rates prevalent in the immediate neighbourhood.

VII. Nothing in the two last preceding Sections shall be held to be applicable to those lands within the limits of any town or city which have hitherto been

Sunnuds proof of exemption.

Lands in Towns and Cities held for less than five years how dealt with.

Cultivated lands in towns and cities excepted.

held wholly or partially exempt from the payment of Government land Revenue and used for cultivation only. Such lands shall be dealt with in the ordinary manner under (Bombay) Acts II. and VII. of 1863: Provided always that such portion of the land as may hereafter be built upon shall become subject to payment of one-eighth of the rate fixed for land used for building purposes.

VIII. In towns and cities any land, proved on summary inquiry before the Collector to be an encroachment on any public street or thoroughfare, may be taken possession of by the Collector, unless such land is shown to have been held for a period not less than twelve years. It shall be lawful for the Collector to clear such land by the removal of any buildings or other obstruction, in the event of the owner, after receiving written notice of not less than one month, failing to do so himself. When land is taken possession of under this Section reasonable compensation shall be given to the owner in respect of all buildings, if such buildings are proved to have been erected previous to the application of (Bombay) Act I. of 1865, or of this Act: Provided always that it shall not be necessary to give compensation in respect of the removal of door-steps, benches, or other similar projections of whatever material; and provided also that in the case of the owner not accepting the sum tendered as reasonable compensation by the Collector, compensation shall be fixed under the provisions of Sections 10 to 31 of Act VI. of 1857.

**Encroachments on public roadway how dealt with.**

**Compensation for removal of buildings.**

**Proviso.**

IX. In towns and cities to which Bombay Act I. of 1865 or this Act has been applied, it shall be lawful for any duly authorised Survey Officer to enter, when necessary for the purposes of measurement, fixing boundaries, or for any other purpose connected with the Survey and Settlement, any lands or premises, whether belonging to Government or to private individuals, and whether assessed to the public revenue or not: Provided always that no building used as a human dwelling shall be entered, unless with the consent of the occupier thereof, without a notice having been served at the said

**Survey Officers may enter on premises for purposes of measurement, &c.**

**Proviso.**

building not less than seven days before such entry; and provided also that in the case of buildings of all descriptions due regard shall be paid to the social and religious prejudices of the occupiers.

X. It shall be the duty of the Collector, after inquiry, to issue, under his hand and seal, to each owner or occupant in any town or city to which this Act shall be made applicable, on application, a sunnud or sunnuds specifying, by plan and description, the limits and tenure of such person's holding. The fee for such sunnuds shall be fixed by Government, and shall not exceed Rs. 5 for each survey number.

XI. In towns and cities all roads and lanes, and all open spaces not in the occupation of any person, and not proved to be the property of any person, vest in Government; and it shall be lawful for the Collector, subject to the orders of the Revenue Commissioner, to dispose of them in such manner as may be authorised by general rules sanctioned by Government; with due regard to common and pasturage rights, and not so as to deprive any householder of a thoroughfare to his house without reasonable compensation.

XII. Any or all of the powers which under this Act may be exercised by a Collector may by him be delegated in writing to any Assistant or Deputy Collector, or any Survey Officer of not lower rank than a Sub-Assistant Superintendent of Survey. Any officer thus empowered shall, in respect to Section 7 of this Act, exercise all the powers of a Collector under (Bombay) Acts II. and VII. of 1863; but all his proceedings shall be subject to review by the Collector himself. The Collector, or any Assistant or Deputy Collector empowered as above, shall, for the purposes of inquiries under this Act, exercise the powers of a Survey Officer under (Bombay) Act I. of 1865.

XIII. The maps and land registers of the Survey and Settlement in towns and cities shall be open to the inspection of the public at reasonable hours; and extracts from such maps and registers shall be given to any applicant on payment of such fees as may be prescribed by Government from time to time.

XIV. In towns and cities, in cases in which separate boundary-marks are not erected, the period of six months for appeal under Section 14 (Bombay) Act I. of 1865 shall be reckoned from the date of the decision of the officer fixing the boundary being communicated to the parties concerned, and such appeal shall be made to the Collector.

XV. Any person whose attendance shall lawfully be required by general notice, or by summons under Section 10 of (Bombay) Act I. of 1865, shall be legally bound to attend in person or by agent in obedience to such notice or summons. And any person who shall lawfully be called on, under Section 14 of (Bombay) Act I. of 1865 to produce any document for inspection, shall be legally bound to produce such document.

XVI. Section 45 of (Bombay) Act I. of 1865 is hereby repealed.

XVII. *Clause 1.*—In case of a decree of a Civil Court for the division of an estate under Section 225 of the Civil Procedure Code, or by any other process of law, the following rules shall be enforced by the Collector for the partition of an estate:—

*Rule 1.*—The estate shall be divided according to survey numbers or recognised shares of survey numbers, as far as may be possible without dividing any number or recognised share of any number.

*Rule 2.*—When the decree cannot be equitably executed without the subdivision of a number, or recognised share of a number, the Collector shall subdivide any number, or recognised share of a number, provided that no number, or recognised share of a number, shall be made of less extent than a minimum, to be fixed from time to time in each district for the several classes of land by the Commissioner of Survey and Settlement, with the sanction of Government. A record of the minima fixed shall be kept in each talooka kutcherry, and shall be open to the inspection of the public at reasonable hours.

**Rule 3.**—The decree of the Court having been carried out so far as may be by assigning to the several parties concerned numbers and recognised shares of numbers, and newly subdivided numbers, and recognised shares of numbers, to such extent as subdivision may be permissible without infringing the foregoing proviso, the Collector shall, in respect to any number, or recognised share of a number, which may remain unassigned and undivided, refer to the Court giving the decree, and according to the decision of the Court he shall either transfer such number, or recognised share of a number, undivided to any party named by the Court, or sell it undivided, with its rights and liabilities, and pay over the proceeds as the Court may direct.

**Clause 2.**—At the time of a revision of survey and settlement it shall be lawful for a Survey Officer to make a subdivision of a number, or recognised share of a number, subject to the proviso in Rule 2 in the preceding clause : Provided always that no such subdivision shall be made without the consent of the occupant.

**Subdivision at revision of survey and settlement.**

**Proviso.**

(Bombay) Act V. of 1862 not affected by this Section.

**Clause 3.**—Nothing in this Section shall affect the provisions of (Bombay) Act V. of 1862.

**XVIII. Clause 1.**—Whenever there are sharers in an estate held on Talookdaree tenure in Gujarat, and the sharers being agreed as to the proportion of their respective interests in such estate, a majority of the sharers represented by those whose interest extends to more than one-half of the entire estate consent to a division, it shall be lawful for a Collector, or officer empowered by him, to divide the lands of such estate according to the proportion of the interest of the several sharers therein, the rules in the last preceding section being duly observed.

**Division of lands of an estate having sharers and held on Talookdaree tenure in Gujarat.**

**Clause 2.**—The cost of division and demarcation of shares shall be recoverable as a revenue demand in proportion to their interest from all the shares in the estate divided.

**Cost how recovered.**

**XIX.** Whenever by virtue of Section 49 of (Bombay) Act I. of 1865, Government shall extend by Notification all or any of the provisions of the said Act to any alienated village, it shall be lawful to direct in such Notification, or in any subsequent Notification, by whom any powers or duties incident to the provisions so extended shall be exercised or performed, and also in such Notification to introduce any other directions which may be deemed requisite for carrying such provisions into operation in the place to which they are extended.

Notification extending Act I. of 1865 to an alienated village shall show by whom the power or duties incident to the provisions extended shall be exercised.

Section 51 of (Bombay) Act I. of 1865 repealed.

**XX.** Section 51 of (Bombay) Act I. of 1865 is hereby repealed.

**XXI.** The words "towns and cities" shall, for the purposes of this Act, include all lands in towns and cities within such limits as Government shall from time to time notify, and no others.

Interpretation clause.  
"Towns and Cities."

The word "lands" in this Act, and in (Bombay) Acts II. and VII. of 1863 and I. of 1865, shall include land and things attached to the earth, or permanently fastened to anything which is attached to the earth.

"Lands."

Whenever (Bombay) Act I. of 1865 is applied in towns and cities, the word "village" in that Act shall be held to include Towns and Cities.

"Village."

Act not to apply to the City of Bombay.

**XXII.** This Act shall not apply to the City of Bombay.

**XIII.** This Act may be cited as the "Act for City Surveys and amendment of Bombay Survey and Settlement Act, 1868."

Short title.

*Revenue Survey and Assessment.*

No. 426.

REVENUE DEPARTMENT.

*Bombay Castle, 5th February 1869.*

Letter from the Revenue Commissioner S. D., No. 4021, dated 16th November 1868.

Letter from the Revenue Commissioner N. D., No. 5226, dated 23rd November 1868.

Submitting for orders, with their own observations and suggestions, a draft of Rules framed under Section 28 of Bombay Act I. of 1865, to supersede the Joint Report Rules, together with communications from the Survey and Settlement Commissioners Southern and Northern Divisions.

RESOLUTION.—The Governor in Council concurs with the Revenue Commissioners in the opinion that the wording of Clause 2 of Appendix A should be more comprehensive. The words should be as nearly as possible, those of the Draft Bill for Local Taxation; and with this view in line 6 the words “for education” should be inserted after the word “convenience,” and the word “sanitary” should be substituted for the word “local” in the same line. In Clause 3 of Section 4 line 4, the word “may” should be substituted for the word “shall.”

2. The Rules, with some verbal amendments, are approved, and may be published in the *Government Gazette*.\* The Revenue Commissioners should have careful translations made and circulated to all offices, and a copy should be placed among the records of every village.

F. S. CHAPMAN,  
Chief Secretary to Government.

To

The REVENUE COMMISSIONER S. D.

The REVENUE COMMISSIONER N. D.

The SURVEY and SETTLEMENT COMMISSIONER N. D.

The SURVEY and SETTLEMENT COMMISSIONER S. D.

All COLLECTORS, SUB-COLLECTORS, and the EXTRA FIRST ASSISTANT COLLECTOR in charge, PUNCH MAHALS.

The COMMISSIONER in SIND.

} With copy of the Rules.

\* These Rules are published in the *Bombay Government Gazette* of the 11th February 1869.



## REVISED SURVEY RULES.\*

Under the provisions of Section 28 of Bombay Act I. of 1865 the following Rules for the administration of the Survey Settlement are published in supersession of those now in force :—

I. When a Revenue Survey Settlement shall have been introduced in a district under the provisions of Section 28 of Bombay Act I. of 1865, a proclamation in the annexed form † shall be published in such district, and the guarantee given shall be notified in the *Government Gazette*. (1)

† Appendix A.

II. The rights of occupancy are defined in Sections 35 and 36 of Bombay Act I. of 1865.

III. The Survey tenure includes the Government right in all trees standing in occupied lands, subject to the following exceptions, viz. :—

- I. All road-side trees, and those on the banks of tanks, and those in places of public resort and useful for shade or ornament.
- II. Teak, blackwood, sandalwood, and such other trees as may be reserved at the settlement, except those specially assigned to the occupant or purchased by him.
- III. Fruit-trees belonging wholly or partially to Government, the property in which has not been specially assigned to the occupant or purchased by him.
- IV. *Clause 1.*—In event of an occupant of Government land dying, his number or share shall be entered in the name of the nearest heir as occupant.

*Clause 2.*—If there be more heirs than one, the name and share in fractional parts of a rupee of each co-sharer may at any

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\* These rules as applicable to the Province of Mysore will be found at page 117 of the *Mysore Government Gazette* of the 8th of May 1869.

(1) When the Survey Settlement is introduced into a Talooka of a partially settled Collectorate, the guarantee will be restricted to the unexpired portion of the lease granted in the first Talooka of such Collectorate. Provided, however, that in no case shall any settlement be fixed for less than 25 years, except for special reasons. The lease in lapsed and alienated villages shall, however, in all cases be co-terminous with that of the Talooka in which they are situated.

Government Resolution  
No. 2474, dated 27th June  
1868, paragraph 3.

period, upon the written application of all or any of the co-sharers, be recorded as those of a *joint occupant (pôt khatadar)*, and such joint occupant shall be subordinate, *so far as the payment of the revenue is concerned*, to the occupant, to whom he shall be responsible for the due discharge of his proportion of the assessment. But such entry shall not confer a right to a subdivision of land below the minimum area fixed under Section 17 of Bombay Act IV. of 1868 for the district in which the holding is situated.

*Clause 3.*—As regards the realisation of the *recorded proportion of the revenue due from a joint occupant*, the occupant may, upon application, have the same assistance as is prescribed for the recovery of dues from tenants by Section 44 of Bombay Act I. of 1865.

V. As the full assessment of an entire Survey number will invariably be levied, it is provided that in the event of the relinquishment of a recognised share of a Revenue Survey number, the share so relinquished shall be at the disposal of the remaining sharer or sharers. The prior right to it shall belong to the sharer paying the largest share of the assessment of the number; but in case neither he nor any other sharer, nor any person nominated by them, shall apply to have his name entered as occupant of the share so lapsed, its assessment shall be levied from the remaining sharers in proportion to their shares of the original assessment. (2)

VI. If land included in a Survey number as unarable be brought under cultivation no extra assessment will be levied on that account. But this does not apply to roads or to tanks included in a Survey number, and used for irrigation, drinking, or domestic purposes. Cultivation on roads, or in the beds of such tanks (except (3) as noted below) is strictly prohibited.

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(2) Joodee being a lump payment as quit rent on the whole of a Joodee Inam holding, the like procedure will be followed in Revenue Survey numbers held on Joodee Inam tenure. The omission to pay a *portion* of the Joodee involves a forfeiture of the tenure, but so long as the portion payable on a resigned share is paid by the holders of the remaining shares it is unnecessary to insist on forfeiture.

(3) This does not apply in those cases where the privilege of cultivating the dry beds of tanks shall have been specially conceded at the Survey Settlement.

VII. The right of occupancy of all unreserved lands not occupied at the time of settlement, or unoccupied at any subsequent period, together with the trees standing thereon, will be put up to public auction at the discretion of the Collector, and sold to the highest bidder, subject to the full assessment and Local Fund Cess for the time being.

VIII. In the event of the occupancy right of any number containing trees not being purchased, the Government share of the produce of the trees may be sold by auction annually.

IX. No Survey number on which the assessment has been fixed is to be let for less than the Survey assessment in consequence of its having been long waste, or for any other reason whatever.

X. The whole or part of a Survey number upon which, by reason of its being covered with jungle, or from other causes, no assessment has been fixed (and generally all waste unassessed land), may be given out, (1) for cultivation at the rate of assessment placed in similar soils in the same or neighbouring villages. But if, on application being made, it shall appear on inquiry that the bringing of such lands under cultivation will be attended with large expense, it shall be competent to the Collector, with the sanction of the Revenue Commissioner, to give the land free of assessment for a certain term (*kowli*), subject to such conditions as the outlay may seem to warrant. (2)

XI. The produce of all lands (except those assigned to villages for free pasturage) specially reserved as "Koorun," or for grazing, may be sold year by year either number by number or in tracts, and at such time as the Collector shall determine, provided that the usufruct of such lands shall not be for a longer period than one year, and shall cease at the Mirgatal (June 5th.)

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(1) If the land contain jungle or valuable trees, the Conservator of Forests is to be consulted before it is given out.

(1) Reference is to be made to the Survey Department regarding rates of assessment as long as it shall be in the collectorate.

(2) If the land contain jungle or valuable trees, the Conservator of Forests is to be consulted before it is given out.

XII. The grazing of unoccupied (3) revenue Survey numbers bearing assessment may be sold annually by public auction number by number at such time as the Collector may determine. The purchaser's usufruct will cease on the 31st of March next following. (2)

\* XIII. Every transfer of occupancy must be by written notice of relinquishment (as specified in Section 42 of Bombay Act I. of 1865),

(3) This rule is not intended to interfere with the practice which prevails in some districts of giving out assessed waste for the free pasture of village cattle.

(2) If the land contain jungle or valuable trees, the Conservator of Forests is to be consulted before it is given out.

\* Revenue Survey and Assessment.

No. 1819.

REVENUE DEPARTMENT.

Bombay Castle, 5th May 1869.

\* \* \* \* \*  
RESOLUTION.—The forms drafted by Mr. White should be substituted for that recently sanctioned.

2. The proposed alteration of Rule XIII. is approved; but the liability of the transferee to pay stamp duty of one rupee should be clearly specified.  
\* \* \* \* \*

“RULE XIII.

“Whenever an occupant shall be desirous of transferring his right of occupancy to another person, written notices of such transfer must be given by the transferer and transferee. Such notices may be given at any period of the year, the person to whom the land is transferred becoming responsible for any outstanding balance due for land revenue in respect of the land so transferred. Such notices must be in the Form Nos. 1 and 2 under head A appended to these rules, and in the case of the transferee, must be written on a stamp paper of one rupee, and contain an undertaking on his part to pay any such outstanding balance.”

FORM A.—RULE XIII.

No. 1.

To the MAMLUHDAR of—

I, A. B., inhabitant of—in the—Talooka—Collectorate occupying Revenue Survey No.—[or “a recognised share of Revenue Survey No.—,” as the case may be] in the said village of—hereby give notice that I have transferred my occupancy of the same all the rights appertaining thereto to C. D.—inhabitant of—in the said Talooka from this date. In witness whereof I hereto attach my signature [or “mark” as the case may be] this—day of—Native date.

Witnesses.

E. F.

G. H.

A. B.

and must be in the form A appended. It may be given in at any period of the year the person to whom the land is transferred becoming responsible for the current year's revenue.

XIV. Every resignation of occupancy must be in the Form B appended.

XV. A resignation or transfer shall be held to include Meeras and all other rights whatsoever of the occupant, but a transfer shall not affect the rights of sub-occupants or other subsidiary rights.

XVI. The collection of the revenue shall be made in accordance with the provisions of Clause 2, Section 31 of Bombay Act I. of 1865, and when instalments are overdue interest and fees for (1). Notices will be issued in accordance with the following Rules:—

- I. For every Notice issued a fee of 8 annas shall be charged if the sum due be under 10 Rupees; and Rs. 1 for any sum due above 10 Rupees.
- II. The Notice may be issued immediately the instalment has become overdue, and should specify that in event of the sum due, together with interest, not being paid within one month, the right of occupancy will be sold by public auction.
- III. Interest at the rate of half a pie per rupee per diem should be charged from the day after the instalment falls due up to the date of payment, both days inclusive.
- IV. The collector may forego these penalties, or any portion thereof, for sufficient reason.

No. II. \*

To the MAMULDAR of—

I, C. D., inhabitant of— in the— Talooka— Collectorate hereby give notice that I have accepted the transfer of the occupancy of the land comprised in Revenue Survey No.— in the said village as from this date, and I pray that my name may be substituted in the books of the Sirkar for that of A. B. as the occupant of the said Revenue Survey No.— as from this date, I undertaking to pay any outstanding balance that may now be due to the Sirkar in respect of the Land Revenue payable in respect of the said Revenue Survey No.—

Witnesses.

E. F.

G. H.

C. D.

(1) Form of Notices appended.

\* To bear a stamp of one rupee.

V. In calculating the interest, pies, and fractions of pies, should be struck off from the total amount.

XVII. In the maintenance and repair of boundary marks the Collector shall be guided by the special rules contained in the annexed Appendix B.

## Appendix A.

### *Notice of the Terms of the Settlement.*

The Governor of Bombay in Council having sanctioned the Survey Settlement introduced by the Superintendent Revenue Survey and Assessment under the provisions of Bombay Act of 1865, the following Notification is published for the information of Village Officers and the owners and occupants of land in the Talooka of the Collectorate:—

- I. The Survey rates as fixed will remain in force for—years' Duration of Lease. commencing from (1)—and extending to (1)—
- II. In addition to the fixed assessment a cess—annas per rupee will be levied for the purpose of forming Local Funds. a fund to provide for local works of public utility and convenience, for education, and for sanitary improvements, within the district only.
- III. In the case of land which may hereafter be brought under irrigation from works constructed and maintained by, or at the instance of Government, Extra cess for water. (2) or which may be supplied with an increased supply of water from works constructed, repaired, or improved at the cost of the State, Government reserves to itself the right of imposing an extra cess or rate, or of increasing any existing rate for the use of water supplied or increased by such means. (2)

(1) Here enter the Fuslee and A.D.

(2) Should any other special cess for the maintenance of irrigation works, such as the Hucaba levy in Sind, or Path-falla in Khandeish (be levied), it should be here specified.

IV. With the exceptions above mentioned, nothing in excess of the fixed Survey assessment shall on any account be levied during the currency of the lease. Nothing more than the Survey rates to be levied on any account be levied during the currency of the lease.

V. The Survey tenure includes the Government right in all trees standing in occupied lands, subject to the general exceptions entered in the margin\* and the special exceptions recorded in the Village Register.

### Appendix B.

#### *Rules for the Erection, Maintenance, and Repair of Boundary Marks.†*

I. The Superintendent of Survey will furnish the Collector with a Map and statements showing the position, size, and description of the Boundary Marks erected by the Survey Department in each field; and these are to be considered the permanent marks to be maintained and repaired, as contemplated in Section 46 of Bombay Act I. of 1865.

II. In addition to the Boundary Marks entered in the Survey papers, a strip of land between each mark (1) of the dimensions laid down for the district should be kept unploughed, and carefully preserved as forming part of the boundary of the number. (2)

III. A regular inspection of Boundary Marks by Survey numbers is to be made in each village annually, or biennially, as prescribed by Circular Orders. The results of this inspection are to be entered in a Field Register prepared according to the annexed form.

IV. The Boundary inspection shall be made in the presence of the Village Officers and the owners and occupiers of the land who may attend such inspection.

(1) Garden and Rice lands where hedge-bound or defined with permanent boundaries, walls, banks, &c., are excepted from this ruling.

(2) Such strips have been declared to be Boundary Marks within the meaning of the Act—(Government Resolution No. 1735, dated the 13th April 1857).

\* The names of reserved trees are to be specified in the margin.

† Detailed rules regarding the material and size of Boundary Marks in the Bombay Presidency will be found at pages 147 to 150 of "Revenue Circular Orders," and for the Province of Mysore at page 435 of the *Mysore Government Gazette* of the 26th September 1868.

V. When every field has been inspected and the state of its Boundary Marks entered in the Register, a second examination, after the lapse of a sufficient time to allow of the repairs to the marks being completed, should be made of every field surveyed at the first inspection as requiring repairs, and should any repairs remain unexecuted, the provisions of the Act should be rigidly enforced.

VI. On the repairs being thus completed, the Amildar should prepare and forward to the Collector, by a date to be specially fixed for each district, a general abstract of the Inspection Return.

VII. No person is to be allowed to dig or to work close around the Boundary Marks for repairs. A space of two feet in breadth all round the marks must be left untouched, so as to prevent injury to the mounds from water lodging in the cavities from which the earth for repairs is taken.

VIII. Assistant Collectors are personally to examine the Boundary Marks of some of the numbers of several villages in every Talooka as soon as possible after the completion of the examination by the Native Local Officers. In the case of districts which are under the immediate superintendence of the Collector that officer is to mark off several numbers in the Village Registers; and examination by the Dufterdar, or other high officer of the establishment.

IX. The Revenue Commissioners during the circuit are to take measures for preventing the inspection ordered in these Rules becoming a mere form.



## FORM OF EXAMINATION.

*REGISTER of FIELD BOUNDARY MARKS in the Village of—Talook—Zilla—in 186 .*

Number of Field.	Sides of the Field on which Boundaries were examined & Date of										Tenure.	Government.		Remarks by Munsif or other Testing Officer.
	1st Inspection.					2nd Inspection.						Cultivated.	Waste.	
	Date.	E.	N.	W.	S.	Date.	E.	N.	W.	S.				
1		*									Government.	1		Entries correct.

## FORM A, RULE XIII.

To the MAMLUUDAR of—

I, A. B., inhabitant of—in the—Talooka—Collectorate occupying Revenue Survey No.—(or a recognised share of Revenue Survey No.—as the case may be) in the said village of—hereby transfer my occupancy of the same, and all the rights thereto appertaining to C. D., inhabitant of—in the said Talooka from this date. In witness whereof I hereto attach my signature (or mark, as the case may be) this—day of—naive date.

A. B.—

2 Witnesses—

E. F.

G. H.

I, the abovementioned C. D., hereby agree to occupy the above described No. (or recognised share of a No. as the case may be) from this date, and to pay any outstanding balance of the current year's revenue which may now be due to the Sirkar. In witness whereof I hereto attach my signature (or mark as the case may be).

2 Witnesses—

E. F.

G. H.

C. D.—

Before me

Mamlud of—

*N.B.*—This document (which should be executed in the presence of the Mamludtar) to be filed for inspection of the Mammabundee Officer.

## FROM B, RULE XIV.

I, A. B., inhabitant of—in the—Talooka, of the—Collectorate, occupying Revenue Survey No.—(or recognised share of Revenue Survey No.—as the case may be) hereby give notice that it is my intention to relinquish the occupancy of the said Revenue

\* Superseded by Form A, Rule XIII. published 5th May 1869 (vide foot-note at page 258).

Survey No.—(or recognised share of Revenue Survey, No.—as the case may be) at the end of the current year. In witness whereof I hereto attach my signature (or mark, as the case may be) this twentieth day of March 1868.

2 Witnesses—

C. D. Witness.

E. F. do.

A. B.—

G. H.—

*Village Accountant.*

*N. B.*—The above notice must (under Section 42 of Act I. of 1865) be given in before the 31st of March; but when the Survey Settlement is newly introduced into a district, the Settlement Officer will receive *Razeenamas* up till the 5th June of the year of settlement.

This Notice of relinquishment is to be filed for the inspection of the Jumma. bundee Officers.

## NOTICE UNDER RULE XVI.

To—inhabitant of—Talooka—Collectorate.

I hereby give you notice that your—instalment of the revenue amounting to Rupees—is now overdue.

In case the same is not paid immediately, in addition to the fee for this notice, amounting to 8 annas, interest will be charged on the amount overdue, according to the provisions of Clause 2, Section 31 of Bombay Act I. of 1865.\* If after one month from this date the sum due, together with interest thereon, shall not be paid, the occupancy of your numbers, or recognised shares of numbers, or as many of them as will satisfy the claim of Government, will be sold by public auction.

\* At the rate of—  
per rupee per diem from  
the day after the instal-  
ment falls due up to the  
date of payment, both  
days inclusive.

will be charged on the amount overdue, according to the provisions of Clause 2, Section 31 of Bombay Act I. of 1865.\* If after one month from this date the sum due, together with interest thereon, shall not be paid, the

A. B.—

Collector or Assistant Collector, or Mamlutdar, as the case may be.

## FORM A, RULE XIII.

To the MAMLUTDAR of—

I, A. B., inhabitant of—in the—Talooka—Collectorate occupying Revenue Survey No.—(or a recognised share of Revenue Survey No.—as the case may be) in the said village of—hereby transfer my occupancy of the same, and all the rights thereto appertaining to C. D., inhabitant of—in the said Talooka from this date. In witness whereof I hereto attach my signature (or mark, as the case may be) this—day of—naive date.

A. B.—

2 Witnesses—

E. F.

G. H.

I, the abovementioned C. D., hereby agree to occupy the above described No. (or recognised share of a No. as the case may be) from this date, and to pay any outstanding balance of the current year's revenue which may now be due to the Sirkar. In witness whereof I hereto attach my signature (or mark as the case may be).

2 Witnesses—

E. F.

G. H.

C. D.—

Before me

Mamlutdar of—

*N.B.*—This document (which should be executed in the presence of the Mamlutdar) to be filed for inspection of the Mammabundee Officer.

## FROM B, RULE XIV.

I, A. B., inhabitant of—in the—Talooka, of the—Collectorate, occupying Revenue Survey No.—(or recognised share of Revenue Survey No.—as the case may be) hereby give notice that it is my intention to relinquish the occupancy of the said Revenue

\* Superseded by Form A, Rule XIII. published 5th May 1869 (vide foot-note at page 258).

Survey No.—(or recognised share of Revenue Survey, No.—as the case may be) at the end of the current year. In witness whereof I hereto attach my signature (or mark, as the case may be) this twentieth day of March 1868.

2 Witnesses—

C. D. Witness.

E. F. do.

A. B.—

G. H.—

*Village Accountant.*

*N. B.*—The above notice must (under Section 42 of Act I. of 1865) be given in before the 31st of March; but when the Survey Settlement is newly introduced into a district, the Settlement Officer will receive Razeenamas up till the 5th June of the year of settlement.

This Notice of relinquishment is to be filed for the inspection of the Jumma-bundee Officers.

### NOTICE UNDER RULE XVI.

To—inhabitant of—Talooka—Collectorate.

I hereby give you notice that your—instalment of the revenue amounting to Rupees—is now overdue.

In case the same is not paid immediately, in addition to the fee for this notice, amounting to 8 annas, interest will be charged on the amount overdue, according to the provisions of Clause 2, Section 31 of Bombay Act I. of 1865.\* If after one month from this date the sum due, together with interest thereon, shall not be paid, the occupancy of your numbers, or recognised shares of numbers, or as many of them as will satisfy the claim of Government, will be sold by public auction.

\* At the rate of—  
per rupee per diem from  
the day after the instal-  
ment falls due up to the  
date of payment, both  
days inclusive.

will be charged on the amount overdue, according to the provisions of Clause 2, Section 31 of Bombay Act I. of 1865.\* If after one month from this date the sum due, together with interest thereon, shall not be paid, the

A. B.—

Collector or Assistant Collector, or Mamlutdar, as the case may be.

**CHECKED**  
**20-3-04**

**NOTIFICATION.\***

**FOREIGN DEPARTMENT.—JUDICIAL.**

*Simla, the 30th April 1869.*

*No. 83.*

His Excellency the Viceroy and Governor General in Council is pleased to declare that the provisions of (Bombay) Act I. of 1865, known as the Bombay Survey and Settlement Act, with the exception of Sections 50 and 51 thereof, and as amended by (Bombay) Act IV. of 1868, shall be applicable to the Territory of Mysore, with the following emendations:—

*For “Governor in Council,”*

*Read “The Chief Commissioner of Mysore.”*

*For “Revenue Commissioner,”*

*Read “Superintendent of Division.”*

*For “Collector,”*

*Read “Deputy Superintendent of District.”*

*For “Assistant Collector,”*

*Read “Assistant Superintendent of District.”*

*For “Presidency of Bombay,”*

*Read “Province of Mysore.”\**

His Excellency in Council is also pleased, under the provisions of Section 6 of (Bombay) Act I. of 1865, to confer the powers of a Deputy Superintendent of a District for the purposes of the said Act on the Superintendent of the Revenue Survey in Mysore, and the powers of an Assistant Superintendent on the Assistants of the Revenue Survey in that Province, to be respectively exercised by them within the limits of the district or districts in which they are employed.

\* Vide *Gazette of India* of May 1st, 1869, page 916.