

THE



Bombay Government Gazette.

Published by Authority.

SATURDAY, 10TH JULY 1875.

Separate paging is given to this Part, in order that it may be filed as a separate compilation.

PART V.

PROCEEDINGS OF THE LEGISLATIVE DEPARTMENT, BOMBAY.

The following Bill, together with the Statement of Objects and Reasons accompanying it, is published in accordance with Rule 15 of the Rules for the Conduct of Business at Meetings of the Council of His Excellency the Governor of Bombay for making Laws and Regulations:—

Bill No. II. of 1875.

A Bill to amend the law relating to the Land Revenue Administration of the City of Bombay.

Whereas it is expedient to amend the law relating to the assessment and collection of the land revenue, to provide against encroachments upon public property, to ensure the preservation of survey boundary marks, and otherwise to improve the existing land revenue administration in the city of Bombay: It is enacted as follows:—

Part I.—Preliminary.

1. This Act may be cited as "The Bombay City Land Revenue Act, 1875."

Short title.

Extent.

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2. So much of Regulation XIX. of 1827 as has not been already repealed is hereby repealed.

All references made in any Act or Regulation, to any part of the said Regulation XIX. of 1827 hereby repealed, shall be read as if made to the corresponding portion of this Act.

And all rules prescribed, appointments made, powers conferred, orders issued, and notifications published under the said Regulation, and all other rules (if any) now in force and relating to any of the matters hereinafter dealt with, shall (so far as they are consistent with this Act) be deemed to have been respectively prescribed

ed, made, conferred, issued, and published hereunder.

And all proceedings now pending, which have been commenced under any part of the said Regulation XIX. of 1827 hereby repealed, shall be deemed to have been commenced under this Act, and shall hereafter be conducted in accordance with the provisions of this Act.

3. In this Act, unless there be something repugnant in the subject or context, Interpretation Section.

(1) the word "Collector" means the "Collector." Collector of Bombay;

(2) the words "Land Revenue" signify any sum of money "Land Revenue." legally claimable by Government from any person on account of any land, or interest in, or right exercisable over, land held by, or vested in him, under whatever designation such sum may be payable;

(3) the words "Survey Boundary Mark" mean, primarily, any iron "Survey Boundary Mark." mark set up by the officers who conducted the Bombay City Survey hereinafter described, or any other object, natural or artificial, employed or specified by the said officers in order to designate the boundary of any division of land; and include any such new mark or object that may hereafter be set up, employed, or specified by the Collector, or under his orders, according to the provisions of this Act.

Part II.—The Collector of Bombay and his Subordinates.

4. The chief controlling authority in all matters connected with the land revenue is vested in the Collector of Bombay subject to the Governor in Council. Chief control in Revenue matters.

5. The Collector of Bombay shall be appointed by the Governor in Council, and shall exercise the powers and discharge the duties conferred and imposed on him by this Act, or by any other law for the time being in force; and, so far as is consistent therewith, all such other powers or duties as may from time to time be prescribed by the Governor in Council. Appointment and duties of the Collector of Bombay.

6. The Collector shall have as many His Assistants and Establishment how appointed, Assistants and such other subordinate to him as

the Governor in Council may from time to time sanction, and their appointment shall be made by him, or otherwise, as the Governor in Council may direct.

The duties of the said Assistants and other subordinates of the Collector shall be Their duties. such as the Collector, subject to the orders of Government, may from time to time prescribe.

Subject to the previous sanction of Government the Collector may delegate any And powers. of his powers under this Act, or under any other law for the time being in force, to any of his Assistants or other subordinates, and may at any time cancel such delegation.

7. The Collector shall have power, subject to such rules as Their punishment for misconduct. may from time to time be prescribed on this behalf by Government, to fine, reduce, suspend or dismiss any of his Assistants or other subordinates.

Part III.—Assessment and Collection of Land Revenue.

8. The Collector shall have authority, subject to the orders of Government, to fix the assessment for Land revenue to be fixed and levied by the Collector. land revenue at his discretion on all lands not wholly exempt from land revenue, and the amount due according to such assessment shall be levied by the Collector on all such lands :

Provided that in the case of lands partially exempt from land revenue, or the liability of which to payment of land revenue is subject to special conditions or restrictions, respect shall be had in the fixing of the assessment and the levy of the revenue to all rights legally subsisting, according to the nature of the said rights; but payment for any period of years continuously hitherto of an unvarying amount of land revenue shall not of itself be held to constitute a title to exemption from liability to a higher assessment, except in any case in which Government may have at any time expressly admitted a right of exemption on such ground. Proviso.

9. The settlement of the assessment of each portion of land to the land revenue shall be made with the owner or occupant of the same. Settlement of assessment with whom to be made.

If the said owner or occupant be absent and have left no known authorized agent in Bombay, or if there be a dispute as to who is entitled to be considered the owner or occupant of the land, the settlement may be made with such person as the Collector may deem fit to recognize as the owner or occupant for the purposes of this section, and any assessment so fixed shall be binding upon the rightful owner or occupant of the land.

10. The owner or occupant of land shall be liable in person and property for the land revenue due upon his holding, and in the event of his failing to pay the amount due at the appointed time, the person actually in possession of the land shall become liable therefor in the same manner.

11. The claim of Government to any moneys recoverable under the provisions of this Act shall have precedence over any other debt, demand, or claim whatsoever, whether in respect of mortgage, judgment, decree, execution, attachment, or otherwise, howsoever, against any land, or the owner, or occupant thereof.

12. Subject to such orders as may be passed by the Governor in Council, the Collector shall from time to time give orders and make known the same by notice to be served on all owners or occupants of land paying revenue, regulating the persons, places, and times to whom and within which the revenue payable in respect of any land shall be paid.

13. If any land revenue is not paid at, or within, the time when it becomes payable, and the owner or occupant shall, for the space of ten days after service of written notice of demand of payment, fail to discharge the revenue due, it shall be lawful for the Collector to levy the same by attachment and sale of the land on which the revenue is due, or of any other property, moveable or immoveable, of the defaulter.

Such sales shall be by public auction, and shall not take place until at least 15 days after notice thereof shall have been published in the *Bombay Government Gazette*.

If the sale of the defaulter's property shall not produce satisfaction of the demand, it shall be lawful for the Collector to cause him to be apprehended and confined in the Civil Jail under the rules in force at the Presidency for the confinement of debtors, for which purpose a certificate of demand under the Collector's signature sent with the defaulter shall be the Sheriff's sufficient warrant, equally with the usual legal process in ordinary cases of arrest in execution of judgment for debt; provided, however, that such imprisonment shall cease at any time upon payment of the sum due, and that it shall in no case exceed one day for each rupee of the said sum.

14. The Collector's decision upon any question arising out of the provisions of Sections 8 to 13 of this Act shall, unless superseded by the Revenue Judge, be binding upon all persons whom it may concern, and shall be acted upon accordingly; but the Collector's decision shall be stayed on any such person giving security to the satisfaction of the Collector, that he will within thirty days from the date when such decision was made known to him institute a suit before the Revenue Judge for the purpose of contesting the legality of the Collector's decision, and will fulfil the decree that may be passed against him, and will pay all costs and interests which may be so decreed; or that, if he fail to file such suit as above specified, he will, when required, pay the amount demanded.

15. All compulsory process against a defaulter shall cease:

On his paying or tendering the amount demanded of him under protest to the officer executing such process,

or on his instituting a suit before the Revenue Judge to contest the legality of the demand, and furnishing security satisfactory to the Collector, or Revenue Judge, that he will, pending the decision of the said suit, neither quit the jurisdiction nor remove, or transfer any of his property therein without providing to the satisfaction of the Collector, or of the Revenue Judge, for the execution of the decree.

16. Fees shall be payable according to the table in the Schedule A hereunto annexed, on all warrants issued under the provisions of Section 13 of this Act for the attachment and sale of the property of defaulters, by the person in respect of whose property such warrants are issued, and an additional fee of four annas per diem shall be paid in like manner in respect of each peon employed, whenever the property distrained is placed in charge of any peon or peons.

Fees payable in respect of warrant for attachment and sale of property of defaulters.

Additional fee payable when property is placed in charge of peons.

peon employed, whenever the property distrained is placed in charge of any peon or peons.

Part IV.—The Revenue Judge.

17. The Senior Magistrate to be Revenue Judge. Senior Magistrate to be Revenue Judge. Magistrate of Police shall be Revenue Judge.

The Revenue Judge shall decide all suits brought before him against the Collector, or any person on his establishment, on account of land revenue, or of acts done in their official capacities by the Collector, or any of his Assistants or other subordinates.

18. All such suits shall be commenced, and the trial thereof shall be conducted, according to the provisions of the general law of Civil Procedure for the time being in force in a District Court.

A decree passed by the Revenue Judge in any such suit shall follow the like rules as regards the parties' right of appeal as may be applicable under any law for the time being in force to the decree of a District Court in an original suit tried by it.

The decree in any such suit, whether it be that of the Revenue Judge, or of the appellate authority, shall, if it be against the Collector, be fulfilled by the Collector. If it be against the plaintiff, it may be enforced by the Collector under Section 13 of this Act as an established revenue demand: Provided however that execution shall in either case be stayed if an appeal be made, and on the plaintiff's furnishing security similar to that described in Section 15 of this Act, if the appeal be brought by him.

Appeals how, and to whom, to lie.

Decrees how to be executed.

Part V.—The Bombay City Survey and Boundary Marks.

19. The survey made under the authority of Government during the years 1865 to 1872 shall be called "The Bombay City Survey"; and the demarcation of lands then made, and all the records of the said survey shall be recognized and acted upon for all the purposes of this Act; provided that it shall at any time be lawful for the Collector, if he shall deem fit, to cause any alteration or correction to be made of any such demarcation of lands, or of any entry in any such record.

The Bombay City Survey to be recognized.

20. Every owner or occupant of land shall be responsible for the maintenance and good repair of the survey boundary marks of his holding, and for any expenses not exceeding five rupees for each mark, reasonably incurred on account of the same by the Collector in cases of alteration or removal.

21. It shall be lawful for the Collector or his subordinates may enter upon lands. Collector or his subordinates, in that behalf duly authorized by writing under the hand of the said Collector, to enter upon any lands for the purpose of inspecting the survey boundary marks erected thereon, or of altering, renewing, or repairing such marks.

22. In the event of any survey boundary mark being destroyed, defaced, injured, or removed, it shall be lawful for the Collector to cause to be served on the owner or occupant of any land, of which such mark designates the boundary, a requisition in writing signed by the said Collector, calling on such owner or occupant to renew, or repair, the said mark, at his own expense, within 15 days from the date of the service of such requisition.

23. If the said survey boundary mark be not renewed or repaired, within the said period, to the Collector's satisfaction, it shall be lawful for the Collector, or any of his Assistants, or other subordinates, or other per-

Collector may require owners or occupants of land to renew or repair survey marks thereon.

Requisition how to be made.

In default of renewal or repair of survey marks, Collector or his Assistants may enter and renew or repair the same.

son duly authorized as hereinbefore mentioned, to enter upon any land to which the said mark appertains, and to renew or repair it; and for each such mark so renewed

Collector may charge for such renewal or repair.

or repaired, it shall be lawful for the Collector to charge each owner or occupant, the boundary of whose land is designated by any such mark, such sum, not exceeding Rs. 10 in the whole, as he may deem fit.

Part VI.—Government Lands and Foreshore.

24. All lands within the city of Bombay and every portion of the foreshore below high water

Right of Government to lands and foreshore.

mark, not shown to be the property of individuals, or of aggregates of persons capable of holding property, and except in so far as any rights of such persons may be established in or over the same, shall be deemed, and are hereby declared to be, the property of Government, subject always to the rights of way, and all other rights of the public legally subsisting.

25. It shall be lawful for the Collector,

Such lands and foreshore how to be disposed of.

with the sanction of Government, to dispose of any Government lands or foreshore, in such manner and subject to such conditions as he may deem fit. When any such lands, or foreshore, are transferred to individuals, or to aggregates of persons capable of holding property, the value thereof shall be payable by the transferee. The said value shall be fixed by the Collector in each case according to the market value of similar land, or may be determined on such other considerations, or in such other manner, as may seem expedient, or as may be directed by Government.

Part VII.—Encroachments.

26. In the event of any encroachment

Encroachments on Government land or foreshore after passing of the Act may be abated or removed.

being made after the passing of this Act on any Government lands or foreshore, it shall be lawful for the Collector or his Assistants, or other subordinates, duly authorized in this behalf by writing under his hand, to summarily abate or remove any such encroachment.

But it shall be competent to the Collector,

Or double value and double land revenue and if the person
v.—23

may be charged therefor.

making the encroachment so desire, to

charge the said person double the value of the land so encroached upon, and to fix double the ordinary annual land revenue thereupon, and then to cause the said land to be entered in his records in the name of the said person.

27. For the purposes of the preceding

Value and land revenue how to be calculated.

section the value of land that has been encroached upon shall be fixed by the Collector

according to the market value of similar land in the same neighbourhood, at the time of such valuation, or at such other rate as the Collector, with the sanction of Government previously obtained, shall determine. And the annual revenue of any such land shall be assessed at the same rate as the land revenue on any other land already standing in the name of the person making the encroachment, or at the same rate as the land revenue of similar land in the vicinity, as the Collector may deem expedient.

28. In the case of any encroachment,

Encroachments made before the passing of the Act how to be dealt with.

made within 20 years before the passing of this Act, it shall be lawful for the Collector to charge the person

who made such encroachment, or who is in occupation of the land so encroached upon, double the value of the said land, and to fix double the ordinary annual land revenue thereon, and to recover arrears of land revenue at the same double rate from the date when the encroachment was made.

29. For the purposes of the last preceding

What are to be considered encroachments made before the passing of the Act.

section, the amount by which any holding shall have been shown by the Bombay City Survey

to exceed the area of such holding as entered in the Collector's previous records, shall be held to be an encroachment; and

Value and land revenue payable in respect thereof, how to be calculated.

the value, and land revenue, payable in respect of the same, shall be calculated according to the value

and land revenue paid in respect of the holding in excess of which such encroachment may have been made; or in case there have been no such holding, at such rate as the Collector, with the sanction of Government, may fix.

Part VIII.—Transfer of Lands, &c.

30. Whenever the possession of any

Notice of transfer of lands, &c., to be given to the Collector.

land, house, or other immoveable property shall be transferred or assigned, the person transferring or assigning the same, and the person to whom the same shall be transferred or assigned, shall respectively cause notice of such transfer or assignment to be given to the Collector;

Within 20 days in certain cases.

such notice shall be given within 20 days after execution of the deed of transfer or assignment, or after its registration, if it be registered, or after the transfer or assignment is effected, if no deed is executed.

In the event of the death of any per-

Within one year in certain cases.

son whose name is entered in the Collector's records as the owner or occupant of any property, the person to whom possession of such property shall be transferred as heir or otherwise shall cause notice thereof to be given to the Collector within one year of the said owner's or occupant's death.

31. The notice shall be in the form

Notice to be in the form of Schedule B or C.

either of Schedule B or Schedule C annexed to this Act, as the case may be, and shall state clearly all the particulars required by the said form. It shall be accompanied, whenever the Collector shall deem fit so to require, by the original deed and by a certificate that public notice has been given of the transfer or assignment by beat of battaki.

32. Every person neglecting to give

Penalty for neglect to give notice.

the notice required by the two last preceding sections within the time therein specified, shall be liable at the discretion of the Collector to a fine not exceeding Rs. 100,

33. It shall at any time be lawful for

Collector may call upon holder to show cause for neglect to give notice.

the Collector to issue a notice to any person appearing to be in occupation of any land, house or other immoveable property, but whose name is not entered as owner or occupant in his records calling upon him to appear within seven days after service of the said notice upon him to show cause why the

said property should not be transferred in the Collector's records to his name, and why the fine prescribed in the last preceding section should not be imposed upon him for his neglect to cause notice of the transfer or assignment to be given to the Collector.

If he fail to appear within the prescribed time, or if he appear

The Collector how to proceed. but fail to show good cause to the satisfaction of the Collector for his neglect, the Collector may cause the necessary change of names to be made in his records, and impose the fine specified in the last preceding section.

34. Every person transferring the pos-

Person transferring lands, &c., and omitting to give the required notice, to continue liable to the rent thereof.

session of any land, house, or other immoveable property, without giving the notice required by Sections 30 and 31 of this Act, shall continue liable to Government for the payment of all land revenue accruing due in respect thereof, until he shall have given such notice, or until the requisite change of names shall be effected in the Collector's records.

35. Whenever any dispute or question

Proceeding in cases of disputed transfer.

shall arise with respect to the making or completion of any transfer of the possession of any land, house, or other immoveable property, the Collector shall summon all the parties interested in such transfer, and shall call for such evidence and examine such witnesses as he shall consider necessary, and shall thereupon decide summarily whose name shall be entered in his records in respect of such land, house, or other immoveable property; provided that any decree, or order, of a competent Court determining who is the rightful owner or occupant of any such property shall, on the production at any time of a certified copy thereof, be recognized and acted upon by the Collector.

36. The registration or transfer of

Registration or transfer of name in Collector's records not to affect any right, title, or interest of Government.

any name in the Collector's records shall not be deemed to operate so as in any way to affect any right, title, or interest of Government in the land, house, or other immoveable property in respect of which any such name is so registered or transferred.

Part IX.—Procedure.

37. It shall be lawful for the Collector,

whenever he shall require, for any of the purposes of this Act, the presence of any person in his office to issue a summons requiring such person to appear at the Collector's office either in person, or by duly authorized agent, as in the summons shall be specified, at the time named therein, and to bring with him and produce to the Collector all such papers and documents as may be required by the said Collector.

38. The provisions of the Civil Procedure Code in force

Law applicable with respect to summonses, &c.

for the time being with respect to the issue of summonses and commissions, and the compelling the attendance of witnesses, and for their remuneration, in suits before a District Court, shall apply to all persons summoned to appear before the Collector under the provisions of this Act.

Part X.—Levy of House Rent, Fees, Penalties, &c.

39. All arrears of rent payable by any

Arrears of rent of houses the property of Government, &c., to be levied as revenue demands.

person in respect of the occupation of any house, the property of Government, and all fees, fines, and penalties chargeable under this Act, and all moneys leviable under the provisions of this Act on account of the value of any land, or on account of the alteration, removal, renewal or repair of survey boundary marks, shall be realized in the same manner as other revenue demands, under the provisions of Section 13 of this Act.

40. It shall be lawful for the Collector

of Bombay to levy, in the same way as any arrear of land revenue due under this Act, any sum certified by the Collector, or Assistant, or Deputy Collector of any District or Collectorate in the Presidency of Bombay to be due and recoverable as an arrear of land revenue, from any person residing, or owning property in the City of Bombay, by whom the same is so certified to be due.

Part XI.—Miscellaneous.

41. It shall be the duty of the Collector

to prepare and keep in such form as Government may

from time to time sanction, a separate Register and Rent Roll of every description of land according to the nature and terms of the tenure on which such land is held.

42. Subject to such rules and the pay-

Maps and Land Registers and Village Accounts, &c., open to inspection.

ment of such fees as the Governor in Council may from time to time prescribe in this behalf, all maps and

land registers and other records, of the Bombay City Survey, and all records concerning the land or the land revenue, shall be kept in the Collector's Office, and shall be open to the inspection of the public at reasonable hours; and certified extracts,

Extracts and copies shall be given.

from such maps, registers, and records, or certified copies

thereof, shall be given to all persons applying for the same.

43. It shall be lawful for the Governor

The Governor in Council to frame rules for guidance of Collector, &c., in matters not provided for by this Act.

in Council from time to time to frame, and from time to time to vary, or repeal, Rules not inconsistent with the provisions of this Act for the guidance of the Collector and his Assistants and other subordinates in the discharge of their duties, or for any other purpose connected with the subject matter of this Act not expressly provided for therein.

Any of such Rules as the Governor in Council may deem fit may be published, and when published shall, until cancelled or amended by the Governor in Council, have the force of law.

SCHEDULE A.

Table of Fees payable under the provisions of Section 16 of this Act :—

Sum distrained for.	Fee.	
	Rs.	a.
Not exceeding Rs. 5	0	8
Over Rs. 5 and not exceeding Rs. 10	1	0
„ 10 „ „ 15	1	8
„ 15 „ „ 20	2	0
„ 20 „ „ 25	2	8
„ 25 „ „ 30	3	0
„ 30 „ „ 35	3	8
„ 35 „ „ 40	4	0
„ 40 „ „ 45	4	8
„ 45 „ „ 50	5	0
„ 50 „ „ 60	6	0
„ 60 „ „ 80	7	8
„ 80 „ „ 100	9	0
Upwards of Rs. 100	10	0

SCHEDULE B.

Form of Notice of Transfer to be given under Section 30 of this Act when the transfer has taken place otherwise than by Deed.

To

THE COLLECTOR OF BOMBAY.

I, *A. B.*, hereby give notice, as required by Section 30 of the Bombay City Land Revenue Act, of the following transfer of property :—

Date of Notice.	Name in which the property is at present entered in the Collector's records.	To whose name it is to be transferred.	DESCRIPTION OF THE PROPERTY.						
			Of what it consists.	Situation.	Collector's No.	Bombay City Survey No.	Dimensions of land.	Boundaries.	REMARKS.

(Signed) *A. B.*

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THE COLLECTOR OF BOMBAY.

I, A.B., hereby give notice, as required by Section 30 of the Bombay City Land Revenue Act, of the following

REMARKS.

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STATEMENT OF OBJECTS AND REASONS.

The Bombay Revenue Officers' and Land Revenue Code Bill as originally drafted included a chapter applicable to the City of Bombay alone. But as the land-revenue administration of the Presidency town differs very widely from that of the Mofussil, it was afterwards thought more satisfactory to embody the necessary provisions for the former in a separate Bill.

By this Bill it is proposed, therefore, to repeal Regulation XIX. of 1827, which is the land-revenue law at present in force in the City of Bombay, and to substitute an Act which shall provide for all the requirements of that city, and be complete in itself.

So many changes have taken place in Bombay since the enactment of Regulation XIX. of 1827, that it is no matter for surprise that the provisions of that Regulation should for some years past have been found inadequate to the purposes to which they have had to be applied. Although, therefore, the principles of that Regulation are in the main adhered to in this Bill, many alterations and additions have been made, which have been suggested by the practical experience of those entrusted with the land-revenue administration of the city. In all these amendments the object has been to fully protect the lawful interests of the State without in any way injuring the existing rights of individuals.

The only portion of the Bill which may be said to be entirely new is that which refers to the survey and to the maintenance of survey boundary marks. A very complete survey of the whole island has recently been effected at a very great expense, both of money and labour, and it is equally essential to the interests of the various landholders and of the State that the records of that survey, and the marks set up by the Officers employed in making it, to designate the boundaries of the different properties, should be carefully preserved. The provisions inserted in the Bill for this purpose are borrowed with necessary modifications from the existing law in the Mofussil, where they have been found to work satisfactorily and beneficially.

(Signed) E. W. RAVENSCROFT.

8th July 1875.

By order of His Excellency the Governor in Council,

W. LEE WARNER,

Acting Under-Secretary to Government.

Poona, 9th July 1875.