



Bombay Government Gazette.

Published by Authority.

SATURDAY, 26TH DECEMBER 1885.

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. 6 of 1885.

A Bill to provide for the Revenue Administration of Estates held by certain superior land-holders in the districts of Ahmedabad, Kaira, Broach, and the Páñch Maháls, and to limit the further operation of Bombay Act VI. of 1862.

Whereas it is expedient to remove doubts as to the applicability of certain portions of the Bombay Land Revenue Code, 1879, to estates held by certain superior land-holders in the districts of Ahmedabad, Kaira, Broach and the Páñch Maháls, and to make special provision for the revenue administration of the said estates and for the partition thereof; It is enacted as follows:—

PART I.—PRELIMINARY.

1. This Act may be cited as "The Gujarát Tálukdárs' Act, 1885."
- Short Title.

It extends only to the districts of Ahmedabad, Kaira, Broach and the Páñch Maháls.

2. In this Act, unless there be something repugnant in the subject or context:

(1) "Tálukdár" includes a thákur, mevási and kasbáti and such other classes of land-holders as Government may by notification in the *Bombay Government Gazette* from time to time declare to be tálukdárs for the purposes of this Act;

(2) "registered tálukdár" means a sole tálukdár, or the "registered tálukdár." eldest or principal of several co-sharers of a tálukdári estate, whose name is authorizedly entered in the Government records as

holding such estate, or as the representative of the several co-sharers; holding the same;

(3) "jama" means land-revenue payable by a tálukdár to Government;

"jama."
"alienation." (4) "alienation" means a transfer of ownership;

(5) any word or expression which is defined in the Bombay Land Revenue Code, 1879, and is not hereinbefore defined, shall be deemed to have the meaning given to it by that Code.

Bom. Act V. of 1879.

Expressions defined in the Bombay Land Revenue Code.

Expressions defined in the Bombay Land Revenue Code, 1879, and is not hereinbefore

defined, shall be deemed to have the meaning given to it by that Code.

3. In section 114 of the Bombay Land Revenue Code, 1879, the words "or in a tálukdári estate" are repealed.

Bom. Act V. of 1879.

Repeal of part of s. 114, Bombay Act V. of 1879.

the words "or in a tálukdári estate" are repealed.

PART II.—SURVEY AND SETTLEMENT.

Revenue Survey.

4. It shall be lawful for the Governor in Council, whenever direct survey of a tálukdári estate may seem expedient, to direct a revenue survey or a revised revenue survey of any tálukdári estate under the provisions of the Bombay Land Revenue Code, 1879, applicable to such surveys.

Bom. Act V. of 1879.

Record of Rights.

5. The Settlement Register prepared by the survey officer under section 108 of the said Code on the occasion of making any such survey shall contain the following particulars (namely),

Bom. Act I. of 1880, s. 16. Act XIX. of 1873, ss. 62, 63.

Settlement Register of a tálukdári estate what to contain.

by the survey officer under section 108 of the said Code on the

occasion of making any such survey shall contain the following particulars (namely),

(a) the name of the registered tálukdár, and if there are co-sharers, the name of each co-sharer and the extent of each one's interest in the estate;

(b) the area and assessment of each survey number and the name and caste of the person in occupation thereof;

(c) the name and caste of every other person receiving rent in respect of the estate or of any land therein, or receiving any portion of the produce of the estate or of any land therein, or in possession of any interest in the estate or in any land therein;

(d) the nature and extent of the interest of each person whose name is

recorded under clause (b) or clause (c), including a specification of:

(1) the aggregate area over which such interest extends;

(2) the amount and nature of rent, or land-revenue, if any, payable or receivable by each such person;

(3) the basis of such interest, whether grant, contract, custom or other;

(4) the conditions of service or other conditions on which such interest depends;

(e) any other particulars which Government shall from time to time direct.

6. The other records prepared under the said section shall specify: Particulars concerning unseparated and separated co-sharers' respective rights to be specified in other records.

Bom. Act I. of 1880, ss. 18, 19. Act XIX. of 1873, s. 65.

(a) if the village is undivided:

(1) in what manner the profits derived from sources common to the co-sharers are to be distributed amongst them;

(2) the share to be contributed by each co-sharer of the jama, of the remuneration due to the village servants and of other village expenses, of police charges, of the cost of erecting and maintaining boundary-marks and of any other charge to which under any law for the time being in force the co-sharers are liable in common;

(3) the manner in which the co-sharers are to collect from the tenants;

(b) if a partition has been effected and the co-sharers hold their respective shares in severalty:

(4) the extent and limits of each separate share; and

(5) the same particulars in respect of the several sub-sharers, if any, of each such share as are required to be given concerning all the co-sharers when an estate is undivided.

Determination of Disputes.

7. If it appears to the survey officer who frames the said register or other record that there exists any dispute as to any matter which he is bound under this Act to re-

Disputes concerning matters which have to be recorded under last two sections to be determined by survey officer.

Bom. Act I. of 1880, s. 20.

cord therein, he may, either on the application of any of the disputant parties, or of his own motion, investigate and determine such dispute and frame the register or other record accordingly :

Provided that when any such dispute shall appear to the survey officer to have been already finally decided by a court of competent jurisdiction, the entry in the said register or other record shall be made in conformity with such decision.

Settlement Records.

8. When the survey settlement of a Settlement records *tálukdári* estate is by whom to be kept; completed, the said and register and other records shall be kept by the Collector.

So long as the said register and other records are in the time to be corrected. charge of the survey officer, the said officer, and afterwards the Collector, shall cause to be entered therein all changes that occur and every thing that affects any of the rights or interests therein recorded; and shall at any time correct or cause to be corrected any clerical error therein and also any other error which the parties interested admit to have been made in the same.

9. No suit shall lie against Government or against any Bar of suits against Government, &c., to set aside decisions under section 7 or section 9; officer of Government to set aside any decision or order of a survey officer or of a Collector under section 7 or section 8;

but the said register or other record shall from time to time be amended by the survey officer, or, when but effect to be given to decrees obtained by parties *inter se*. the survey settlement is completed, by the Collector, in accordance with any final decree of a court of competent jurisdiction which the parties may obtain *inter se*, on an application, accompanied by a certified copy of such decree, being duly made to the survey officer or Collector for that purpose.

PART III.—PARTITION.

10. Every person who has obtained a final decree of a court of competent jurisdiction declaring him to be entitled to a fractional share of a *tálukdári* estate and every co-sharer whose

name is recorded, as such, in the settlement register prepared in accordance with section 5 and, pending the preparation of the said register, every person whose title to any such share as aforesaid is not disputed by any other person claiming a share in the same estate, may claim that his share be divided from the other shares and be held by him as a separate estate.

Any two or more such co-sharers or persons may make a joint claim that their shares be divided from the other shares and be held by them jointly as a separate estate.

11. Applications for partition shall be made to the *Tálukdári* Settlement Officer or to such other officer as the Governor in Council appoints in this behalf.

12. The *Tálukdári* Settlement Officer, or other officer aforesaid, on receiving an application for partition, shall, if the application be not open to objection on the face of it, publish a notification of the same in the office of the *Mámlatdár* of the *táluka* and at some conspicuous place in the village in which the estate, to which the application relates is situate or in each of the villages comprised in the said estate, as the case may be;

and shall serve a notice on each of the known co-sharers who has not joined in the application, requiring any of them who objects to the partition to appear before him to state his objection either in person or by a duly authorized agent, on a day to be specified in the notice not less than thirty or more than sixty days from the date on which such notice is issued.

13. Where, from any cause, notice cannot be personally served on any co-sharer, the notification so published shall be deemed sufficient notice.

14. If, on or before the day specified, any objection is made to the partition by any sharer and the *Tálukdári* Settlement Officer, or other officer aforesaid, on a consideration of such objection, is of opinion that there is any good and sufficient reason

Bom. Act V. of 1879, s. 110.

Bom. Act V. of 1879, s. 109.

Bom. Act I. of 1880, s. 22.

Act XVII. of 1876, s. 70.

Act XVII. of 1876, s. 71.

Act XVII. of 1876, s. 72.

Act XVII. of 1876, s. 73.

Act XVII. of 1876, s. 69.

why the partition should be disallowed, he may refuse the application, recording the grounds of his refusal.

15. If the objection raises any question of title which has not been already determined by a court of competent jurisdiction, the Tálukdári Settlement Officer, or other officer aforesaid, may either decline to grant the application until the question in dispute has been determined by a competent court, or if no suit is at the time pending in any such court in which the question is likely to be determined, may proceed to inquire into the merits of the objection.

In the latter case the Tálukdári Settlement Officer, or other officer aforesaid, after making the necessary inquiry and taking such evidence as may be adduced, shall pass a decision declaring the nature and extent of the interests of the party or parties applying for the partition and of any other party or parties who may be affected thereby, and directing by whom the costs of the inquiry and of the partition (which shall be recoverable as an arrear of land-revenue) are to be paid.

The procedure to be observed by the Tálukdári Settlement Officer, or other officer aforesaid in any such inquiry shall be that laid down by the Code of Civil Procedure, 1882, for the trial of original suits, and he may, with the consent of the parties, refer any question arising in such inquiry to arbitration, and the provisions of the same code relative to arbitrators shall apply to such references.

16. An appeal shall lie from any decision, or from any part of a decision, passed under the last preceding section by the Tálukdári Settlement Officer, or other officer aforesaid, to the District Court, as if such decision were a decree of a court from whose decisions the District Court is authorized to hear appeals.

Upon such appeal being made, the District Court may issue a precept to the Tálukdári Settlement Officer, or other officer aforesaid, requiring him to stay the partition pending the decision of the appeal.

17. When it has been decided to make a partition, the Tálukdári Settlement Officer, or other officer aforesaid, shall give the parties the option of making the partition themselves, or of appointing arbitrators for the purpose; failing these means of effecting the partition, the Tálukdári Settlement Officer, or other officer aforesaid, shall make it himself.

In making the partition the Tálukdári Settlement Officer, or other officer aforesaid, and any person acting under his orders shall have the same powers to enter on the estate under partition, for marking out the boundaries, surveying the land and other purposes as are conferred on survey officers by the Bombay Land Revenue Code, 1879.

18. A partition, whether made by the Tálukdári Settlement Officer, or other officer aforesaid, or otherwise, shall not be deemed to be complete unless the Tálukdári Settlement Officer or other officer aforesaid has made an order confirming it.

On making such order the Tálukdári Settlement Officer, or other officer aforesaid, shall publish a notification of the fact in the office of the Mámlatdár of the táluka and at some conspicuous place in the village in which the estate which has been divided is situate, or in each of the villages comprised in the said estate, as the case may be; and the partition shall take effect on and from the first day of August next after the date of such notification.

19. If necessary, the Tálukdári Settlement Officer, or other officer aforesaid, may, at any time after the date aforesaid, order delivery of the share, or any portion of the share, allotted to any co-sharer to be made to him in the manner in which delivery of the same might be ordered by a Civil Court, under the Code of Civil Procedure, 1882, in execution of a decree;

and if, in executing the order of the Tálukdári Settlement Officer, or other officer aforesaid, the officer charged with

Act XVII. of 1876, s. 76.

Act XVII. of 1876, s. 78.

Bom. Act V. of 1879.

Act XVII. of 1876, s. 91.

Act XVII. of 1876, s. 74.

Act XIV. of 1882.

Act XVII. of 1876, s. 75.

Act XIV. of 1882.

the execution thereof is resisted or obstructed by any person, or if a co-sharer is resisted or obstructed in obtaining possession of the share or of any portion of the share allotted to him, the Tálukdári Settlement Officer, or other officer aforesaid, shall proceed in the manner in which, by section 202 of the Bombay Land Revenue Code, 1879, a Collector is authorized to proceed for the purpose of inquiring into the reasonableness of any resistance or obstruction to the execution of an order made under that section and of preventing the continuance thereof.

Bom. Act V. of 1879.

Act XVII. of 1876, s. 92.

20. An appeal against the decision of the Tálukdári Settlement Officer or other officer aforesaid confirming a partition shall lie to the Commissioner of the Division within one year from the date on which such partition takes effect.

Appeals against order confirming partition to the Commissioner.

Act XVII. of 1876, s. 95.

21. No civil court shall entertain any suit or application for partition of a tálukdári estate: Provided that nothing in this section shall be deemed to affect the jurisdiction of Her Majesty's High Court of Judicature at Bombay.

Civil courts barred from entertaining suits or applications for partition.

PART IV.—REVENUE ADMINISTRATION.

The Tálukdár's Jama.

Bom. Act V. of 1879, s. 52.

Bom. Act I. of 1880, s. 24.

22. If a tálukdár's estate is not wholly or partially exempt from land-revenue and its liability to payment of land-revenue is not subject to special conditions or restrictions, the jama payable to Government in respect thereof shall, if a survey settlement has been extended thereto, be the aggregate of the survey assessments of the lands composing such estate minus such deduction, if any, as Government shall in each case direct.

Tálukdár's jama how to be calculated.

Bom. Act V. of 1879, s. 102.

The Governor in Council may declare the amount of jama so ascertained fixed for any term not exceeding thirty years.

23. Nothing in this Act shall be deemed to affect the validity of any agreement heretofore entered into by or with a tálukdár and still in force as to the amount of his jama, nor of any settlement of the amount of jama made by or under the orders of Government for a term of years and still in force.

Saving of agreements and settlements in force when this Act passes as to amount of jama.

Every such agreement and settlement shall have effect as if this Act had not been passed.

24. The registered tálukdár shall be primarily responsible for the jama of his village, and if there are sharers, all the co-sharers shall be jointly and severally responsible therefor.

Responsibility for jama.

Bom. Act V. of 1879, s. 136.

Act XVII. of 1876, s. 108.

If the registered tálukdár fails to pay the jama according to the rules legally prescribed in that behalf it may be recovered from his co-sharers, if any, or from the inferior holder or person in actual occupation of the estate or portion of the estate in respect of which jama is due.

Liability of other persons if tálukdár makes default.

When jama is recovered from any such sharer, inferior holder, or other person, he shall be allowed credit for all payments which he may have made to the tálukdár at or after the prescribed or usual times of such payment and he shall be entitled to credit in account with the tálukdár for the amount recovered from him.

Credit to be allowed for recoveries made from other persons.

25. When a partition has taken place and a tálukdári estate is held in severalty the jama payable in respect of each separate portion into which the same has been divided shall be determined by the Collector, and thereupon each such portion shall for the purposes of the last preceding section be deemed to be a distinct estate:

Distribution of jama in case of partition.

Act XVII. of 1876, ss. 30 and 89.

Provided that the aggregate jama payable in respect of the several portions into which the estate has been divided shall not exceed the jama which would be leviable from the entire estate if still undivided.

Management of Tálukdárs' Estates by Government Officers.

26. If owing to disputes among the sharers in any tálukdári estate, or for other cause, the Governor in Council shall deem that there is reason to apprehend danger to the peace of the country or injury to the well-being of the inferior holders, he may direct the Collector to cause such estate to be attached and taken under the management of

Management of tálukdári estate may be assumed by Collector in certain contingencies.

himself or any agent whom he appoints for this purpose.

When any estate is so attached and taken under management, the management thereof shall not be restored to the tálukdár until it is shown, to the satisfaction of the Governor in Council, that no reason for any such apprehension as aforesaid any longer exists.

Act XVII. of 1876, s. 79.

27. With the sanction of the Commissioner, the Tálukdári Settlement Officer, or other officer appointed by Government may hold the estate in which partition is being effected, under his own management, pending the completion of the partition.

28. When any tálukdári estate is taken under management by Government officers under either of the two last preceding sections, the provisions of section 160 of the Bombay Land Revenue Code, 1879, shall be applicable thereto.

Bombay Act V. of 1879.

All surplus receipts, if any, which accrue during such management, after defraying the costs of the management, including the payment of the current land-revenue and of all arrears thereof, and the cost of the extension to the estate of a revenue survey, if the Governor in Council directs, or has before directed, the extension of a revenue survey thereto under section 4 of this Act, shall be divided amongst the co-sharers in proportion to their respective shares, at such periods as the Tálukdári Settlement Officer or other officer aforesaid shall see fit.

Police and Village Officers and Servants.

Government to fix the number and remuneration of village servants and the strength of police establishment.

29. The Governor in Council may from time to time determine:

- (a) what village officers and servants and police establishment are requisite in each village in a tálukdári estate;
- (b) by whom and under what conditions the village officers and servants shall be appointed, punished, and dismissed;
- (c) what remuneration shall be paid to each such officer and servant.

Village officers and servants shall be remunerated and charges on account of police and of village expenses shall be defrayed by the tálukdár at such rates and at such times as shall from time to time be determined by Government, and in the event of failure by the tálukdár to pay, at the time when the same becomes due, any sum so payable, the said sum shall be recoverable from him, in addition to the jama, as if the same were a part of the jama.

If a partition has taken place and the state is held in severalty the said remuneration and charges shall be payable by and recoverable from the holders of the various portions into which the estate has been divided in proportion to their respective share in the estate.

PART V.—MISCELLANEOUS.

35. No grant of land within a tálukdár's estate revenue-free or at a favorable rate of rent, and no mortgage, charge or lease of a tálukdár's estate, or of any portion thereof or of any share or interest therein, made by the tálukdár after this Act comes into force, shall be valid as to any time beyond such tálukdár's natural life, unless such grant, mortgage, charge or lease is made with the previous written consent of the Tálukdári Settlement Officer, or of some other officer appointed by the Governor in Council in this behalf;

Bar of rent-free grants and mortgage, &c., of a tálukdár's estates beyond tálukdár's own life, except with consent of the Tálukdári Settlement Officer;

and no alienation of a tálukdár's estate or of any portion thereof, or of any share or interest therein, made after this Act comes into force, shall be valid, unless such alienation is made with the previous sanction of the Governor in Council, which sanction shall not be given except upon the condition that the entire responsibility for the jama and for the proportionate share of the remuneration of village servants, village expenses and police charges due in respect of the alienated area shall thenceforward vest in the alienee and not in the tálukdár.

31. No consent or sanction given under the last preceding section shall be deemed to affect the reversionary rights of Government in respect of

Saving of rights of Government under section 3, Bombay Act VII. of 1863.

Act XXI. of 1881, s. 28.

the area alienated, as defined in section 3 of Bombay Act VII. of 1863 (*An Act for the Summary Settlement of claims to exemption from the payment of Government land-revenue, and for regulating the terms upon which such exemption shall be recognized in future, in those parts of the Bombay presidency which are not subject to the operation of Act XI. of 1852 of the Council of India*).

And nothing in the last preceding section shall apply to the

Saving of sections 28 and 24 of Act XXI. of 1881.

property of any thákur to which section 28 of the Broach

and Kaira Encumbered Estates Act, 1881, is applicable, or be deemed to affect the power of the manager of any thákur's immoveable property under section 24 of the said Act.

32. Nothing in sections 60 to 62, both

Applicability of the Land Revenue Code to tálukdárs' villages.

inclusive, 65 to 67, both inclusive, 76, 82, 85, 109, 110, 116,

127 to 136, both inclusive, 163, 216 and 217 of the Bombay Land Revenue Code, 1879, shall be deemed to apply to any estate to which this Act extends.

Bombay Act V. of 1879.

The provisions of the said Code when applied to any such estate shall be subject to the following modifications (namely):—

(a) in section 3, clause (1), the words "the Tálukdári Settlement Officer and every officer appointed by the Governor in Council to exercise any power or perform any duty under the Gujarát Tálukdárs' Act, 1885, and" shall be inserted after the word "means";

(b) in section 54, the words "or under the Gujarát Tálukdárs' Act, 1885," shall be inserted after the figures "136";

(c) in sections 88, 89 and 94, the word "tálukdár" shall be substituted for the words "holder of alienated lands" wherever they occur;

(d) in section 88, the clauses (c) to (f) and the proviso shall be omitted;

(e) in section 111, the word "tálukdár's" shall be substituted for the word "alienated" and the word "tálukdár" shall be substituted for the words "superior holder," and the words "village or" shall be omitted, and after the words "un-alienated lands" shall be inserted the words "not comprised within a tálukdár's estate", and at the end of the section shall be added the words "and provided also that when the estate ceases to be under the management of Government officers, the possession and enjoyment thereof shall revert to the tálukdár, subject to the leases and occupancy-rights, if any, granted by the Collector under this section";

(f) in section 113, clause (8) shall be omitted;

(g) in section 147, the words "or under the Gujarát Tálukdárs' Act, 1883", shall be inserted after the word "section";

(h) in section 150, clause (f), the word "alienated" shall be omitted;

(j) in section 162, the words "at any time within twelve years from the 1st of August next after the attachment" shall be omitted;

(k) generally, the word "tálukdár" shall be substituted for the word "occupant," the words "registered tálukdár" for the words "registered occupant," and the words "tálukdár's holding," or such words to that effect as may be required by the context, for the word "occupancy".

And whereas it is also expedient to limit the period within which fresh estates may be subjected to the operation of Bombay Act VI of 1862 (*for the amelioration of the condition of Tálukdárs in the Ahmedabad Collectorate and for their relief from debt*); It is further enacted as follows:

33. No new declaration shall be made

Limitation of operation of Bombay Act VI. of 1862

under section 1 of the said Bombay Act VI. of 1862 at any time after six months

from the date on which this Act comes into force.

STATEMENT OF OBJECTS AND REASONS.

1. The land-holders commonly called *tálukdárs* are found in only one part of the Bombay Presidency, that is, in the British districts which form the inner border of the arc of native states which shuts in British Gujarát on the north. They have more affinity to the native states than to the British *rayatwári* districts in which they have been included by the accident of history. In fact the estates of some lie partly in British *tálukás* and partly in territory under the political agencies. The *tálukdárs* are historically identical with the smaller chiefs and land-holders under political management in *Káthiáwár* and the *Mahi* and *Rewa Kánthás*. The right of all is of the nature of old proprietary, however it may have been affected under British rule. The larger *tálukdárs* cling to traditions of state and sovereignty, making primogeniture or some form of it their rule of inheritance, and holding in other respects to family customs not in strict accordance with ordinary Hindu law. Their relations with Government again are exceptional. The British Government succeeded to the right of the *Maráthás* to levy a share of the rents collected by each *tálukdár* from his estate. This rent-charge was paid in a lump sum, fixed more by reference to previous payments than on a valuation of the estates, of which few had been surveyed before 1862. In fact at the beginning the Government rent-charge was simply the same thing as the tribute of states in *Káthiáwár* or *Mahi Kántha*, though it afterwards came to be treated as something very different.

2. In character the *tálukdárs* of Gujarát closely resemble similar classes in other parts of India. *Zamindárs* everywhere have been unwilling or unable to adjust their habits to suit new institutions, and have fallen into debt under British rule. The impending extinction of the *Ahmedabad tálukdárs* under debt, and the admission that from misconception their rights had been treated in rather a summary and injurious way, led to the passing of Bombay Act VI. of 1862, which proposed to purge them once for all of debt, and start them again in life as admitted proprietors of their estates under a reasonable assessment to land-revenue made after a rough survey of their lands.

3. This Act has been successful, but it only dealt with the matters above stated. It was not extended to the *mewásis* of *Parántij* in *Ahmedabad*, nor has any such Act been applied to the district of the *Páñch Maháls*. A similar Act (XXI. of 1881) is in force for the *tálukdárs* of *Kaira* and *Broach*. There are land-holders in all the districts named, of whom there is no reason to believe that their history and position differ materially from that of the *Ahmedabad tálukdárs*.

4. In the North-West Provinces and *Oudh*, matters affecting similar classes of land-holders and outside the scope of the *Incumbered Estates Acts* are dealt with in *Land Revenue Acts*. But in the Bombay legislation which deals with landed interests, such tenures as that of the *tálukdárs* are not specifically recognized. The *Land Revenue Code* (Bombay Act V. of 1879) makes an exhaustive division of all land, for the purposes of the Act, into "alienated" and "unalienated." Now the estates of *tálukdárs* and the like are not alienated, the interpretation of which term is "transferred, in so far as the rights of Government to payment of the rent or land-revenue are concerned, wholly or partially to the ownership of any person," for the *tálukdári* estates have never been in the hands of Government to transfer, and they are liable to any revenue payment or rent-charge which Government thinks it equitable to impose. In other words, the *tálukdárs* are not grantees. Nor again are their estates unalienated "occupancies" in the full sense of all that the *Land Revenue Code* enacts as to such holdings.

5. Neither is it correct to say that the *tálukdárs* hold on a "privileged tenure." Government has not given up any part of its right to payment of land-revenue. It is true that the *tálukdárs* do not pay the full rates of assessment fixed on the same data as those levied from Government *rayats*, but on the other hand the *tálukdárs* have by usage to defray the village charges for police and other village servants, which Government *rayats* do not. If Government were to undertake all the village charges in *tálukdárs'* estates, there is no reason in

law or equity why Government should not then levy the full assessment rates as land-revenue, or at least those rates on cultivated area or with an allowance for waste. It is therefore a practical view that something less than the full assessment rates is levied in consideration of the administrative charges defrayed by the *tálukdárs*. And thus a useful principle is reached, *viz.*, that the full rates will be leviable when those charges cease to be so defrayed, but not before.

6. The peculiarity of the tenure of *tálukdárs* and similar land-holders lies in this, that over their landed estates they exercise the proprietary right of the Crown by inheritance, just as the native chiefs and their kinsmen do in *Káthiáwár*. The Government revenue paid by *tálukdárs* was originally a tribute, and the rights of Government are limited to that payment. Government is not the owner of any of the land in these estates, waste or other. But as there is no legal or customary limit to this Government rent-charge, and the *tálukdárs* are now simply private land-holders under British law, there is no objection whatever to treating their relations with Government as payers of land-revenue under the Land Revenue Code, provided that careful regard is had to their peculiar status in fitting them into the system.

7. With the *tálukdárs'* method of settling their rent with their tenants it does not appear necessary to interfere. The general system is *batáí*, or partition of the crop, and it cannot be positively said that cash rents would in all circumstances improve the position of the tenant. Small estates may be managed very well under *batáí*. In the Ahmedabad *tálukdárs'* villages there is a local usage as to the partition of the crops which has been recorded and the record signed by both landlord and tenant, by which the tenants can protect themselves in the civil court. Sections 83, 84 of the Land Revenue Code will be available for them as for Government rayats. Their status will be defined in the record of rights. If there is oppression or disorder, it is proposed to empower the Governor in Council to attach the estate and to retain the management until the *tálukdár* gives guarantees of amendment. During the attachment, the Collector is empowered to settle the estate under section 111 of the Land Revenue Code.

8. The first object then of the proposed enactment is this, that, whereas there is at present no land law applicable to the *tálukdárs'* estates, and whereas it is expedient that their position as payers of land-revenue should be defined and regulated by law, the "Gujarát *Tálukdárs'* Act" will bring them within the scope of the Land Revenue Code, subject to such modifications as are necessary to maintain the peculiarities of their tenure.

9. The Bill empowers the Governor in Council to direct a revenue survey whenever it may seem expedient. It appears reasonable to take this power for administrative purposes and to facilitate the recovery of the Government land-revenue. A survey will not affect the relations between the *tálukdár* and his tenants unless he chooses to use the assessment rates as a standard. And if a survey is effected under section 4 and not in consequence of the attachment of the estate for arrears or because of disputes, the cost will be borne by Government as an administrative charge.

10. Concurrent with the survey will be the preparation of a record of rights, which will be of the greatest value alike to the *tálukdárs*, to their co-sharers and to all holders under them. It will be seen that it is not proposed to bar the jurisdiction of the civil courts in the determination of disputes. Such a provision, so far as it applies to the High Court, could not find place in a Bill to be passed by the local Legislative Council, and it is very desirable that local experience should be available in dealing with this measure. But further, it would not be equitable to bar access to the civil courts unless some organization for judicial enquiry were provided of a much completer kind than that contemplated in the Bill. Sections 7 and 8 therefore do not interfere with the ordinary course of civil justice, but the survey officer will have large opportunities of bringing disputants to terms and removing possible causes of litigation.

11. Part III. of the Bill is drafted to facilitate partition of tálukdárs' estates, and to protect them as far as possible from the ruinous litigation into which they are at present plunged by disputes about shares. This part is based upon the corresponding provisions in the Oudh Land Revenue Act XVII of 1876.

12. Part IV. deals with the relations of the tálukdár with Government as a payer of land-revenue and cognate matters ; makes a very necessary provision for the assumption of management by Government when the peace and prosperity of the tenants are disturbed by violent dissensions among the tálukdárs, as is unbappily very common ; and provides for the payment by the tálukdárs of the cost of village administration.

13. Part V., section 30, restricts grants of small plots out of the estate, and mortgages, charges and leases of the estate by a tálukdár to his life-interest therein, and forbids the transfer of the ownership of the estate or of a village or hamlet or similar part of it from the tálukdár to some other person. But as mortgages, charges and leases may sometimes advantageously enure after the death of the tálukdár who makes them, this may be done with the consent of a responsible officer. And as it may sometimes be expedient to alienate an estate or part of it, this also may be done with the sanction of the Governor in Council, but the alienee will in such case be responsible for the Government rent-charge and cost of village administration, as if he were the tálukdár. These provisions are in furtherance of the accepted policy that these old properties should be protected from dissolution. There is a precedent for limiting the power of a tálukdár to mortgage, charge, lease, or alienate his estate, in Act XXI. of 1881, section 28, which, as part of an Act of the Governor General of India in Council, is saved in the Bill. The form of grant known as jiwai, or maintenance for the tálukdár's kin, will be regulated under this part. Power is therefore taken to regulate and restrict grants for maintenance within suitable dimensions, and also to allow them to continue in force beyond the term of the grantor's natural life, as it is clearly just and proper that maintenance should not be summarily and necessarily withdrawn by force of law on his death.

14. Finally section 37 limits and modifies the application of the Land Revenue Code to the estates to which the Act extends.

15. With regard to the Incumbered Estates Acts in force in Gujarát, applications for the benefit of Act XXI. of 1881 were limited to six months after it was passed. There is no similar limitation of Bombay Act VI. of 1862, but the High Court has ruled that this Act cannot be applied twice to the same estate, and the time has come when a period may be fixed after which fresh estates will no longer be permitted to be brought under its provisions. This period may be six months after the Bill under consideration comes into force. Section 30 will protect any interest in a tálukdár's estate from being sold in execution of a decree, except with the consent of the Governor in Council; and this safeguard, with the protection already afforded to tálukdárs under section 320 *et seq.* of the Civil Procedure Code, constitutes as complete a defence of the tálukdárs against their own imprudence, as it is reasonable for the Legislature to sanction.

(Signed) J. B. PELLE.

24th December 1885.

By order of His Excellency the Right Honourable the Governor in Council,

H. BATTY,

Under Secretary to Government.

Bombay Castle, 24th December 1885.

9
THE



Bombay Government Gazette.

1886.

PART V.

PROCEEDINGS

OF THE

LEGISLATIVE DEPARTMENT, BOMBAY.

Bombay:

PRINTED AT THE GOVERNMENT CENTRAL PRESS.

MDCCCLXXXVII.

CONTENTS TO PART V.

	PAGE		PAGE
Proceedings of the Bombay Legislative Council of the 8th February 1886 .	3	Bill No. 6 of 1886.—A Bill to amend the law for the periodical inspection and the management by competent Engineers of Boilers and Prime-movers in the Presidency of Bombay	64
Ditto ditto of the 14th July 1886 ...	71	Bill No. 7 of 1886.—A Bill to declare and amend the Law relating to Trade Girás Allowance	198
Ditto ditto of the 7th August 1886 ...	95		
Ditto ditto of the 14th August 1886 ...	137		
Ditto ditto of the 6th October 1886 ...	176		
BILLS.			
Bill No. 1 of 1886.—A Bill to remove certain doubts in the construction of Section 9 B of the Bombay Municipal Acts of 1872 and 1878	1	REPORTS OF SELECT COMMITTEES.	
Bill No. 2 of 1886.—A Bill to provide for the protection of Pilgrims at the Port of Bombay	9	Report on Bill No. 4 of 1886 (a Bill to vest the Port of Karáchi in a Trust)	106
Bill No. 3 of 1886.—A Bill to enable the Municipal Corporation of the City of Bombay to raise increased revenue from Town-duties	12	Second Report on Bill No. 2 of 1885 (a Bill to amend Bombay Act III of 1874)	165
Bill No. 4 of 1886.—A Bill to vest the Port of Karáchi in a Trust	14	Report on Bill No. 2 of 1886 (a Bill to provide for the protection of Pilgrims at the Port of Bombay)	172
Bill No. 5 of 1886.—A Bill to vest the Port of Aden in a Trust	43	<i>Erratum.</i> —In Section 44 of the Karáchi Port Trust Bill (No. 4 of 1886) as amended by the Select Committee, at page 108 of the <i>Bombay Government Gazette</i> of 26th August 1886	136
