


Bombay Government Gazette.

Published by Authority.

MONDAY, 8TH JULY 1901.

 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.

(To be translated into Maráthi, Gujaráti and Kánarese, and the translations to be published in the "Bombay Government Gazette". The dates of publication to be reported.)

The following Report of the Select Committee of the Council of His Excellency the Governor of Bombay on the Bill to amend the Bombay Land Revenue Code, 1879, and the Bill as amended by the Select Committee, are, in accordance with Rule 35 of the Rules for the conduct of business at Meetings of the Council, published for general information :—

*Report of the Select Committee appointed to consider Bill No. IV of 1901
(A Bill to amend the Bombay Land Revenue Code, 1879).*

We, the undersigned, members of the Select Committee to which the Bill to amend the Bombay Land Revenue Code, 1879, was referred, have carefully considered the Bill, and have now the honour to submit this report, with the Bill as amended by us annexed thereto.

2. The Bill has been to a considerable extent revised and re-arranged so as to avoid ambiguity. Most of the amendments have been suggested and drafted by the Remembrancer of Legal Affairs with that object. None of them affect the principles of the Bill and the majority are merely verbal and require no explanation. The reasons for the adoption of the rest are briefly stated in the following paragraphs of this report.

3. *Clause 3, sub-clause (1).*—As Section 48 is being amended, we have taken the opportunity to insert a verbal amendment in sub-clause (1), which will bring it more in consonance with the wording of the second and third paragraphs of that section.

4. *Clause (3), sub-clause (2).*—It is desirable that the rules mentioned should (as the existing rules do) specifically provide for the mode of *fixing*, as well as the periodical revision of, the assessment.

5. *Clauses 4 and 5* have been transposed, and the proposed new Section 68A has been put as a proviso to Section 68, as this seems a preferable form in which to make the required amendments.

6. *New Clause 6.*—From the wording of Section 56 of the Code as it now stands, it is not certain that an occupancy which after forfeiture is restored to the occupant or disposed of otherwise than by sale would be free from incumbrances and rights before created by the occupant. As the land on forfeiture becomes the absolute property of Government, there is manifestly no reason why the incumbrances and rights before created by the occupant should revive when it is disposed of otherwise than by sale. We have amended Section 56 so as to make it clear that an occupant to whom forfeited land has been restored or transferred otherwise than by sale will have the same rights as if he had purchased it.

In order, however, to provide as far as is practicable against the possibility of an occupancy or an alienated holding being declared forfeited and disposed of without the fact coming to the knowledge of persons who might otherwise avail themselves of the remedies against forfeiture contained in Sections 80 and 81 of the Code, we have thought it advisable to add a proviso to Section 153, under which the Collector must, prior to a declaration of forfeiture, issue a proclamation and notices, as in the case of sales of immoveable property (*vide* new Clause 15).

7. *New Clause 9.*—Although an occupancy which is not transferable without the previous sanction of the Collector could not apparently be attached and sold by order of a Court without such sanction, we consider it desirable that it should be distinctly provided that such occupancy shall not be liable to the process of any Court unless sanction to transfer is granted by the Collector; and also, in order to prevent difficulties from Courts acting in ignorance of the condition annexed to any such occupancy, that the Court should be required, on receipt of a certificate from the Collector that the occupancy has been transferred without his sanction, to remove attachment or set aside the sale of it. We have added a proviso to Section 70 on the lines of Section 10 of Bombay Act III of 1874 to effect these objects.

8. *Clause 9 (new Clause 11).*—We have altered the form of the proposed proviso to Section 73, as we consider it desirable that the declaration in cases of the kind contemplated should be made by a Government notification rather than by a proclamation of the Collector; and we have added a clause on the lines of Section 24 of the Punjab Alienation of Land Act, 1900, enabling Government to exempt as occasion may require particular lands or persons from any such restriction on transferability.

9. *New Clause 12.*—The amendments proposed in Clauses 6 and 7 (new Clauses 7 and 8) of the Bill, empowering the Collector to evict summarily in the cases specified, have been embodied in a new Section 79A, as a more appropriate position in the Code for these provisions.

10. *New Clauses 14 and 16.*—We think it desirable that it should be the duty of the Collector to take measures for the construction and laying out of boundary-marks, where they are required, as well as for their maintenance and repair; and that it should be placed beyond doubt that rules for the maintenance of boundary-marks can be framed under Section 214. We have accordingly suggested slight additions to Sections 124 and 214.

11. We approve of the remaining clauses of the Bill and recommend that the Bill as amended by us be passed into law.

12. We are of opinion that this report and the Bill as now amended should be translated into Maráthi, Gujaráti and Kánarese and published in the *Government Gazette*.

(Signed)	J. MONTEATH.
(")	J. W. P. MUIR-MACKENZIE.
(")	A. CUMINE.
(")	CHUNILAL V.

Poona, 28th June 1901.

Minute of dissent by the Honourable Mr. G. K. Gokhale and the Honourable Mr. S. A. Chhatre.

We regret we are unable to sign the report which a majority of the members of the Select Committee have adopted. The Bill, we fear, has little to recommend it beyond the intentions of Government. At the same time it is obviously capable of being so worked as to revolutionize the existing land tenure over a large and constantly-increasing area of the Presidency. Its leading principles are open to serious objection; and its introduction at the present juncture has been widely misunderstood and has been attended with results which all must deplore. The public have had hardly any time to examine the precise character and scope of the measure and formulate their objections—the Bill having been first published only on the 18th May last, and that too simply in the English language. Meanwhile a vague feeling of panic—perfectly unwarranted so far as the intentions of the Government are concerned—prevails everywhere both among agriculturists and *sāvkhārs*, the former imagining that the Bill threatens their proprietary rights over their holdings and the latter being under the impression that it will eventually lead to a partial confiscation of their property. Under the circumstances we feel bound to recommend that the Bill should be dropped altogether or that, at any rate, its further consideration should be postponed till next year.

(2). There is no doubt that the agrarian situation in the Presidency at the present moment demands the most anxious attention of Government. A succession of calamitous seasons—unprecedented in the history of the Presidency—have, besides causing untold suffering to millions, reduced the bulk of the agricultural population to very sore straits. Government have, no doubt, done much to relieve immediate suffering; but they feel, and very properly feel, that mere temporary palliatives cannot meet the requirements of the situation; and the question of the hour with them is how best to help the broken peasantry not merely to tide over the present crisis, but to secure to it, as far as possible, a clean fresh start in life again. The idea of Government seems to be that it is not so much the unfavourableness of seasons or the amount or rigidity of the State demand, as the Ryots' habit of reckless borrowing in normal years that is responsible for his difficulties and sufferings in years of drought. They believe that the survey tenure, introduced more than half a century ago,—under which the holdings are both heritable and transferrable—has been a mistake in the case of large numbers of agriculturists, as it has only encouraged their improvidence and turned many of them into mere serfs of money-lenders. Government, therefore, think it desirable to try in place of the existing survey tenure, another on a non-proprietary basis, under which the holder will not have the power to alienate his holding in any way without the express sanction of Government. And they propose to take power to substitute this inferior tenure, wherever they please and wherever they get a chance, in the exercise of their executive discretion.

(3). In considering the proposals of Government, five questions principally suggest themselves:—(1) Are Government correct in their analysis of the Ryots' difficulties? (2) Is the proposed experiment likely to prove a remedy? (3) What harmful consequences may be feared from the creation of the new tenure? (4) Can Government create such a tenure in the case of forfeited lands, consistently with their past declarations and the obligations of good faith, and in accordance with the working theory of land administration in the Presidency? (5) Is the method adopted for creating the new tenure free from objection? Of these we will deal with the last question first, as it involves considerations of great constitutional importance.

(4). We are strongly of opinion that the proposal to empower Government to give waste, relinquished or forfeited lands on such leases as they, in the exercise of their executive discretion, think best, is open to grave objection. That it has been the practice of Government to grant land on short leases and without the power of alienation in special cases in Gujarāt, Khāndesh and elsewhere, though such a course is not authorized by the existing law, is no reason why the practice should be legalized in general terms. We think it is unsafe and not in harmony with the spirit of British administration that such vast powers should be conferred upon the Executive Government and that a most important branch of the administration of the Presidency should be removed from the regulation and control of express statutory provisions and put simply under the direction of executive authority. In no Province in British India is the choice of the land tenure thus left

to the discretion of the Executive Government. Thus in the Punjab, when it was deemed expedient to create a special tenure for waste lands in the Chinab Valley, Act III of 1893 was passed by the Supreme Legislature for the purpose and no such power to create the tenure in the exercise of executive discretion was conferred on the Government. In our Presidency too, when it was decided to constitute such a special tenure in parts of Sind, the Legislature was appealed to and Act III of 1897 was passed dealing with the matter. No case has been made out by Government for demanding such extraordinary powers in the present instance, and we think that there is no need for conferring these powers, as the Legislature is always at hand to assist the executive whenever special legislation is found to be necessary. It has been estimated that if the proposed Bill is immediately passed into law, a vast area—about one-third or one-fourth of the total cultivable area of the Presidency—will come at once under the operation of its provisions; and this area will steadily increase, as in course of time more and more holdings come back into the hands of the State owing to forfeitures or relinquishments. We are unable to contemplate without grave apprehension the prospect of such a vast extent of land being left at the free and unfettered disposal of Government—to be given on such leases as they, in the exercise of their executive discretion, may deem proper. The unsettling effect on the public mind of such a surrender by the Legislature of its proper functions in favour of the Executive is not difficult to foresee. A general sense of insecurity in regard to land tenure will come to prevail in the Presidency—the failure to pay a single year's assessment in time enabling the Executive to force upon the occupant what lease they please. Such insecurity, such impairing of public confidence in a matter affecting the material interests and the contentment of millions of people is most undesirable, and we therefore recommend that whatever new tenure Government may wish to create and whatever terms Government may desire to attach to leases granted under the new tenure should be clearly specified in the Bill, so that the public may know the extent of its legal rights as also of the powers of Government in the matter.

(5). The next question on which we desire to offer a few observations is how far Government are at liberty to create the new tenure in the case of forfeited lands. When Government seize lands, in respect of which the State demand has not been paid, the power to forfeit is exercised by Government to realize, if possible, the assessment which is due to them. For this purpose the occupancy rights of the land may be sold by Government to the highest bidder; but it is provided that if a sum, in excess of the amount, which is in arrears, is realized by such sale, the surplus shall be paid to the defaulting occupant. When, however, no sale can be effected, Government have the power to dispose of the holding in such other manner as they please. We are of opinion that this procedure is in harmony with the generally-accepted theory of land administration in British India. According to this theory, cultivated land is not the property of Government. Government are only entitled to their assessment as the first charge. On this point, a clear and definite pronouncement was made by the Government of India in a Despatch addressed by them to the Secretary of State in 1880; and we think that this pronouncement is binding on the Local Government, no matter what the views of individual officers may be. "We do not," wrote the Government of India in that year, "accept the accuracy of the description that 'the tenure (of land in India) was that of cultivating tenants, with no power to mortgage the land of the State' and that 'land is the property of the Government held by the occupier as tenant in hereditary succession so long as he pays the Government assessment.' On the contrary, the sale and mortgage of land were recognized under the Native Governments before the establishment of British power and are not uncommon in Native States at the present time, and if such transactions were rarer than under our administration, it was mainly because, the tenure being insecure, the property had little value. It has been one of the greatest objects of all the successive Governments of India since the days of Lord Cornwallis, if not to create property in land, at all events to secure and fortify and develop it to the utmost. The Government undoubtedly is the owner of a first charge, the amount of which is fixed by itself on the produce of all revenue-paying land in India; but over the greater part of the Indian Empire, it is no more the owner of the cultivated land than the owner of a rent-charge in England is the owner of the land upon which it is charged." We think this unequivocal and emphatic declaration on the part of the Supreme Government ought to dispose effectually of the attempt which is from time to time made to claim for the State the ownership of the soil in India. Now if the State is not the owner, land which comes

upon its hands through forfeitures comes to it simply because it must have the means of securing the payment of the "first charge" which the occupant has failed to pay. And it therefore becomes the duty of the State not to derive from the forfeited holding anything in excess of the amount which is necessary to satisfy its own claim. But if Government now acquire the power to give forfeited holdings on such leases as they deem proper, there is nothing to prevent them from requiring the occupants—though they may not do this in the first instance—to pay a rack-rent to the State instead of the present survey assessment, which, in theory at least, is understood to be half the net assets. Again, if these lands be given on short leases, Government, on the expiry of the leases, will be able to appropriate any portion of them for a public purpose without paying any compensation to any one—which means that the power to order a forfeiture will benefit the State more than it strictly should. The scheme of Government thus amounts in practice to a nationalization of forfeited lands, by buying up for the State the rights of old occupants for a year's assessment or whatever the amount in arrears may be. We think that such a course is not in keeping with the past declarations of Government and is incompatible with the existing theory of land administration in British India.

(6) It has been said that Government desire to take power to introduce the new tenure because they are anxious to make what they regard as an "interesting experiment". We regret to observe, however, that as far as we can judge of such an experiment beforehand, it appears to us to be foredoomed to failure. The theory of Government is that the power of free-transfer which the ryot enjoys under the existing land tenure puts him in possession of a large amount of credit which he uses in so reckless a manner that he ends by involving himself hopelessly in debt and then becoming practically the serf of his money-lender. And Government therefore think that by taking away this power of free-transfer from him, his ruinous credit will also be taken away and he may thus be compelled to remain out of debt. This view of the matter, however, appears to us to be based on a serious misapprehension as to what leads the ryot to borrow. The average ryot borrows, because the produce of his holding does not suffice to maintain him and his family, to pay the State demand with rigid punctuality alike in good and in bad years, and to furnish him with the means for meeting the expenses of extraordinary occasions. And if he cannot borrow on the strength of his lands, he will borrow on the strength of his annual crops and thus be as much a serf of the *savkar* as ever. Indeed unless Government introduce greater elasticity into their system of revenue collections, abating at the same time their demand where it is excessive, and unless they make provision for the reasonable needs of the agriculturists in the shape of Agricultural Banks or a more liberal and flexible system of tagái advances, it is impossible to understand how by merely taking away from the agriculturist his power of free-transfer, his lot will be improved. In fact, it is to be feared, as the Deccan Sabha have said, that in a few years the occupants holding under the new tenure "will be face to face with far more serious difficulties than they have had to encounter in the past" and that Government will in all probability think it necessary to "turn them out of their holdings for the non-payment of Government assessment."

(7) But while the chances of the new tenure proving a remedy for the ryots' difficulties are extremely slender, its introduction cannot fail to be attended by several consequences of a very regrettable character. In the first place, agriculturists will now be prevented from asking for suspensions or remissions of land revenue even in bad years by the fear that Government may take the opportunity to force the new tenure on them. It has now been generally admitted that one great defect of the Bombay Land Revenue system is the absence therein of a provision for a liberal scale of suspensions and remissions in years of drought. It was hoped that the pointed manner, in which this defect had of late attracted general attention, would result in the Bombay Government prominently recognizing the claims of this form of relief in their Famine Relief Administration. If the present Bill, however, passes into law, agriculturists will, as a rule, be deterred from coming forward to claim this form of State assistance even in years of great distress, for fear that thereby they may lose their present proprietary rights over their holdings. Another evil which will result from the creation of the new tenure will be the degradation of large numbers of agriculturists from their present proprietary status to that of mere tenants of the State—a moral lowering of position, calculated to take away their sense of independence and responsibility, which cannot fail to produce an unfortunate moral effect

upon their character. When the survey tenure was introduced, it was claimed on behalf of Government that the agriculturists would thereby be removed "from the pupilage and surveillance of Government officers." It is sad to think that after half a century, Government should think it necessary to undo their own work and relegate these men once again to "the pupilage and surveillance" from which they were declared to have been freed. Moreover when the survey tenure was created, Government extinguished the *miras* tenure which was then in existence over large areas in the Deccan. This *miras* tenure was admittedly superior to the survey tenure, inasmuch as the State demand in the case of *mirásddrs* was permanently fixed and their land was besides not liable to forfeiture for non-payment of assessment. To reconcile the public to the extinction of the *miras* tenure, it was urged on behalf of Government that while the *mirásddrs* would under the new system not lose much, the *upari* tenants of the State, who constituted the majority, would be great gainers in that they would enjoy the right of free-transfer for the first time. We therefore think that the present proposal to reduce a large proportion of the agriculturists once more to the position of mere tenants of the State practically violates the understanding on which the people of the Presidency reconciled themselves to the extinction of the old *miras* tenure.

(8) The last observation that we desire to offer in this connection is that it is not by abolishing or restricting the right of free-transfer that the lot of the average agriculturist will be ameliorated. As we have observed above, he borrows because his holding is often too small for his needs. One cause which drives him into the hands of the *savkár* is the rigidity of the State demand which has to be paid alike in good and bad years. "It is evident" said the Deccan Riots' Commission of 1875, "that a revenue system which levies from the cultivators of a district, such as that now dealt with, the same amount yearly without regard to the outturn of the season, must of necessity lead to borrowing. In bad years the ryot must borrow." The Deccan Agriculturists' Relief Commission of 1891-92 endorsed this opinion and suggested a greater elasticity in the matter of revenue collection, the fixing of more suitable dates for the different instalments and other executive measures for mitigating the cast-iron character of the present system. We are not aware that these suggestions have been adopted by Government, though we find the authority of the Commission of 1891-92 quoted in support of the principle of the present Bill. However, these suggestions, even if adopted, would prove only small palliatives. The real remedy for the chronic difficulties of the ryot must be sought in the promotion of non-agricultural industries to relieve the pressure of surplus population on the soil, a better organization of real credit, an abatement of the State demand where it is excessive and a statutory guarantee, in the absence of a permanent settlement of this demand, that the assessment will not be raised at the time of revision unless there has been a rise in prices and that the increase will not be more than a certain proportion of the rise in the latter.

(9) With regard to the proposed amendment of Section 48 of the Land Revenue Code, we fail to understand why it is included in the present Bill. Its proper place is in a general revision of the Land Revenue Code, such as has been admitted by Government to be necessary. Under the existing law, Government have the power to levy a special assessment on building areas (Section 48), to levy a fine for appropriating agricultural land for non-agricultural purposes (Section 65), and to fix a period not greater than 99 years, for which the special assessment shall be in force (Section 102). But they have no power to make rules providing for a periodical revision of such assessment, so that the revision may take place in the case of all buildings and as a matter of course, and it is this power which Government seek to obtain by amending Section 48 of the Code. We understand that the entire non-agricultural value of all unalienated land is claimed by Government as their exclusive property. We do not think that this is a just claim. The fact that there were neither building fines nor special assessments of building areas before 1865 shows that the claim of Government is only an assertion of State land-lordism of a comparatively recent date. As the proposed amendment of Section 48 is calculated to strengthen the hands of Government in enforcing their theory to the fullest extent, we think it our duty not to agree to the amendment till the whole question of the assessment of building areas is placed by Government on a juster and more satisfactory basis.

(Signed) G. K. GOKHALE.

(") S. A. CHHATRE.

Bill No. IV of 1901.

*A Bill to amend the Bombay Land Revenue Code, 1879.**(As amended by the Select Committee on the 21th June 1901.)*

WHEREAS it is expedient to amend the Bombay Land Revenue Code, 1879, in manner hereinafter appearing: It is enacted as follows:—

1. (1) This Act may be called the **Bombay Land Revenue Code Amendment Act, 1901**.

(2) It shall come into force at once.

2. In the Bombay Land Revenue Code, 1879, hereinafter called the Code, in section 3 (9), for the word "vacant" substitute the words "unploughed ridge or" shall be substituted.

3. (1) In sub-clause (b) of the first paragraph of section 48 of the Code, before the words "from which" the words "appropriated for any purpose" shall be inserted.

(2) The following shall be substituted for the second paragraph of the same section 48 of the Code, the following shall be substituted, namely:—

"And the assessment fixed under the provisions of this Act upon any land appropriated for any one of the above purposes shall, when such land is appropriated for any other of the said purposes, notwithstanding that the term, if any, for which such assessment was fixed may not have expired, be liable to be altered and fixed at a different rate by such authority and subject to such rules as to the fixing and periodical revision thereof as the Governor in Council prescribes in this behalf."

4. 5. The following new section shall be inserted in substitution for section 52 of the Code, the following shall be substituted, namely:—

"52. On all lands which are not wholly exempt from the payment of land revenue, or on which the assessment has not been fixed under the provisions of section 102 or 106 the assessment of the amount to be paid as land revenue shall, subject to rules or orders made in this behalf under section 214, except for the purposes of a survey settlement introduced under section 193, be fixed at the discretion of the Collector, subject to rules or orders made in this behalf under section 214, for such period as he may, by general or special orders of Government in this behalf, be authorised to prescribe, and the amounts due according to such assessment shall be levied on all such lands:

Assessment by whom to be fixed. **Proviso.** 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."

5. 4. Section 52 of the Code is hereby repealed:— Provided that it is hereby declared that any Any assessment of land revenue heretofore fixed or intended to be fixed by the Collector, which expressly purports, or may be reasonably held to have been intended, to have been fixed under that section 52 shall be valid and deemed to have been validly fixed under that section as amended by the foregoing section of this Act, and the amounts due according to such assessment shall, until duly revised or altered, continue to be levied.

6. In section 56 of the Code, the words "freed from all tenures, incumbrances and rights created by the occupant or holder or any of his predecessors in title, or in anywise subsisting as against such occupant, or holder," are hereby repealed, and at the end of the section the following shall be added, namely:—

"and such occupancy or alienated holding when disposed of, whether by sale as aforesaid, or by restoration to the defaulter, or by transfer to another

56. **Amendment of section 56.** *and such occupancy or alienated holding when disposed of, whether by sale as aforesaid, or by restoration to the defaulter, or by transfer to another*

and such occupancy or alienated holding when disposed of, whether by sale as aforesaid, or by restoration to the defaulter, or by transfer to another

person or otherwise howsoever, shall be deemed to be freed from all tenures, rights, incumbrances and equities theretofore created in favour of any person other than Government in respect of such occupancy or holding."

7. 6. In section 61 in the penultimate paragraph of section 61 of the Code, thereof, after the words

"any such land" there shall be added the words "or any land the occupancy right in which is not transferable under the provisions of section 68A or 73," and the words "he may have," where they occur before the word "raised" and before the word "erected," shall be deleted are hereby repealed.

8. (1) 7. In sections 67 and 68 of the Code for after the word "terms" the words "or conditions" shall be substituted inserted.

(2). And to section 68 of the Code there the following proviso shall be added the following, namely:—

"and any person who has ceased to be entitled to the use and occupation of his land shall be liable to be summarily evicted by the Collector."

8. After section 68 of the Code shall be added a new section as follows, namely,—

68A. Nothing Provided that nothing in this or any other section Act shall make it, or shall be deemed ever to have made it, unlawful for the Collector at any time to grant at any time permission for such period and on such conditions as he may, subject to the orders of Government, prescribe, to any person to occupy any unalienated unoccupied land, for such period and on such conditions as he may, subject to the orders of Government, prescribe, whether a survey settlement has been extended to such land or not;" and in any such case the occupancy shall, whether a survey settlement has been extended to the land or not, be held only for the period and subject to the conditions so prescribed."

To section 709. of the Code the following proviso shall be added, namely:—

Amendment of section 709. of the Code the following proviso shall be added, namely:—

"Provided that in any case where the occupancy or interest of the occupant in the land is not transferable without the previous sanction of the Collector, and such sanction has not been granted to the transfer which has been made or ordered by the Court or on which the Court's decree or order is founded,

(a) such occupancy or interest shall not be liable to the process of any Court, and such transfer shall be null and void, and

(b) the Court, on receipt of a certificate under the hand and seal of the Collector, to the effect that any such occupancy or interest is not transferable without his previous sanction and that such sanction has not been granted, shall remove any attachment or other process placed on, or set aside any sale of, or affecting, such occupancy or interest in the land"

Cf. Bom. Act III of 1874, sec. 10.

Amendment of section 73.

Power to restrict right to transfer occupancies in special cases.

10. 9. The following shall be substituted for section 73 of the Code, the following shall be substituted, namely:—

"The right of occupancy shall, subject to the provisions contained in section 56, and to any conditions that may be or may have been imposed under section 68A, lawfully annexed to the occupancy, and save as otherwise prescribed by law, be deemed an hereditary and transferable property.

"Provided that it shall be competent to the Collector upon the introduction of an original survey settlement into any tract or village, which shall have been specified in a notification published by Government in that behalf, to proclaim, in such manner as may be prescribed by Government, that every or any occupancy within the limits of such tract or village shall not after the date of such proclamation be transferable by private contract, or by sale under the decree or order of a Court, without the previous sanction of the Collector"

11. After section 73 of the Code the following section shall be inserted, namely:—

Addition of a new section 73A.

"73A. (1) Notwithstanding anything in the foregoing section, in any tract or village to which Government may, by Notification published before the introduction therein of an original survey settlement under section 103, declare the provisions of this section applicable, the occupancy or interest of the occupant in the land shall not after the date of such Notification be transferable without the previous sanction of the Collector.

(2) Government may, by Notification in the Bombay Government Gazette, from time to time exempt any part of such tract or village or any person or class of persons from the operation of this section."

12. After section 79 of the Code the following section shall be inserted, namely:—

"79 A. Any person unauthorisedly occupying, or wrongfully in possession of, any land

(a) to the use and occupation of which he has ceased to be entitled under any of the provisions of this Act, or

(b) of which the occupancy right is not transferable without previous sanction under section 73A or by virtue of any condition lawfully annexed to the occupancy under the provisions of section 62, 67 or 68,

may be summarily evicted by the Collector."

13. (1) In the first paragraph of section 122 of the Code, (a) in paragraph 1 for the words "cause to be constructed or repaired" substitute the words "specify, or cause to be constructed, laid out, maintained or repaired," shall be substituted and.

(2) In the second paragraph 2 of the same section between the words "construct" and "or repair," in the first two

places where they occur, insert the words "lay out, maintain," shall be inserted, and in the third place where they occur insert the words "lay out" shall be inserted and.

(3) (e) For the last paragraph of the same section substitute the following shall be substituted, namely:—

"The boundary marks shall be of such description, and shall be constructed, laid out, maintained or repaired in such manner and shall be of such dimensions and materials as may, subject to rules or orders made in this behalf under section 214, be determined by the Superintendent of Survey, subject to the orders of Government in this behalf according to the requirements of soil and climate."

14. In section 124 of the Code, before the words "maintenance and repair" the words "construction, laying out," shall be inserted.

15. To section 153 of the Code the following proviso shall be added, namely:—

"Provided that the Collector shall not declare any such occupancy or alienated holding to be forfeited—

(a) unless previously thereto he shall have issued a proclamation and written notices of the intended declaration in the manner prescribed by sections 165 and 166 for sales of immoveable property, and

(b) until after the expiration of at least fifteen days from the latest date on which any of the said notices shall have been affixed as required by section 166."

16. In clause (g) of section 214 of the Code after the words "survey settlement" the words "and the maintenance of boundary marks" shall be added.

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

A. S. A. WESTROPP,

Secretary to the Council of the Governor of Bombay
for making Laws and Regulations.

Poona, 8th July 1901.