

## THE



# Bombay Government Gazette.

Published by Authority.

THURSDAY, 23<sup>RD</sup> FEBRUARY 1871.

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

## PART VI.

### BILLS OF THE GOVERNMENT OF INDIA.

#### LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 17th February 1871, and was referred to a Select Committee with instructions to make their report thereon in a month:—

#### Bill No. 5 of 1871.

*A Bill for the further amendment of the Consolidated Customs Act.*

For the further amendment of the Consolidated Customs Act (No. VI. of 1863); It is hereby enacted as follows:—

1. Section twenty-three of the said Act shall be read as if after the word "exportation" the following words were inserted (that is to say) "by sea or by land, or both by sea and by land."

2. As often as any goods are lodged in a public warehouse or a licensed private warehouse, the warehouse-keeper, or, in the case of the Bengal Bonded Warehouse Association, the Secretary of the said Association, shall deliver a warrant signed by him as such to the person lodging the goods.

Such warrant shall be in the form in the schedule to this Act annexed, and shall be transferable by endorsement; and the endorsee shall be entitled to receive the goods specified in such warrant on the same terms as those on which the person who originally lodged the goods would have been entitled to receive the same.

3. For section one hundred and thirty-seven of the said Act the following section shall be substituted:—

"CXXXVII. Upon the re-export by sea to any Foreign port or place, of any goods, except Salt or Opium, capable of being easily identified, imported by sea into British India from any Foreign port or place, and upon which Duties of Customs have been paid on importation, three-fourths of such Duty shall be repaid as Drawback, and one-fourth shall be retained as reserved Duty:

Provided that, in every such case, the goods be identified to the satisfaction of the Officer in charge of the Custom House, and that the re-export be made within two years from the date of importation, as shown by the Custom House Register, or within such extended term as the Chief Customs Authority of the Presidency or place, on sufficient cause for such extension being shown, in any case determines.

The Governor General in Council may from time to time, by notification in the *Gazette of India*, declare what goods shall for the purpose of this section be deemed to be capable of being easily identified.

No repayment shall be made under this section on account of any article entered in the Export Manifest of the vessel as ship's stores.

Articles on which, though they be not country articles, an Export Duty is chargeable by law, shall not, on re-exportation, be entitled to claim exemption from such Export Duty by reason of their having paid Duty on importation.

But the said Chief Customs Authority may in any such case direct that no reservation of any part of the Import Duty be made on the re-exportation of such articles."

4. This Act shall be read with and taken as Act to be read with Act part of the Consolidated VI. of 1863. Customs Act.

### SCHEDULE.

#### FORM OF BONDED WAREHOUSE WARRANT.

(See Section 2.)

I do hereby certify that \_\_\_\_\_ have deposited in the Warehouse of \_\_\_\_\_ the undermentioned goods \_\_\_\_\_ which goods, \_\_\_\_\_ engage on demand, after payment of rent and incidental charges and Government Dues or Customs chargeable thereon, to deliver to the said \_\_\_\_\_ or their assigns, or to the holder of this warrant to whom it may be transferred by endorsement.

#### STATEMENT OF OBJECTS AND REASONS.

The object of this Bill is to make three amendments in the Consolidated Customs Act, VI. of 1863.

Section 23 of that Act authorises the Government of India to prohibit the exportation or importation of any particular class of goods. To prevent a doubt which has been raised as to the extent of the power thus conferred, the Bill introduces words 'by sea or by land, or both by sea and by land.'

A new section provides that, when goods are warehoused, a warrant shall be delivered to the person lodging the goods, and that such warrant shall be transferable by endorsement. This is now the law as regards the Bengal Bonded Warehouse. The change has been suggested by the Government of Bombay.

Another section, intended to replace section 137 of Act VI. of 1863, provides that the goods on which drawback was allowed shall be easily identifiable; that the Governor General in Council may determine what such goods shall be deemed to be, and that three-fourths (instead of seven-eighths) shall be the amount of drawback, (one-fourth instead of one-fifth) being retained as reserved duty.

(Signed) R. TEMPLE.

The 8th February 1871.

WHITLEY STOKES,

Secretary to the Government of India.

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 17th February 1871, and was referred to a Select Committee with instructions to make their report thereon in a month:—

### Bill No. 6 of 1871.

#### *A Bill to relieve from Incumbrances the Estates of Taluqdars in Broach.*

WHEREAS the majority of the Taluqdárs in Broach are in debt, and their immoveable property is subject to mortgages, charges, and liens; and whereas it is expedient to provide for their relief in manner hereinafter appearing; It is hereby enacted as follows:—

#### I.—PRELIMINARY.

1. This Act may be called "The Broach Short title. Taluqdárs' Relief Act."

Interpretation-clause. 2. In this Act—  
'taluqdár' means a person mentioned in the schedule hereto annexed, and  
'heir' means the person for the time being entitled as heir to a taluqdár.

#### II.—VESTING ORDER.

3. Whenever, within twelve months after the passing of this Act, any taluqdár, or (when such taluqdár is an infant, or of unsound mind, or an idiot) his guardian, committee, or other legal curator, or the person who would be heir to such taluqdár if he died intestate,

or (when such person is an infant, or of unsound mind, or an idiot) his guardian, committee, or other legal curator,

applies in writing to the Governor of Bombay in Council, stating that the taluqdár is subject to, or that his immoveable property is charged with, debts or liabilities other than debts due, or liabilities incurred, to Government, and requesting that the provisions of this Act be applied to his case,

the Governor of Bombay in Council, may by order published in the *Bombay Government Gazette*, appoint an officer (hereinafter called the Manager), and vest in him the management of the immoveable property of or to which the taluqdár is then possessed or entitled in his own right, or which he is entitled to redeem, or which may be acquired by or devolve on the taluqdár or his heir during the continuance of such management.

4. On such publication, the following consequences shall ensue:—

Effect of order. *first*, all proceedings in respect to such debts or liabilities which may then be pending in any Civil Court in British India, shall be barred; and all processes, executions, and attachments for or in respect of such debts and liabilities shall become null and void;

*secondly*, so long as such management continues the taluqdár and his heir shall not be liable to arrest.

Taluqdár freed from arrest. the taluqdár and his heir shall not be liable to arrest for or in respect of the debts and liabilities to which the taluqdár was immediately before the said publication subject, or with which his immovable property or any part thereof was then charged, other than debts due, or liabilities incurred, to Government;

nor shall their moveable property be liable to attachment or sale, under process of any Civil Court in British India, for or in respect of such debts and liabilities other than as aforesaid; and

*thirdly*, so long as such management continues; (a) the taluqdár and his heir shall be incompetent to mortgage, charge, lease, or alienate their immovable property or any part thereof, or to grant valid receipts for the rents and profits arising or accruing therefrom;

and (b) such property shall be exempt from attachment or sale under such process as aforesaid, except for or in respect of debts due, or liabilities incurred, to Government.

And his moveable property from attachment for prior debts. Cessation of his power to alienate. Immoveable property freed from attachment.

### III.—DUTIES OF MANAGER.

5. The Manager shall, during his management of the said property, receive rents and profits, and recover all rents and profits due, in respect thereof; and shall, upon receiving such rents and profits, give receipts for the same.

From the sums so received he shall pay—  
*first*, the Government revenue, and all debts or liabilities being due or incurred to Government in respect of the said property:

*secondly*, such annual sum as appears to the Governor of Bombay in Council requisite for the maintenance of the taluqdár, his heir, and their families:

*thirdly*, the costs of such repairs and improvements of the property as appear necessary to the Manager and are approved by the Governor of Bombay in Council, and the residue shall be applied in discharge of the costs of the management, and in settlement of such debts and liabilities of the taluqdár and his heir and their immoveable property, as may be established under the provisions herein-after contained.

costs of repairs and improvements. Manager and are approved by the Governor of Bombay in Council, and the residue shall be applied in discharge of the costs of the management, and in settlement of such debts and liabilities of the taluqdár and his heir and their immoveable property, as may be established under the provisions herein-after contained.

costs of management. and the residue shall be applied in discharge of the costs of the management, and in settlement of such debts and liabilities of the taluqdár and his heir and their immoveable property, as may be established under the provisions herein-after contained.

may be established under the provisions herein-after contained.

### IV.—SETTLEMENT OF DEBTS.

6. On the publication of the order vesting in him the management of the said property, the Manager shall publish in the *Bombay Government Gazette* a notice in English and Gujarathi, calling upon all persons having claims against the taluqdár or his immoveable property to notify the same in writing to such Manager within three months from the date of the publication.

Notice to claimants against taluqdár. him the management of the said property, the Manager shall publish in the *Bombay Government Gazette* a notice in English and Gujarathi, calling upon all persons having claims against the taluqdár or his immoveable property to notify the same in writing to such Manager within three months from the date of the publication.

He shall also cause copies of such notice to be exhibited at the Mamlatdars' Kachahris in the District or Districts in which the said property lies, and at such other places as the Manager thinks fit.

Copies of notice to be exhibited. District or Districts in which the said property lies, and at such other places as the Manager thinks fit.

7. Every such claimant shall, along with his claim, present full particulars thereof.

Every document on which the claimant founds his claim, or on which he relies in support thereof, shall be delivered to the Manager along with the claim.

If the document be an entry in any book, the claimant shall produce the book to the Manager, together with a copy of the entry on which he relies.

Entries in books. The Manager shall mark the book for the purpose of identification, and, after examining and comparing the copy with the original, shall return the book to the claimant.

If any document in the possession or under the control of the claimant is not delivered or produced by him to the Manager along with the claim, the Manager may refuse to receive such document in evidence on the claimant's behalf at the investigation of the case.

Exclusion of documents not produced. by him to the Manager along with the claim, the Manager may refuse to receive such document in evidence on the claimant's behalf at the investigation of the case.

8. Every debt or liability (other than debts due, or liabilities incurred, to Government) to which the taluqdár is subject, or with which his immovable property or any part thereof is charged, and which is not duly notified to the Manager within the time and in manner herein before mentioned, shall be barred:

Debt or liability not duly notified, to be barred. which his immovable property or any part thereof is charged, and which is not duly notified to the Manager within the time and in manner herein before mentioned, shall be barred:

Provided that, when proof is made to the Manager that the claimant was unable to comply with the provisions of sections six and seven, the Manager may admit such claim within the further period of nine months from the expiration of the said period of three months.

Prevision for admission of claim within further period of nine months. was unable to comply with the provisions of sections six and seven, the Manager may admit such claim within the further period of nine months from the expiration of the said period of three months.

9. The Manager shall, in accordance with the rules to be made under this Act, determine the amount of the debts and liabilities due to the several creditors of the taluqdár and persons holding mortgages, charges, or liens on the said property or any part thereof.

Determination of debts and liabilities. Act, determine the amount of the debts and liabilities due to the several creditors of the taluqdár and persons holding mortgages, charges, or liens on the said property or any part thereof.

10. An appeal against any refusal, admission, or determination under sections seven, eight, or nine shall lie, if preferred within six weeks from the date of such determination, to the Commissioner of Division to whom the manager is subordinate, and the decision of such Commissioner, or of the Manager if no such appeal has been so preferred, shall be final.

Appeal. or determination under sections seven, eight, or nine shall lie, if preferred within six weeks from the date of such determination, to the Commissioner of Division to whom the manager is subordinate, and the decision of such Commissioner, or of the Manager if no such appeal has been so preferred, shall be final.

11. When the total amount of such debts and liabilities has been finally determined, the Manager shall prepare and submit to the Governor of Bombay in Council, a schedule of such debts and

Scheme for settlement of debts and liabilities. determined, the Manager shall prepare and submit to the Governor of Bombay in Council, a schedule of such debts and

liabilities, and a scheme for the settlement thereof; and such scheme, when approved by the Governor of Bombay in Council, shall be carried into effect.

Until such approval is given, the Governor of Bombay in Council may, as often as he thinks fit, send back such scheme to the Manager for revision, and direct him to make such further inquiry as may be requisite for the proper preparation of the scheme.

12. When all such debts and liabilities have been discharged,

or if, within six months after the publication of the order mentioned in section three, the Governor of Bombay in Council thinks that the provisions of this Act should not continue to apply to the case of the taluqdār or his heir,

the taluqdār or his heir shall be restored to the possession and enjoyment of his immoveable property, or of such part thereof as has not been sold by the Manager under the power contained in section nineteen, but subject to the leases and mortgages (if any) granted and made by the Manager under the powers hereinafter contained.

Where the taluqdār or his heir is so restored under the circumstances mentioned in the second clause of this section, the proceedings, processes, executions, and attachments mentioned in section three (so far as they relate to debts and liabilities not settled by the Manager), and the debts and liabilities barred by section eight, shall be revived, and any mortgagee dispossessed under section seventeen shall be reinstated unless his claim under the mortgage has been satisfied;

and in calculating the periods of limitation applicable to such revived proceedings and to suits to recover and enforce such revived debts and liabilities, the time intervening between such restoration and the publication of the order mentioned in section three shall be excluded.

#### V.—POWERS OF MANAGER.

13. The Manager may, from time to time, call for further and more detailed particulars of any claim preferred before him under this Act, and may at his discretion refuse to proceed with the investigation of the claim until such particulars are supplied.

14. For the purposes of this Act, the Manager may summon and enforce the attendance of witnesses and compel them to give evidence, and compel the production of documents by the same means, and, as far as possible in the same manner as is provided in the case of a Civil Court by the Code of Civil Procedure.

15. The Manager may administer an oath in such form as he thinks fit to any person examined before him touching the matters to be inquired into under this Act.

16. Every investigation conducted by the Manager with reference to any matter connected with any such claim, shall be taken to be a judicial proceeding within the meaning of the Indian Penal Code.

And every statement made by any person examined by or before the Manager with reference to such investigation, whether upon oath or otherwise, shall be taken to be evidence within the meaning of the same Code.

17. The Manager shall have, for the purpose of realizing and recovering the rents and profits of the said immoveable property, the same powers as the taluqdār would have had for such purpose if this Act had not been passed.

And if such property, or any part thereof, be in the possession of any mortgagee, the Manager may apply to the Court of the District Judge within whose jurisdiction the property is situate, and such Court shall cause the same to be delivered to the Manager as if a decree therefor had been made in his favour; but without prejudice to the mortgagee preferring his claim under the provisions hereinafter contained.

18. Subject to the rules made under section twenty, the Manager shall have power to demise all or any part of the said property, for any term of years not exceeding twenty years absolute, to take effect in possession, in consideration of any fine or fines, or without fine, and reserving such rents and under such conditions as may be agreed upon.

19. The Manager, with the previous assent of the Governor of Bombay in Council, shall have power to raise any money which may be required for the settlement of the debts and liabilities (other than as aforesaid) to which the taluqdār is subject, or with which his immoveable property or any part thereof is charged,

by demising by way of mortgage the whole or any part of such property for a term not exceeding twenty years from the said publication,

or by selling, with the previous consent of the taluqdār and of the person (being of full age) who would be his heir if he died intestate, by public auction or by private contract, and upon such terms as the Manager thinks fit, such portion of the same property as may appear expedient.

And no mortgagee advancing money upon any mortgage made under this section, shall be bound to see that such money is wanted or that no more than is wanted is raised.

And the receipt of the Manager for any monies paid to him upon any mortgage or sale made under this section, or for any rents or profits received by him under section five, shall discharge the person paying the same therefrom and from being concerned to see to the application thereof.

The power to mortgage conferred by this section shall not be exercisable until six months have elapsed from the publication of the order mentioned in section three.

## VI.—MISCELLANEOUS.

20. The Governor of Bombay in Council may, from time to time, make rules consistent with this Act in all matters connected with its enforcement.

Such rules, when published in the *Bombay Government Gazette*, shall have the force of law.

21. Whenever the Governor of Bombay in Council thinks fit, he may appoint any officer to be a Manager in the stead of any Manager appointed under this Act; and thereupon the management then vested under this Act in the former Manager shall become vested in the new Manager.

Every such new Manager shall have the same powers as if he had been originally appointed.

22. Every Manager appointed under this Act shall be deemed a public servant within the meaning of the Indian Penal Code.

23. No suit or other proceeding shall be maintained against any person in respect of anything done by him *bonâ fide* pursuant to this Act.

24. No petition, application, memorandum of appeal or other proceeding under this Act, shall be chargeable under the Court Fees Act, 1870.

25. Nothing in this Act precludes the Courts of Broach having jurisdiction in suits relating to the succession to or rights of persons claiming maintenance from any immoveable property brought under the operation of this Act, from entertaining and disposing of such suits; but to all such suits the Manager of such property shall be made a party.

26. And whereas doubts have been raised as to the validity of Bombay Act No. VI. of 1862 (for the amelioration of the condition of Talookdars in the Ahmedabad Collectorate, and for their relief from debt) so far as it purports to affect the High Court of Judicature at Bombay, for the purpose of precluding such doubts, it is hereby further enacted that the expression 'Civil Court,' wherever it occurs in the said Act, shall be deemed to include and to have included the said High Court.

## SCHEDULE.

(See Section 2.)

The Thákur of Ahmód.  
The Thákur of Saród.  
The Thákur of Kerwára.  
The Thákur of Dehej.  
The Thákur of Janádra.

## STATEMENT OF OBJECTS AND REASONS.

Five out of the six Taluqdárs of Broach are heavily indebted, and the object of this Bill, which has been prepared at the desire of the Bombay Government, is to provide means for relieving them from their liabilities. The Bill is in substance the same as the measure passed in 1862 by the Bombay Legislature for the relief of the Ahmedábád Taluqdárs. In form it closely resembles the Oudh Taluqdárs' Act (XXIV. of 1870). The opportunity has been taken of confirming the Ahmedábád Act so far as it purports to affect the High Court of Bombay.

(Signed) F. S. CHAPMAN.

The 7th February 1871.

WHITLEY STOKES,  
Secretary to the Government of India.