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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. 1 of 1876.

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, 1876."

Short title.

Extent.

It extends only to the city of Bombay.

2. So much [of Regulation XIX. of 1827 as has not been Regulation XIX. of 1827 already repealed is hereby repealed.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 of 1827 hereby repealed, shall be read as if made to the corresponding portion of this Act.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, 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 of 1827 hereby repealed, shall be deemed to have been commenced under this Act, and shall hereafter be conducted in accordance with the provisions of this Act.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 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 or other mark set up by the officers who conducted the Bombay City Survey hereinafter described, and include any such new mark that may hereafter be set up by the Collector, or under his orders, according to the provisions of this Act;

(4) the words "superior holder" signify the person having the highest title under Government to the land in respect of which land revenue is payable.

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.

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.

6. The Collector shall have as many His Assistants and other Establishment pointed. subordinate to him as the Governor in Council, under the general control of the Governor General in India in Council, may from time to time sanction, and their appointments shall be made in such manner as the Governor in Council may direct.

The duties of the said Assistants and other subordinates of the Collector shall be 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 of his powers under this Act, or under any law which the Governor in Council is able to repeal or affect, 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 may from time to time be prescribed by Government, to fine, reduce, suspend or dismiss any of his Assistants or other subordinates.

Part III.—Assessment and Collection of Land Revenue.

8. It shall be the duty of the Collector, subject to the orders of Government, to fix and to levy the assessment for land revenue.

Land revenue to be fixed and levied by the Collector.

When there is no right on the part of the superior holder in limitation of the right of Government to assess, the assessment shall be fixed at the discretion of the Collector subject to the control of Government. When there is a right on the part of the superior holder in limitation of the right of Government, in consequence of a specific limit to assessment having been established and preserved, the assessment shall not exceed such specific limit.

9. The settlement of the assessment of each portion of land to the land revenue shall be made with the superior holder of the same.

Settlement of assessment with whom to be made.

If the said superior holder 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 superior holder of the land, the settlement may be made with the person actually in

possession of the land; and any assessment so fixed shall be binding upon the rightful superior holder of the land. Any payment made by the person in possession in accordance with the provisions of this Act shall be deemed to have been made on behalf of the superior holder.

10. The superior holder of land, or, in his absence, the person actually in possession, shall be liable in person and property for the land revenue due upon the holding.

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 superior holder 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 superior holders of land paying revenue, or in their absence persons in possession, 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 superior holder or person in possession, as the case may be, shall, for the space of twenty 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 immovable, 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.

Collector's decision to be acted on in the first instance.

But may be stayed on security being furnished.

All compulsory process to cease

on his paying or on payment of demand under protest,

on his instituting a suit before the Revenue Judge to contest the legality of the demand, and furnishing security.

15. All compulsory process against a defaulter shall cease:

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, nor 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

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

of this Act for the attachment and sale of the property of defaulters, by the person in respect of whose property such warrants

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

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.

Part IV.—The Revenue Judge.

Senior Magistrate to be Revenue Judge.

17. The Senior 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.

Suits before the Revenue Judge how to be conducted.

An appeal shall lie against a decree passed by the Revenue Judge in any such suit to the High Court on its Appellate Side, and shall follow the same rules as would be applicable under any law for the time being in force to appeals from the decrees of a District Court in original suits 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.

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 taken as *prima facie* evidence for all proceedings under and for all the purposes of this Act: Provided that the Collector may, on the application of the parties interested in such lands, and shall in pursuance of a decree or order of a competent Court, 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 superior holder 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.

Responsibility for maintenance and repair of boundary marks.

21. It shall be lawful for the Collector or for any of his Assistants, or other 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.

Collector or his subordinates may enter upon lands.

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 superior holder or in his absence the person in possession of any land, of which such mark designates the boundary, a requisition in writing signed by the said Collector, calling on such superior holder or person in possession to renew, or repair, the said mark, at his own expense, within 15 days from the date of the service of such requisition.

Collector may require superior holders of land to renew or repair survey marks thereon.

Requisition how to be made.

23. If the said survey boundary mark be not renewed or repaired, within the said period, to the Collector's satisfaction, it shall be law-

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

ful for the Collector, or any of his Assistants, or other subordinates, or other person 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 superior holder or person in possession, 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 unoccupied lands within the city of Bombay, and every unoccupied portion of the foreshore below high-water mark, 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, 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.

Part VII.—Encroachments.

26. In the event of any encroachment 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, with the previous sanction of Government, and if the person making the encroachment so desire, to charge the said person a sum not exceeding five times the value of the land so encroached upon, and to fix an assessment not exceeding five times 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.

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27. For the purposes of the preceding 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. And the annual revenue of any such land shall be assessed at the same rate as the land revenue of similar land in the vicinity.

28. In the case of any encroachment, made within 20 years before the passing of this Act, the Collector may with the sanction of Government charge the person who made such encroachment, or who is in occupation of the land so encroached upon, a sum not exceeding double the value of the said land, and fix an assessment not exceeding double the ordinary annual land revenue thereon, and recover arrears of land revenue at the same rate from the date when the encroachment was made.

29. For the purposes of the last preceding 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 *primâ facie* be held to be an encroachment; and the value and land revenue payable in respect thereof, how to be calculated according to the market value of similar land in the neighbourhood, and the land revenue chargeable in respect of the excess shall be calculated at the same rate at which the rest of the holding has been assessed. In case there has been no such holding, the assessment shall be made at such rate as the Collector, with the sanction of Government, may fix.

Part VIII.—Transfer of Lands, &c.

30. Whenever the title to any land, house, or other immoveable property, subject to the payment of land revenue to Government, 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

Value and land revenue how to be calculated.

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

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

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

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

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

In the event of the death of any person in whose name the title to any property is entered in the Collector's records, the person to whom such title shall be transferred as heir or otherwise shall cause notice thereof to be given to the Collector within one year from such death.

31. The notice shall be in the form 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 instrument of transfer, if any, and by a certificate that public notice has been given of the transfer or assignment by beat of batak.

32. Every person neglecting to give 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 ten Rupees in case of holdings paying less than one Rupee as land revenue, and in no other case exceeding Rupees one hundred.

33. Every person transferring the title to any land, house, or other immoveable property, subject to the payment of land revenue to Government, 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 transfer shall have been effected in the Collector's records. But nothing contained in this Section shall be held to diminish the liability of the land, house, or other immoveable property to attachment or sale under the provisions of Section 13 of this Act.

34. Whenever any dispute or question shall arise with respect to the making or completion of any entry or transfer in the records of the Collector of or relating to any land, house, or other immoveable property, subject to the payment of land revenue to Government, the Collector shall summon all the parties interested in such entry or transfer, and shall call for such evidence, and examine such witnesses, as he shall consider necessary, and shall thereupon decide summarily what entry shall be made in his records in respect of such land, house, or other immoveable property. If at any time a certified copy shall be produced to the Collector of an order of a competent Court determining the title to any such land, house or other immoveable property, the Collector shall amend his records in conformity with such order.

35. The registration or transfer of any title 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 transfer is made or registered.

Part IX.—Procedure.

36. The provisions of the Civil Procedure Code in force 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.

37. All arrears of rent payable by any 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.

38. 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.

39. 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.

40. Subject to such rules and the payment 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, from such maps, registers, and records, or certified copies thereof, shall be given to all persons applying for the same.

41. It shall be lawful for the Governor 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 Instrument.)

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.						REMARKS.
			Of what it consists.	Situation.	Collector's No.	Bombay City Survey No.	Dimensions of land.	Boundaries.	

(Signed) A.B.

SCHEDULE C.

(Form of Notice of Transfer to be given under Section 30 of this Act when the transfer has been effected by Instrument.)

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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.	Date of Instrument.	Name of Vendor or Assignor.	Name of Purchaser or Assignee.	Amount of consideration.	DESCRIPTION OF THE PROPERTY.					If Instrument has been registered, the date of Registration.	REMARKS.
					Of what it consists.	Situation.	Collector's No.	Bombay City Survey No.	Dimensions of land.		

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(Signed) A. B.

STATEMENT OF OBJECTS AND REASONS.

The Governor General having withheld his assent to Bill No. 2 of 1875 of the Bombay Legislative Council, which was passed on the 23rd March 1876, and received the assent of His Excellency the Governor of Bombay on the 1st April 1876, on the ground that Section 6 of the Bill, which purported to authorize the Collector of Bombay to delegate any of his powers under "any law for the time being in force", conflicted with the Stamp Act XVIII. of 1869 (an Act of the Governor General in Council), which expressly confers on the Collector of Bombay (see Section 3, para. 9) the important executive and quasi-judicial powers specified in Section 5, Clause (b) 24, 39 and 45 of that Act, and which (far from authorizing him to delegate any of these powers) impliedly forbids him to do so, it has become necessary to introduce the present Bill in such a modified form as to meet the objection raised. The Bill now published, remains in all essential particulars the same as that which passed the Local Council for making Laws and Regulations, with the exception that for the words "any other law for the time being in force", which occurred in Section 6 of Bill No. 2 of 1875, the words "any law which the Governor in Council is able to repeal or affect" have been substituted.

(Signed) E. W. RAVENSCROFT.

29th June 1876.

By order of His Excellency the Governor in Council,

G. C. WHITWORTH,
Acting Under-Secretary to Government.

Poona, 30th June 1876.