

Prevention of Fragmentation and  
Consolidation of Holdings  
in the Baroda State

U. H. DESAI

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**Prevention of Fragmentation  
Consolidation of Holdings  
in the Baroda State.**

( Being a collection of legislative measures adopted  
by His Highness Maharaja  
Sayaji Rao Gaekwad.)

WITH

**AN EXPLANATORY NOTE**

BY

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**Works by the same author.**

Gazetteer of the Baroda State, Vol. I and II, (Rs. 15 each).

Census Report (1911), (Rs. 5).

Forty years in Baroda, (Re. 1-8-0).

Hindu Families in Gujerat, (Re. 1-13-0).

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### PREFACE.

In the various schemes for Rural Uplift, Village Improvement and Rural Reconstruction, which are recently being promulgated in India, among other beneficial measures those relating to the consolidation of small and scattered fields of the agriculturists, and the prevention of their further fragmentation rightly play an important part. A good deal of advice is given to check the pernicious system of fragmentation and to adopt a programme of consolidation. But so far, no other effective way than that of doing so through the formation of co-operative societies, has been pointed out except in the Baroda State, where His Highness Maharaja Sayajirao Gaekwad who has been the pioneer in introducing free and compulsory primary education and free public libraries in his State, of taking practical measures for the prevention of infant marriages, removal of untouchability, breaking of caste tyranny, codification and modernization of Hindu Law and of introducing many other reforms for the moral and material welfare of his people, has also been the pioneer, in India, of taking legislative action with a view to stop further fragmentation of agricultural holdings, below a certain limit (viz. 8 bighas of jarayat, 3 bighas of bagayat and  $1\frac{1}{2}$  bighas of kyari lands), to bring about a partial reunion of those already fragmented, by conferring the right of pre-emption on holders of neighbouring fields when those contiguous to their own are for sale, and for a complete union of all the small and scattered fields of a whole village, by applying to it, at the request of the majority of its land-holders, a Permissive Act, designed to effect their thorough restripping.

These legislative measures have been collected and published in this manual with an Explanatory Note in the hope that their publicity may be helpful taking similar action, elsewhere in the country, so that what is now mere preaching from the platform may be put into actual practice there also, slowly but surely, as in Baroda.

Race Course Road,  
Baroda,  
15th April 1934.

GOVINDBHAI H. DESAI.

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# Prevention of Fragmentation and Consolidation of Holdings in the Baroda State.

## I. Explanatory Note.

In 1910 when His Highness Maharaja Sayajirao Gaekwad was pleased to appoint the writer of Preliminary. this Note in the revenue department for the first time as suba (collector) of the Navsari district, he was much struck by the agriculturists' farms being small and scattered in the different directions of the village *sim*. It was noticed that the cultivators had to waste a good deal of time and labour in going from one field to another, in maintaining boundary marks and hedges in each small field, and in taking agricultural implements from one field to another. The only remedy which the writer could then propose to the khatedars was the enlargement of their holdings by mutual exchanges of their contiguous fields. But fortunately for him and for the landholders of Baroda Mr. Manilal B. Nanavati, Director of Commerce and Industries, after his return from the United States of America, where he had been deputed for the study of Economics, was directed by His Highness to make a survey of agriculturists' indebtedness in the State, and in 1913-14 submitted a report, in which among other things, he proposed that in addition to giving facilities for voluntary exchanges of fields with a view to consolidation, a permissive Act should be passed, under which, where people were willing, government may undertake re-distribution of fields, and fix the lowest limit below which partition of agricultural land should not be allowed or recognised by revenue and judicial officers,



2. This proposal was circulated for opinion among district subas (collectors) and other officers, who expressed very divergent views regarding its adoption. His Highness the Maharaja Saheb therefore appointed a committee consisting of the writer as Chairman, Mr. Nanavati as Secretary, and Mr. R. H. Gokhale, Chief Judge and Mr. K. B. Jadhav, suba, Baroda district as members, to consider the question in all its bearings and submit a report with proposals fully matured so as to enable His Highness to finally dispose of the question.

3. The question on which the committee was asked to submit definite and workable proposals was a difficult and complicated one. But after discussing it with the principal revenue and judicial officers, inviting opinions from the principal khatedars (land-holders) and farmers of the State and going through all the available literature on the subject the committee submitted a report which is summarised in para 4 to 52, below.

4. It is easy to conceive that when the villages were populated, all the agricultural land belonging to them was in the possession of a few families, mostly of the same caste, who were the first to settle in them. The fields were then large and land being plenty and population sparse, a considerable part of it remained uncultivated. Gradually, a part of this land went into the possession of others by gift, sale, mortgage; and even usurpation. What remained in the possession of the original settlers and what went into the possession of others was further sub-divided among their heirs and assignees. By a process like this, continued over a large number of years, the original big fields have been reduced to our present small and scattered holdings.

5. If we look at the cadastral map of any village in this country, the smallness of the fields and their inconvenient shape will at once be noticed. Some fields will be noticed to be ribbon-shaped, some triangular, some trapezium-shaped

and so on. It will also be noticed that no convenient means of communication exist between the different fields, and in order to reach most of them it is necessary to cross other people's fields. Where the roads exist, they are, for the most part, narrow and tortuous and generally, water courses. If we take the land register and with its help indicate in the village map fields belonging to any proprietor by the same colour, we shall find that his fields are not only small but scattered in different directions. This is the case not in one village, or one taluka, or one district, but throughout the whole country; to a more or less degree.

6. The system of Survey Settlement introduced in the Baroda State in 1882-83 is virtually the Bombay System which was originally founded on the famous Joint Report of 1847. The design of these surveys was 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 land. Theoretically the survey unit called a survey number is the area of land, however small, held by the registered occupant. But as the survey tenure placed no restriction on the sub-division of properties, it became necessary to limit the size of the unit for convenience of revenue administration. In the Bombay Presidency, a limit was recognised by Government in 1865, which varies in different tracts and in different classes of land. In the British Gujarat districts, it is one acre for dry crop (jirayat) land, and half an acre for garden (bagayat) and rice (kyari) land; and even smaller areas are recognised under the "Record of Rights". The limit adopted in the Baroda State was 3 bighas for dry crop land and one bigha for garden and rice land. In 1905, however, the revenue department for the "convenience" of share-holders of lesser area than this standard, proposed that the limit below which a survey number could not be split up should be  $1\frac{1}{2}$  bigha for dry crop (jarayat) land and  $\frac{1}{2}$  bigha for garden and rice (bagayet and kyari) land. This provision was embodied in Section 139 of the Rules

made under Section 83 of the Baroda Land Revenue Code, and parcels of land below the limit fixed were not registered as separate survey numbers.

7. A comparison of the survey numbers existing at the times of the survey made during the regime of His Highness Maharaja Khanderao Gaekwad, with the survey numbers recorded in the original and revision surveys made during the present regime, discloses the fact that the agricultural land has been sub-divided to a very large extent. A few instances from each district will suffice to make this clear. The village of Kansa in the Visnagar taluka of the Kadi district, had its lands of 6,471 bighas divided into 1,388 fields or survey numbers at the time of the Jarif in 1864 (Samvat 1920). At the time of original survey made in 1895, it was found that this number had increased to 1,728. Subsequently, at the time of the revision survey made in the year 1916 the number of fields was found to be 2,106. The village of Isanpura in the Dehgam taluka of the Kadi district had its total area of 5,388 bighas divided into 601 numbers at the time of the Jarif, 1,525 at the time of the original survey and 1,644 at the time of the revision survey. Chovishi, a village in the Naosari taluka of the Naosari district, having mainly garden and rice lands, had 200 survey numbers at the time of the Jarif and 732 at the time of the original survey. Varnama, a village in the Baroda taluka of the Baroda district, had similarly 861 survey numbers at the time of the Jarif and 1,643 at the time of the revision survey.

8. How big fields dwindle into small pieces by division among heirs and other causes, is illustrated by the following few among many instances. Survey No. 81 in the village of Karvan, taluka Dabhoi, belonging to Narayan Ranchod, which originally measured 3 bighas and 16 vasas as one field, is now broken up into 5 small pieces belonging to different owners. The area of the largest piece is only a bigha and that of the smallest 4 vasas. Similarly Survey No. 278 in the village of Isanpur Mota, taluka Dehgam, belonging to

Pagi Mankaji Gopalji, originally measured 4 bighas and 2 vasas as one field, but now stands sub-divided into 5 parts, each part being in the occupation of a different proprietor. To take one more instance, Survey No. 802 in the village of Kansa of the Visnagar taluka of the Kadi district belonging to Parmar Osraj, originally measured 1-6 bighas as one field, but is now divided into 4 parts of 15, 5, 5, 3 vasas. This is jarayat land and it can be easily imagined that jarayat cultivation in such small pieces of land cannot be paying. Survey No. 372 in the village of Sarai, taluka Naosari, which is kyari, measures only 11 vasas. This has been sub-divided into six parts, of which 5 are of 2 vasas each and one of only 1 vasa. In the same village Survey No. 59, which is jarayat and measures only 1 bigha and 18 vasas is sub-divided into 5 parts of 15, 6, 5, 5 and 6 vasas each. In the village of Chhapra Survey No. 87, which is jarayat and measures only 9 vasas, is divided into 4 parts of 2, 1, 2 and 4 vasas. The grand-father of Patel Gangaram Narsidas of Mehsana had a field which measured 12 bighas and was a compact piece of that area till Samvat 1920. But owing to partition among the heirs of two generations, it is now sub-divided into 17 pieces, of which only two are above 2 bighas and the rest consist of a few vasas ranging from 2 to 15.

✓ 9. The main cause of the sub-division of agricultural land is the law of inheritance. The Cause of sub-division of land. Hindu, Mahommadan and Parsi laws of inheritance allow definite shares to all heirs. Possession of land is looked upon as a sign of respectability and every one is desirous of having a piece of land which he can call his own. Land is also looked upon as the best form of investment. Shares in joint stock companies and other securities may be easily sold and converted into cash which may be wasted. But the case with land is different. It cannot be sold easily even when one wants to do so, and is, therefore, looked upon as the best investment in the interest of one's family. There are many who show their excessive attachment to their land by sticking to it even when it does not yield enough return to pay the assessment imposed

upon it. The operation of the law of inheritance not only leads to the division of large estates into small compact plots, but also, not infrequently, to the splitting up of individual fields. Every heir tries to get a share from each survey number instead of so arranging the distribution that each may get as many whole numbers as possible. An example will serve to illustrate this point. Suppose that a Hindu land-holder owns a farm which consists of four separate plots. On his death, this must be divided equally among his four sons. As often happens, they will insist that every one of the four plots should be divided into four, and thus each one instead of taking one plot takes a fourth part of each plot. Again in making partition of each plot, each party tries to get a slice which will have all the soil advantages of the plot. This leads to long ribbon-shaped sub-divisions of excessive length as compared with breadth.

In addition to partition on account of inheritance, there is also partition due to transfer by mortgage, gift, sale, etc. More than two hundred thousand bighās of land exchange hands every year in the Baroda State. In the year 1914-15 there were altogether 22,331 transfers involving 2,49,187 bighas of land, out of which 7,854 involving 1,23,376 bighas related to inheritance and 14,487 involving 1,25,811 bighas related to sale, mortgage, etc. Similarly in 1915-16, there were 23,343 cases of land transfers involving 2,53,138 bighas, out of which 8,298 cases in which 1,26,110 bighas were concerned were due to partition, and 15,045 involving bighas related to sale, etc. He who gets a share in a plot on account of sale, etc., is also entitled to have his portion separated from the rest. Not infrequently, it is not a whole field which is sold or mortgaged, but a part of it, and it is, therefore, ultimately partitioned so as to lead to a splitting up of the original whole field.

10. The disadvantages resulting from the fields being small and scattered are obvious and hardly require any elaborate narration. They may, however, be briefly described as under :—

Disadvantages from the fields being small and scattered.

- (1) In the past several causes contributed to confine houses to the village site. Till about a century ago, there was constant danger for the isolated dweller in the field from bands of robbers and dacoits. Now-a-days, some farmers would like to stay on their farms and if they did so, many economic, sanitary and other questions would be solved. But they cannot do so, so long as their fields remain small and scattered as they are now. Again in the villages there are public wells from which drinking water may be easily obtained; but a man must have a private well of his own if he is to live on his own holding. He can well afford to have a house and if possible a well in his field, if it is in one block instead of being scattered into small pieces, as is often the case. In many of the villages the cultivator's fields are one, two or three miles distant from the village site. They and their cattle have to journey to and back from their houses to their fields. Agricultural implements have to be carried to and brought back from the fields to the village. The houses occupied by the farmers, are crowded by cattle and implements; manure is heaped near the village and much labour is spent in carrying it to the fields in carts, a little before sowing time. The cultivator visits his farm only to perform the field work which the current crop demands. He is not on the spot ready at all times to improve and guard his property. Under these circumstances, tillage is neglected, few improvements are made and the yield of crop is naturally poor,

- (2) The sub-division of land causes a great waste owing to unnecessary land taken up by hedges and boundary marks. Supposing a square field measures 9 bighas and the hedge round about it occupies a strip of land 2ft. wide the land occupied by it (hedge) will be 3 vasas or less than 2 p.c. of the whole. Now if the same field is divided into 3 parts, the area occupied by the hedge will be  $4\frac{1}{2}$  vasas or nearly 3 p.c. of the whole. Again, if each plot is sub-divided into 3 parts, the area under the hedge will be 6 vasas or nearly 4 p.c. of the whole. In the same way, a large field would require fewer boundary marks than what its sub-divisions taken together would require. Hedges and boundary marks not only take up space but also require constant repairs, trimmings etc. Cactus and other shrubs of which a hedge is made, suck up the fertility of the soil and harbour agricultural pest and therefore the lesser it is the better for agriculture.
- ✓(3) If the farm is a large one, cattle can be kept on it rather than on the village site and all the manure made fully available for the farm. Manure would then be collected on the field, and the labour and trouble of carting it from the village to the different fields saved. Weeding, watering and other operations would be better done on a large farm than on small and scattered fields.
- (4) The crop in the fields requires careful watching, especially when it begins to ripen. When this is not done, considerable damage is caused by wild and stray animals. Thakardas and other predatory classes also commit petty

thefts notwithstanding the rounds of the village watch-man. If fields were in one block, one or two men would be able to do the watching. But owing to their being dispersed and at a great distance from each other, a separate staff would be required for watching each field, but the cost would be so heavy that it would not be worthwhile to engage it. As a matter of fact, the watching of fields is not properly done now. Owing to the dispersion of fields, cultivators suffer a heavy loss from petty thefts and damage by stray cattle and wild beasts like nil gaya, deer, monkeys &c.

- (5) In a dry country like Gujarat, the prime agricultural necessity is water, and farmers would gladly sink wells in their holdings, if they were large and consolidated. His Highness' government have constructed some large irrigation works and given lacs of rupees as tagavi for well sinking. Notwithstanding all this, out of 51,47,250 bighas of cultivated land, only 2,43,662 bighas or nearly 5 p. c. are at present irrigated. The possibilities of large reservoirs are limited but there is yet a large field for profitable investment of capital in sinking wells. The use of engines and pumps for lifting water from good wells has been found to be profitable. But owing to the holdings being small and scattered, this becomes economically impracticable.
- (6) It is common to hear complaints that wages of labour have risen from two or three annas to twelve annas and that labour has not only become dearer but also scarcer and less efficient than before. There are many labour-saving implements for ploughing, weeding, threshing, etc., and they could be



used with advantage; but owing to the fields being small and dispersed, the agriculturist is unable to use them and economic agriculture has become impracticable.

- (7) Owing to the excessive sub-divisions, some of the smaller holdings lose all facilities of road communication and of irrigation from existing wells, tanks and canals. In order to reach the out-lying fields, it is necessary to cross other fields and this leads to dispute as regards right of way, passage of canal-water, etc., between small proprietors and leads to law suits, jealousy and feuds, which are ruinous to them.
- Difficulty of roads, water channels, etc.
- (8) Owing to a large number of small fields being surrounded by those belonging to other owners, all the fields situated in the same part of the area in a village must be submitted to the same system of cultivation and the same rotation of crops, however backward and little lucrative these might be. The owner of enclosed parcels of land who wishes to submit them to a different system of cultivation from that of his neighbours would have to run the risk of seeing his crops destroyed by herds of cattle, let loose on the fallow fields surrounding, or have to undergo heavy expenditure in engaging watchmen to drive them away and to make the hedge stong and impenetrable.
- Change in cultivation inconvenient.
- (9) Some of the small holdings are thrown out of cultivation, the proprietor not caring to go to the trouble and expense of cultivating an out-lying small piece of land. The distance of the various parcels of land from each other, as well as from the farming centre, which, in addition to the drawbacks mentioned, occasions a loss of time and waste of energy.
- Increase in cost of products, etc.

- (10) The holdings being small and uneconomic, agriculture hardly provides a decent living for the cultivator and his family. What remains to him after paying the government assessment and defraying the cost of cultivation is hardly sufficient, in the majority of cases, to last till the next season, and most of the tillers of the soil have to incur debts from year to year which makes their condition from the bad to worse. Others get just sufficient to last for two or three months. As soon as Dewali is over, we find them leaving their homes to seek work in ginning factories or the spinning and weaving mills and other factories. Notwithstanding all the labour the cultivator bestows on the soil, he does not get a full living out of his small holding and he has to supplement his land income by working elsewhere. Many young people have emigrated to Africa, Fiji and other places, and exchanged their paternal occupation of farming for that of a labourer, hawker of goods or shop-keeper. Wealthy farmers are few and far between and most of the land lords have earned their wealth not from the profits of cultivation but from exacting rack rents. Under the present conditions of small and scattered fields, the existence or creation of a body of large wealthy farmers seems hardly possible. Small holdings are desirable but they too must be compact as in other countries and not consisting of small and separate parts as is the case with us.

11. The landholders and cultivators are fully aware of the disadvantages resulting from small and scattered holdings. Everywhere the inconvenience and loss resulting from the growing sub-divisions of agricultural land are freely admitted and fully recognised. The advantages resulting from restriping are also understood but except a very small number of
- The attitude of the ryots.

intelligent and educated land-holders, no one is prepared to waive his partition right or to give up his present holding. Some are actuated by the fear that they may lose their present field of better soil near the village and get instead inferior and distant land. Others are actuated by the fear that the limit of the economic holding may be pitched so high that they may lose the little land they have got and the money value that they might receive would soon be wasted and they would thus lose their social status. They have no objection if government raises the present limit of survey numbers so as to stop further sub-divisions. But they are not prepared at present to agree to any general scheme of restripping. Internal jealousies and dissensions are so rife in most of the villages that it is not at all likely that the people would take any initiative in this matter.

12. Now what is to be done? Is the State to allow sub-division of land to go on unchecked and leave it entirely to the choice of the people to partition their land in any way they like? Government have to see that its utility is not deteriorated. Plots of land which at one time used to be remunerative pieces, economically fit for cultivation, have been reduced to a size which can barely be called a kitchen garden plot. If government shut their eyes to such minule sub-divisions, it will render agriculture more and more unremunerative. Agriculture is our best and the most important industry. It is the main occupation of nearly 80 p.c. of our population and it is therefore our duty to see that it is conducted under the best conditions. At present our people get much less from land than what it is capable of yielding. Notwithstanding what our agricultural department after which we have been spending thousands of rupees every year is doing, no far-reaching improvement is possible, so long as the fields are small and scattered.

13. Government forbids any change in the land set apart for cultivation; that is, it does not allow such land to be used for non-agricultural purposes without exacting a heavy fine or charging higher assessment. In doing so, it is the object of government to see that the quality

Duty of Government.

The right of government to check sub-divisions.

of the land does not deteriorate. It is, therefore, for government to take steps to ensure that the quality of the land set apart for agriculture is maintained. Government have every right to see that the land set apart for cultivation remains in a condition which is the most advantageous for cultivation. Government have every right in the interest of agriculture to see that the agricultural land remains in a fit condition for the object for which it is intended. If a joint house property is to be divided into several shares and in doing so if it becomes useless for residence, the sharers privately sell their portions to one of them. In the same way, government have the right of checking minute sub-divisions of agricultural land, if by so doing it becomes unfit for profitable cultivation.

14. The growing sub-divisions of agricultural land and its consequent evils have attracted the notice of many statesmen and economists in this country and a good deal has been said and written about it, within the last twenty-five years. Though the problem yet remains unsolved, there can be no doubt that this awakening of public interest in it is sure to result in some practical measures being taken at no very distant date.

15. In a note dated 29th June 1912, Mr. W. R. Moreland, C.S.I., C.I.E., Director of Agriculture, United Provinces, said regarding the organisation and size of holdings:—

Opinion of Mr. Moreland, C.S.I., C.I.E.

√ "The present organisation—fields scattered here and there often at considerable distances from the homesteads—is exceedingly wasteful in labour and in cattle-power; the cultivator spends no inconsiderable part of his working time in driving his cattle and taking his labour from one field to another, and in removing the produce to his house, while the more distant fields receive inadequate attention and their yield is reduced by trespass as well as by inferior cultivation."

16. In a paper read before the Science Congress held at Lucknow in 1915, Mr. B. C. Burt, Deputy Director of Agriculture, Central Circle, Cawnpore, United Provinces, said:—

“Most countries with a large and peasant population have found it necessary at some time or other to introduce legislation for the re-alignment of holdings to enable the available land to be more economically and efficiently cultivated. x x x Near Poona in the Bombay Presidency, the Irrigation department is now engaged on the squaring up of fields and the drafting of rules to enable greater economy of distribution to be effected on the small, but important canal systems which are chiefly used for sugarcane. Generally speaking, however, the advocate of re-stripping is looked upon as an impatient idealist whose methodical soul is vexed by the present irregular field boundaries.

17. Sir James Wilson, chairman, in opening the discussion on a paper on Indian Agriculture read by Mr. Keatings before the Society of Arts in London, said that with regard to consolidation of holdings, in thousands of villages in the Punjab, they had induced the people to agree unanimously to the exchange of land for the purpose of consolidation by showing what an advantage it would be to have a straight boundary to a consolidated holding. He thought an Act should be passed to enable Government, when they found that a large majority of the village people wished to have an exchange of fields to enforce it upon the minority.

18. In his book on the Rural Economy in the Bombay Deccan, Mr. G. Keatings, C. I. E. Director of Agriculture, Bombay Presidency, ( page 51 ) says :—

“ The fact that the cultivator often finds it difficult to pay his assessment, the fact that he readily runs into debt and seldom extricates himself from it, the

helplessness of some and the apathy of others, these matters have attracted general attention and suggested remedies. They are, however, merely symptoms of a general disease and that disease lies in the distribution of the land itself. The fact is that most of the holdings are not economic holdings. When a cultivator has got only five or ten acres of unimproved dry crop land split up into several plots and situated at a distance from the village and from each other, he has not got an economic holding. It will not provide a living for himself and his family. Much less will it leave him anything over to pay any assessment or any interest on debt, at whatever rate they may be calculated. There is no chance for him to develop or improve his property, and he can only accept his poverty as due to some unknown cause and grumble indefinitely at the weather, or the sowkar, or the government. ”

19. On March 14th, 1916, the Honourable Dewan Bahadur Kashinath Ramchandra Godbole moved in the Bombay Legislative Council that “This Council recommends that His Excellency the Governor in Council

Proceedings in the  
Bombay Legislative  
Council.

will be pleased to consider the question of checking minute sub-division of agricultural lands which is taking place in the Konkan and Patasthal lands of this Presidency and which is extending also to dry crop lands in Deccan and Gujarat.” After a good deal of discussion on this Resolution, the Honourable Mr. Raghunath Purshottam Paranjape proposed as an amendment that “This Council recommends that His Excellency the Governor in Council will be pleased to appoint a committee of officials and non-officials to report on the question of minute sub-division of agricultural lands in various parts of this Presidency, and to suggest means for remedying the evil and stopping its further spread.” The amendment was accepted by Dewan Bahadur Godbole in place of his original proposition, and the evils resulting from excessive sub-division of land were recognised by all the honourable members; but on the ground that the people

were not yet prepared for a change, the majority of them considered it impracticable at present to radically alter the law of partition from which it results; and the resolution on being put to vote was lost. 16 members voting for and 25 against it.\*

20. It must be acknowledged that government have to solve many problems, before they could remedy the evils arising from the minute sub-divisions of land. But the difficulty arising from small sub-divisions of land is not peculiar to India. It is one which has occurred in various countries at various times and has been tackled in different ways. It would, therefore, be useful to study what has been done elsewhere, before we decide what action should be taken by us. The information given in paras 21 to 25 below has been extracted from the bulletins issued by the Bureau of Economic and Social Intelligence, International Institution, Agriculture, Rome.

21. The arrangement of the land as it exists to-day in Austria, is a remnant of the former organisation of landed property. The feudal regime was based on large estates and the principle on which it was framed and assigned to the peasants corresponded with reasons of expediency, tradition, etc.; but not to those of rural economy. When the regime of economic liberty was substituted for the former, rural land was not only sub-divided among a large number of proprietors, but it was also so distributed that the proprietors possessed various scattered parcels, very often of the smallest size. This state of things conflicted with the requirements of rural economy and the State could not remain indifferent before such unscientific and anti-economic conditions affecting the most numerous class of the population, *viz.*, the farmers. Various

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\* Ten years after this, the Hon'ble Mr. C. V. Mehta, K. C. S. I., Member, Bombay Executive Council, introduced in the Bombay Legislative Council a bill for the "Prevention of Fragmentation and Consolidation of Holdings Act", based mainly on the action taken by the Baroda State. But it having met with the same opposition as in 1916, had to be postponed sine die?

laws were passed, which may be divided into two classes : (1) laws tending to encourage a better system of rural property by means of free exchange of lands among the various proprietors on the basis of individual contracts; and (2) laws for restripping of rural land tending to effect a better system of rural land by means of general re-organisation over a fairly extensive territory (generally a commune) made by special institutions to the exclusion of free contract between the various proprietors.

The legislative provisions for the consolidation of lands by means of free exchange are the oldest. There were two obstacles: one economic, that is, the high taxes to be paid on transfer of land; the other judicial, the objection of the mortgagees to any change affecting the land mortgaged. The law of March 3rd, 1868, removed those difficulties. It exempts from payment of all taxes and stamp dues, the contracts of exchange made with the objects of restripping agricultural land. There is total exemption from these fiscal burdens, when the parcels exchanged are of equal value or when the value of one does not exceed half that of the other. Payment of taxes on the excess is required when the value of one of the parcels exceeds this portion. The law of February 6th, 1869, regulates the division and exchange of land with reference to mortgages. As is natural, the consent of the parties interested is always necessary, unless a mortgage is registered for the detached portion of the property mortgaged, and the burdens on the divided landed property assume the form of a simultaneous mortgage. In case a mortgagee opposes the exchange of the land, the opposition may be declared null by the competent authority, when the exchange is calculated to increase the yield of the exchanged lands and when the mortgage rights do not suffer.

It was found, however, that isolated and rare exchanges served little, if at all, to eliminate in an appreciable degree the evils resulting from the minute sub-divisions of landed property. It was necessary to promote the collective action of a certain number of land-holders, if possible, of those of an entire commune and to arrange that the consolidation



should be affected, not individually, that is, between two persons in an isolated case, but by means of a collective exchange carried out on a new basis. All the properties to be restripped are considered as a single mass which is then divided among the land holders on the principle of the best yield of the various parts. Each land holder receives a new piece of land proportionate to the value of that he held before. In this way, the previous sub-division totally disappears and in no way affects the new distribution. A proprietor, for example, whose land before the restripping, was divided into 10 parcels, after it, will possess a single piece of land or two pieces, according to circumstances, of the same value as that he held before. The law provides that when the majority of the land-holders of one commune who possess at least two-thirds of the land in it, decide to proceed to the restripping of land, the others interested cannot oppose them, and the operation desired by the majority must be carried out. When the majority has pronounced in favour, the State intervenes to carry out the operation of restripping.

The demand of the majority is forwarded to the competent authority, represented by a special group of Magistrates of three degrees. The authority of the first instance is the "Local Commissary in charge of Agricultural Operations," who is the immediate executive authority. The authority of the second instance is the "Provincial Commission in charge of Agricultural Business" and the authority of the third instance, deciding in the last is the "Ministerial Commission in charge of Agricultural Business." These Magistrates are competent to decide, independently of the judicial authority, all controversies raised in connection with the restripping work. When the authority has given its approval, the Local Commissary undertakes the preliminary work, consisting of the classification and valuation of farms, the establishments of the methods for the direction of the work and he presides over the preparation of the restripping scheme. The parties concerned take part in these operations by means of a Committee they elect for the purpose which acts as an advisory body to the Local Commissary. After having been submitted to the

majority of the parties concerned and approved by them, the scheme is forwarded to the Provincial Commission which may reject or amend it. In case of approbation, the operations enter upon a new phase, that of execution (assignment of new holdings, settlement of the rights of servitudes, mortgages, etc.) The operation of restripping, involving the solution of manifold economic, technical and juridical problems, is very complicated and costly. The expenses vary with the area to be restripped and are borne in part by the parties concerned and in part by the State; the deeds of all kinds, documents, etc., are exempt from taxation and stamp duties. Wherever restripping has been carried out, it has realised the results expected from it, *i.e.*, increase in the yield of the land, reduction in the cost of production, etc.

22. In every part of Switzerland opinions have been forcibly expressed against the too great sub-divisions of land. The merit of having succeeded in introducing into the federal legislation provisions intended to facilitate restripping is due to the Committee of the 'Swiss Peasants' Union'. Article 703 of the Civil Code provides for compulsory restripping when approved by two-thirds of the persons interested representing more than half the land. Plans for the improvement of land or for the exchange of plots in order to rectify the shape of an agricultural holding are by Article 954 exempted from the payment of fees. The cantons have the power of modifying these conditions. Several cantons have decided that a simple majority of proprietors of half the land is sufficient to coerce the minority. Long before the establishment of federal legislation, several cantons, aware of the inconvenience of the division and dispersion of landed property had put in force some legislative provisions. Thus the canton of Lucerne in 1808 and again in 1837 issued laws intended to encourage the union of small holding but they remained a dead letter because no provision had been made for opposition on the part of the minority. The first law making the grouping of lands compulsory in certain special cases was promulgated by the canton of Ticino in 1852. This law

granted to a proprietor the right of obliging his neighbours to sell to him or to exchange small plots of less than 300 metres adjacent to his own property. The neighbouring proprietor might require in exchange a plot superior by  $\frac{1}{8}$ th to the value of area of the plot given up by him. This law had no effect on sub-division and was substituted by the law of 1902 still in force.

In the canton of Aargau restripping was carried out in accordance with the Rural Code of December 24th, 1875, of which the following are the chief provisions :--

- (1) Rural Commission of from five to nine members were appointed to settle all difference arising from the application of the Rural Code.
- (2) All parcels of land were to be provided with farm roads within four years.
- (3) The restripping might be undertaken as soon as two-thirds of the number of proprietors interested and possessing half of the land declared themselves in favour of it. The State makes grants in case of restripping.

The necessity of a majority of two-thirds of the number of proprietors and the proportion of land in their possession is one of the reasons why restripping has not yet been fully carried out in all places.

23. In Prussia, the substitution of contiguous farms for scattered lots (restripping) was made compulsory by the laws of 1821 and 1850 in cases entailing at the same time the division of common lands, and the regulation of the relation existing between landlords and peasants; and after 1872, in all cases in which such restripping was demanded by a majority of the peasantry. Restripping was carried in such a way as to ensure to the peasants a well-rounded holding adequately provided with roads and containing fields of a quality and value corresponding to the lots they formerly possessed. General Commissions consisting of five members are appointed. A majority of them must be qualified Magist-

Restripping in Prussia.

rates whilst the others must possess technical knowledge fitting them for their duties. The Commission must study the interest of all concerned as well as those of the State and of outsider such as creditors, etc. The organs through which the Commission carries out its tasks are: (1) special commissaries most of whom are technical experts, (2) land surveyors, and (3) intermediary bureaus of the district consisting of two to six land-owners residing in the district and selected by the district assembly. The commissaries are authorised to take what steps they may deem proper subject to revision by the Commission. The mode of procedure in the division of commune and the restripping of farms comes under three heads:-

- (1) Request to proceed accompanied by a statement of actual conditions;
- (2) Preparation of a plan of division and restripping;
- (3) Carrying out of this plan.

All requests must be addressed to the General Commission, which proceeds to appoint a Commissary. The latter appoints a certain day on which he invites all the parties concerned to convene. He makes an inquiry into the rights possessed by the several parties, the public and private easements and charges with which the lands are encumbered, the points of dispute, etc., and he receives the requests of the different parties. On the strength of the facts ascertained at this meeting, he decides whether the request for division and restripping should be acted on or not. When his decision is favourable, the General Commission must first decide on disputed points. After that, the Commissary appoints a land-surveyor who makes a rough map of the commune. At the same time two farmers, who have no interest in the partition, classify the lands according to the productive capacity of the soil. By the help of this estimate and of the surveyor's map, registers are drawn up, and a plan prepared for the redistribution of the land, taking into account, as far as possible, the reasonable requests of the farmers, the quality of the land which each possesses, and the roads and drainage required. The farmers

may refuse lands which would entail a complete change in their mode of farming, if, for instance, the lands allotted to them would entail their raising wheat instead of breeding stock, or would make it impossible for them to keep cattle, etc. The farms assigned to each peasant must be rounded off, as far as possible. An exception to this rule is made in the case of special lands such as meadows or peat lands, of which each farmer is, of course, desirous of possessing a patch.

This legislation has had very important results in Prussia where it has exerted a beneficial influence on agriculture, especially from a technical stand-point.

24. The Honourable Mr. G. S. Curtis in his speech before the Bombay Legislative Council in 1916 stated that when he visited Germany, in one district he was shown maps prepared there in 1818. The map revealed survey numbers of an ordinary size such as we are familiar with in our early survey maps. The next map that he was shown was one of 1871 when the Record of Rights was prepared. A comparison of the maps prepared in 1818 and the maps prepared after the Record of Rights showed an extra-ordinary development of the small holdings due to the succession law of the province, which is similar in effect to the Hindu Law. In the following year, they introduced the well-known Lex Adikes, the principle of which is the complete pooling of all holdings and the re-parcelling of the lands, as far as possible, in the villages on economic lines. When introduced in 1872, the Lex Adikes met with considerable opposition in Prussia and even at the present moment it has only been partially carried out.

25. The average size of farms in Japan being small, their enclosure by walls and farm-fences entailed a great waste of time and space, not to speak of the danger to which such enclosure gives rise of providing reptiles, rodents and injurious insects with a snug dwelling place in the boundary lines or paths. Moreover, the different farms making up the total holding of a family, were as in India, scattered about and not in one place. It was to

obviate these disadvantages that the Government, with the approval of the Diet, enacted in January 1900 a law for the adjustments of farm-lands. By this law farmers were compelled to exchange farms with each other so that each farm may have as much of its holdings situated in one place as possible. This measure was welcomed by the public, and by the year 1915 the provisions set forth in it were carried out in 300 places where re-arrangements of fields amounting together to over 15,000 *cho* in area, had been effected. Some of the benefits derived from this measure are described in "Japan in the 20th Century" as under :—

- (1) Owing to the size of the lots being enlarged and their shape made regular, farm work is considerably expedited and farm-animals and labour-saving machinery can be more easily employed.
- (2) Owing to the farm-boundaries or paths being straightened and those that are useless destroyed, the productive power of a given extent of land thus treated is increased at the average rate of 5 per cent.
- (3) Drainage and irrigation ways being reconstructed or constructed *ab initio*, both the drainage and irrigation systems can be brought to a state of greater perfection. As the disadvantage arising from an insufficiency of irrigation water or from its excess is done away with, the productive power of the farms is increased.
- (4) Farmers being encouraged to exchange their fields for fields owned by others, so as to collect, as much as possible, in one place, the fields owned by one proprietor, all the evils and disadvantages incidental to the scattering of fields owned by one proprietor are done away with or minimized,

26. After a careful consideration of what had been done elsewhere and what was possible in the Remedial measures. Baroda State to remove the evils arising from the growing sub-divisions of agricultural land, the committee proposed two kinds of remedial measures: (1) those relating to the arrest of further sub-divisions, and (2) those relating to the re-union of lands already sub-divided.

27. Among the measures coming within the first category, the first and the most important is the prevention of sub-division at the time of partitioning inherited property. Change of Law of Inheritance not necessary. There is no doubt, the sub-divisions are to a large extent, the result of the Law of Inheritance. According to the Hindu Law, every male member of a Hindu family obtains a share in the ancestral property, not only on his father's death but at his own birth and may demand a partition of the property at any time. Since laws are made to suit the condition of society and since Hindu Law which was made long ago to suit the condition of those times, it must be seen whether it is necessary to modify it to meet the conditions of the present time. Laws must be adapted to the changing conditions or habits of society. If there are grave public reasons, why a certain state of things should be altered, there is no reason why after taking the public into confidence, the legislature should not do it. This is the principle on which the Honourable Mr. Setalwad introduced the Hindu and Mohammanan Disposition of Property Bill, which after being referred to a select committee was passed into law by the Imperial Legislative Council in September 1916. But we do not think any amendment is called for in the Law of Inheritance for the arrest of the sub-division of agricultural land. The Laws of Inheritance may, in some matters, not be quite suitable to the altered circumstances of the country; but they have become so time-honoured and ingrained in the minds of the people that any alteration in them must be made with the greatest caution and tact and that too, only if absolutely necessary. Our object is to prevent minute sub-divisions of land, and as we can achieve it by

another remedy, which we shall presently propose, we need not unnecessarily change the Law of Inheritance.

28. It was proposed by the Honourable Dewan Bahadur Godbole before the Bombay Legislative Council that in the case of self-acquired property, a law may be passed by means of which a person who has self-acquired property may have the power of so disposing it off that minute sub-divisions may not take place. Such a measure was rightly objected to by the Honourable Mr. Khandalawala who said: "To bring about such a change, legislation of a very stringent character would be required which would be looked upon by the whole of the Hindu population, as a measure against their traditions and their ancient laws. It is difficult in many cases to find out whether a certain property is really self-acquired or not. There are various decisions on Hindu Law in which ancestral property and self-acquired property are found mixed up in such a way that courts have to consider complicated questions of facts before they can determine what portion of the disputed property is self-acquired and what part is ancestral."

29. The law of primogeniture which does not obtain in India, if introduced, would be looked upon as an innovation from the west, brought in to destroy traditions and the law of the people. It is not necessary that it should be introduced. All that is wanted is, that there should not be sub-division of land beyond a certain limit, which may be fixed for the sake of good agriculture. There is no objection to a holding being divided, so long as by so doing each of the parts does not become less than the limit fixed for the sub-division of land. But when a holding reaches a stage to render further sub-division uneconomic, the other members of the family may not be allowed to force further sub-divisions of the holding. Instead of being sub-divided, it may be either cultivated in common or be given to one of the members of the family as a whole, and that member made to pay amounts equal to the value of their shares as



compensation to the other members. It is not quite necessary that one should run into debt to get the land. He who has property of a liquid character may take the holding and the other sharers may obtain their living in other avocations with the help of the money value of their share in the ancestral landed property. They may either leave the village, acquire land elsewhere by means of the sum received as their share and become peasant proprietors in their turn or find employment as whole-time workers in industrial concerns. If the latter alternative is followed, one may not only maintain himself and his family well but effect a saving which would, in the long run, enable him to become a peasant proprietor himself. Like the Hindu Law, the Laws of Holland and Belgium direct real property to be divided among heirs; but instead of making small divisions there it is usually sold and the sum it has fetched is divided. What is being done there can be done here also, without causing any unnecessary hardship to any of the heirs.

Law of Holland and Belgium.

30. The principle of not dividing immovable property among the heirs, where the division would lead to inconveniently small shares, but of giving it to the highest bidder among the sharers or in case none of them is willing to have it, to out-side bidders, and dividing the money realised according to the recognised shares, has been accepted in the Indian Partition Act of 1893, section 2 of which runs as under :—

The Indian Partition Act of 1893.

“ Whenever in any suit for partition, in which, if instituted prior to the commencement of this Act, a decree for partition might have been made, it appears to the Court that, by reason of the nature of the property to which the suit relates, or of the number of the share-holders therein or of any other special circumstance, a division of the property cannot reasonably or conveniently be made, and that a sale of the property and distribution of the proceeds would be more beneficial for all the share-holders, the Court may, if it thinks fit, on the request of any of such share-holders interested individually or

collectively to the extent of one moiety or upwards, direct a sale of the property and a distribution of the proceeds.”

31. In the speech made by the Honourable Dr. Rash Behari Ghosh while moving for leave to introduce the Bill, which was ultimately passed into law as Act IV of 1893, all objections that may possibly be raised against such a measure had been fully answered. Amongst other things the learned Doctor said :—

“ In the well-known case of *Turner v. Morgan*, reported not in the pages of Dickens but in Vesey, where a house had to be divided between two persons, and one of the parties insisted upon a partition by metes and bounds, the Lord Chancellor said that out of mercy to the parties he would let the case stand over, as the worst thing for the parties would be a decree for partition, and His Lordship suggested a reference as to the value and to which party the option of buying or selling should be given. The suggestion was not accepted, and when the commissioners allotted to one of the parties the whole stock of chimneys, all the fire-places, the only stair-case and all the conveniences in the yard, the Lord Chancellor declined to interfere because he did not know how to make a better partition. The well-known Greek saying that the half is better than the whole, points a moral which, I am afraid, is too often lost on suitors. In India, cases like *Turner v. Morgan* are, as might be expected, of frequent occurrence, and as observed by Babu Amrito Lal Chatterjee, a Subordinate Judge of mature experience, one perverse member of a family may, by his obstinacy, practically ruin the whole property. The learned Judge mentions what he calls a typical case of its kind, and adds, ‘such cases, though not very common, are not very rare in the country.’ Mr. Neill, the Judicial Commissioner of the Central Provinces, also speaks of the extreme difficulty of partitioning some kinds of property under the present law, and points out that partition is not unfrequently made the occasion of annoyance by ill-conditioned coparceners.”

“The question is one really of procedure, and the present Bill will merely affect the mode of relief and nothing else. Indeed, even under the present practise, when the Court gives compensation in money by way of equality of partition, it really makes a transfer of a part of the property, although the transaction is disguised under slightly different name. The present Bill is only an extension of this practice to some very exceptional cases in which, in the absence of such a law, the common property might be destroyed or rendered comparatively valueless. I ought to add that it is a great satisfaction to me to find that the fathers of Hindu Law who shaped out and elaborated our jurisprudence anticipated by several centuries the improvements only recently grafted on the old Chancery practice in England. Speaking of indivisible property—a class in which Shankha and Likhita place dwelling-houses—Vriashpati declares:—

“They (the sages) by whom it is ordained that clothes and the like are not liable to partition have not decided (as to what should be done with respect to such things). The estate of an opulent man, consisting of vehicles and ornaments, if held in common (by his heirs) would be unemployed, for it cannot be allotted to any one (of the co-heirs). Therefore, it must be divided in an equitable manner, else it would be useless. An equitable partition is made, by (distribution of the price after) the sale of clothes and ornaments, by distribution of a written debt after recovery, by exchanging the dressed food with an equal allotment of undressed grain, by drawing water of a single well or pond for use according to need.’ (Digest V, 366; Vivada-Ratnakara, Asiatic Society’s Sanskrit Edition, 505)”

“The practice of giving money compensation in certain cases is also, I am glad to find, recognised in the Mohamadan Law. (Hedaya, BK. 39, Ch. 3.)”

Again in presenting the Report of the Select Committee on the Bill, Doctor RashBehari Ghosh said:—

“Whenever any change is proposed, whether in the sphere of legislation or in other spheres, there is sure to be some opposition. Some warning voice is sure to be raised

when one ventures into untrodden paths, and we are invariably thankful for it, although sometimes compelled to disregard the warning. I am, however, glad to be able, in the present instance in some measure to re-assure those who are always 'perplexed by fear of change.' Although the experience of the working of a particular law gained in other countries might sometimes be a very misleading guide, there is in the present case no reason to fear that the cautious innovation we are now making would be attended with any mischievous results for we are not happily without some experience of the operation of a somewhat similar but far more trenchant law in this very country. In Chandranagore, and I believe also in the other French possessions in India, the far more drastic provision of the Code Napoleon has been long in force; and I am not aware, notwithstanding my enquiries on the subject that the Hindu and Mohammadan citizens of the Republic have ever complained of its working. It has certainly not disintegrated joint families. It has not enabled the opulent members of a family to oppress their poorer relations. But it certainly has had the effect of preserving much property from ruin and of considerably reducing legal expenses."

32. The principle laid down in the Indian Partition Act

The Baroda Land Revenue Code had fixed limits below which partition could not be made.

had long been accepted by the Baroda State in its Land Revenue Code and the Rules made under it. Rule 139 provided that no survey number shall be so partitioned as to reduce it to a lesser area than  $1\frac{1}{2}$  bighas in case of jarayat land and  $\frac{1}{2}$  in case of garden or rice land. Section 83 of the Land Revenue Code enacted that in the partition of lands paying revenue to Government the estate shall be divided, as far as possible, according to the survey numbers without sub-dividing any number; any number which is incapable of sub-division subject to the provision of Rule 139, shall be made over to one of the sharers in consideration of his paying to the other sharers the value in money of their shares, and if this is not feasible, it shall be sold and the proceeds divided among all the sharers or disposed of as the vahivatdar or mahalkari thinks fit.

33. Having already accepted the principle underlying the Indian Partition Act, the only question the State had to consider was whether the limit of  $1\frac{1}{2}$  bighas for jarayat and  $\frac{1}{2}$  bigha for bagayat, below which partition could not be made, was sufficient or whether it was necessary to increase it in the interest of better agriculture. The committee was of opinion that the old limit for the prevention of minute sub-divisions was not sufficient. If fields were permitted to be split up into such small parcels as that of half a bigha of garden or kyari, and a bigha and a half of jarayat and if the occupant of every such fractional share was to be recognised as holding direct from government, the inevitable result would be [the ultimate sub-division of the whole land into such very minute occupancies accompanied by the impoverishment of the whole agricultural class. Holdings would be so small as barely to provide subsistence for those engaged in their cultivation and the surplus from which the assessment is to be paid would be so trifling that the slightest deficiency in the ordinary crop would make it disappear.

34. For the evil that has already been done by the low standard fixed for sub-division, we shall have to adopt different remedies; but to prevent it in future we must raise the limit, below which land should not be sub-divided. In fixing this limit we must bear in mind the requirements of successful agriculture, and at the same time see that it is not pitched so high as to cause inconvenience to the people. The chief points to be kept in view in the division of village lands into fields are: (1) that the fields or at least a majority of them should not be larger than may be cultivated by farmers of limited means; and that (2) they should not be made smaller than necessary for this object without an adequate reason.

The former of these points may be readily 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. 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

dry climates, as in the Kadi district, the extent of land will be greater than in moister districts like Naosari where vegetation is more vigorous, other circumstances connected with the cultivation being the same. A larger extent of light friable soils may be kept in tillage with the same labour than of heavier description. In districts where manure is generally applied to the soils, the area capable of being cultivated will be much less than where no manure is applied. The difference between dry crops and irrigated lands will be still greater. The actual extent of the several descriptions of land capable of being cultivated by a pair of bullocks may be easily ascertained in the case of any district. In the Joint report it is taken as 20 acres of light dry crop soil; 15 acres of medium dry crop soil; 12 acres of heavy dry crop soil; and 4 acres of rice land. These areas would, therefore, form the most convenient size of fields as a general rule. Such compact fields would be economic and the labour and capital expended on them would yield the best return.

35. In para 18, it has been pointed out that an economic holding is one which allows man a chance of producing sufficient to support himself and his family in reasonable comfort after paying his necessary expenses. An ideal economic holding would consist of 30 to 50 bighas of fair land in one block with at least one good irrigation well and a house situated in the holding. This desirable area would vary greatly in different parts according to circumstances such as, quality of land, type of cultivators, etc. A farmer in the Gandevi taluka with 5 bighas of garden land can support a family in comfort while in the dry Kadi district 20 bighas might not suffice. Between the ideal economic holding and the obviously uneconomic holding there are many gradations. But these can be easily fixed after having regard to local conditions of soil, tillage, etc.

36. When restripping of the whole village land is undertaken, the limit of an economic field may be raised as high as possible; but for the purpose of preventing furthdi sub-division, the committee did not think it would be proper

The lowest limit of survey numbers.

to pitch it equally high. Having regard to the then existing limit of  $1\frac{1}{2}$  and  $\frac{1}{2}$  bigha for jarayat and bagayat land respectively both for the purposes of survey numbers and partition among heirs, it was not considered necessary to raise it higher than 8 bighas for jarayat, 3 bighas for garden and  $1\frac{1}{2}$  bigha for kyari lands. The committee differentiated kyari from bagayat lands, because the needful level and embankment for kyari can not be conveniently done in fields over  $1\frac{1}{2}$  bigha in area. Fields of this size, though not ideal ones, would be quite sufficient, at least till restripping of all the village lands has been decided upon the basis of economic limit; and when that is done, partition below that limit may be stopped without causing any hardship to people whose ideas about the fitness of things would have by that time greatly developed. If a higher limit is necessary for any taluka, special orders may be passed on a representation by the revenue authorities: This limit of 8 bighas for jarayat, 3 bighas for bagayat and  $1\frac{1}{2}$  bigha for kyari, below which partition cannot be made, should be binding on the judicial as well as revenue courts. If this is not done, no useful end would be served by raising the present limit; for though the revenue courts may not recognise on its record fields below 8, 3 and  $1\frac{1}{2}$  bigha respectively for jarayat, bagayat and kyari lands, the judicial courts would go on partitioning them to any extent, which, in their opinion, may be convenient.

37. Another way of preventing small divisions of land would be to fix upon the standard of an economic unit for each district, or parts of each district, according to the local conditions of soil, cultivation, etc., below which government may not in future sell lands. When new waste lands and *bid-lands*, &c., are to be given for cultivation by auction, they may be divided into plots of convenient shapes and sizes, with road access to each, and no plot auctioned should be lesser in size than the unit of such an economic holding. One of the conditions attached to these plots should be that they are not to be sub-divided below the economic limit fixed. If necessary, the land revenue code may

Waste land sold in plots of economic size may be made impartible.

be amended to secure this object. The Bombay Land Revenue Code was amended in 1901 with the object of making it legal for government to give out unoccupied land on a restricted tenure, one of the features of which is that it cannot be alienated at the will of the holder or by the action of the civil courts, without the consent of government. On the analogy of this the Baroda State can amend its Code so as to make sub-division impossible below the limit fixed by government. It is not desirable to sell a large block of land without dividing it into plots. By so doing, land goes into the hands of speculators and large capitalists who may or may not undertake improved agriculture but generally either rack-rent or sell the land, piece by piece, according to their fancy and convenience. Whenever land is to be sold it should be plotted out into small economic parcels so that each piece may go into the hand of the actual cultivator and not into that of a middle-man and the condition of its impartibility may make its further division impossible.

38. After having proposed what action should be taken to arrest the further sub-divisions of land, the committee had to consider what should be done for reuniting the already divided parts. The reunion may be partial *i. e.*, of a few fields or thorough, *i. e.*, to the extent of the whole holding. It first considered measures for partial reunion.

39. Voluntary exchanges of contiguous survey numbers or portions of them is one of the ways in which the holdings of farmers can, to a certain extent, be consolidated or the irregularity of their shape corrected. But it did not appear that this was done to any large extent. Out of 23,347 transfers of land made in 1915-16, only 139 or half a per cent were made on account of exchanges. That exchanges are not easily resorted to for consolidation of holdings is mainly due to the fact that on an exchange deed, Stamp and Registration charges are to be paid, in the same way as a conveyance on sale of the property of higher value amongst those to be exchanged. If this is not done, no transfer of the exchanged



properties is recognised by the revenue authorities unless the requisite stamp duty is paid. Second reason for the smallness of transfer by exchanges is that when one of the fields to be transferred is burdened with a mortgaged debt, it is difficult to transfer the burden on the field to be received in exchange for it. Third reason is that when exchanges are being discussed each man tries to minimise the value of the other's property and to exaggerate that of his own, and hence the negotiation breaks through and no exchange takes place. If the vahivatdars or the village panchayats took interest in the matter, and tried their influence to promote exchanges by offering their services as mediators and if the State gave such facilities as exemption from Stamp and Registration duties and the compulsory transfer of the mortgage debt on the new parcel, provided the security is in no way reduced, the committee was of opinion that there would be greater inducement to make exchanges than before. It should be the duty of vahivatdars ( tahasildars ) and higher revenue officers when they visit a village to see which parcels are exchangeable for the purpose of consolidation of holdings or correction of their irregular shape and whenever possible to advise the holders to effect exchanges for their mutual benefit. Panchas selected by the parties from the members of the village panchayat or other respectable residents of the village, may assess the values of the parcels to be exchanged, and may equalize the same by making the holder of the field of smaller value pay to the holder of the field of higher value, money compensation. In case of a mortgage burden on one or both of the fields, that too may be exchanged by a simple endorsement on the original deed regarding the change of property. These transactions must be exempted from the payment of Stamp and Registration charges, in view of the improvement to be effected in the agricultural land. Austria, Belgium and other countries have therefore passed special laws exempting cases of exchange of contiguous rural property from the usual Stamp and other duties.

40. Another way of reuniting divided fields is in the hands of government and may be resorted to without much difficulty. When Restricted sale of right of occupancy. survey numbers are put to auction on account of their being relinquished by the last holder or taken in attachment for arrears of assessment or for any other similar cause, only those should be allowed to bid in the auction for the sale of the right of occupancy whose fields are contiguous to the land to be sold. This will enable those among them who are prepared to give the highest amount to take it up for enlarging their holding. If the land to be sold adjoins only one man's holding, it should be given to him without auction, for such an amount as may be deemed reasonable, say 3 to 5 times the annual assessment or the market value, whichever may be higher. Such lands should be given to outsiders only when the owners of neighbouring fields do not want it.

41. When a khatedar wants to sell his field which is below the limit proposed in para 36, the Right of pre-emption. neighbouring khatedar should have the right of pre-emption so that he may have a chance of enlarging his holding. It should be sold to an outsider only after taking his first refusal. When there are more neighbours than one, the person from among them who pays the highest price may have it.

42. Voluntary exchanges and other remedies pointed out in the above paras for re-uniting divided Comprehensive measures necessary. fields, if carried out in the spirit in which they have been proposed may serve as a palliative and do some good. But a few exchanges of plots, here and there, or the absorption of a few fields into those near them cannot be expected to wholly remove the evil of small and scattered holdings. There must be a comprehensive measure, under which the lands of a whole village may be restripped and set right. But it would be hopeless to expect that the evil of small and scattered holdings would ever be removed by private initiative alone. Government must be prepared to help those who are willing, by laying down some principles and procedure under which it can be done.

43. As regards the re-union of separated fields there are two principles on which consolidation can take place: (1) on the principle of "Economic Unit" and (2) on the principle of "original ownership". In the first, the value of each holding is ascertained, then the original boundaries are removed, roads are marked out, lands required for public purposes are set apart, and the rest of the land is parcelled out into new plots. Each of these new plots must be of such a size, as, having regard to the local conditions of soil, tillage, etc., to form an economic field, *i. e.*, a parcel of land necessary to keep fully engaged and support one family. These new plots may be sold by auction among the old occupants, restriction being placed on purchase so as to prevent larger amount of land going into a single hand or to prevent a large number of cultivators from being ousted. The purchase money may then be divided in a certain proportion among the original owners of pieces, a portion being reserved for expenses, in which government would also contribute a share. Another mode would be first to acquire all the land of the village and then to sell it in newly constituted plots by auction, as is done by City Improvement Trusts or by government when laying out new roads in cities or when extending a town. But the committee did not recommend its adoption in the improvement of agricultural land. It may result in land speculation and the smaller holders may be ousted in such numbers as to cause a real hardship. ✓

44. According to the second method when restripping has been decided, a list of khatedars and their holdings is made and the latter are valued at their market price by panchas. Then the land is redistributed and each khatedar is given new land in proportion to his original holding and as far as possible of the same value, difference to be adjusted by cash payment. In this method no khatedar is deprived of his lands. Each is accommodated and in place of his original small and scattered fields gets one plot almost their aggregate size. It is only a few people, whose holding

Re-arrangement on the principle of economic unit.

Re-arrangement on the basis of original ownership.

may be very small and whom it would not be expedient to keep on as farmers, that may have to lose their small pieces. But they too would benefit as they would get their full value in money. *But how will they be insured by the State? Will not the State be liable for the loss?*

45. We have a large number of small holdings in which agriculture is uneconomic and it is desirable that they should be removed by fixing the limit of an economic field and allowing no field below its limit to exist. This can be done by adopting the first method of consolidation on the principle of "Economic Unit". But in doing so there is the risk of land speculation or a large number of khatedars suddenly being thrown out of employment. The second method of re-distribution of land on the principle of original ownership is therefore, preferable under the present circumstances of our land holding. It takes as its starting principle, that no body (except perhaps a few holding plots of insignificant sizes) is going to be driven off the land. It will give even the smallest man, chance to better his condition. Each land-holder receives a new compact piece of land proportionate to the value of his old, small and scattered fields. In this way the previous sub-divisions together with their attendant evils totally disappear. To ensure that each cultivator gets all kinds of lands (i. e. jarayat, bagayat and kyari) as previously held by him, re-distribution may be carried out for each kind of land.

46. The consolidation of agricultural holdings is one of the most difficult questions in the agricultural economics of a country. There are innumerable details that are necessary to be considered and decided before a working basis is arrived at. In no village are the lands uniform. There are varieties of soils and different stages of culture. There is a variety of land tenures. The same men may own in the same village different kinds of lands, such as, sarkari, barkhali, chakariat, etc., and there may be pieces of land that cannot be adequately valued or replaced and therefore may require exemption from the operation of restripping.

Questions to be considered and details settled.

There may be mortgage burdens on some lands. Some lands may have on them the right of permanent tenancy or of easement of others. It would be an arduous task to adequately adjust all these burdens and privileges of the old small and scattered fields on the new consolidated fields. Then we have to decide who should carry out the work; whether it should be entrusted to the survey and settlement department or whether a special commission as in Ireland (dealing with the congested district) may be appointed. Then we have to decide who should carry out a plan of re-distribution decided by the authority, including such matters as construction of new roads, new fences, transfer of possession, mutation of record, etc., on the new basis. Then there will arise the question of assessment that would have to be charged on the newly constituted fields—whether it should be revised or allowed to remain the same. It is also possible that many objections that may be raised at every stage of discussion and difficulties pointed out, would require prompt solution. It is impossible to anticipate them and suggest solution. But the committee felt convinced that if the matter was approached with an open mind and with a genuine determination, it would not be difficult to find *modus operandi*.

47. In spite of all its advantages, restripping should not be enforced by government against the wishes of the people. It should be a voluntary measure and government should apply it to a village only when a majority of its khatedars want to have it. Even in advanced countries like Germany, Austria, &c., the State does not enforce but encourages restripping (except in small areas for the purpose of facilitating irrigation). It is only when two-thirds of the land-holders or the owners of more than half the area of the village-land, give their consent, that the State undertakes the work. This is a wholesome provision and should be followed in India. It is true that most of our agricultural population is ignorant and apathetic to all innovations, and generally speaking there exists such a feeling of mutual distrust and com-

munal jealousy among them that an agreement by a majority of them, even in a good cause like this, which is for their own benefit, would be difficult and would take a long time to come. But in spite of this, compulsory restripping of land would not be desirable; there are great practical obstacles in the way. The present land tenure systems of the country make it exceedingly difficult to alter field boundaries without infringing vested interests. An occupancy tenant possess cultivating rights in a definite plot of land and he cannot be dispossessed so long as he pays the usual assessment. Again there is no legal way in which his occupancy rights can be purchased from him except in those cases in which land is required by government. Drastic legislation as would empower government to adopt compulsory measures for the restripping of holdings requires a strong public opinion to support it and as it does not exist to-day, one would be inclined to wait till it comes about gradually as the result of changing social and economic conditions.

48. Though the committee did not advocate compulsory restripping in the whole State, it thought Experiments may be tried in some villages to serve as object-lesson. that the following suggestion made by Mr. Burt, Deputy Director of Agriculture in the United Provinces, in the paper read by him, before the Science Congress, Lucknow, may be carried out in a few villages. To familiarise the people with the advantages of consolidated holdings, a few villages may be acquired in the different parts of the State and the land therein improved by carrying out the necessary alterations. The new holding may then be re-let to the original tenants as nearly as possible. An object-lesson of this kind would soon convince the people of other villages of the need for general measures. This proposal was also supported by a great authority like Mr. Moreland who gave it as his opinion that the position was not yet so acute as to require drastic action; but it was desirable that experiments should be made in villages where the conditions are favourable in order to familiarize the people with the idea and at the same time to obtain information regarding gains and losses that might be expected,

49. The work of consolidation of agricultural holdings is very slow and arduous. So are all really reconstructive measures. We cannot reconstruct the agricultural industry, on an economic basis, all at once. There is no short cut by which we can revolutionise the economic condition of a people. It is often a question of decades if not of a century. Austria, Germany, Holland and other European countries which have been trying since the last 80 years to consolidate their holdings, have not yet finished their work. If, therefore, after full and mature consideration the State decides to adopt the measures the committee has recommended, it will have patiently and steadfastly to adhere to them, and to see that its people are familiarised with their benefits. The prevention of further sub-divisions is entirely in the hands of government and can be at once enforced by it, by the adoption of the measures recommended in para 36. A part of re-union of sub-divisions can be effected by giving facilities for exchanges of land and introducing the right of pre-emption in favour of neighbours or co-parceners of land. As regards the wholesale restripping of the lands of a village it would take much time and will come about slowly first in those places where the people are advanced enough to understand its advantages; but if every possible encouragement is given and agitation on the matter kept up, it is sure to be general in all villages in due course of time.

50. The re-distribution of agricultural lands is apparently a costly affair but it is not really so. All our fields have been surveyed and assessed. The preliminary work is ready for us to proceed on without any great expenditure. The cost of re-arrangement need not be very heavy. It would hardly exceed from 5 to 10 per cent of the value of the properties to be dealt with and improved. Re-distribution being a novel measure in India, and to be undertaken as an experiment, the committee proposed that the cost should be borne by the State, at the initial stage. Later on, when sufficient experience has been gathered and people

appreciate the benefits thereof, the expenses may be shared by the State and the khatedars rateably according to the area or value of their fields. All great measures are costly, but the amount of cost has to be compared with the ultimate benefits to the State and to the people. To the State it is an investment by a prudent land-lord to improve his estate. To the farmer, the production must increase, and the cost diminish when his small and scattered fields are constituted, as has been the experience of those countries where such measures have been tried.

51. The problem of land assessment and its realization is the most important in the administration of the State. It is rendered difficult because the yield of land is poor and consequently those engaged in its tillage are also poor. If, by re-distribution of holdings and consequently by scientific and economic farming we increase the yield of land, the economic condition of the people must improve in the long run and the village administration could be simplified and rendered less costly. Famines would be less felt, for even in years of draught the facility of well-irrigation which each holding is sure to have, will enable the farmers to raise crops. The problem of village sanitation would be reduced in its magnitude, as cattle would, in all probability, be kept on the farms, and some farmers would also prefer to live on their farms at least during the busy agricultural season.

52. The committee having regard to what they had stated in their report made the following proposals:—

(A) FOR PREVENTION OF FURTHER MINUTE SUB-DIVISIONS:—

(i) The present limit of recognising sub-divisions of agricultural land to the extent of  $1\frac{1}{2}$  bighas of jarayat and  $\frac{1}{2}$  of bagayat or kyari land, should be raised for further sub-divisions upto 8, 3 and  $1\frac{1}{2}$  bighas respectively, and the needful amendment made in section 139 of the Rules made under the Land Revenue Code.



(ii) The Law of Inheritance need not be interfered with; but whenever the partition of agricultural land among the heirs leads to smaller divisions than the limit of 8 bighas of jarayat, 3 bighas of bagayat and a bigha and a half of kyari land, instead of actual partition of land, its money value may be realised by giving it to the highest bidder amongst the heirs and in case none of them is willing to have it, amongst outsiders; money thus realised may be distributed among the heirs.

(iii) The minimum dimensions of an economic holding may be fixed after having regard to local conditions of land, nature of cultivation, etc., for each district. When new waste lands, *bid lands*, &c., are to be given for cultivation by auction, they should be divided into plots of economic size and sold on condition that divisions below this limit will not be recognised.

(B) FOR UNION OF SMALL AND SCATTERED FIELDS :—

(i) Voluntary exchange of contiguous fields belonging to different holders should be encouraged by:—

- (1) exempting them from the usual Stamp and Registration charges, and
- (2) making it compulsory on vahivatdars to advise the people to effect them and to bring them about, as much as possible, with the help of the members of the village panchayat, leading zamindars, farmers and other respectable and influential residents.

(ii) When land relinquished or attached is to be given for occupation, it should be either sold by auction only amongst those whose fields are contiguous, or if there is only one such person it may be given to him, if he is willing to have it, for such amount not exceeding 3 to 5 times of its annual assessment or its market value, whichever may be higher. It should be given to outsiders only when those whose fields are contiguous do not wish to have it.

(iii) The Law of Pre-emption may be applied to agricultural lands below the area of 8 bighas of jarayat, 3 bighas

of bagayat and  $1\frac{1}{2}$  bigha of kyari lands, so that when such pieces are about to be sold, they can be sold only to the neighbouring khatedar or after taking his first refusal.

(iv) A permissive Act may be passed to effect consolidation of the existing small and scattered holdings, of a whole village on the principle of original ownership.

53. The report of the committee which has been summarised in paras 4 to 52 above was generally approved by His Highness' Government and the Nyaya Mantri (Legal Remembrancer) was asked to prepare draft bills embodying the recommendations of the committee. The step most urgently required was that regarding the prevention of further fragmentation of existing holdings which under the then existing rules could be sub-divided upto the limit of  $1\frac{1}{2}$  bigha of jarayat land and  $\frac{1}{2}$  bigha of bagayat or kyari lands. After considerable discussion the proposal of the committee to raise the limit for sub-division to 8 bighas for jarayat, 3 for bagayat and  $1\frac{1}{2}$  for kyari was accepted and the needful amendments were made in section 83 of the State Land Revenue Code and rule 139 of the rules made under it. Under the amended law a land-holder desiring to partition his land or a civil court wishing to partition any government occupancy land under the terms of a decree have to write to the vahivatdar (tehasildar) or mahal-kari, who makes the partition in such a way that no piece of land so partitioned can be less than 8 bighas in extent when the land is jarayat, 3 bighas when it is bagayat and  $1\frac{1}{2}$  bigha when it is kyari. This is a great advance on the old limit of  $1\frac{1}{2}$  bigha for jarayat and  $\frac{1}{2}$  bigha for bagayat and kyari. Moreover, when it is remembered that the effect of this amendment would be not to allow the partition of a jarayat field which is less than 16 bighas or a bagayat field which is less than 6 bighas or a kyari field which is less than 3 bighas (for the division of such lands even in two parts would make the parts lesser in extent than those fixed under the law), the advance made is really good and satisfactory.

54. On the analogy of British Indian Act No. 4 of 1893, a Partition of Immovable Property Act was passed in 1924 and made applicable to the partition of immovable property of every kind including agricultural lands. Under this Act, the co-parceners of an agricultural holding cannot so subdivide their holding as to make any divided part lesser in extent than that fixed in rule 139 of the rules under the Land Revenue Code or any other limit fixed from time to time by government. Whenever in any suit for partition, it appears to the court that by reason of the nature of the property to which the suit relates or of the number of share-holders therein or of any other special circumstance, a division of the property cannot reasonably or conveniently be made and that a sale of the property and distribution of the proceeds would be more beneficial for all the share-holders, the court may direct a sale of the property and a distribution of the proceeds. In such a sale, any share-holder may apply for leave to buy at a valuation the share or shares of the other co-parceners and the court may order a valuation of the share or shares in such a manner as it may deem fit, and offer to sell the property to such share-holder at the price so ascertained. If two or more share-holders severally apply for leave to buy the property at a valuation, the court may order a sale of the share or shares to the share-holder who offers to pay the highest price above the valuation made by the court. Provision has thus been made by the State in its law of Partition of Immovable Property to prevent fragmentation of large holdings into small ones at the time of partition between co-parceners and there is no possibility of their now being subdivided below the limits prescribed in rule 139 of the Rules made under the Land Revenue Code.

55. The next step adopted by the State was the passing of a permissive Act in accordance with the recommendations of the Committee, for the consolidation of agricultural lands in a whole village. A bill was prepared as published in the Adnya Patrika (State Gazette) for

public opinion and criticism. On the whole it was well received by the land-holders and farmers, as it was only a permissive measure and could be applied to a village only when a majority of its khatedars ask for its application to it. The State Legislative Council (Dhara Sabha) also approved the provisions of the Bill unanimously and finally; His Highness the Maharaja Saheb gave his assent to it and thus came into existence, on 16th December 1920, Act V of Samvat 1977, an Act for the Consolidation of the Agricultural Holdings of a whole village. This Act can be applied to a village when two-thirds of its khatedars (land-holders) holding not less than one half of its cultivable land make a request to government to do so.

56 Any khatedar who is supported by the majority of his fellow khatedars in his desire to have the Act applied to his village, may apply to the suba (collector of the district). when such an application is received by the suba, he has to satisfy himself by investigation made through the taluka vahivatdar or mahalkari whether two-thirds of the total number of khatedars of the village holding in all not less than half of the total cultivable land are willing to have their small and scattered fields consolidated under the Act. If he is so satisfied he has to publish a notification in the State Gazette directing the people to show within one month their objections, if any, to the application of the Act to their village. If the suba finds, after disposing of the objections if any are received, that the number of requisitionists remain the same as is required by the Act, he has to proceed through the sar Suba (revenue commissioner) to obtain the sanction of government for the application of the Act to their village. (Sec. 4).

57 On receipt of the government sanction, the sar suba appoints a Working Committee to prepare a scheme for the consolidation of the small and scattered fields of that village and to carry it out. This committee consists of (1) the naib suba of the division in which the village is situated (President), (2) a survey

kamdar appointed from the survey department, (3) the vahivatdar of the taluka (Secretary); and (4) three khatedars elected by the khatedars of the village (Sec. 5).

58 A Supervising Board consisting of (1) Sar Suba Supervising Board. (2) Survey and Settlement Commissioner (3) Director of Agriculture and (4) the elected member of the State Legislative Council for the division concerned, is appointed to give instruction and orders regarding the work to be done by the Working Committee, to supervise and dispose of finally the disputes that may arise and to attend to such other matters. (Sec. 6).

59. The Working Committee fixes the valuation of each khatedar's small and scattered fields in the village according to their survey numbers and in doing so values not only the land but also the wells, trees and buildings standing thereon. A detailed statement of the valuation of all the holdings is then published by posting a notification in the village chowra and by announcing by beat of drum in the village that those who are dissatisfied with the valuation of their fields should file their objections within one month from the date of the publication of the notification. If any one has filed his objections the Working Committee hears him and takes such evidence as he may wish to give and then disposes of the objections as it may deem proper. A khatedar dissatisfied the decision of the Working Committee may apply to the Supervising Board within one month from the date of the decision. The order passed in appeal is final. (Sec. 7)

60. After the valuation of the existing lands of the khatedars, the Working Committee prepares a scheme with a map showing the names of the people to whom land is to be given in the new distribution, the situation of the land, extent of its area and the class to which it belongs. In preparing

the scheme, the Working Committee has to bear in mind (1) that consolidated lands to be given to each khatedar in the new distribution shall be equal or almost equal in area to the total jarayat, bagayat or kyari lands which he originally possessed; (2) that every khatedar shall have an independent way for going to and coming from his fields; (3) that crooked and narrow roads shall, as far as possible, be made straight and (4) that water- courses shall be constructed for draining of water wherever necessary (Sec.9) . When the scheme is prepared, it is to be published by posting a notification in the village chowra and villagers are to be informed by beat of drum that should any khatedar have any objections to urge regarding the scheme, the same should be submitted within one month from the date of the publication of the notification. The objections are then heard in the village chowra or some other public place and evidence offered by the objector is taken; and if after doing so any alteration is found necessary, it is made in the scheme (Sec. 10). The Working Committee is then to send the scheme to the Supervising Board for sanction. The Board examines it and satisfies itself about its correctness, and after making such changes in it as may be deemed necessary sanctions it (Sec. 11).

61. After the scheme is sanctioned, the Working Committee proceeds to make the valuation of each of its component parts, and in doing so has to take into consideration the situation of the land, its distance from the village site, trees, wells and buildings standing on it, the quality of the land and similar other things affecting its value. After fixing the valuation, the Working Committee publishes it by posting a notification in the village chowra and announces to the villagers by beat of drum that if any one of them has any objection to urge regarding the valuation of the new holdings he should take it within one month. If any objections are received, they are to be heard and disposed of as the Working Committee may deem proper and if any one is dissatisfied with the Committee's decision he has a right to appeal to the Supervising Board whose decision is final ( Sec 12 ).

62. After thus fixing the valuation of the lands which are to be redistributed, and the disposal of appeal if any, is filed, the Working Committee distributes the new parcels of land in the following manner:—

Procedure to be followed in redistribution.

- (1) The survey numbers to be distributed should be copied on slips of paper and each slip is to be enclosed in a cover.
- (2) The packets of slips should be divided into different lots according to the areas of lands to be distributed.
- (3) If there are more than one packet in any lot, they should be placed in an earthen pot and the persons entitled to obtain lands of that area, should be asked to draw a packet each by turn and the land of the survey numbers mentioned in the slip in the packet so drawn should be entered in the name of the person drawing it; and
- (4) If there is any difference in the value of the original land and the land thus given in distribution, the difference should be paid in cash (Sec.13).

63. Lands thus consolidated and newly distributed are not to be allowed to be partitioned in future to an extent below the size fixed from time to time by government (Sec. 14). As stated in para 53, for the present, the limit fixed is 8 bighas for jarayat, 3 bighas for bagayat and  $1\frac{1}{2}$  bigha for kyari lands.

The cost of acquiring the land required for the construction of new roads and repairs of old ones, diverting old water courses or making new ones, are to be borne by government (Sec. 15). Any right of easement running with the original land which does not disappear automatically in the new distribution, continues to be enjoyed by those to whom such new lands are allotted (Sec. 16). If the burdens of mortgage etc., on the old lands are not settled, they are to be

Concessions by government.

continued proportionately on the new lands that are allotted in exchange. In such cases, it is not necessary to execute new documents. Only the recording of a note concerning the transfer of the property on the old documents without paying any stamp or registration fee is required and this in no way affects its legal validity. If the note thus made on the old document is submitted for registration by the person who has made it or who has got it made, the Registrar is bound register it ( Sec. 18 ). Persons enjoying rights of tenancy on the old lands may continue to enjoy them as far as possible on the new lands to the same extent as before. If the right is to be relinquished, the tenant is at liberty to do so ( Sec. 19 ). The rights which the the holders of *barkhali* ( alienated ) lands had on their old lands continue proportionately on their new lands and they will be duly recorded by government and necessary sanads will be issued ( Sec. 19 ). The lands allotted in the new distribution under the Act are to pay the same assessment as might have been fixed from time to time ( Sec. 20 ). No stamp or registration duties or fees of any kind are to be charged for the mutation of names or on any document that may have to be executed during the work of consolidation of holdings; and no stamp fees are to be charged for any application or appeal that may have to be presented ( Sec. 21 ).

64. It was necessary to lay down detailed rules of procedure for giving effect to the provisions of the Consolidation Act, but the work was found to be difficult as it was new and novel in this country. An officer of the revenue department ( Mr. R. S. Mane Patil ) was therefore deputed to visit Denmark, Norway, Sweden, Germany, Holland, Italy and other places, with a view to study the procedure adopted there for consolidating small agricultural holdings and collect the necessary information for framing rules by the State under the Act. Mr. Mane Patil submitted a detailed report founded on information received by him on the spot, from responsible government officials of the countries visited by him and from official sources such as Government publications, pamphlets and such other literature.



This report had been very useful in drafting rules under the Baroda Act which are known as " Rules under the Act for the Consolidation of Agricultural Holdings, and have been published in this manual along with the Act. They lay down in what form application should be made, to whom it should be made, how it is to be scrutinised with a view to ascertain whether two-thirds of the khatedars of the village wish the Act to be applied to their village, how and by whom the Working and Supervising committees are to be appointed and vacancies to be filled up, how the Working Committee is to value the old lands and the consolidated ones, how panchas are to be selected for assisting in the work of making the valuation of lands, what kinds of forms and registers are to be used and how the new distribution of lands is to be made and such other details which have to be followed when the Act is applied to a village.

65. Act V of 1920, when applied to a village at the request of the majority of its land-holders would certainly achieve the desired object of bringing together into one piece all the small and scattered fields of all the land-holders. But it is not easy for the villagers who are usually conservative, illiterate and ignorant to combine together and form the requisite majority even in such a good cause. It would require years of propaganda work, before the requisite majority of villagers would come forward to have the Act applied to their village. It was deemed expedient, therefore, to adopt some supplementary measures which may be helpful in bringing about even a partial union of the already divided fields. In this also His Highness' government have been pleased to adopt the recommendations of the Committee and have enacted under the provisions of another Act called " An Act to Prevent Fragmentation of Agricultural Holdings, " (Act 27 of 1933) that on the occasion of the sale of any land below the minimum limit of a holding fixed by the revenue rules a right of purchase shall accrue to the holders of the neighbouring fields (Sec. 4). In the same manner when the coparcenary share of a co-parcener in any land below the

prescribed limit is to be sold the right to obtain purchase thereof accrues to the other co-parceners according to the provisions of this Act and therefore, such a co-parcenary share cannot be sold to an outsider so long as any co-sharer is willing to purchase it at a reasonable price (Sec. 5).

66. A person desiring to sell any land which is below the prescribed limit, is bound to serve a written notice on the holders of the neighbouring fields. The holder or the neighbouring field desiring to purchase such land should inform the intending vendor in writing of his intention to do so within 10 days from the receipt of the written notice. If no neighbour gives such a notice in writing of his intention to purchase the land within the period prescribed, the owner may sell the land to a third person. After one or more neighbours have given notices of their intention to purchase the land the price of the land to be sold may be settled by mutual agreement between the owner of the field and the neighbour or neighbours intending to purchase it. If no agreement can be reached within one month from the date of the notice to purchase given by the neighbour, such neighbour must immediately communicate to the owner the highest price he is willing to offer for the land. After the receipt of such a communication, the owner is not entitled to sell the land to a third party for a price not exceeding the amount communicated by such neighbour. If any person sells any land below the prescribed limit to a third person other than a neighbour without giving notice to the neighbour, or for a price not exceeding that offered by the neighbour, the neighbour has a right to purchase the land from the third party at the price at which it was sold to him. Such a right may be enforced by an application to the mahal nyayadishi having jurisdiction. Such an application must be made within six months from the time when the neighbour becomes aware of the same. If the several neighbours file separate applications to enforce their rights, the proceedings in such applications are to be conducted jointly and in order to determine which of the neighbours is willing to offer the

Mode of enforcing  
the right in ordinary  
sale.

highest price not below the amount for which the property had been sold to a third party, the Court holds a public auction of the land as between the neighbours and confirms the sale in the name of the neighbour who is the highest bidder. The purchaser at the auction sale has to pay into court the full amount of the purchase money within ten days from the date of the confirmation of the sale. In default of such payment, the court again puts the land to auction as between the remaining neighbours, and if such a resale results in a loss, the court is empowered to recover it from the defaulter, on the application of the original private purchaser and deliver to him the amount thereof. When the neighbour in the second sale pays the purchase money, the court orders the original private purchaser to execute a sale deed in his favour and if he fails to do so within the prescribed time, the court executes a sale deed and delivers possession of the land to the auction purchaser who being a neighbour is thus put in a position to join the purchased field with his own neighbouring land and thus enlarge his holding. The court fee stamp to be paid on the application made to the court has been fixed at Rs. 5 and the amount of pleader's fee is not to exceed Rs. 15 (Section 6 to 11).

67. A co-parcener intending to sell his share in any land below the prescribed limit has to follow the same procedure as is prescribed in the case of an ordinary sale. He has to give notice of his intention to sell his share to the other co-parceners. If any co-parcener on receipt of such a notice, intends to purchase the co-parcenary share mentioned in the notice, he must notify in writing, within ten days from the receipt of the notice, his intention to the co-parcener intending to sell. If none of the co-parceners notifies his intention in writing within the prescribed period to purchase the co-parcenary share, the owner may sell his share to a third person. After a co-parcener notifies his intention in writing the price of the co-parcenary share is to be determined by mutual agreement between the owner and such co-parcener. If no agreement can be reached between the owner and the co-parce-

ner the latter may communicate to the owner the maximum amount at which he is willing to purchase. After the receipt of such a communication, the owner is not entitled to sell the share to a third person not being a co-parcener for an amount not exceeding the price thus notified. If, however, he does so, the right to purchase the co-parcenary share from such a third person at the price for which it was sold to him accrues to the other co-parceners. Such a right may be enforced by an application to the court within six months from the time a co-parcener becomes aware of the sale to a third person (Section 12 to 17).

68. If any land subject to a conditional mortgage is deemed to have been sold on the operation of such a mortgage, the right to purchase such land accrues to the holders of neighbouring lands if such land is below the prescribed limit and there is no land adjoining it belonging to the person in whose favour, the conditional mortgage has operated into a sale. In such a case, the person in whose favour the sale is effected, is bound to serve a notice on the neighbours within one month from the date of the operation of the sale. If any of the neighbours on receipt of such a notice is willing to purchase the land, for an amount equal to its market value and an additional sum amounting to 15% of that value, he may serve a notice on the owner to that effect. If the owner does not accept the offer, the procedure laid down in the case of an ordinary sale applies (Sec. 18 to 23).

69. In order that people concerned may be in a position to know and to enforce their right if they wish to do so, even when the owner fails to give them notice of his intention to sell his land it has been provided that a deed of sale tendered for registration shall specifically contain particulars about the following matters :—

- Particulars necessary in a deed of sale.
- (a) area of every piece of land conveyed.
  - (b) names of the
    - (1) registered holders, or

## (2) registered occupants

of the land adjoining every such piece of land conveyed,

- (c) whether the piece of land conveyed is a whole survey number or a portion thereof (Sec. 24/1)

When a deed of sale is presented for registration, the Registrar is required to ascertain whether the land transferred or any portion thereof is below the prescribed limit and if it is below the prescribed limit, he is bound to serve a notice in writing through the vahivatdar on the neighbours of the land so that if they wish they may exercise their right of purchasing it. The vahivatdar is bound to cause the notice received from the Registrar to be served on the neighbours through the village officers. (Sec. 24/2).

Notice to be given by a Registrar.

70. When an occasion arises for the sale of any land or part thereof to be effected by (a) civil court or (b) a revenue officer or (c) a receiver, and the land to be sold is below the prescribed limit, notice must be given by them to the neighbours of the land. In spite of the service of such a notice, if no neighbour appears himself or through his authorised agent for the purpose of bidding in the auction, he shall not be entitled as a neighbour to purchase the land sold in auction (Sec. 25)

Notice to be given by a court, revenue officer & receiver.

71. Rules have been made also under Act XXVII of 1833, which lay down the procedure to be followed when an application is to be made to a Court to enforce the rights of purchase given under the Act, the court to which application should be made, to whom appeal lies, what court fee has to be paid, how auctions under the Act are to be held and so on.

Rules under Act XXVII of 1833.

72. Voluntary exchanges of contiguous holdings are made by sensible land holders in the Baroda State of their own accord and they are also encouraged, by the State, as in the Punjab, to do so.

Conclusion.

through Co-operative Societies formed for the special purpose of consolidating the holdings of members. Liberal concessions in the shape of exemption from stamp and registration charges, fees under revenue rules etc. have also been given to such societies. But this is a very slow process and so far has resulted in very little consolidation. But it is hoped that under the various Acts and Rules specially passed for the purpose not only will further fragmentation of existing holdings below the limit of 8 bighas for jarayat, 3 for bagayat and  $1\frac{1}{2}$  for kyari lands will be prevented but also that those who desire to enlarge their holdings will have an opportunity to do so when the lands in their immediate neighbourhood are sold either by private persons or by government. This will, no doubt, bring about a gradual enlargement of holdings to some extent. But it would take many years before all the small and scattered fields of each khatedar in a village may be consolidated into one plot. However when the people gradually understand the advantages to be derived even from such a partial measure it may not be too much to hope that the majority of villagers will come forward in due course of time to request government to make the Permissive Act of 1920 applicable to their village and thus secure the full benefits which His Highness the Maharaja Saheb has in view in passing this Act. So far it is not known that any other State or Administration in India has taken similar action and His Highness the Maharaja Gaekwad has been a pioneer in this, as in similar other measures, for the welfare of his people. But all are agreed that the farmer, in all Provinces and States suffers the most from his small and scattered fields and that his economic condition will not improve, until among other measures, that for consolidation of holdings is taken. It is not too much therefore to hope that the beneficent measures adopted in Baroda may, with suitable changes, be adopted elsewhere in the near future.\*

Baroda, 25th February 1934.

GOVINDBHAI H. DESAI.

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\* NOTE:—The Acts and Rules passed in Baroda being in the Gujarati language, their English translations have been given in this Manual.

## II

(Section 83 of the Baroda Land Revenue Code and Rule 139 of the rules made under it, referred to in para 53 of the Explanatory Note).

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SECTION 83 OF THE BARODA LAND REVENUE CODE.

*Partition.*

83. The following rules shall be enforced at the partition of any estate paying land revenue to government, namely :—

Mode of partition.

- (a) the estate shall be divided as far as possible according to the survey-numbers without subdividing any number ;
- (b) any number, which is incapable of sub-division, subject to the provisions of rules made under this Act, shall be made over to one of the sharers in consideration of his paying to the other sharers the value in money of their shares, and if this be not feasible, it shall be sold and the proceeds divided amongst all the sharers, or disposed of as the vahivatdar or mahalkari thinks fit ; and
- (c) the expenses necessarily and properly incurred in making such partition shall be recoverable by the vahivatdar or mahalkari as an arrear of land revenue, in such proportion as he think fit, from the sharers at whose request it is made or from the persons interested in such partition.

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(RULE 139 OF THE RULES MADE UNDER THE BARODA LAND REVENUE CODE).

139 (1) (a) An occupant (khatedar) desiring to partition his land should apply in writing,

Partition of land.

- (b) the civil court wishing to partition any government occupancy land in the terms of its decree should send a letter

to the vahivatdar or mahalkari, who should make the partition, according to the provisions of Section 83 of the Code. No piece of land so partitioned

- (c) shall be less than 8 bighas, when the land is jarayat,
- (d) shall be less than 3 bighas, when the land is bagayat,
- (e) shall be less than  $1\frac{1}{2}$  bighas, when the land is kyari.

When a survey number is divided, the sub-divisions should not be given numbers consecutive to the final number of the village (udafa) but one of them will retain the original number and the others will be denoted by a fractional symbol of which the numerator will be the original number and the denominator the sub-number in serial order e. g. 10, 10/1, 10/2, in case a sub-number (pot-number) is further sub divided, the original sub-number should be retained for one of the resulting sub-divisions while the others should be numbered consecutively from the last sub-division of the original number.

(2) But no partition shall be made on the application of any one partner without the assent of his other partners except when it is in compliance with the decree of a civil court or the application of a registered occupant or the superior holder of alienated land; nor shall any partition be effected of any alienated land which cannot be relinquished in favour of another according to the provisions of appendix specified in Rule 129.

(3) The sub-divisions under sub-rule (1) should as far as possible be even and quadrilateral and in calculating the area, fractions of less than 10 visvasis should be left out and of more than 10 should be counted as 1 vasa. The total area of the land thus measured should be deducted from the area of the original number, the remainder shall be deemed to represent the area of the division not measured. If this does not bring about a proper adjustment of the vighas of the original number, the fraction with the highest number of visvasis below 10 should be counted as one vasa.

§ H.



(4) The partition in execution of a civil decree should be effected according to the provisions of sub-rules (1) and (2) and the civil court should be addressed in respect of the portion of the land which cannot be sub-divided when that happens to be the case.

(5) So long as the survey department is in existence the vahivatdar or mahalkari should not make any corrections in his record in respect of any land sub-divided under this rule without the orders of that department to which he should send his papers for approval.

(6) The work of sub-dividing the land under this rule should not be begun unless the charges for it at the rate of one rupee for each sub-division are paid beforehand by the applicant provided that for this purpose the original number shall be reckoned as a sub-division.

139 (A) Notwithstanding the provisions of Rule 139 in respect of the area sub-divisible the sub-divisions of chakariat land or of government unoccupied land when it is given to village servants in lieu of service,

Division of chakariat land or land given to village servants.

- (a) should not be less than  $1\frac{1}{2}$  bigha in the case of jarayat land, and
- (b) less than  $\frac{1}{2}$  bigha in the case of kyari or bagayat land.

Such sub-divisions shall be numbered according to the provisions mentioned in sub-rule (1).

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## III

## ACT V OF SAMVAT 1977.

## (An Act for the Consolidation of Agricultural Holdings).

Whereas it is expedient to make provision for taking needful action when the majority of the holders of agricultural land in a village wish to have their small and scattered holdings consolidated, His Highness the Maharaja Sayajirao Gaekwad Sena Khas Khel Samsher Bahadur, G. C. S. I., G. C. I. E., Ferzande Khas-E-Daulate Englishia has been pleased to enact as follows :—

Preamble.

## PART I.

## PRELIMINARY RULES.

1. This Act shall be called "An Act for the Consolidation of Agricultural Holdings".

Title.

2. The first part of this Act shall apply from the date of its publication in the Adnya Patrika and the second part from such dates and to such places as may be determined by Huzur Order from time to time by a notification published in the Adnya Patrika.

Extent.

3. In this Act unless there be anything repugnant to the subject or context the following terms shall bear the following meanings:-

Definitions.

(a) "Consolidation of holdings" means consolidation of lands which have been divided and the redistribution such consolidated lands in accordance with the principles laid down hereafter in this Act on the basis and proportion of original ownership.

*Exception* :—Gamthans, cemeteries, burial grounds and other lands set apart for public purposes and such other lands which village people wish to keep apart for common use shall not be included in this sub-section.

(b) "Khatedar" (registered occupant) means the sole occupant or the eldest or principal of several joint occupants whose name is authorisedly entered in the government records, as holding any kind of land whether in person or by his co-occupant, tenant, agent, servant or other legal representative.

4. (1) Any khatedar or khatedars who desires or desire that this Act may be applied to his or their village should apply to the Suba of the district.

Who can ask for the application of the Act.

(2) When an application is made to the Suba of the district, under sub-section (1) he shall satisfy himself whether two-thirds of the total number of khatedars of the village, holding in all not less than half of the total cultivable lands of the village have given their consent, or not.

(3) If the Suba is *prima facie* satisfied as laid down in sub-section (2) he shall publish a notification in the Adnya Patrika directing the people to show their objections, if any, to the application of this Act to the village, within one month.

(4) If the Suba finds, after disposing of the objections received in accordance with the notification, that the number of requisitionists remains the same as required by sub-section (2) he shall proceed to obtain the sanction of the Huzur for the application of this Act to the village.

## PART II.

### (A) ABOUT PREPARING A SCHEME FOR CONSOLIDATION.

5. On receipt of the Huzur sanction to apply this Act to any village, the Sar Suba shall appoint a Working Committee composed of members as mentioned below, to prepare a scheme of consolidation of agricultural holdings and to carry it out :—

- (a) The Naib Suba of the division (President).
- (b) A Survey Kamdar appointed from the Survey department.

- (c) The Vahivatdar of the taluka (Secretary), and
- (d) Three khatedars elected by the khatedars of the village.

6. A Supervising Board consisting of :--

The constitution of the Supervising Board.

- (a) the Sar Suba,
- (b) the Survey and Settlement Commissioner,
- (c) the Director of Agriculture, and
- (d) the elected member of the Dhara Sabha for the division concerned.

is appointed to give instructions and orders regarding the work to be done by the Working Committee, to supervise and to dispose of finally the disputes that may arise and to attend to such other matters.

7. The Working Committee shall fix valuations of each khatedar's existing lands according to

The valuation of land.

survey numbers, and the trees, wells and buildings thereon, and a detailed statement of this valuation shall be published by affixing a notification in the village chora and it shall be announced by beat of drum in the village that the persons who are dissatisfied with the valuation of their holding should file their objections within one month from the date of the publication of the notification.

(2) If anybody files his objections within the prescribed time the Working Committee shall hear him and after taking such evidence, as may be offered, in the village chora or some other public place, shall dispose of the objections as it may deem proper.

(3) A khatedar aggrieved by the decision passed under sub-section (2) may appeal to the Supervising Board within one month from the date of the order and the order passed on such appeal shall be deemed to be final.

8. After the valuation of lands etc., of the khatedars and after the expiry of the period fixed for appeal or if an appeal is filed after the disposal of such appeal, the Working Committee shall prepare a scheme, together with a map showing names of the people to whom land is to be given in new distribution, showing the situation of the land, extent of its area and the class to which it belongs.

Scheme for consolidation of lands.

9. In preparing a scheme under section 8 of the Act the following points shall be considered:-

Points to be considered while framing a scheme.

- (a) consolidated lands to be given to each khatedar shall be equal or almost equal in area to the total jirayat, bagayat or kyari lands which he originally possessed.
- (b) Every khatedar shall have an independent way for going to and coming from his field.
- (c) Crooked and narrow roads shall as far as possible be made straight and of required breadth, and
- (d) Drains (*kans*) shall be constructed for draining off water wherever necessary.

(B) STEPS TO BE TAKEN AFTER THE PREPARATION OF THE SCHEME.

10. (1) When the scheme under section 8 is prepared, it shall be published by posting a notification in the village chora; and it shall be notified by beat of drum in the village that should any person have any objections to urge regarding the scheme, the same should be submitted within a month from the date of the publication of the notification.

Procedure to be followed when the scheme is ready.

(2) If any person submits his objections within the prescribed period, the Working Committee, shall hear him and take evidence, if any is offered by him, in the village chora or in some other public place, and shall duly dispose of

the objections, and in accordance with the decisions so made, alterations, if necessary, shall be made in the scheme.

11. After observing the procedure mentioned in Sec. 10 the scheme shall be sent to the Supervising Board for sanction. The Board shall examine it and satisfy itself about its correctness and after making such changes as may be deemed necessary, sanction it.

12. (1) When the scheme is sanctioned in accordance with sec. 11 the Working Committee shall make the valuation for each of its parts. The details of this valuation shall be published by affixing a notification in the village chora and the committee shall announce in the village by beat of drum that if any person has any objection regarding the valuation he should declare it within one month from the date of the publication of the notification.

(2) If any person submits his objections within the time, the Working Committee shall hear him and take evidence, if any is offered, in the village chora or, some other public place and shall pass such orders on them, as it may deem proper.

(3) If any person is dissatisfied with the order passed under sub section 2, he may present an appeal to the Supervising Board within one month from the date of the order, and the order passed in such appeal shall be deemed as final.

#### (C) REDISTRIBUTION OF LANDS.

13. After fixing the valuation of those lands which are to be redistributed in accordance with section 12 and after the period prescribed for filing an appeal against it is over or after the disposal of the appeal, if any is filed, the Working Committee shall distribute the new of lands in the following manner:-

(a) The survey numbers to be distributed shall be marked on slips of papers.

- (b) The slips shall be divided into different lots according to the areas of lands to be distributed.
- (c) If there are more slips than one in any lot they shall be placed in an earthen pot and the persons entitled to obtain lands of that area shall be asked to draw a slip each by turn and the land marked on the slips so drawn shall be entered in the name of the person drawing the slip; and
- (d) If there is any difference in the value of the original lands and the land thus distributed the difference shall be paid in cash.

14. Any part of the lands which is newly distributed under this act shall never be partitioned to an extent below the size fixed from time to time by government.

Re: the procedure of repartition of lands distributed.

(D) MISCELLANEOUS.

15. (1) The cost of lands required for the construction of new roads and repairs of old ones, diverting old water courses or making new ones shall be borne by government.

Who should pay the expenditure.

(2) The cost for the maintenance of such roads and water courses in proper order shall be borne by the local boards.

16. Any rights of easement running with the original lands which do not disappear automatically in the new distribution, shall continue to be enjoyed by those to whom such new lands are allotted.

Re: the rights of easement.

17. (1) If the burdens of mortgage etc., on the old lands are not settled they shall continue proportionately on the new lands that are allotted in exchange.

Re: the burden of mortgage etc.,

(2) In such cases it is not necessary to execute new documents; only the recording of a note concerning the transfer of property on the old documents without paying any stamp or registration fees shall not affect its legal validity.

(3) If the note made on old document in accordance with the above sub-section (2) is submitted for registration by the person who has made it or who has got it made, it shall be registered.

18. Persons enjoying the rights of whatever description on the old lands as tenants shall continue to enjoy them as far as possible on the new lands to the same extent as before. If this right is to be relinquished the tenant shall be at liberty to do so.

Re : the right of tenancy.

19. The rights which the holder of barkhali (alienated) lands had on his old land, shall be proportionately held by him on his new land and they shall be duly recorded by government and necessary sanads will be issued.

Barkhali rights.

20. The lands allotted in the new distribution under this Act shall pay the same assessment as might have been fixed on them from time to time.

Land revenue on the new lands.

21. No stamp or registration duties or fees of any kind shall be charged for the mutation of names or on any documents that may have to be executed during the work of consolidation of holdings and no fees shall be charged for any application or appeal which may have to be presented.

Exemption from stamp and registration fees.

22. The Sar Suba has the powers to make such rules with the sanction of the Huzur as may be necessary for carrying out the purpose of this Act.

Powers to enact rules.



## IV

RULES MADE UNDER SECTION 22 OF THE ACT FOR THE  
 CONSOLIDATION OF AGRICULTURAL HOLDINGS  
 (ACT V OF SAMVAT 1977.)

Whereas it is expedient to make rules under section 22  
 of the Act for the Consolidation of Agricultural Holdings, it is enacted with the  
 sanction of His Highness as under :—

Preamble.

## PART I.

1. These rules may be called "Rules under the Act for  
 the Consolidation of Agricultural Holdings."  
 Name.

2. Unless there is anything repugnant in the subject or  
 context, the word "Act" in these rules  
 shall mean the "Act for the Consolidation of Agricultural Holdings"; And the other words used shall  
 be deemed also to have been used as defined in that Act.  
 Definition.

## PART II

## REGARDING APPLICATION.

3. The application which the khatedars have to make  
 to the Suba under section 4 of the Act  
 for applying the second part of the Act  
 to their village, shall be made in form  
 Application for the application of the Act.

No. 1.

4. When the Suba receives an application under section  
 3 of the Act, he shall send it to the vahivatdar of the mahal or the mahalkari of  
 the peta mahal concerned for an inquiry  
 as provided under section 4 (2) of the Act.  
 Inquiry regarding the application.

5. When the vahivatdar or mahalkari receives the  
 application according to the foregoing section, he shall go to  
 the village and take statements of the applicants and verify  
 same.

(2) After that the vahivatdar or the mahalkari shall convene a meeting of all the khatedars of the village in the chora at a time or in convenient batches and shall explain to them the purpose of the Act and the benefits to be derived from the consolidation of holdings and shall ask every one who is willing to apply the second part of the Act to their village, to sign an agreement in form No. 2.

6. (1) If the vahivatdar or mahalkari after taking the agreement mentioned in the foregoing section finds that a sufficient number of khatedars satisfy the conditions of section 4 (2) of the Act and give their consent, he shall fill up a statement in form No. 3 and forward it to the Suba with all its enclosures.

Procedure to be adopted by the Vahivatdar when sufficient number of occupants do not give consent.

(2) If it is found that a sufficient number of khatedars is not in favour of applying the Act to their village he shall instruct the people to reconsider the matter and visit the village again after a fortnight and proceed as directed in section 5.

(3) If in spite of at least two such efforts being made to obtain the consent of the khatedars, khatedars in sufficient number do not give their consent a detailed report regarding it shall be submitted to the Suba.

7. (1) When the Suba receives the report from the vahivatdar under section 6 (1) he shall issue a notification in form No. 4 and publish it by affixing a copy of it in the office of the taluka vahivatdar or the mahalkari and a copy at the chora of the village concerned, and the village people shall also be informed by the beating of a drum.

Procedure to be adopted by the Suba when the occupants either consent or dissent.

(2) On receipt of objections from the khatedars as required in the notification, if it appears that after deducting the number of khatedars putting forth objections from the number shown in the vahivatdar's or mahalkari's report there remains a number of khatedars sufficient to satisfy the

conditions laid down in section 4 (2) of the Act, a report in the form of a detailed tippan embodying all the information shall be submitted to the Huzur through the Sar Suba.

(3) If the Suba finds from the report made by the vahivatdar or the mahalkari under section 6 (3) to the effect that sufficient number of khatedars are not in favour of applying the second part of the Act or if after deposing of the objections received in pursuance of the notification issued under section 7 (1) he finds that the number of khatedars is insufficient he shall himself go to the village and persuade the khatedars to give their consent to the proposal.

(4) If in spite of the persuasion of the Suba, the khatedars do not give their consent in sufficient numbers the papers shall be filed and a detailed report of the whole case shall be submitted to the Sar Suba.

### PART III.

#### ABOUT WORKING COMMITTEE.

8. When the Huzur has given sanction for applying the second part of the Act to any village, the Sar Suba shall issue a notification in form no. 5 and publish it by affixing it in the village chora or in some other public place and in the office of the Mahal Vahivatdar or the Mahalkari and by publishing it in the Adnyapatrika.

Publication of a notification in the Adnyapatrika after the sanction for application of the Act.

9. (1) The Sar Suba shall write to the Suba to arrange for the election of three khatedars to sit on the Working Committee in accordance with section 5 (d) of the Act, and

Procedure for appointment of members and secretary.

(2) shall arrange for the appointment of a Survey Kamdar to work as a member of the committee in accordance with section 5 (b) of the Act.

10. The officer who has to work as Secretary to the committee shall immediately proceed to the village and inquire into the number of khatas, total area of land etc., and thereafter shall ascertain the opinion of the Working Committee as to how many surveyors, classers, clerks and peons will be required for the committee and shall proceed to obtain sanction for the same and for the committee's expenses.

Procedure to be followed by the Secretary.

11. When the report in accordance with section 9 (1) is received the Suba shall at once arrange through the Vahivatdar or the Mahalkari for the election of three members for the working committee from the khatedars of the village.

Procedure for the appointment of the Working Committee.

(2) This election shall be carried on in accordance with the provisions made in Schedule I.

(3) The Vahivatdar or the Mahalkari shall after declaring the result of the election inform the Suba about it.

(4) If any khatedar has any objection against the election he may state the same in writing to the Vahivatdar or the Mahalkari within two days from the date of the declaration of the result. The Vahivatdar or the Mahalkari shall decide the dispute and publish the result in the village and report the same to the Sar Suba through the Suba.

(5) The decision made by the Vahivatdar or the Mahalkari regarding the election shall be considered final.

12. (1) When the result of the election mentioned in the foregoing section is declared by the Vahivatdar or the Mahalkari, the Working Committee described in section 5 of the Act shall be considered to have come into existence.

The work shall not commence without four members.

(2) When the president mentioned in section 5 (a) of the Act is absent due to any unavoidable reason, the Vahivatdar or the Mahalkari shall act as president.

(3) The work of the committee shall not commence unless there are two other members present in addition to the president and the secretary.

(4) The resolution passed by majority shall be deemed to be the resolution of the committee. In case of equal votes, the president shall have the right to give a casting vote.

13. If after the Working Committee coming into existence there arise any vacancy by reason of the death or disappearance of any of the three members elected by the khatedars of the village under clause (d) of section 5 of the Act, a person elected anew by the khatedars of the village shall fill up the vacancy with the sanction of the vahivatdar or the mahalkari. The Working Committee shall not cease working owing to the falling of a vacancy but shall continue its work subject to the provision of section 12 (3)

Procedure to be followed when a seat in Working Committee falls vacant.

14. (1) The executive committee may cancel the election of any khatedar or khatedars for the Working Committee in the beginning or any time later giving proper reasons even in the absence of objections from anybody regarding it.

Working Committee can cancel election.

(2) The Working Committee shall thereupon proceed to arrange to hold an election of another khatedar for the vacancy created by the khatedar whose election has been thus cancelled.

15. The meetings of the Working Committee shall be convened at the chora of the village in which the work of consolidation of holdings is carried on and if the chora is not suitable at some other public place in the same village.

Place for the meetings of the Working Committee.

16. The secretary shall inform in writing the members about the time and place of meeting and furnish them with detailed information of the subjects for consideration at least eight days before the date of the meeting. When

Information about the date of the meeting.

it is necessary to convene a meeting for some special reasons the secretary may do so by making a note thereof and informing the members before a reasonable time.

17. (1) The Working Committee shall keep a proceeding book in form no. 6 for keeping a record of its work.

Proceeding book of the Working Committee.

(2) A minute of all the business transacted from time to time shall be kept therein, and

(3) the president shall sign such a minute.

18. The secretary shall be responsible for collecting all information regarding the scheme and submitting it without delay.

Responsibility for submission of scheme.

19. After the preliminary arrangements regarding the staff etc. are over the secretary shall after consulting the president fix a date for convening a meeting of the Working Committee and shall convene it. The secretary shall by beat of drum or notifying it in any other way in the village so arrange that almost all the khatedars of the village or their legal representatives and other interested people may be present at this meeting. The secretary shall also get the necessary maps, tracings &c. from the Survey department and all such papers which may probably be required from the offices or departments concerned. In this preliminary meeting the members shall discuss the matters regarding the general outline of the scheme, the principle on which the consolidation of lands may be done to make the scheme successful and shall also consider the suggestions put up by the people present so as to leave no scope for objections from them in the future. The object of this preliminary meeting being to give to the Working Committee an idea of all the circumstances, before the commencement of the work, the Working Committee shall specially see that the matters put forth by the people are fully considered. When

The preliminary meeting of the Working Committee and its procedure.

the discussions with the people are over the Working Committee shall give proper advice and useful suggestions regarding the valuation of the land in accordance with section 7 (1) to the secretary.

20. When the work of the preliminary meeting is over, the Working Committee shall as soon as possible convene a special meeting and constitute as many suitable divisions of the total assessed cultivable land of the village in proportion to the total area, and survey numbers etc. of the village. The Working Committee shall see that such divisions are constituted as far as possible according to the survey numbers in an ascending order (as for instance a division of survey number 1 to 200). When such suitable divisions are determined the Working Committee shall appoint for each division three members out of the responsible persons of the village who are well conversant with the lands of each division. The qualifications of such members should not be lower than the qualifications which are required for the members of the village Local Board.

21. When the appointment of such a panch is made by the Working Committee, the secretary shall inform in writing the members concerned about the same.

22. The panchas appointed by the Working Committee shall be bound to work with the secretary like jurors and assessors appointed under the Criminal Procedure Code i. e. they shall be subject to the same liabilities as are prescribed for jurors or assessors under the law, for the purpose of absence etc. The Working Committee shall exercise this power of punishment.

23. The president at any suitable time either after or before the preliminary meeting of the Working Committee shall publish a notification in terms of form No. 7 and after announcing it by beat of drum shall invite from the

people written evidence in the shape of documents of sales, mortgages &c, which may be useful for the settlement of the valuation of lands. References to documents of sales of agricultural lands of the village concerned for the past five years may also be sent for from the taluka nondhani office. The Nondhani Kamdar shall give such references without charging any fee for searching the records, or making any other charges.

24. Each of the documents that is presented by the people under Sec. 23 shall be registered in a register to be maintained in form no. 8 and the Secretary shall give a receipt in form no. 9 to the owner. When no longer required, the Secretary shall return the documents to the owner and in token of its receipt take his signature in the register.

25. (1) When the period prescribed for the people to present documents or written evidence is over and the certificates asked for from the nondhani office under sec. 23 received the Secretary shall prepare a statement in form no. 10 by touring in the *sim* in company of the panchas of the divisions concerned and record the information against each of the survey numbers.

(2) The Secretary and the members of the panch while touring shall keep the khatedars with them and hear what each has to say, about the value of his land. The value of the land should be determined in view of the information thus received.

26. As soon as the statement of the valuation of land is ready, the Secretary shall with the consent of the President fix a date for convening a meeting of the Working Committee and shall proceed to the call same.

Procedure to be followed after the statement of valuation of lands is prepared by the Secretary.



27. The Working Committee shall meet on the fixed date and fix the valuation after due consideration of the values entered by the Secretary and the members of panch in form no. 10 by touring in the *sim* against each of the survey numbers and shall enter that value with reasons in the statement. If this work is not finished on the day on which it was commenced it shall be continued on the succeeding days till it is finished.

Procedure to be followed by the Working Committee regarding the valuation of lands.

28. When the statement in form no. 10 is prepared, numbers per khatedar may be summarised from the *khatawahi* or in any other way and the columns 1 to 6 of form no. 11 may be filled in.

Statement of valuation of lands per khatedar.

29. When the statements in terms of forms Nos. 10 and 11 are ready a detailed statement of valuation per khatedar in accordance with section 7 (2) of the Act shall be published by the chairman by posting a notification in terms of form No. 12 in the village chora or some other public place and a mention shall be made therein that objections, if any, may be filed within the prescribed date and the people may be informed by beat of drum in the village. This date shall not be within one month after the date of publication of the notification.

A notification inviting objections.

30. If objections are filed by any person within the fixed period the Working Committee shall hear the objections presented by him in person or through a mukhatyar or a pleader and having taken evidence, if there be any, in the village chora or some other public place, shall dispose of them as may be deemed proper. The value that may be fixed by the Working Committee after hearing the objections shall be entered in column 14 of form No. 10 and after giving the reasons in support of this value in column 15 of the same statement the chairman of the Working Committee shall sign the statement. The value to be entered in column 7 of form No. 11 shall be the value entered in column 14 of form No. 10.

Disposal of objections.

31. After hearing the objections the valuation of lands that may be arrived at in accordance with the foregoing section shall be entered in column 7 of form No. 11 and published at the village chora or some other public place so as to inform the khatedars concerned about it; and the people shall be informed by beat of drum that if any one is dissatisfied with the value finally fixed by the Working Committee he may prefer an appeal to the Supervising Board within a month. The announcement by beating of drum shall be repeated for five days successively so that nobody may remain without being informed. The chairman shall also publish a notification in form No. 13 in the chora regarding the procedure of the appeal to the Supervising Board. The time of appeal shall be counted from the date of publication of the notification. The notification shall be published and those wishing to appeal should be informed by beat of drum to do so after all objections are heard and the value of all lands is fixed so that the appeals may be instituted at a time.

32. For the purpose of making an appeal to the Supervising Board a copy of the whole decision of the Working Committee shall not be required. An appeal may be instituted with a necessary extract from the statement in form 11 of the khata for the value of which the appeal is instituted and certified as true under the signature of the Secretary and the seal of the Working Committee. This copy shall not require to be stamped; but copying fees, etc., fixed under rules made under the Land Revenue Code will have to be paid. The time taken in obtaining a copy shall be allowed over and above the period fixed for instituting appeals. Applications for appeals also shall not require any stamp. Only a power of attorney or vakilatnama will be required to be properly stamped.

(2) In appeals so instituted the President of the Working Committee shall be entered as respondent.

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## PART V.

## ABOUT SUPERVISING BOARD.

33. The constitution of the Supervising Board is fixed under section 6 of the Act; the Sar Suba shall be President. The cases before the Board shall be decided by majority of votes. The Sar Suba may appoint any of his subordinate officers not below the rank of a vahivatdar as Secretary, to the Board for such period as may be necessary. Looking to the (small) quantity of work, the Sar Suba may take the work of the Secretary to the Board if possible from any of his assistants in addition to his usual work. The Sar Suba may also appoint clerical staff having regard to the quantity of work to be done.

President and secretary of the Supervising Board.

34. The Secretary to the Supervising Board shall chiefly be responsible for convening meetings of the Board from time to time, and also for the execution in time of the orders issued in appeal cases etc.

Responsibility of the Secretary.

35. The member of the Dhara Sabha who is a member of the Supervising Board shall get travelling and halting allowance in accordance with the Rules.

Elected member shall get allowance according to the rules.

36. The meetings of the Supervising Board shall be convened at a proper place after consulting the President. In special cases the Board may also meet in the village concerned. The members shall be informed in writing by the Secretary about the place and date of meeting before a reasonable time.

Meetings of the Supervising Board.

37. The appeals to be filed before the Supervising Board under subsection (3) of section 7 of the Act, and all other appeals should be addressed in the name of the Board.

Appeals to be addressed in the name of the President.

(2) No such appeal shall be rejected 'prima facie' for any reason other than the bar of limitation.

38. When such appeals are instituted the Secretary to the Supervising Board shall send for the papers concerning the appeals by writing to the Working Committee under orders of the President. These papers being important shall usually be sent by registered post.
- Papers to be sent for from the Working Committee.
39. When the necessary papers are received by the President of the Supervising Board, the Secretary shall fix a date with the consent of the President and call a meeting of the Board and shall issue a written notice in form No. 14 to the parties concerned and directing them to be present on the date in person or through a legal representative.
- Notice to the parties concerned to be present in the meeting of the Board.
40. If the President thinks that it will facilitate the work of the Board if the Secretary of the Working Committee is kept present to explain the particulars while the appeal cases are being heard the President may order him to remain present.
- Presence of the secretary of the working committee at the time of appeals.
41. Registers etc. concerning the appeal cases to be maintained by the Supervising Board shall be maintained in forms fixed under the Land Revenue Rules.(as for instance the appeal register in accordance with form No.88 mentioned in section 256 of the Land Revenue Rules). Where no special forms are given under these Rules the forms under Land Revenue Code and Rules may as far as possible be made use of.
- The appeal register etc. statements which are not specially given in these rules may be taken from the Land Revenue Act and Rules.
42. The Supervising Board after hearing the appellant or his legal representative and after taking the necessary explanations from the Secretary of the working Committee, if he be present, shall duly dispose of every case. The particulars of these decisions are to be filled in columns 16 and 17 of form No. 10 as
- The orders passed on the appeal shall be considered as final.No revision applications or any application can be filed against it.

described therein. The decisions passed by the Supervising Board shall be considered as final. No appeal or a revision application of any kind shall be allowed against it.

43. The Supervising Board shall see that if the work is not finished on the day fixed the sitting is continued from day to day and all the appeal cases are disposed of, as far as possible, in one sitting.

The appeal cases to be disposed by continuing the sitting from day to day.

44. After the disposal of appeals, the President of the Supervising Boards shall keep the original statements in form No.10 in his office, and send its complete copy to the Working Committee as early as possible and the Secretary of the Working Committee shall therefrom prepare a statement by filling the last columns of the statement as in form No 11 according to each occupant.

The secretary of the working committee to be informed about the disposal of appeal.

## PART VI

## ABOUT RESTRIPPING

45. After the valuation of lands etc. of khatedars and after the expiry of the period for appeal or if an appeal be preferred after its disposal the Working Committee shall take up in hand the work of preparing a scheme under sec. 8 of the Act stating to what persons, at what places and what class of lands shall be given in the new distribution. While preparing this scheme the Working Committee shall consider the following matters in addition to those mentioned in sub clause a, b, c, and d, of section 9 of the Act.

Procedure to be followed by the working committee re: new restripping of lands.

(1) A statement of occupants should be prepared from the khatavali and only the serial number and name of the occupant should be written therein. If in one khata there are different occupants having independent rights of occupancy for one khata as referred to in the note under form No.11 each of them after being given a separate serial number should be shown in the statement as independent khatedars so that it may not be necessary afterwards to prepare a statement of different occupants for one khata.

(2) It should be ascertained from the map as to whose numbers are adjoining to the different numbers of an occupant or holder and it should also be determined by moving in the fields as to how it will be convenient to exchange them with the numbers of the same occupant or holder; and in view thereof a thin red line should be drawn on the map showing the serial number referred to in clause (1) within it, in order to show how the new arrangement according to occupants and holders shall take place.

(3) As far as possible whole numbers shall be exchanged. The old numbers shall not be divided except for some special reason. In doing so, if any difference be found in comparing the extent and value of the land allotted in the new distribution with the extent and value of the original land

of the occupant or the holder, compensation for the same should be given as a rule in the form of money to him who has to give up more land than he actually receives in the new distribution. The Working Committee shall specially see that the numbers are not divided.

(4) But if it be absolutely necessary to divide the numbers there is no objection to do so. The boundary of such divided numbers should be shown in thin red lines on the map and a reference should be made in the papers of the scheme that such and such land from such and such number having such and such assessment and of such and such bighas is to be amalgamated with the land of such an occupant or holder. Particulars of the same should be entered in the statement form No. 15.

(5) In preparing the scheme of the new distribution the opinion of occupants, tenants, etc. concerned should be considered and the convenience of the people should, as far as possible, be looked to.

(6) The land in which there is a well of absolute proprietorship or which is improved at great expense and in which good many fruit bearing trees are planted or in which a special kind of house is built for agricultural improvements should, as far as possible, not be taken away from the original holder but kept with him and if possible other numbers may be amalgamated with it.

(7) The allotment of lands in the new distribution shall be so arranged that an occupant or a holder may get land of such value as may be almost equal to the value of the original land in his possession so as to reduce occasions of giving compensation in form of money.

(8) The burden of *san* mortgage or mortgage with possession etc. which exist on the land and which can be disposed of by payment of money, if the persons concerned are willing to do so, should be disposed of, so that such a burden may not continue on the land to be allotted in exchange, and the work of making endorsements of such burdens on the documents by the registration department may also be lessened.

(9) A statement in form No. 15 should be prepared to show how the lands will be distributed.

(10) When more than one occupant or holder have got lands of almost equal value an endorsement in red ink to the effect that it would be convenient to exchange such numbers of these occupants or holders may be made in the remarks column after the particulars regarding the new distribution according to occupants or holders are entered in the statement in form No. 15, so that it may be convenient to follow the procedure laid down under section 13 of the Act.

(11) It should be seen that every occupant or holder gets new land in as few pieces as possible. It is difficult to fix an uniform standard for allotment of all the land in one piece or to fix the number of pieces in which it may be allotted. The principle of consolidating the land of each land holder should be followed as far as possible. Where it is not possible to do so, it should be seen that the new land given is in as few pieces as possible. When two-thirds of the occupants desire to get different kinds of lands as shown in section 9 (a) of the Act such lands of whatever class they may be, should be allotted in a consolidated form.

(12) The burdens of mortgage etc. on lands should be taken into consideration when such lands are to be exchanged.

(13) As alienated lands are to be dealt with as provided by section 19 of the Act, (i. e. the privilege enjoyed by the occupant on his old barkhali lands shall remain proportionately on the new lands allotted to him) it is not necessary to raise the prices of such lands while exchanging them on account of the privileges they enjoy. But if the holder of the alienated land is prepared to sell his right to the government in exchange for cash, the President of the Working Committee shall proceed to buy it as provided under the Barkhali Rules. The Secretary shall arrange to issue a notification regarding the same in form No. 16 under the signature of the President and publish it in the village as well as in the Adnyapatrika. The President shall send the applications



received within the period specified in the notification, to the taluka vahivatdar concerned who shall take further steps to get them disposed of within the period. By such an arrangement regarding the Barkhali lands, the work of rearrangement shall be easy. But no one should understand it from this that the object is to abolish the Barkhali lands. This procedure is to be followed only in case of the lands of those persons who may be willing to abide by it.

(14) While preparing the scheme, the Working Committee should call its meetings from time to time and consider and discuss the condition of the people, the quality of the land etc. and keep in view the provisions of the above subclause and then should arrange to publish it in accordance with section 10/1 of the Act; so that the people may present the least possible objections against it.

46. When the scheme is ready, it should be published under section 10/1 of the Act, by posting a notification in form No. 17 in the village chora.

Notification for the new scheme.

47. If any person has raised objections within the period fixed in the notification, the Working Committee, previous to convening its meeting in the village chora or some other public place to decide the objections, should inform the people about the same by beat of drum at least eight days before the convening of such meeting; and after hearing the objections and the evidence produced in their support on the fixed date and at the fixed place, it should dispose of the objections in the way it deems proper, and enter the particulars regarding them in the scheme in column 15 of form No. 15 and the President of the Working Committee shall sign below it against the names of each of the persons concerned.

Procedure to be followed when the scheme is ready.

48. The procedure under section 47 having been observed, the President of the Working Committee should send the scheme with all its enclosures to the President of the Supervising Board. He shall call a meeting of the Board as early as possible at a proper place,

The scheme to be prepared by the Supervising Board.

and examine the scheme and make such changes therein, as may be deemed necessary, and shall enter the particulars in column 15 of form No. 15 and sign below the particulars for each occupant concerned. When the scheme with such proper alterations is sanctioned the Secretary shall send the papers concerning it to the Working Committee. For the purpose of sanctioning the scheme and for the convenience of work if the Supervising Board deems it necessary, it may take explanations concerning the particulars etc. from the Secretary of the Working Committee by keeping him present from time to time. When the President of the Supervising Board is of opinion that the convening of the meeting at the village where the consolidation work is going on, may be useful for the due disposal of the work, he may do so. The President may call the meeting at a place, which in his opinion would result in an early and satisfactory disposal of the work.

49. When the scheme is sanctioned, the Working Committee may, if necessary, make any entry regarding the valuation in column 17 of form No. 15 in accordance with column 10 of the same form and should publish a notification in accordance with form No. 17 with proper modification under the signature of the President in the village chora and state therein that if any person has any objections regarding the same he may present them within one month as provided under section 12 (1) of the Act. The objections so received shall be decided in accordance with section (12)2 of the Act; and the particulars entered in column 18 of form No. 15. The President of the Working Committee shall decide the objections of all the persons concerned and shall publish a notification in form No. 17 with the necessary modifications under his own hand in the village chora or other public place regarding the appeals to be filed by any agrieved person, before the Supervising Board in accordance with section 12 (3) of the Act. The period for appeal shall be counted from the date of publication of the said notification.

50. For the purpose of filing an appeal in accordance with section 12 (3) of the Act, it will be sufficient if the application to be made on such appeal is accompanied by a certified copy of column 18 of form No. 15 under the signature of the Secretary and the

Copies to be kept along with the application in the final appeal.

seal of the Working Committee. This copy as well as the application to be made for appeal shall be exempt from stamp duties etc. as mentioned in section 32 of the Rules.

51. When an appeal is preferred under sec. 12 (3) of the Act, the Supervising Board shall send for the necessary papers concerning it, and require the Secretary of the Working Committee to be present, if necessary, for explanations of details etc., and shall convene their meeting at a proper place and shall dispose of the appeal as early as possible. The President shall enter this decision in column 19 form No. 15 and shall sign it. The decision passed in such appeal shall be considered as final. No revision application or extraordinary application shall be allowed against it.

The order on the appeal shall be considered as final.

52. When the scheme is sanctioned, the Working Committee shall proceed in the following manner regarding the distribution of lands :—

Redistribution by the system of slips.

(1) The procedure of drawing the slips after putting them in a pot in accordance with section 13 of the Act shall only be observed for those numbers or parts of numbers for which endorsements have been made in accordance with sub section (10) of section 45 of the rules.

(2) The President of the Working Committee, shall fix a day for the drawing of slips and shall inform the people about it by beat of drum in the village and also inform the person concerned by a written notice in form No. 18.

(3) Before the time fixed for the meeting, the Secretary and the President shall write the numbers etc and such other particulars on the slips; each slip shall be enclosed in a separate cover and the packet shall be sealed. The shape of the packets should be uniform, so that the person drawing a slip can have on clue as to its contents. Also slips of different numbers equal in area should be enclosed in covers of different colours.

(4) When such packets are prepared, the President and the Secretary should arrange to place them in a box according to groups and the box should be locked up and sealed with seals bearing their signatures.

(5) The box should be produced at the appointed time before in the meeting of the Working Committee, and opened in the presence of the members; the slips of one group shall be taken out of the box and the procedure of drawing slips by the persons of that group shall be observed in accordance with sub clause (g) of section 13 of the Act. The names of the persons present there should be arranged according to groups and those in each group called upon one by one to pick up a packet from the packets of those of their group till the work of drawing out the packets may be complete. Thus the work of all groups should be completed by turn.

(6) After the drawing of the packets each of those drawing it shall be asked to open it, and having entered the details of land written on the slips so drawn in form No. 19 their signatures should be taken, and after completing the work of entering the details for all the groups, the members of the Working Committee shall sign the statement.

(7) If any occupant or his legal representative is absent, without postponing the work, his packet may be caused to be drawn by a boy of 7 to 10 years of age and the thumb impression of the boy may be taken in the column for signature in form No. 19.

If the occupants of different groups come to an agreement amongst themselves and submit such agreement in writing regarding the allotment of particular pieces of land, such agreement may be given effect to. The Working Committee shall make an endorsement in the statement that the distribution should be made in accordance with the agreement passed unanimously.

53. Thus when the work of redistribution is over, a statement in form No. 20, showing the lands obtained by each one in the redistribution should be prepared under the signature of the President of Working Committee.

Statement showing  
the new distribution.

54. Before the statement is prepared the Secretary of the Working Committee shall proceed to get fixed the assessment etc. of the original numbers which may have been partitioned, by writing to the survey department in accordance with the rules.

Fixing of the details of assessment ect. by writing to the survey department.

55. The numbers which have been partitioned and whose different partitions have been allotted to different occupants or owners, may each be given sub-number in accordance with the Survey Rules, so that there may be no question of changing the boundary lines of the numbers. But there is no objection, if the boundary lines or boundary marks between more than one number of one occupant which are adjoining to them, are removed by him. The boundary of lands of an occupant situated in one block may be shown in a thick line in the map that may be prepared anew. The boundary of each of the old numbers which have been enclosed may be shown by a thin broken line, with the serial numbers of each number marked in it. This will conspicuously mark out the transformation of the original small numbers.

Making change in the boundary line of numbers.

56. Though restriction to change the boundary lines of survey numbers has been imposed in the preceding section there is no objection to do so, if the work of the revision survey is carried on simultaneously or if the President of the Working Committee deems it necessary to make a change in the boundary lines.

When boundary line may be changed.

57. As the result of the new distribution, the changes that are required to be made in government records shall be made under the provisions of the rules, and all the papers shall be kept up-to-date with amendments etc.

Changes in the papers shall be done according to survey rules.

58. (1) The Working Committee shall prepare a statement in form No. 21 showing the details regarding the exchange in the form of money in proportion to the changes made in the case of each one due to the entering of one's land in the other's name by shuffling of lands or due to other cause. The statement shall be signed by the President of the Working Committee as well as by the other members.

(2) The liability for the payment of the sum shown in column 5 of the statement No. 21 with such interest thereon as may be fixed by the Supervising Board ( not less than 6% and more than 9% ) shall remain on the lands shown in column 4.

59. The Secretary shall publish a notification under the signature of the President of the Working Committee in the village chora or some other public place, for the payment of the sum shown form No. 21 by the persons concerned, within one month and shall announce the same in the village by beat of drum continuously for five days and shall also serve a notice in form No. 22 to the persons concerned.

60. The Secretary shall duly credit the amount recovered within the period in the daily cash book under the head 'deposit,' pass a receipt to the payee and pay the money to the person entitled to receive it or his legal heir or representative. The Secretary shall deal with the money that remains unpaid in accordance with the rules of " mulki anamat."

61. The Secretary shall proceed in accordance with section 63 and 65 of the Land Revenue Code and the provisions of the Rules made thereunder, to recover the amount which has not been paid within the period fixed.

62 The documents of such debts as have not been settled by payment in cash and the charge of which remains on lands in the form of mortgage etc. which are presented by the parties concerned should be sent by the President of the Working Committee to the Sub-Registrar

of the taluka along with a letter in which it shall specially be mentioned that the amount of the charge in cash should be transferred to the new plot of land given in place of the old land stated in the documents. The Sub-Registrar shall make the necessary remark below the original document in accordance with the letter, and register it in his Register No. 1 and the Index Register and shall return the documents to the President of the Working Committee, who shall manage through the Secretary to return them to those concerned. No fees for making the remark on such documents and for their registration shall be charged by the Sub-Registrar. The remarks so passed shall be considered legal and shall be considered as admissible as evidence in a judicial or any other court.

63. As it is expedient that the holder of alienated lands of the following nature viz. alienated land not purchased by Government, devasthan land permanently alienated, guaranteed land, non-guaranteed land charged Inam Committee, alienated land continued to a widow, under restricted tenure or vatan land, who has been dispossessed of it in the redistribution operation should have Barkhali land of the same size, nature, land assessment, the President of the Working Committee shall communicate to the Barkhali department the full details of the change to be effected.

Writing to the Barkhali department for alienated lands.

On its receipt of the information the Barkhali department shall proceed to transfer the land from the name of those who are dispossessed to the names of those who are put in their possession under Government Khalsa tenure, and enter other lands in the name of the Barkhali holder as Barkhali land. Survey papers shall be duly corrected accordingly and arrangements shall be made without necessary delay to prepare statements.

64. When the documentary procedure regarding the distribution of land is over, the President of the Working Committee shall cause to be prepared the details concerning the allotment of lands in the new distribution from the statement in form No. 20 and shall give them.

Notification regarding transfer of lands newly allotted to those concerned.

to everyone in form No. 23. The fixed boundary may also be shown if necessary on the spot and it should be declared by publishing a notification in form No. 24 in the chora that the original occupants should transfer the lands to the new occupants within 8 days.

65. If any one does not hand over the possession of lands or causes obstructions, the Secretary shall proceed to hand over the possession in the same manner as is followed when the possession of land bought in auction from the Government is not handed over.

Procedure to be followed when there is objection in possession of new lands.

66. The President of the Working Committee shall see that the time of exchanging possession of lands does not fall in the crop season. He should so arrange that the question of determining cash compensation for standing crops may not arise. But it is not necessary to postpone the exchange the possession of lands when the standing crop is trifling and its value is not very great.

1st time of exchange of possessions.

67. When lands are to be given with crops in the new distribution the Working Committee shall fix the value of the crops by a panchnama. The Secretary shall manage to recover and distribute such money within a fixed period as in the case of other money. This money shall be recovered as land revenue arrears and when it remains unpaid for any cause the Secretary shall deal with it as if it was "mulki anamat".

Valuation of the crops and procedure of recovering the value fixed.

68. When the possessions of lands in accordance with the new distribution are taken by those concerned the work of the scheme shall be deemed to be over.

Termination of the work of the scheme.

69. When the work of the scheme is over, the Working Committee as well as the Supervising Board shall proceed to send the papers concerning the same to the Survey department. The Survey department shall file them as papers to be preserved for 30

12 H.



years in accordance with the rules for the Preservation of Records.

70. The forms which are not specially fixed in these rules and which are in general use or are given in the Land Revenue Code and Rules or elsewhere, may be used with necessary modifications for the purpose of these rules.

No objection to use forms general.

71. The members and officers of both the committees and other government officers carrying out the scheme, shall have the same rights of entering into fields, asking for assistance etc., as are enjoyed at the time when original or revision survey work is going on, and the people also are bound to discharge their respective duties.

The people shall execute their duties as if the survey work is going on.

72. The Working Committee shall apply the provisions fixed for the management of occupied lands under the foregoing sections to government waste lands which come within the groups of new allotment or elsewhere: that is to say, if it thinks it desirable to amalgamate such government waste lands the Working Committee and the Supervising Board shall proceed to consolidate them with the adjoining holdings and value them in accordance with the provisions laid down under the rules.

Government waste lands shall be managed as occupied lands.

22nd February 1927.

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## SCHEDULE I.

## (SECTION 11 (1)).

**Rules for the election of Khatedars.**

1. When the vahivatdar or the mahalkari receives an intimation for holding an election of khatedars for the Working Committee he shall prepare a list of the names of khatedars according to convenient groups and publish a notification inviting the names of candidates for election within a fixed period in his office and in the village chora and also by announcing it by beat of drum in the village.

2. The name of the candidate for the election shall be proposed by one khatedar and supported by another khatedar; the candidate, the proposer, and the supporter shall go to the village patel together and the candidate shall declare his candidature. The patel shall take down the names of the candidate, the proposer and the supporter and report the same to the vahivatdar.

## 3. The khatedar

Qualifications of a candidate. (a) whose age is 40 years or more,  
(b) who is paying Rs. 10 or more as assessment, and  
(c) who himself is an agriculturist shall be eligible to be a candidate at the election; provided that no female shall be deemed to be eligible.

4. Every khatedar who is a major can vote personally and a minor khatedar can vote through his guardian.

Qualifications of a voter.

5. (1) After the expiry of the period fixed in the notification the vahivatdar or mahalkari shall decide whether nominated candidates are eligible for election in accordance with the foregoing section 3 and shall prepare a revised list

Notification for election.

after removing the names of those candidates who are not eligible; and

(2) shall issue a notification stating that the election of the requisite number of members out of the candidates mentioned in the list shall take place in the village chora on a fixed date at a fixed time and shall publish it by posting one copy of it in his office and another in the village chora and by beat of drum in the village.

6. (1) The vahivatdar or the mahalkari shall be personally present at the time of election;

Procedure for election.

(2) Those khatedars who are enlisted in accordance with section 5 (1) and who are present shall be called upon one by one and each one of them shall be informed of the names of the candidates and his signature shall be taken against the name of the candidate for whom he wishes to vote. In case he does not know how to sign, his thumb impression shall be taken and his name shall be written below it.

(3) Each khatedar shall vote for only one of the candidates.

(4) If the work of taking votes is not finished within one day the papers shall be sealed and kept with the vahivatdar or the mahalkari and the work shall be continued on the following day.

(5) After the completion of the work of recording votes the vahivatdar or the mahalkari shall count the number of votes and shall declare those who have got the largest number of votes as elected and shall publish a notification in the chora directing those who are dissatisfied with the election to apply in writing within 24 hours and announce it by beat of drum.

7. All the papers in regard to the election shall be destroyed six months after the election is over.

Destruction of papers after election.



FORM No. 1.  
(SEE SECTION 3).

Shrimant Sarkar Gaekwad Senakhaskhel Samsher Bahadur represented by the Suba of \_\_\_\_\_ district.  $\frac{I}{We}$  the undersigned resident of village \_\_\_\_\_ taluka \_\_\_\_\_ prant \_\_\_\_\_ hereby request that the agricultural lands of our village being fragmented into small parts, there is a special need for their reconsolidation.  $\frac{I}{We}$  therefore pray that the Act regarding the consolidation of Agricultural Holdings (Vth of St. year 1977) should be applied to our village. Necessary steps for the immediate application of this Act may be taken and the work of consolidation of our fragmented holdings may kindly be begun as soon as possible.  $\frac{I \text{ am}}{We \text{ are}}$  khatedars of this village and the following lands stand in  $\frac{my}{our}$  names:—

Serial No.	Name of the occupant.	Survey No. of the land.	Bighas.	Assessment.
1	2	3	4	5

Signatures.

FORM No. 2.  
(SEE SECTION 5).

Shrimant Sarkar Gaekwad Sena Khaskhel Samsher Bahadur represented by the Vahivatdar of \_\_\_\_\_ or the Mahalkari of peta mahal \_\_\_\_\_.

I, the undersigned, \_\_\_\_\_ resident of the village \_\_\_\_\_ taluka \_\_\_\_\_ Prant \_\_\_\_\_

hereby agree that I consent to the application of the second part of Act V of St. year 1977 regarding the Consolidation of Agricultural Holdings to this village. I am fully aware of the duties and responsibilities arising from the application of the Act and the rules made under it. I bind myself by this agreement to carry out the duties and responsibilities arising under the Act and Rules. The following lands stand in my name in this village. I agree to accept all the arrangements that may be made under the Act and Rules and shall accept the lands given to me by the Government in exchange of them. For fulfilment of my agreement I give Mr. \_\_\_\_\_

\_\_\_\_\_ resident of the village \_\_\_\_\_ Taluka \_\_\_\_\_ Prant \_\_\_\_\_ as my surety who shall carry out all the duties and responsibilities falling on me.

This agreement has been made by me of my free will and in my full senses and is binding on me and my heirs and representatives.

Signature  
(of persons entering into  
the agreement).

Signature  
(of witness).

In the presence of

Designation.

I, a resident of village \_\_\_\_\_ taluka \_\_\_\_\_ district \_\_\_\_\_ hereby become a surety of \_\_\_\_\_ and bind myself that I shall carry out without taking any objection the responsibilities arising on the maker of this agreement, if he fails to do so. If I fail to do so, the Government is at liberty to recover from me as damages such an amount as may be fixed by the Government and may be recovered from me as land revenue arrears.

Dated

Signature  
(of the surety).

Signature  
(of the witness).

In the presence of

Designation.

FORM No. 3.  
(SEE SECTION 6).

Serial No.	Name of the occupant who agrees.	Survey No. of the land.	Bighas.	Assessment.	Remarks.
1	2	3	4	5	6

Number of occupants of the village \_\_\_\_\_ . Total  
cultivable lands of the village \_\_\_\_\_ Bighas \_\_\_\_\_ Vasas.  
Date \_\_\_\_\_

Signature.

FORM No. 4.  
(SEE SECTION 7).

Shrimant Sarkar Gaekwad Sena Khaskhel Samsher Bahadur represented by the Suba of \_\_\_\_\_ district.

By this notification all the people are informed that whereas some of the occupants of the village \_\_\_\_\_ of taluka \_\_\_\_\_ of this district have applied to me for the application of Act V of St. year 1977 re: the Consolidation of Agricultural Holdings and whereas on preliminary inquiry I am convinced that the khatedars of the said village have given consent for the application of the said Act to the village as provided in sub section (2) of section 4 of the Act, arrangements are to be made for obtaining sanction from the Huzur for the application of the said Act to this village. It is therefore notified that if anybody has got objections to urge against the application of this Act to the village, he may present them personally or through his legal representative or by an application within a month from the date of the publication of this notification. Such applications are exempt from stamp duty. After the expiration of the period it shall be understood that no one has any objections to urge and further steps will be taken.

Dated \_\_\_\_\_

Suba,

## FORM No. 5.

(SEE SECTION 8)

Shrimant Sarkar Gaekwad Sena Khaskhel Samsher Bahadur, represented by Mahala Nihaya Sar Suba.

By this notification the people of the village \_\_\_\_\_ taluka \_\_\_\_\_ district \_\_\_\_\_ are informed that it is settled under sanction of the Huzur to apply the Act regarding the Consolidation of Agricultural Holdings to the said village and the work concerning it will begin very shortly. For the purposes of this work surveyors, classers, and other Government servants will come to the village, who should be given necessary help from time to time. Parties of persons for the survey which may be required, should given as provided section 1, chapter 1, of Survey Rules. Whatever sort of work concerning a field is going on, its owner should give requisite information regarding it by remaining present in the field or elsewhere as may be regarded. All those duties which are to be performed by the people of the village at the time of application of survey to any village shall be performed by the people of the village in this work also and every sort of help shall be rendered.

Dated

Sar Suba.

## FORM No. 6.

(SEE SECTION 17).

Proceeding Book of the Working Committee appointed under Act 5 of Samvat 1977, ( Act for Consolidation of Agricultural Holdings ) to village \_\_\_\_\_ taluka \_\_\_\_\_ prant

Serial No.	Date of conveying meeting.	Name of the members present.	Purport of the subject under consideration.	Resolution passed.	Number of voters in favour.	Number of voters against.
1	2	3	4	5	6	7

## FORM No. 7.

(SEE SECTION 23.)

*Notification.*

Shrimant Sarkar Gaekwad Sena Khaskhel Samsher Bahadur represented by the President of the Working Committee.

By this notification the people of village \_\_\_\_\_ taluka \_\_\_\_\_ district \_\_\_\_\_ are informed that whereas the Act of Consolidation of small holdings having been applied to this village, the work of valuation of lands is to be taken up in hand very shortly and to be finished by the Working Committee, for the purpose of helping the work and facilitating in arriving at the correct valuation according to market rate and quality of land, the persons concerned should produce before the Secretary of the Working Committee any written documents regarding any transaction of their lands, if they have got any, within fifteen days from the date of publication of this notification. After the expiration of the prescribed period no one will be entitled to raise any objection or dispute.

Dated

President,  
Working Committee.

## FORM No. 8.

(SEE SECTION 24)

Statement of documents and other written evidence produced by the people for the preparation of the scheme regarding the consolidation of agricultural holdings of village \_\_\_\_\_ Taluka \_\_\_\_\_ Prant \_\_\_\_\_

Serial No.	Name of the person who has produced the document or written evidence.	Summary of the contents of the document or the written evidence together with the date of presentation.	Signature of the person taking back the document with date thereof.	Remarks.
1	2	3	4	5



FORM No. 9.  
(See SECTION. 24)

Receipt to be given to the person producing a document or written evidence for the preparation of the scheme regarding the consolidation of holdings.

- |   |  |
|---|--|
| <ul style="list-style-type: none"> <li>1. Full name of the person producing the document.</li> <li>2. Serial No. under which the document or the written evidence is entered in the register No. 8.</li> <li>3. Summary of the document of the written evidence.</li> <li>4. The date on which the document or the written evidence was presented.</li> </ul> | <ul style="list-style-type: none"> <li>1. Full name of the person producing the document</li> <li>2. Serial No. under which the document or the written evidence is entered in register No. 8.</li> <li>3. Summary of the document or the written evidence.</li> <li>4. The date on which the document or written evidence was presented.</li> </ul> |
|---|--|
- 
- |  |  |
|--|--|
| <p>Clerk.</p> <p>Secretary to the Working Committee.</p> | <p>Clerk.</p> <p>Secretary of the Working Committee.</p> |
|--|--|

FORM No. 10.  
(SEE SECTION 25.)

Statement of the valuation of lands prepared for the purpose of the scheme prepared under the application of the Act for Consolidation of Agricultural Holdings of village \_\_\_\_\_ taluka \_\_\_\_\_ district

1	2	3	4	5	Kind of lands.		8	9	10	11	12	13	14	15	16	17	18
Serial Number.	Survey Number.	Sub. (Pot) survey Number.	Bighas.	Assessment.	Government.	Barkhali.	Value fixed by the panchas.	Signature of the panchas.	Value fixed by the Secretary.	Reason in support of the value fixed by the secretary and his signature.	Value fixed by the working committee.	Reason in support of the value shown in col. 12 and signature of the president.	Value fixed by the working committee after hearing the objections of the people in accordance with sec. 7 of the Act.	Reasons in support of the value shown in col. 14 and signature of the president.	Value fixed in appeal.	Reasons in support of the value shown in col. 16 and signature of the president of the Supervising Board.	Short note of the rights of mortgage, etc. produced according to the notification of form No. 5.

NOTE OF EXPLANATION:—When in any survey or sub-number there are trees, wells or houses or any other valuable things or articles, after writing the details of that number, a continuous line may be drawn below it and the details of the trees etc., their heights, circumference, weight maunds etc. may be entered upto column 5 and the value may be written in col. 6 onwards. Having entered the details for each article in different lines and having finished with the writing of the details for the number the total for the values may be made. The details regarding wells, houses etc., are to be entered in the same manner. Having thus completed the details for one number another number should be taken up.

**FORM No. 11.**  
(SEE SECTION 28.)

Details of the valuation of lands under the occupancy of  
\_\_\_\_\_ of village \_\_\_\_\_ taluka \_\_\_\_\_ district  
prepared for the scheme to be made under the Act of Consolidation of Agricultural Holdings.

Serial No.	Survey No.	Sub No.	Bighas.	Assessment.	Value fixed by the Working Committee.	Value fixed after hearing objections.	Value fixed in appeal.
1	2	3	4	5	6	7	8

**EXPLANATORY NOTE:—**

- (1) After the preparation of the statement in Form No.10 and entering therein the valuation made by the Working Committee, the total value is to be filled in col. 6. After hearing the objections of the people the valuation entered in col. 14 of statement No. 10 should be totalled and entered in col. 7. The values that may be fixed by the Supervising Board in appeal should be entered in col. 8.
- (2) If there are several persons with independent rights of possession in one khata, each of them should be given a separate serial number and they should be shown as independent occupants so that there may not be any necessity for preparing separate statements for such different persons having rights of possession in a khata.
- (3) When in any survey number or sub-number there are trees, wells, houses, or any other valuable things or articles, and the particulars of the same number are written a continuous line may be drawn below it and the details of the trees etc., namely height, girth, weight in maunds etc. may be entered in col. upto 5 and the value may be written in col. 6 and

onwards. After having entered the details for each article in different lines for one number the total of the values of that number may be made. The details regarding wells, houses etc. are to be entered in the same manner. After finishing the details regarding one number, writing for another number should be taken up.

**FORM No. 12.**  
**(SEE SECTION 29)**  
*Notification.*

Shrimant Sarkar Gaekwad Senakhaskhel Samsher Bahadur represented by the President of the Working Committee appointed to prepare a scheme concerning the Consolidation of Agricultural Holdings.

By this notification the people of village \_\_\_\_\_ taluka \_\_\_\_\_ district \_\_\_\_\_ are informed that the work of valuation of lands according to khatedars has been finished by the Working Committee for the preparation of a scheme for the consolidation of agricultural holdings. The details of valuation of the lands of every khatedar are open for inspection at the village chora and those who require the details may take down its copy. If any person has got any dispute or objection regarding the details he should submit it to the Secretary of the Working Committee within (a certain date). After the expiration of the period it shall be understood that there are no objections from any person and further measures according to the Act will be taken.

Dated

President  
of the Working Committee.

**FORM No. 13.**  
**(SEE SECTION 31)**

Shrimant Sarkar Gaekwad Senakhaskhel Samsher Bahadur represented by the President of the Working Committee appointed to prepare the scheme regarding the Consolidation of Agricultural lands.

By this notice the people of the village \_\_\_\_\_ taluka \_\_\_\_\_ district \_\_\_\_\_ are informed that having heard the objections presented within a month's period, in accordance with the notification published inviting objections from any person against the valuation of lands of khatedars made by the Working Committee for the preparation of a scheme regarding the consolidation of agricultural holdings necessary changes have been made in the valuation and its statement in Form No. 11 for each khatedar has been published in the chora. It is therefore notified by this notification that if any person is dissatisfied with the values made, he may appeal to the Supervising Board within a month from the date of publication of this notification. No objection will be heard about the valuation after that period.

Dated \_\_\_\_\_

President  
of the Working Committee.

FORM No. 14.

(SEE SECTION 39)

Shrimant Sarkar Gaekwad Sena Khaskhel Samsher Bahadur represented by the President of the Supervising Board appointed under the Act of Consolidation of Agricultural Holdings.

\_\_\_\_\_ Appellant.  
\_\_\_\_\_ Respondent.

Dispute \_\_\_\_\_

\_\_\_\_\_ is hereby informed that the hearing of this appeal will take place before the Supervising Board therefore personally or through your legal representative you should be present or send some one who can answer the relevant questions which may be asked at \_\_\_\_\_ O'clock in the morning on (date) \_\_\_\_\_.

Failing this the case will be heard and decided in your absence. Whatever written evidences you might have got in support of your case should be produced before the Committee.  
Dated \_\_\_\_\_

Secretary for the President  
Supervising Board.

**FORM No. 15.**  
(SEE SECTION 45.)

Statement showing details according to occupants or owners in regard to the preparation of the scheme of new distribution of lands under the Act on the consolidation of agricultural holdings at village \_\_\_\_\_ taluka \_\_\_\_\_ district.

1	Serial number.		
2	Name of the occupant or possessor.		
3	Survey Number Sub Number.	Details of original lands with the occupant or the possessor.	
4	Kind.		
5	Bighas.		
6	Assessment.		
7	Value.		
8	Survey Number Sub Number.	Details of lands worth giving in exchange.	
9	Kind.		
10	Bighas.		
11	Assessment.		
12	Value.		
13	Details as to how it is to be decided regarding rights, burdens with signature of the President of the Working Committee.		
14	Details of compensation in cash if fixed to be given.		
15	Changes made after hearing the objections.		
16	Changes made by the Supervising Board with reasons thereof.		
17	Valuation made by the Working Committee according to Col. 16 and signature of the President of the Working Committee.		
18	Changes made in valuation after hearing the objections and the signatures of the Working Committee.		
19	Final order in appeal.		

**EXPLANATORY NOTE:**—This statement is to be filled in from the statements of forms Nos. 10 and 11 and after the drawing of numbers in red lines on the map it is to be filled in according to it.

## FORM No. 16.

(SEE SECTION 45)

*Notification.*

Shrimant Sarkar Gaekwad Sena Khaskhel Samsher Bahadur represented by the President of the Working Committee appointed under the Act of Consolidation of Agricultural Holdings.

The holders of Barkhali lands, resident of village \_\_\_\_\_ taluka \_\_\_\_\_ district \_\_\_\_\_ are hereby informed that the Act regarding the Consolidation of Agricultural Holdings having been applied to your village, the scheme for distribution of consolidated holdings is being prepared wherein there is probability of the Barkhali lands of some holders going into other's possession. If, therefore, the rights in such Barkhali lands are to be sold to the Government, the Government will pay their value according to rules. The holders, therefore, so desiring, shall apply to me with details of their Barkhali lands so that further action regarding the award of proper values from the Government may be taken.

Dated \_\_\_\_\_

President,  
Supervising Board.

## FORM No. 17.

(SEE SECTION 46)

*Notification.*

Shrimant Sarkar Gaekwad Sena Khaskhel Samsher Bahadur represented by the President of the Working Committee appointed under the Act of Consolidation of Agricultural Holdings.

The residents of village \_\_\_\_\_ taluka \_\_\_\_\_ District \_\_\_\_\_ are hereby informed that the scheme regarding the distribution of lands under the Act for the Consolidation of Agricultural Holdings has been prepared by the Working Committee. This scheme will remain open for inspection in the chora of the said village on days other than holidays and therefore if any person has got any objection regarding it, he may submit to me the same in writing within one month from the date of the publication of this notification. No objections will be received after the expiration of the period.

Dated \_\_\_\_\_

President  
of the Working Committee.

FORM No. 18  
( SEE SECTION 52 )

*Notice.*

*(Duplicate)*

Shrimant Sarkar Gaekwad Sena Khaskhel Samsher Bahadur represented by the Secretary of the Working Committee appointed under the Act for Consolidation of Agricultural Holdings.

Resident of taluka \_\_\_\_\_ district \_\_\_\_\_ is hereby informed by this notice that the arrangement for distributing new lands among those concerned by the preparation of slips, noted with the numbers of the new lands and put in sealed covers is ready under the scheme regarding the consolidation of agricultural lands and the distribution will take place before the Working Committee at \_\_\_\_\_ at \_\_\_\_\_ O'clock at noon on \_\_\_\_\_. Therefore, you should personally or through your legal representative, remain present at the fixed place and time on the said date, and manage to pick up a packet for lands coming to your share. If you fail to do so, without postponing the work, the packet will be got picked up by a boy of from 7 to 10 years, and the lands noted in it shall be entered in your name.

Dated

President of the  
Working Committee,



## FORM No. 19

(SEE SECTION 52)

Statement showing lands allotted in the new distribution by system of notice under the application of the Act regarding the Consolidation of Agricultural lands at the village \_\_\_\_\_ taluka \_\_\_\_\_ district \_\_\_\_\_

Serial No.	Details of lands allotted.						Signature of the occupant or the holder showing consent.
	Name of the occupant or the holder.	Survey No. Sub No.	Kind.	Bighas.	Assessment.	Other additional details if any	
1	2	3	4	5	6	7	8

As mentioned in this statement, the occupants concerned have lifted the packets of slips in our presence and they have signed in our presence showing their agreement for the acceptance of lands allotted to them. Persons of serial Nos. \_\_\_\_\_ being absent packets of slips for them had been lifted by boys in accordance with sub section (7) of section 52 of the rules in our presence and in token of their having done so the thumb impressions of the boys have been taken in our presence.

Dated \_\_\_\_\_

President of the  
Working Committee.

Members.

**FORM No. 20.**  
(SEE SECTION 53)

Statement showing details of the new distribution according to the occupants in the rearrangement of the lands under the Act for the Consolidation of Agricultural Lands at the village \_\_\_\_\_ taluka \_\_\_\_\_ district \_\_\_\_\_.

Serial No.	Name of the occupant.	Details of the new lands allotted in the distribution.					Remarks.
		Survey No.	Kind.	Bighas	Assessment.	Other details.	
1	2	3	4	5	6	7	8

**FORM No. 21.**  
(SEE SECTION 59)

Statement showing particulars regarding the amount fixed for payment of difference in old and new lands under the Act for the Consolidation of Agricultural Holdings at the village \_\_\_\_\_ taluka \_\_\_\_\_ district \_\_\_\_\_.

Serial No.	Name of the person who is to give the money.	Name of the person who is to be given the money.	Detailed particulars as to why money was fixed to be given and for what lands.	Amount.			Remarks.
				Rs.	As	Ps	
1	2	3	4	5	6	7	8

President & Members,

Working Committee.

## FORM No. 22

(SEE SECTION 59)

## Notice

(Duplicate)

Shrimant Sarkar Gaekwad Sena Khas Khel Samsher Bahadur represented by the Secretary of the Working Committee appointed under the Act for Consolidation of Agricultural Holdings.

\_\_\_\_\_ resident of taluka \_\_\_\_\_ district \_\_\_\_\_ is hereby informed that Rs. \_\_\_\_\_ As—Pies— are fixed to be paid by him to \_\_\_\_\_ towards the difference in the value of lands allotted under the scheme of consolidation of agricultural holdings. He, therefore, should pay up the amount within one month from the date of the service of this notice and take a receipt from me. If he fails to do so, the amount will be recovered from him by coercive measures.

Dated

Secretary, Working Committee.

NOTE:—Signature for receipt to be taken in the duplicate copy.

## FORM No. 23

(SEE SECTION 64)

Details of land allotted to \_\_\_\_\_ in the rearrangement of land under the Act for Consolidation of Agricultural Lands in the village of \_\_\_\_\_ taluka \_\_\_\_\_ district \_\_\_\_\_

Survey No.	Bighas.	Assessment.	Kind.		Remarks.
			Government.	Barkhali.	
1	2	3	4	5	6

President, Working Committee.

FORM No. 24  
(SEE SECTION 64)

*Notification.*

The public of village \_\_\_\_\_ taluka \_\_\_\_\_ district \_\_\_\_\_ is hereby informed that necessary extracts of the statement showing the extent of lands allotted to them in the new distribution under the Act for the Consolidation of Agricultural Holdings have been sent to those concerned, to day. If further information is required it can be obtained from the Secretary in the village chora. The persons concerned should manage to hand over the lands to the person who get them according to the new distribution, within eight days from the date of this notification. After the expiration of the period legal steps shall be taken to do so. Amounts fixed by panchkyas for standing crops will be recovered and given to those concerned afterwards. The condition of crops at the time of the panchkyas should remain unchanged. The responsibility for the recovery of the value of crops, if any change is made in their condition as it was at the time of the panchkyas, will not remain on us.

Dated

President, Working Committee.

## An Act to Prevent Fragmentation of Agricultural Holdings.

Whereas certain provisions have been laid down in the Consolidation of Agricultural Holdings Act and in the Partition of Immovable Property Act, with the object of preventing deterioration in the productive capacity of lands, in consequence of the excessive subdivisions of agricultural holdings, and whereas it is expedient, for the due fulfilment of that object, to devise certain other measures

- (a) for preventing such fragmentation and
- (b) for consolidating small holdings

His Highness the Maharaja Syajirao Gaekwad, Senakhaskhel Samsher Bahadur; G. C. S. I., G. C. I. E., Farzande Khas-E-Daulate-Englishia has been pleased to enact as follows :—

### PART I.

#### PRELIMINARY RULES.

1. This Act may be called "An Act to Prevent the Fragmentation of Agricultural Holdings."

Title.

2. In this Act, unless there is something repugnant in the subject or context, the following words shall bear the following meanings :—

Definition.

(1) "Land below the prescribed limit" means land whose area is smaller than the minimum area of fragmentation prescribed,

Land below the prescribed limit.

- (a) by the Land Revenue Code, or the Rules thereunder, or
- (b) by any other law for the time being in force, or
- (c) by any Huzur Order;

## 2) "Land" means

Land.

- (a) Sim (सिम्) land which is used for agricultural purposes and
- (b) it includes
  - (1) Government unoccupied land and
  - (2) any occupancy land or other land of whatever tenure which is used for any of the purposes specified in section 49 of the Land Revenue Code;

(ग) "Court" means the Mahal Nyayadhishi within whose local limits of jurisdiction land below the prescribed limit is situated;

(घ) 'Neighbour' means

Neighbour.

- (1) the registered occupant of the adjoining land, or
- (2) the registered holder of an adjoining alienated land;

NOTE :-If the neighbour is under any legal disability, the word includes also his guardian.

(ङ) In this Act the expression

"Registered occupant"  
"holder of alienated  
land" "and survey  
number."

- (1) "Registered occupant,"
- (2) "Holder of alienated land" and
- (3) "Survey number"

shall respectively have the same meaning as has been assigned to them in the Land Revenue Code;

(च) In this Act the expressions

Sale and conditional  
mortgage.

(1) Sale, and

(2) Conditional mortgage

shall respectively have the same meaning as have been assigned to them in the Transfer of Property Act.

3. (1) Lands shall not be deemed to be adjoining if  
Which lands are not adjoining. any public road or way such as a thorough-fare or a lane intervenes between them;

(2) If any portion of any one of the two adjoining  
Adjoining lands. survey numbers be used as the Peta Kharaba of such survey number for the purposes of a public road or way, the lands shall be deemed to be adjoining lands.

## PART II.

### OF RIGHTS ACCRUING ON SALE OF LAND BELOW THE PRESCRIBED LIMIT.

4. On the occasion of the sale of any land below the  
Right accruing on sale of land below the prescribed limit. prescribed limit a right of purchase shall accrue to the neighbours, according to the provisions hereinafter laid down.

5. (1) When the coparcenary share of a coparcener in  
Sale to other coparceners. any land below the prescribed limit it sold the right to obtain purchase thereof shall accrue to the other coparceners according to the provisions of this Act.

(2) A coparcener desiring to transfer his share may  
Sale to other coparceners. convey it to the other coparceners

(a) by gift, or

(b) by sale for any price.

## PART III.

### MODE OF ENFORCING THE RIGHT.

6. A person desiring to sell any land which is below  
Notice of intention to sell land below the prescribed limit. the prescribed limit shall serve a written notice in the terms of form No. 1 on the neighbours.

7. A neighbour desiring to purchase such land shall inform the intending vendor of his intention to do so in the terms of form No. 2 within ten days from the receipt of the written notice under section 6.

The neighbours to communicate their intention to purchase.

8. (क) If no neighbour gives notice in writing of his intention to purchase the land within the period prescribed in section 7 the owner may sell the land to a third person.

Right of the owner to sell land to a third person if neighbours do not duly communicate their intention to purchase.

- (ख) Provided that such transaction of sale shall be effected within six months from the date of the expiration of the said period.

- (ग) notice of any intended sale thereafter shall be served on the neighbours according to section 6.

9. (1) After one or more neighbours have given written notice according to section 7 the price of the land to be sold shall be settled by mutual agreement between

Price of the land to be settled.

- (a) the owner of the land, and  
(b) the neighbour or neighbours intending to purchase it.

- (2) When the price is determined and the parties have respectively agreed to sell and to purchase the land

Written agreement.

- (a) the owner and  
(b) the neighbour or neighbours as the case may be

shall mutually enter into a written agreement in the terms of form No. 3.

- (3) (a) When the price has been settled as aforesaid a valid contract for the sale and purchase of the land shall be deemed to have arisen between the parties; and

When the agreement shall come into force.

- (b) the existing provisions of the law relating to



(1) the specific performance of contracts and

(2) the legal consequence of a breach thereof

shall apply to such a contract.

(4) (a) If within one month from the service of a notice in the terms of form No. 2, as prescribed in section 7 an agreement as to the price has not been reached between the owner and the neighbour serving the notice, such neighbour shall immediately communicate to the owner the highest amount he is willing to offer for the land in the terms of form No. 4.

Price to be informed to the owner.

(b) After the receipt of such communication, the owner shall not be entitled to sell the land to a third person for a price not exceeding the amount communicated by such neighbour.

10. (1) If a person sells any land below the prescribed limit to a third person other than a neighbour, without giving a notice as provided in sections 6 and 8, a right to purchase the land from such person at the price for which it was sold to him shall accrue to the neighbour.

Mode of enforcing the right to purchase from the owner.

(2) If

Right of neighbour to purchase the land.

(a) notice has been served upon a neighbour and

(b) there is disagreement between the owner and a neighbour about the amount of consideration, neighbour is willing to purchase, and

(c) a sale has been effected in contravention of the provisions of sub-section (4) of section 9

a right to purchase the land at the price for which it was sold shall accrue to the neighbour.

(3) (a) Such right may be enforced by an application to the Court in the terms of form No. 5.  
Application to the Court.

(b) The purchaser, all other neighbours and the original owner shall be joined as opponents in such application.

(4) (a) Such application shall be made within six months from the time when such neighbour becomes aware of the sale, to a third party.  
Period for application.

(b) The provisions of sections 9, 11 and 22 of the Limitation Act shall not apply to such application.

(5) If several neighbours file separate applications to enforce their rights according to sub-section (3) proceedings in respect of all such applications may be conducted jointly.  
Proceedings in respect of applications to be conducted jointly.

(6) In order to determine which of the neighbours is willing to offer the highest price not below the amount mentioned in sub-sections (1) and  
Court to hold public auction.

(2) the Court

(a) shall hold a public auction of the land as between the neighbours and

(b) shall confirm the sale in the name of the neighbour who is the highest bidder.

(7) (a) The purchaser at the auction sale shall pay into Court the full amount of the purchase money within ten days from the date of the confirmation of the sale.  
Amount to be deposited in Court.

(b) In default of such payment, the Court shall again put the land to auction as between remaining neighbours.

- (c) If such resale results in a loss the Court shall recover the loss from the defaulter, on the application of the original private purchaser and deliver to him the amount thereof.
- (8) (a) When the neighbour pays the purchase money as aforesaid, the Court shall order the original purchaser (private purchaser) to execute a sale-deed on the proper stamped form within the time prescribed by the Court and to deliver possession of the land to the auction purchaser.
- (b) If he fails to do so within the prescribed time the Court shall
- (1) execute the sale-deed and
  - (2) deliver possession of the land to the auction purchaser.
- (c) All costs incidental to the execution of the sale-deed such as for stamp, registration etc. shall be borne by such purchaser.
- (9) The right of ownership of such purchaser over the land thus sold, shall arise from the date of the sale-deed.
- When the right of ownership arises.
- (10) (a) The Court shall not award mesne profits from the date of the sale-deed to the delivery of possession of the land.
- Mesne profits not to be awarded.
- (b) A regular suit may be filed for the recovery thereof in a Court of competent jurisdiction.
11. (1) In the proceedings relating to the applications made under this Act, the Court may pass such orders for costs as it may deem fit.
- Concerning costs.

- (2) In no case shall the amount of a pleader's fees exceed Rs. 15.  
Pleader's fees.
- (3) The order for costs shall be executed in accordance with the provisions laid down in the Civil Procedure Code.  
Execution of the order for costs.
12. (1) A coparcener intending to sell his share in any land below the prescribed limit shall serve a notice in writing on the other coparceners.  
Notice of sale of a coparcenary share of land below the prescribed limit.
- (2) Such notice shall be in the terms of form No. 1 with such modifications as may be expedient and necessary.  
Form of notice.
13. (1) On receipt of such notice, if any coparcener intends to purchase the coparcenary share mentioned in the notice he shall notify in writing within ten days from the receipt of the notice his intention to the coparcener intending to sell.  
Other coparceners to notify their intention in writing.
- (2) Such notice shall be in the terms of form No. 2 with such modifications as may be expedient and necessary.  
Form of notice.
14. (1) If none of the coparceners notifies his intention in writing within the period prescribed in section 13 to purchase the coparcenary share, the owner may sell such share to a third person.  
Right of the owner to sell to a third person if no coparcener notifies his intention to purchase.
- (2) (a) Such sale shall be effected within six months from the expiration of the period fixed in section 13.  
Period for sale.

- (b) If the sale is to be effected thereafter, fresh notice shall be served on the coparceners according to section 12.
15. (1) After a coparcener has notified his intention in writing under section 13, the price of the coparcenary share shall be determined by mutual agreement between
- The coparcener and the owner to settle the price.
- (a) the owner and
- (b) such coparcener.
- (2) If and when the sale and the purchase of the land are agreed upon and price is determined the owner and the coparcener shall enter into mutual agreements in writing in the terms of Form No. 3 with such modifications as may be necessary.
- Agreement to be entered into when price is fixed.
- (3) (a) On the determination of the price as aforesaid a valid contract for the sale and the purchase of the share shall be deemed to have arisen between the parties; and
- A valid contract between the parties shall come into existence.
- (b) the existing provisions of the law with respect
- (1) to the specific performance of contracts and
- (2) to the legal consequences of a breach thereof shall be applicable to the contract.
- (4) (a) If an agreement as to the price has not been reached between the owner and the coparcener giving notice within one month from the service of such notice as provided in section 13, the coparcener intending to purchase shall
- Procedure when price is not agreed upon.

communicate to the owner the maximum amount for which he is willing to purchase.

- (b) After the receipt of such communication, the owner shall not be entitled to sell the share to a third person not being a coparcener for an amount not exceeding the price thus notified.

16. (1) If a coparcener sells his shares in any land below the prescribed limit to a third person not being a coparcener without giving a notice as provided in sections 12 and 14 the right to purchase the coparcenary share from such third person at the price for which it was sold to him shall accrue to the other coparceners.

- (2) If

Right of coparceners to purchase coparcenary share.

- (a) notice of the sale has been served and  
 (b) though a coparcener is prepared to purchase the coparcenary share, no agreement is reached between the owner and that coparcener about the price and  
 (c) a sale has been effected contrary to the provisions of sub-section (4) of section 15 the right to obtain purchase of the share at the price for which it was sold shall accrue to the coparcener.

- (3) Such right may be enforced by an application to the Court.

How the right can be enforced.

- (4) (a) Such application shall be made within six months from the time the coparcener becomes aware of the sale to a third person;
- Period of presenting application,
- (b) The provisions of sections 9, 11 and 22 shall not be applicable in respect of such application.

## 17. If

When section 11 of the Partition of Immovable Property Act shall not apply.

- (a) a coparcener does not notify his intention to purchase even though served with a notice of sale of the coparcenary share, or
- (b) the coparcenary share has been sold to a third person not being a coparcener for an amount greater than the price notified by a coparcener according to section 15 (4), or
- (c) a sale has been effected to or in favour of any coparcener, or
- (d) a coparcener has taken no action to enforce his right as provided in section 16

such coparcener shall not be entitled to claim any benefit under section 11 of the Partition of Immovable Property Act (No. 12 of samvat 1980).

## 18. If any land

Right of neighbours on the sale of land by the operation of a conditional mortgage.

- (a) (1) is subject to, or
- (2) at a future time shall be made subject to a conditional mortgage and
- (b) is deemed to have been sold on the operation of such mortgage

the right to purchase such land shall accrue to the neighbours if such land is

- (c) below the prescribed limit and
- (d) there is no land adjoining it, belonging to the person in whose favour the conditional mortgage has operated.

19. In the case provided in section 18 the person in whose favour the sale is effected shall serve a written notice on the neighbours in the terms of form No. 6 within one month from the date of the operation of the sale.

Notice to be given when conditional mortgage comes into operation.

20. If any of the neighbours, on receipt of a notice under section 19, is willing to purchase the land below the prescribed limit for

Cross notice to be given by the neighbours in cases when the conditional mortgage comes into operation.

- (a) an amount equal to its market value and
- (b) an additional sum amounting to 15 p. c. of that value

he shall serve a written notice on the owner in the terms of form No. 7.

21. In the cases provided in sections 18, 19, and 20 the provisions of sections 9 and 10 shall apply.

Applicability of sections 9 and 10 to sections 18, 19, and 20.

22. (a) An appeal shall lie to the District Court against orders passed by a Court under this Act.

Appeal.

(b) The decision of the appellate Court shall be final.

23. On the application of a neighbour the Varisht Court

Power of Varisht Court to call records in revision.



- (a) may call for records of any case in exercise of its revisional jurisdiction in order to ascertain whether the proceedings in the lower Court were conducted in accordance with the provisions of this Act and
- (b) may pass such orders thereon as may be necessary.

#### PART IV.

##### MISCELLANEOUS.

24. (1) A deed of sale of land shall specifically contain particulars about the following matters:—

Particulars necessary  
in a deed of sale.

- (a) area of every piece of land conveyed,
- (b) names of the
  - (1) registered holders, or
  - (2) registered occupants
 of the land adjoining every such piece of land conveyed.
- (c) whether the piece of land conveyed is a whole survey number or a portion thereof.

(2) (a) When a deed of sale is presented for registration, the Nondhani Kamdar (Sub-Registrar) shall ascertain whether the land transferred or any portion thereof is below the prescribed limit.

Points to be noted  
by Nondhani Kamdar.

- (b) if he finds that the event mentioned above has happened he shall serve a notice in writing in the terms of form No. 8 through the Vahivatdar on the neighbours of the land.

(3) The Vahivatdar shall duly cause the written notice received from the Nondhani Kamdar to be served on the neighbours within the prescribed period, through the village officers.

Vahivatdar to serve  
notice.

- (4) The part of this section pertaining to registration shall be deemed to be a part of the Registration Act.

Part pertaining to registration is a part of the Registration Act.

25. (1) Notwithstanding anything provided in any other Act or Rules in force, when occasion arises for the sale of any land or part thereof to be effected by

Notice to be given by a Civil Court or a revenue officer concerning the sale of land.

- (a) a Civil Court, or
- (b) a Revenue Office, or
- (c) a Receiver

and the land to be sold is below the prescribed limit, notice shall be given to the neighbours of the land in the terms of form No. 9.

- (2) The Departments concerned shall serve the notice in the manner prescribed for the service of a summons, notice etc.

Made of serving notice.

- (3) If in spite of service of a notice as aforesaid, no neighbour appears himself or through his authorised agent for the purpose of bidding in auction

When right to purchase as a neighbour does not arise.

- (a) at the appointed time, or
- (b) at any other time to which auction sale is postponed from time to time according to law

he shall not be entitled to purchase the land sold in auction, as a neighbour.

- (4) Section 66 of the Civil Procedure Code and sub-section (2) of section 144 of the Land Revenue Code shall not be deemed to affect a suit by a neighbour for a declaration that the purchase effected on such sale was made on his own behalf.

Suit by a neighbour not affected.

26. If Government unoccupied land is below the prescribed limit and is demanded for the purposes of  
 Land to be given for Vadakachha.

- (a) a dunghill, or
- (b) *vadakachha*

Government shall not be bound to give the land to a neighbour only because he made a higher bid for it at an auction sale than any other bidder.

27. (a) Applications filed in Court under this Act shall not be dismissed only for the reason

Applications not to be dismissed for default in joining parties.

(1) that necessary parties have not been joined or

(2) that the application is not made in the prescribed form;

(b) But the Court

(3) shall determine what parties should be added,

(4) shall add them as parties,

(5) shall get the application amended and duly proceed with the case.

28. (1) The provisions hereinafter laid down for the sale of land below the prescribed limit shall apply equally to any piece of land below the prescribed limit which is included in a transaction, dealing with lands situated in different places which in the aggregate are not below the prescribed limit.

Provision for transactions in land situate at different places and in aggregate not below the prescribed limit.

(2) In such cases the provisions of sections 9 and 10 shall be applicable in respect

What procedure to be followed. of any such piece of land.

29. Except as herein expressly provided nothing in this Act shall be deemed to affect the provisions of any other Law, Act or Rules.

This Act does not affect other provisions of law.

30. (1) Nothing in this Act provided shall be deemed to confer any rights of property in or over any land upon any person who either expressly or by implication, is debarred

Concerning persons prohibited to hold lands.

(a) by the Land Revenue Code or the Rules thereunder, or

(b) by any other Act or Rules or legal prohibition in force

from holding such rights, whether wholly or partially in respect of any land situate within the limits of the State.

(2) The service of any notice upon any such person, whether he be in the position of a neighbour or otherwise, shall not be obligatory under this Act.

Notice need not be given.

31. (1) If an adjoining land is situated in another village of this State or in a foreign State, it shall not be deemed to be obligatory to serve a notice upon the occupant or holder of such land as a neighbour under this Act.

Owners of land situate in other villages are not neighbours.

(2) But this section shall not be deemed to preclude such neighbour from acquiring land either

In which matters the neighbour is not precluded.

(a) privately, or

(b) at auction.

32. For the purpose of giving effect to the provisions of this Act, the Varisht Court shall frame such rules not inconsistent with the provisions of this Act, with the sanction of the Huzur, as it thinks fit, with regard to the

Power to make Rules.

(a) procedure to be followed in the Courts and the Appellate Court

(b) the registers to be kept and

(c) returns.

FORM No. 1.  
( SECTION 6 ).

From  
(name of the person giving notice.)

To

You are hereby informed that I intend to dispose of my land as mentioned below. If you intend to purchase it, please communicate to me your intention in writing within ten days from the receipt of this notice.

Date      month                  year  
                            Taluka                                  Survey number  
sub-number                  Bighas                                  Assessment  
Boundaries.

Signature of the person giving notice.

NOTE :- Area of the land intended to be sold shall be clearly stated with the boundaries.

FORM No. 2.  
( SECTION 7 ).

From  
To

Notice is hereby given that your written notice dated  
has been received by me on

I intend to purchase the land specified in your notice.

Signature.

FORM No. 3.  
( SECTION 9 (2) ).

Name of the vendor.  
Name of the purchaser.  
Description and particulars etc. of land.  
Amount settled in rupees.  
Date of executing the sale deed.  
Other particulars that may be determined by the parties.

A contract has been entered into between us for the sale and purchase of land. All provisions of law applicable to contracts of sale, and purchase of immovable property shall apply to this contract.

Date      month                      year.

Signature of the vendor.

Signature of the purchaser.

FORM No. 4.  
( SECTION 9 (4) )

Notice to be given by the owner to the neighbour concerning the amount of consideration.

You are hereby informed that your notice of date                      conveying your intention to sell the land mentioned below has been received and I replied thereto by a cross notice notifying my intention to purchase the land. Thereafter we met to settle the amount of consideration ( give details of particulars or contingencies that took place in respect of such settlement ). The amount of consideration has not been settled between us. I hereby give you notice that I am willing to purchase your land mentioned below at the price of Rs.

Date      month                      year.

Signature.

FORM No. 5.  
( SECTION 10 (3) )

In the Munsiff Court at  
Applicant  
Opponent.

I the undersigned hereby declare that the opponent owns land at                      of Survey number      Bighas      Assessment      . The said land has been sold by opponent No. 1 to opponent No. 2 for Rs.      (price stated in the deed of sale) on      . This land is below the prescribed limit. Opponent No. 1 has effected this transaction without giving notice to the neighbour in contravention of section 6 of

the Act to prevent Fragmentation of Agricultural Holdings. Hence I am entitled to purchase it. I am willing to purchase the land at the price given by opponent No. 2. Opponents from 3 to \_\_\_\_\_ are also neighbours to this land.

Relief is therefore claimed that the Court may proceed with this application and sell the land to me and order the delivery of possession thereof.

Date \_\_\_\_\_

Signature. \_\_\_\_\_

Declaration. I the undersigned make the declaration that the statements in the application are true to my information and belief.

Date \_\_\_\_\_

Signature. \_\_\_\_\_

N. B.—If the owner has given notice of his intention to sell and the neighbour has given cross notice to purchase but the price not being settled, the neighbour has intimated the price in form No. 4, all the particulars shall be entered in the application. Further particulars shall also be given with necessary modifications as to the fact that land has been sold to opponent No. 2 at a price not exceeding the value intimated by the applicant, and that the right to purchase the land at the price communicated by the applicant in form No. 4 accrues to him.

#### FORM No. 6.

(SEE SECTION 19)

From \_\_\_\_\_

To \_\_\_\_\_

Notice is hereby given that land(give description) belonging to \_\_\_\_\_ was conditionally mortgaged to me. The conditional mortgage having come into operation, the ownership thereof now vests in me. The portion of land as detailed below is below the prescribed limit. I own no land adjoining it, (give description of land).

Date \_\_\_\_\_

Signature. \_\_\_\_\_

FORM No. 7.  
(SEE SECTION 20)

From  
To

Notice is hereby given that I received your notice dated \_\_\_\_\_ on \_\_\_\_\_. A conditional mortgage having come into operation, land measuring Bighas \_\_\_\_\_ being a portion of Survey No. \_\_\_\_\_ has been sold. Excluding the same, I am willing to buy the remaining portion of the survey number which is below the prescribed limit, at the market value and an additional 15 p. c. thereof. If more than one neighbour bid for this land the Court will hold a public auction and if I am the highest bidder thereat, I intend to purchase the land for the amount of my bid.

FORM No. 8.  
(SECTION 24)

Notice to be given to neighbours by the Nondhani Kamdar.

- (1) Name of the person executing the deed.
- (2) Name of the person in whose favour the deed is executed.
- (3) Date of the deed.
- (4) Date of registering the deed.
- (5) Particulars of land conveyed by transfer, under the deed, together with particulars of the situation and measurement of the land.
- (6) If land conveyed by transfer is part of a survey number \_\_\_\_\_ and is below the prescribed limit particulars and extent of the land which is below the prescribed limit.

FORM No. 9.  
(SECTION 25)

Notice to be given by Court or officer holding an auction.

From  
To

Notice is hereby given that land situated at \_\_\_\_\_ of Survey number \_\_\_\_\_ Bighas \_\_\_\_\_ Assessment (give 17 H.



description, boundaries etc., of land and state by whose order and for what reasons the land is to be sold by auction) shall be sold by public auction on \_\_\_\_\_ at \_\_\_\_\_. This notice is given on information received that you are a neighbour to the said land. If you intend to purchase the land in auction or through a lawful attorney you should appear thereat in person or if default is made in appearance or bidding in auction, you shall not be entitled to purchase the land as a neighbour.

Date.

Signature of Judge  
or  
officer.

## VI

### **Rules under the Act to Prevent Fragmentation of Agricultural Holdings.**

Published on the 25th January 1934.

Preamble.                      Whereas it is expedient to frame rules under the powers conferred by section 32 of the Act to Prevent Fragmentation of Agricultural Holdings, it is hereby enacted with the sanction of the Huzur as under :—

#### PART I.

##### PRELIMINARY.

1.    These rules shall be called "The Rules under the Act to Prevent Fragmentation of Agricultural Holdings."  
Title.
2.    The term "Act" means the "Act to Prevent Fragmentation of Agricultural Holdings" ( Act 27 of 1933 ).  
Definition.

#### PART II.

##### APPLICATIONS, PLEADINGS, ETC.

3.    (1) In every court there shall be a separate register in form No. 1 for applications received under sections 10, 16, and 21 of the Act.  
Separate registers for applications.
- (2) The register shall be called "the Prevention of Fragmentation of Agricultural Holdings application register."  
Title of the register.
- (3) Such applications shall bear the heading "In the matter of the application for Prevention of Fragmentation of Agricultural Holdings," clearly written at the top.  
Title of the application.

4. (1) Such applications shall bear the court fee stamp of the value of five rupees.

Court fee for such application.

- (2) The application giving a list of witnesses in the case shall be charged court fees under subclause (3) of clause (क) of article 4 of schedule 1 of the Court Fees Act.

Court fee for application for the purposes of evidence.

5. (1) The pleadings and statements of the parties shall be written clearly and legibly.

Applications etc. must be legible and clear.

- (2) If the pleadings are not clear or are ambiguous the court shall require the parties to remove the ambiguity in writing.

Ambiguities to be cleared.

6. The court shall keep a diary (*rojkam*) of the case which shall contain particulars as to

Rojkam to be kept.

- (a) the steps taken and  
(b) the proceedings conducted

from time to time.

### PART. III. PROCEDURE.

7. (1) On the receipt of an application under sections 10 (3), 16 (3) or 21 of the Act, the court shall issue a notice to the other parties shown in the application to show cause why the application should not be granted.

Issue of summons on the opposite party.

- (2) Where the contention of

Inquiry of objections raised by opponents.

- (a) an opponent or  
(b) a party added by order of the court under section 27 (4) of the Act,  
relates to

- (1) the right of the applicant to file the application or
- (2) any other matter

the court shall fix a date for the hearing and then proceed according to the manner prescribed in the Civil Procedure Code.

- (3) If at the end of the inquiry the court is of opinion that the applicant is not entitled to file the application

When application shall be dismissed.

- (1) for failure to take proper steps according to the provisions of the Act or
  - (2) for any other reasons
- it shall dismiss the application.

- (4) The court shall proceed with the application according to sections 10 (6), 16 or 21 of the Act

When the court shall proceed further.

- (1) if the right of the applicant to apply is proved or
- (2) if no party has taken any objection.

- (5) If a right has arisen according to the provisions of the Act in favour of more than one coparcener the land shall be sold by auction among such coparceners.

About auction.

- (6) (1) The date fixed for public auction shall accordingly be a working day not less than 8 days and not more than one month from the date of the order.

Fixing the date of public auction and notice thereof.

- (2) Notice of such date shall be given to the parties present or their pleaders and the fact of having done so shall be recorded.
- (3) a copy of such order shall be published on the notice board of the court on the very day on which it is made.

(7) (1) (a) The time for holding the auction shall be fixed beforehand as far as possible and  
 Place for holding  
 auction.

(b) the auction shall be held at the prescribed time and place.

(2) the court shall fix the place for holding the auction taking into consideration the circumstances of each case.

8. The statements of witnesses shall be recorded in the manner prescribed in the Civil Procedure Code for recording evidence in ordinary civil suits.  
 Recording of state-  
 ments.

9. No officer or clerk below the rank of the Nazir or Shirastedar of the civil court shall be competent to hold an auction under section 10 of the Act.  
 Power to hold auc-  
 tion under sec. 10 of  
 the Act.

10. If the auction is conducted by the Nazir or the Shirastedar of the civil court, he shall not confirm it himself but shall submit the papers to the court for confirmation of the sale.  
 Papers to be sub-  
 mitted to the Court for  
 confirmation of the  
 sale.

11. (1) If the auction purchaser is not in a position to pay the purchase money within the prescribed period of ten days according to subsection (7) of section 10 of the Act, the court may before or after the expiry of the said period extend the same.  
 Power to enhance  
 the period for the pay-  
 ment of purchase  
 money.

(2) (a) Provided that it shall not be longer than two months from the date of confirmation of the sale and  
 Power of the Court  
 to enhance the period  
 for the payment of  
 purchase money.

(b) the auction purchaser shall deposit in the court the amount of interest on the purchase price remaining unpaid for the extended period at the rate of 12 annas per cent per month.

12. The court may recover interest at the rate of 12 annas per cent per month on the amount of the loss liable to be recovered under clause (c) of subsection (7) of section 10 of the Act.

Interest on the sum of loss to be delivered.

13. The period to be prescribed by the court under subsection (8) of section 10 of the Act shall not be more than one month.

Period to be fixed under subsection (8) of section 10 of the Act.

14. The court shall deliver the purchase money together with the interest etc. thereon, if any, to

Delivery of the amount after the execution of the sale deed.

(a) the private purchaser of land below the prescribed limit from its owner or  
 (b) to the mortgagee with conditional sale or  
 (c) to any other person entitled to it

immediately after the execution of the sale-deed and the delivery of the possession of the land to the purchaser under clause (b) of subsection (8) of section 10 of the Act.

15. In case of the death of any of the parties to any proceedings under the Act the court shall give reasonable opportunity for bringing the heirs on the record.

Facilities for bringing heirs on record in case of death of a party

16. (a) The applicant in execution proceedings must for the purposes of section 25 of the Act state clearly in the darkhast the names, description and addresses of the neighbours of the land, put up for auction.

Names etc. should be clearly stated in the application.

(b) the court may, if necessary, examine the plaintiff or the defendant in the execution proceedings in order to obtain such information.

Power of the Court to examine plaintiff or defendant.

PART IV.

APPEALS.

17. The appellate courts shall enter the appeals filed under the Act in the register of miscellaneous appeals.

Appeals to be entered in the register of miscellaneous appeals.

18. The memorandum of appeal shall be liable to a court fee stamp of the value of ten rupees.

Court fee for memorandum of appeal.

PART V.

MISCELLANEOUS.

19. The courts shall send, before the 15th of August every year particulars about the applications received, to the Varisht Court in such form as will be prescribed by the Varisht Court.

Particulars about the applications to be sent to the Varisht Court.

## REGISTER OF APPLICATIONS.

FORM NO. I.

See section 3 (a).

1	Serial number of the register.
2	Date of the application.
3	Name of the applicant, age, caste, occupation, residence, etc.
4	Name of the opponent, age, caste, occupation, residence, etc.
5	Description of land below the prescribed limits which is in dispute with survey number or part thereof with name of the village.
6	Boundary of the land below the prescribed limits.
7	Date and particulars of any interlocutory orders if made.
8	Date and particulars of final disposal.
9	Name of the officer deciding the application.
10	Particulars of the execution of the order.
11	If appeal preferred number of the appeal and the result.
12	Date of sending the case to the record with the signature of the record keeper.
13	Remarks.



## VII

**Consolidation work through Co-operative societies,  
(referred to in para 72 of the Explanatory Note.)**

Intelligent khatedars in the Baroda State will realise the loss which they have to sustain at present on account of their small and scattered fields, and try to enlarge their fields privately by exchanges of contiguous ones. With a view to help them, as far as possible, to do so by forming their voluntary associations through co-operative societies, as in the Punjab and elsewhere, the State has given several concessions, of which the principal are the following:—

1. When (a) barkhali lands and (b) government or service lands are exchanged, lands having assessment equal to that of the original lands is maintained on the original conditions.

2. For barkhali lands a new sanad for the exchanged lands is given.

3. Service lands are entered in the names of those concerned on the original conditions.

4. Lands which pass into some other's possession are entered in his name as government or service lands as the case may be.

5. For the special purpose of facilitating this work, the limit of partition fixed under rule 139 of the Rules under the Land Revenue Code is dispensed with and no fees of any kind are charged for such partition.

6. For mutation of names the formalities of filling up the usual forms, under the Land Revenue Code and the Rules under it, are dispensed with and the village Patel Talaties are required only to prepare a statement according to the form given at the end of this note and the order for mutation of names is passed by the Vahivatdar or Mahalkari on this form.

7. Mutation of names are exempted from the usual stamp fees.

8. Arrears of land revenue are allowed to be continued as due from the original occupants.

9. No stamp or registration charges are to be paid on the transfer deeds which may have to be passed owing to the exchange of lands.

10. People concerned are not required to go personally to the taluka Registration office for registration of deeds of exchanged fields. The Registrar himself, when required to do so, goes to the village after the deeds are ready and registers them there and then.

These concessions and the propaganda work done by the officers of the Co-operative department have had their good effect, and co-operative societies for consolidation of holdings by exchanges and sales of fields have been formed in about forty villages in the four districts of Baroda, Mehsana, Navsari and Amreli. The work done has resulted in the merging together of about two thousand fields. This, though small, is quite good, having regard to the fact that the co-operative societies have been started only recently and the membership is not yet large. But better results may confidently be expected in the future, as propaganda work is continued vigorously.

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FORM No. 1

Statement showing relinquishments of land in favour of some person.

Serial No.	Full name of the occupant, caste, surname and village of residence, taluka, prant.	Full name of the persons to whom the land is to be given caste, surname village of residence, taluka, prant.	Description of lands.			Signature and date of the person mentioned in col. 2 or if he is deceased or disappeared his legal heir or legal representative.	Signature and date of the person mentioned in col. 3 or his consent to take up the lands on his name.	Signature and date of two reputed persons of the village re: the acquaintance of persons signing in col. 7 & 8.	Details from Patel and Talati.	Order of the Mahal Officer.	Remarks.
			Survey No.	Bighas	Assessment.						
1	2	3	4	5	6	7	8	9	10	11	12

Note :—The Patel and the Tala ti shall mention the date if the person mentioned in Col. 2 is dead or has disappeared and shall clearly mention the reasons if the signature of a person other than the one mentioned in col. 2 is taken in col. 7 and shall make an assertion for the truth of the details entered in col. 1 to 9 and then they shall put in their signature and date.

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