THE OUDH ESTATE'S ACT, 1869

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THE OUDH ESTATES ACT, 1869.

ACTNO. 1 OF 1869.

PASSEDBY THEGOVERNORGENERALOFINDIAINCOUNCIL.

(*Received the assent of the Governor General on the* 12th *January* 1869).

An Act to define the rights of Taluqdárs and others in certain estates in Oudh, and to regulate the succession thereto.

Preamble.—WHEREAS, after the re-occupation of Oudh by the British Government in the year 1858, the proprietary right in divers estates in that province was, under certain conditions, conferred by the British Government upon certain Taluqdárs and others; and whereas doubts may arise as to the nature of the rights of the said Taluqdárs and others in such estates, and as to the course of succession thereto; and whereas it is expedient to prevent such doubts, and to regulate such course, and to provide for such other matters connected therewith as are hereinafter mentioned; It is hereby enacted as follows:—

I.— *Preliminary.*

1. Short title, Extent of Act.—This Act may be cited as "The Oudh Estates' Act, 1869," and shall extent only to the estates hereinafter referred to.

2. Interpretation–clause.—In this Act, unless there be something repugnant in the subject or context—

"**Transfer**."—"Transfer" means an alienation *inter vivos*;

"**Will**".—"Will" means the legal declaration of the intentions of the testator with respect to his property affected by this Act, which he desires to be carried into effect after his death ;

"Codicil".—"Codicil" means an instrument made in relation to a Will, and explaining, altering, or adding to its dispositions: It is considered as forming an additional part of the Will;

"Signed."—"Signed**"** applies to the affixing of a mark ;

"Registered."—"Registered**"** means registered according to theprovisions of the rules relating to the registration of assurances for the time being in force in Oudh ;

"Minor." "Minority."—"Minor**"** means any person who shall not have completed the age of eighteen years, and "minority" means the status of such person ;

"**Taluqdár.**"—"Taluqdár" means any person whose name is entered in the first of the lists mentioned in section eight ;

"**Grantee.**"—"Grantee" means any person upon whom the proprietary right in an estate has been conferred by a special grant of the British Government, and whose name is entered in the fifth or sixth of the lists mentioned in section eight ;

"**Estate.**"—"Estate" means the taluqa or immoveable property acquired or held by a Taluqdár or Grantee in the manner mentioned in section three, section four, or section five, or the immoveable property conferred by a special grant of the British Government upon a Grantee ;

"**Heir.**" "**Legatee.**"—"Heir" means a person who inherits property otherwise than as a widow, under the special provisions of this Act ; and "legatee" means a person to whom property is bequeathed under the same provisions ;

Words expressing relationship.—Words expressing relationship denote only legitimate relatives, but apply to children in the womb who are afterwards born alive.

II.—*Rights and liabilities of Taluqdárs and Grantees.*

3. Taluqdárs to have heritable and transferable rights in their estates.—Every Taluqdár with whom a summary settlement of the Government revenue was made between the first day of April 1858

and the tenth day of October 1859, or to whom, before the passing of this Act and subsequently to the first day of April 1858, a Taluqdári sanad has been granted,

shall be deemed to have thereby acquired a permanent, heritable and transferable right in the estate comprising the villages and lands named in the list attached to the agreement or kabuliyat executed by such Taluqdár when such settlement was made,

or which may have been or may be decreed to him by the Court of an officer engaged in making the first regular settlement of the provinces of Oudh, such decree not having been appealed from within the time limited for appealing against it, or, if appealed from, having been affirmed,

Subject to certain conditions.—subject to all the conditions affecting the Taluqdár contained in the orders passed by the Governor General of India on the tenth and nineteenth days of October 1859 and re-published in the first schedule hereto annexed, and subject also to all the conditions contained in the sanad under which the estate is held.

4. Rights and liabilities of persons named in second schedule.—Every person whose lands the proclamation issued in Oudh in the month of March 1858 by order of the Governor General of India specially exempted from confiscation, and whose names are contained in the second schedule hereto annexed, shall be deemed to possess in the lands for which such person executed a kabuliyat between the first day of April 1858 and the first day of April 1860 the same right and title which he would have possessed thereto if he had acquired the same in the manner mentioned in section three; and he shall be deemed to hold the same subject to all the conditions affecting Taluqdárs which are referred to in the said section, and to be a Taluqdár for all the purposes of this Act.

5. Grantees' rights and liabilities.—Every Grantee shall possess the same rights and be subject to the same conditions in respect of the estate comprised in his grant as a Taluqdár possesses and is subject to, under section three, in respect of his estate.

6. Saving of certain redemption–suits.—Nothing in sections three, four and five, or in the said orders, or in any sanad, shall be deemed to bar a suit for redemption,

(*a*) where the instrument of mortgage was executed on or after the thirteenth day of February 1844 and fixed no term within which the property comprised therein might be redeemed, or

(*b*) where the instrument of mortgage fixed a term within which the property comprised therein might be redeemed, and such term did not expire before the thirteenth day of February 1856.

7. Heirlooms.—If a Taluqdár or Grantee, or any heir or legatee of a Taluqdár or Grantee, desire that any elephants, jewels, arms or other articles of moveable property belonging to him shall devolve along with his estate, he shall take an inventory of such articles. Such inventory shall be signed by him and deposited in the office of the Deputy Commissioner of the District wherein such estate or the greater part thereof is situate; and thereupon such of the said articles as shall not have been transferred shall (so far as may be possible) be used and enjoyed by the person who, under or by virtue of this Act, is for the time being in actual possession or in receipt of the rents and profits of the said estate or the greater part thereof, otherwise than as mortgagee or lessee.

III.—*Lists of Taluqdárs and Grantees*.

8. Preparation of lists of Taluqdárs and Grantees.—Within six months after the passing of this Act, the Chief Commissioner of Oudh, subject to such instructions as he may receive from the Governor General of India in Council, shall cause to be prepared six lists, namely :—

First.—A list of all persons who are to be considered Taluqdárs within the meaning of this Act ;

Second.—A list of the Taluqdárs whose estates, according to the custom of the family on and before the thirteenth day of February 1856, ordinarily devolved upon a single heir ;

Third.—A list of the Taluqdárs, not included in the second of such lists, to whom sanads or grants have been or may be given or made by the British Government up to the date fixed for the closing of such lists, declaring that the succession to the estates comprised in such sanads or grants shall thereafter be regulated by the rule of primogeniture;

Fourth.—A list of the Taluqdárs to whom the provisions of section twenty-three are applicable ;

Fifth.—A list of the Grantees to whom sanads or grants have been or may be given or made by the British Government, up to the date fixed for the closing of such list, declaring that the succession to the estates comprised in such sanads or grants shall thereafter be regulated by the rule of primogeniture ;

Sixth.—A list of the Grantees to whom the provisions of section twenty-three are applicable.

9. Publication of lists.—When the lists mentioned in section eight shall have been approved by the Chief Commissioner of Oudh, they shall be published in the *Gazette of India.* After such publication, the first and second of the said lists shall not, except in the manner provided by section thirty or section thirty-one, as the case may be, be liable to any alteration in respect of any names entered therein.

Supplementary list.—If, at any time after the publication of the said lists, it appears to the Governor General of India in Council that the name of any person has been wrongly omitted from or wrongly entered in any of the said lists, the said Governor General in Council may order the name to be inserted in the proper list, and such name shall be published in the *Gazette of India* in a supplementary list, and such person shall be treated in all respects as if his name had been from the first inserted in the proper list.

10. None but persons named in lists to be deemed Taluqdárs or Grantees.— No persons shall be considered Taluqdárs or Grantees within the meaning of this Act, other than the persons named in such original or supplementary lists as aforesaid. The Courts shall take judicial notice of the said lists and shall regard them as conclusive evidence that the persons named therein are such Taluqdárs or Grantees.

IV.—*Powers of Taluqdárs and Grantees to transfer and bequeath.*

11. Taluqdárs and Grantees may transfer and bequeath.—Subject to the Provisions of this Act, and to all the conditions under which the estate was conferred by the British Government, every Taluqdár and Grantee, and every heir and legatee of a Taluqdár and Grantee, of sound mind and not a minor, shall be competent to transfer the whole or any portion of his estate, or of his right and interest therein, during his life-time, by sale, exchange, mortgage, lease or gift, and to bequeath by his will to any person the whole or any portion of such estate, right and interest.

A married woman may make a bequest under this Act of any property which she could alienate by her own act during her life.

Persons who are deaf or dumb or blind are not thereby incapacitated for making a transfer or bequest under this Act, if they are able to know what they do by it.

One who is ordinarily insane may make a transfer or bequest under this Act during an interval in which he is of sound mind.

No person can make a transfer or bequest under this Act while he is in such a state of mind, whether from drunkenness, or from illness, or from any other cause, that he does not know what he is doing.

A transfer and a will, or any part of a will, the making of which has been caused by fraud or coercion or by such importunity as takes away the free agency of the transferor or testator, is void.

12. Rule against perpetuity.—No transfer or bequest under this Act shall be valid whereby the vesting of the thing transferred or bequeathed may be delayed beyond the life-time of one or more persons living at the decease of the transferee or testator and the minority of some person who shall be in existence at the expiration of that period, and to whom, if he attains full age, the thing transferred or bequeathed is to belong.

13. Restriction as to donees and legatees.—No Taluqdár or Grantee, and no heir or legatee of a Taluqdár or Grantee, shall have power to give or bequeath his estate, or any portion thereof, or any interest therein, to any person not being either.—

(1.)—a person who, under the provisions of this Act, or under the ordinary law to which person of the donor's or testator's tribe and religion are subject, would have succeeded to such estate or to a portion thereof, or to an interest therein, if such Taluqdár or Grantee, heir or legatee, had died intestate, or

(2.)—a younger son of the Taluqdár or Grantee, heir or legatee, in case the name of such Taluqdár or Grantee appears in the third or the fifth of the lists mentioned in section eight,

except by an instrument of gift or a will executed and attested, not less than three months before the death of the donor or testator, in manner herein provided in the case of a gift or will, as the case may be, and registered within one month from the date of its execution.

V.—*Transfers and Bequests.*

14. Transfers and bequest to Taluqdárs or heirs.—If any Taluqdár or Grantee shall heretofore have transferred or bequeathed, or if any Taluqdár or Grantee, or his heir or legatee, shall hereafter transfer or bequeath, the whole or any portion of his estate to another Taluqdár or Grantee, or to such younger son as is referred toin section thirteen, clause two, or to a person who would have succeeded according to the provisions of this Act to the estate or to a portion thereof if the transferor or testator had died without having made the transfer and intestate, the transferee or legatee and his heirs and legatees shall have the same rights and powers in regard to the property to which he or they may have become entitled under or by virtue of such transfer or bequest, and shall hold the same subject to the same conditions and to the same rules of succession as the transferor or testator.

15. Transfers and bequests to persons out of line of succession.—If any Taluqdár or Grantee shall heretofore have transferred or bequeathed, or if any Taluqdár or Grantee or his heir or legatee shall hereafter transfer or bequeath to any person not being a Taluqdár or Grantee the whole or any portion of his estate, and such person would not have succeeded according to the provisions of this Act to the estate or to a portion thereof if the transferor or testator had died without having made the transfer and intestate, the transfer of and succession to the property so transferred or bequeathed shall be regulated by the rules which would have governed the transfer of and succession to such property if the transferee or legatee had bought the same from a person not being a Taluqdár or Grantee.

16. Transfers to be in writing, signed and attested.—No transfer of any estate, or of any portion thereof, or of any interest therein, made by a Taluqdár or Grantee or by his heir or legatee under the provisions of this Act, shall be valid unless made by an instrument in writing signed by the transferor and attested by two or more witnesses.

17. Further requisites to validity of gifts *inter vivos*.—If any such transfer be made by gift, the gift shall not be valid unless, within six months after the execution of the instrument of gift, the gift be followed by delivery by the donor, or his representative in interest, of possession of the property comprised therein, nor unless the instrument shall have been registered within one month from the date of its execution.

18. Gifts to religious or charitable uses.—No Taluqdár or Grantee, and no heir or legatee of a Taluqdár or Grantee, shall have power to give his estate, or any portion thereof or interest therein, to religious or charitable uses, except by an instrument of gift executed not less than three months before his death, and subject to the provisions contained in section seventeen.

VI.—*Testamentary Succession.*

19. Sections of Succession Act applied to wills of Taluqdárs.—Sections 49, 50, 51, 54, 55, and 57 to 77 (both inclusive), and sections 82, 83, 85, and 88 to 98 (both inclusive) of the Indian Succession Act (No. X of 1865), shall apply to all wills and codicils made by any Taluqdár or Grantee, or by his heir or legatee, under the provisions of this Act, for the purpose of bequeathing to any person his estate, or any portion thereof, or any interest therein: Provided that marriage shall not revoke any such will or codicil : Provided also that nothing herein contained shall affect wills made before the passing of this Act.

In applying the said sections to wills and codicils made under this Act, all words hereinbefore defined, and occurring in such sections, shall (unless there be something repugnant in the subject or context) be deemed to have the same meaning as this Act has attached to such words respectively.

20. Bequests to religious and charitable uses.—NoTaluqdár or Grantee, and no heir or legatee of a Taluqdár or Grantee, having a Child, parent, brother, unmarried sister, or a nephew, being the naturally born son of a brother of such Taluqdár or Grantee, heir or legatee, shall have power to bequeath his estate or any part thereof or any interest therein exceeding in amount or value the sum of two thousand rupees to religious or charitable uses, except by a will executed not less than three months before his death, and registered within one month from the date of its execution.

VII.—*Intestate Succession.*

21. 'Son,' 'descendants,' 'daughter,' 'brother,' 'widow,' 'defined.—In the next following section, unless where there is somethingrepugnant in the context, the words 'son,' 'descendants,' 'daughter' and 'brother' apply only to *najib-ul-tarfain*, and the word 'widow' applies only to a woman belonging to the *ahl-i-bradari* of her deceased husband.

22. Special rules of succession to intestate Taluqdárs and Grantees.—If any Taluqdár or Grantee whose name shall be inserted in the second, third, or fifth of the lists mentioned in section eight, or his heir or legatee, shall die intestate as to his estate, such estate shall descend as follows, *viz* :—

(l).—To the eldest son of such Taluqdár or Grantee, heir or legatee, and his male lineal descendants, subject to the same conditions and in the same manner as the estate was held by the deceased;

(2).—Or if such eldest son of such Taluqdár orGrantee, heir orlegatee, shall have died in his life-time, leaving male lineal descendants, then to the eldest and every other son of such eldest son successively, according to their respective seniorities, and their respective male lineal descendants, subject as aforesaid;

(3).—Or if such eldest son of such Taluqdár or Grantee, heir or legatee, shall have died in his life-time without leaving male lineal descendants, then to the second and every other son of the aid Taluqdár or Grantee, heir or legatee, successively, according to their respective seniorities, and their respective male lineal descendants, subject as aforesaid;

(4).—Or in default of such son or descendants, then to such son (if any) of a daughter of such Taluqdár orGrantee, heir orlegatee, as has been treated by him in all respects as his own son, and to the male lineal descendants of such son, subject as aforesaid;

(5).—Or in default of such son or descendants, then to such person as the said Taluqdár or Grantee, heir or legatee, shall have adopted by a writing executed and attested in manner required in case of a will and registered, subject as aforesaid;

(6).—Or in default of such adopted son, then to the eldest and every other brother of such Taluqdár or Grantee, heir or legatee, successively, according to their respective seniorities, and their respective male lineal descendants, subject as aforesaid;

(7).—Or in default of any such brother, then to the widow of the deceased Taluqdár or Grantee, heir or legatee; or, if there be more widows than one, to the widow first married to such Taluqdár or Grantee, heir or legatee, for her life-time only;

(8).—And upon the death of such widow, then to such son as the saidwidow shall, with the consent in writing of her deceased husband, have adopted by a writing executed and attested in manner required in case of a will and registered, subject as aforesaid;

(9).—Or on the death of such first married widow and in default of a son adopted by her with such consent and in such manner as er widow, if any, of such Taluqdár

or Grantee, heir or legatee, next in order of marriage, for her life, and on the death of such other widow, to a son adopted by her with such consent and in such manner as aforesaid; or in default of such adopted son, then to the other surviving widows according to their respective seniorities as widows, for their respective lives, and on their respective deaths, to the sons so adopted by them respectively, and to the male lineal descendants of such sons respectively, subject as aforesaid;

(10).—Or in default of any such widow or of any son so adopted by her, or of any such descendant, then to the male lineal descendants, not being *najib-ul-tarfain,* of such Taluqdár or Grantee, heir or legatee, successively, according to their respective seniorities and their respective male lineal descendant, whether *najib-ul-tarfain* or not;

(11).—Or in default of any such descendant, then to such persons as would have been entitled to succeed to the estate under the ordinary law to which persons of the religion and tribe of such Taluqdár or Grantee, heir or legatee, are subject.

Nothing contained in the former part of this section shall be construed to limit the power of alienation conferred by section eleven.

23. General rule of succession to intestate Taluqdárs and Grantees.—Except in the cases provided for by section twenty-two, the succession to all property left by Taluqdárs and Grantees, and their heirs and legatees, dying intestate, shall be regulated by the ordinary law to which members of the intestate's tribe and religion are subject.

VIII.—*Maintenance.*

24. Maintenance of surviving relatives of Taluqdárs and Grantees.—When any Taluqdár or Grantee, or his heir or legatee, dies leaving him surviving such relatives as are hereinafter mentioned, the person for the time being in the possession of his estate or the rents and profits thereof shall be liable to pay to each of such relatives during his or her life, or for such other period as is hereinafter mentioned, by twelve equal monthly payments, an annuity in accordance with the custom of the country not exceeding such amount as is hereinafter mentioned : Provided that such relative was at the date of the death of the deceased living together with him: Provided also that such relative is and continues to be without any other adequate means of maintenance.

If any part of such estate shall have been transferred or bequeathed by the deceased, the person for the time being in possession of such part, or of the rents and profits thereof, shall be liable to pay proportionate parts of the said annuities during the continuance thereof respectively.

25. Grandparents, parents, and senior widows.—In the case of the grandparents, parents, and senior widows of the deceased, the maximum amount of the annuity shall be as follows :—

(*a*.) where the annual revenue payable to Government in respect of the estate is or exceeds 1,50,000 rupees —a sum not exceeding 6,000 rupees :

(*b*.) where such revenue is or exceeds 100,000 rupees, but is less than 1,50,000 rupees — a sum not exceeding 2,400 rupees :

(*c*.) where such revenue is or exceeds 50,000 rupees, but is less than 100,000 rupees — a sum not exceeding 1,200 rupees :

(*d*.) where such revenue is or exceeds 25,000 rupees, but is less than 50,000 rupees — a sum not exceeding 600 rupees :

(*e*.) where such revenue is or exceeds 15,000 rupees, but is less than 25,000 rupees — a sum not exceeding 360 rupees :

(*f*.) where such revenue is or exceeds 7,000 rupees, but is less than 15,000 rupees — a sum not exceeding 240 rupees ; and

(*g*.) where such revenue is less than 7,000 rupees — a sum not exceeding 180 rupees.

Junior widows.—In the case of a junior widow of the deceased, the maximum amount of the annuity shall be one-half of the maximum amount to which a senior widow of the deceased would be entitled under the former part of this

26. Brothers and minor sons.—In the case of brothers and minor sons of the deceased, the maximum amount of the annuity shall be a sum not more than 1,200 rupees.

Nephews.—In the case of nephews of the deceased, being fatherless minors, the maximum amount of the annuity shall be a sum not more than 600 rupees.

27. Unmarried daughters, widows of sons and brothers and inferior widows.—In the case of unmarried daughters of the deceased, widows of his sons and brothers, and his widows not of his *ahl-i·bradari,* the maximum amount of the annuity shall be a sum not more than 360 rupees.

28. Continuance of annuities.—Subject to the provisions hereinbefore contained, the said annuities hall continue,

(*a*) in the case of a minor son or a minor nephew, till he ceases to be a minor;

(*b*)in the case of a daughter or widow, till she voluntarily leaves the household of the heir or legatee of the deceased, or would, according to the custom of the country, cease to be entitled to maintenance, and

(*c*) in all other cases, till the annuitant dies.

IX.—*Miscellaneous.*

29. Muhammadan Taluqdárs and Grantees empowered to adopt.—Every Muhammadan Taluqdár, Grantee, heir or legatee, and every widow of a Muhammadan Taluqdár or Grantee, heir or legatee, with the consent in writing of her deceased husband, shall, for the purposes of this Act, have power to adopt a son whenever, if he or she were a Hindu, he or she might adopt a son.

Such, power shall be exercisable only by writing executed and attested in manner required by section nineteen in case of a will and registered.

30. Alteration of rules of intestate succession in cases of Taluqdárs and Grantees named in list 3 or list 5.—Any Taluqdár or Grantee whose name has been entered in the third or fifth of the lists mentioned in section eight, or his heir or legatee, may, at any time hereafter, present to the Chief Commissioner of Oudh a declaration in writing, executed and registered in the manner required by this Act for the execution and registration of an instrument of gift, that he is desirous that the succession to his estate shall, in case of his intestacy, cease to be regulated in the manner described in section twenty-two, and that it shall in future be regulated by the ordinary law to which members of his tribe and religion are subject.

On receiving such declaration, the said Chief Commissioner shall cause to be inserted the name of such Taluqdár or Grantee, heir or legatee, in the fourth or sixth (as the case may be) of the lists mentioned in section eight, and shall cause a note thereof to be made in the proper place in the third or fifth (as the case may be) of the said lists, and the succession to such estate shall thenceforward, in case of intestacy, be regulated in the manner provided by section twenty-three.

31. Reverter to ordinary law of succession.—Any Taluqdár or Grantee, heir or legatee, may, at any time hereafter, present to the Chief Commissioner of Oudh a declaration in writing, executed and registered in the manner required by this Act for the execution and registration of instruments of gift, that he is desirous that his estate should in future be held subject to the ordinary law of succession to which members of his tribe and religion are subject.

On receiving such declaration, the Chief Commissioner shall cause a note thereof to be made in the proper places in each of the lists mentioned in section eight in which the name of such Taluqdár or Grantee, heir or legatee, has been entered, and thenceforward none of the provisions of this Act shall apply to such estate, which shall thenceforward be held subject in all respects to the ordinary law of succession to which members of his tribe and religion are subject.

32. Saving of rights of creditors.—Nothing hereinbefore contained shall affect any right which the creditors of any person making a transfer or bequest under the provisions of this Act, would have possessed as against the property comprised in such transfer or bequest if this Act had not been passed.

33. Awards as to compensation and maintenance.—And whereas bodies of Taluqdárs have in several cases made awards respecting th certain relatives of Taluqdárs, and it is

expedient to render such awards legally enforceable; it is hereby further enacted that every such award shall, if approved by the Financial Commissioner of Oudh and filed in his Court within six months after the passing of this Act, he enforceable as if a Court of competent jurisdiction had passed judgment according to the award and a decree had followed upon such judgment.

SCHEDULES.

FIRSTSCHEDULE.

(*See section* 3.)

I.

From C. BEADON, ESQ., Secretary to the Government of India, Foreign Department, to C.J. WINGFIELD, ESQ., Chief Commissioner of Oudh, (No. 6268, dated 10th October 1859.)

No. 1091, dated the 4th June. No. 1377, dated the 15th July.—I AM directed by the Governor General in Council to acknowledge the receipt of your Secretary's letters noted in the margin, relative to the Taluqdárí settlement of Oudh.

2. His Excellency in Council, agreeing with you as to the expediency of removing all doubts as to the intention of the Government to maintain the Taluqdárs in possession of the taluqas for which they have been permitted to engage, is pleased to declare that every Taluqdár with whom a summary settlement has been made since the re-occupation of the province, has thereby acquired a permanent hereditary and transferable proprietary right, *viz.*, in the taluqa for which he has engaged, including the perpetual privilege of engaging with the Government for the revenue of the taluqa.

3. This right is, however, conceded, subject to any measure which the Government may think proper to take for the purpose of protecting the inferior Zamíndárs and village occupants from extortion, and of upholding their rights in the soil in subordination to the Taluqdárs.

4. The Governor General in Council desires that you will have ready, by His Excellency's arrival at Lucknow, a list of the Taluqdárs upon whom a permanent proprietary right has now been conferred; and that you will prepare sanads to be issued to these Taluqdárs at that time. The sanads will be given by, and will run in the name of, the Chief Commissioner, acting under the authority of the Governor General.

5. I am directed to add that, as regards Zamíndárs and others, not being Taluqdárs, with whom a summary settlement has been made, the orders conveyed in the limitation Circular No. 31 of the 28th of January 1859, must not be strictly observed. Opportunity must be allowed at the next settlement to all disappointed claimants to bring forward their claims, and all such claims must be heard and disposed of in the usual manner.

II.

From C. BEADON, ESQ., Secretary to the Government of India, Foreign Department, with the Governor General, to Chief Commissioner, Oudh, (No. 23, dated 19th October 1859).

I am directed by His Excellency the Governor General to acknowledge the receipt of your demi-official letter of the 15th instant, enclosing a form of sanad to be given to the Taluqdárs of Oudh, granting them a full and permanent proprietary right in the taluqas for which they have severally been permitted to engage at the summary settlement.

2. This form of sanad is generally approved, and a revised copy, with some few alterations, is herewith enclosed for adoption and for careful translation into the Hindustani language, in which the sanads will be prepared.

3. The sanads declare that while, on the one hand, the Government has conferred on the Taluqdárs and on their heirs for ever the full proprietary right in their respective estates, subject only to the payment of the annual revenue that may be imposed from time to time, and to certain conditions of loyalty and good service, on the other hand, all persons holding an interest in the land under the Taluqdárs will be secured in the possession of the subordinate rights which they have heretofore enjoyed.

4. The meaning of this is that, when a regular settlement of the province is made, wherever it is found that Zamíndárs or other persons have held an interest in the soil intermediate between the ryot and the Taluqdár, the amount or proportion payable by the intermediate holder to the Taluqdár, and the net jama finally payable by the Taluqdár to the nd recorded after careful and detailed

survey and inquiry into each case, and will remain unchanged during the currency of the settlement, the Taluqdár being, of course, free to improve his income and the value of his property by the reclamation of waste lands (unless in cases where usage has given the liberty of reclamation to the Zamindar), and by other measures of which he will receive the full benefit at the end of the settlement. Where leases (pattás) are given to the subordinate Zamíndárs, they will be given by the Taluqdár, not by the Government.

5. This being the position in which the Taluqdárs will be placed, they cannot, with any show of reason, complain if the Government takes effectual steps to re-establish and maintain in subordination to them the former rights, as those existed in 1855, of other persons whose connexion with the soil is in many cases more intimate and more ancient than theirs; and it is obvious that the only effectual protection which the Government can extend to these inferior holders, is to define and record their rights and to limit the demand of the Taluqdár as against such person during the currency of the settlement to the amount fixed by the Government as the basis of its own revenue demand.

6. What the duration of the settlement shall be, and what proportion of the rent shall be allowed in each case to Zamíndárs and Taluqdárs, are questions to be determined at the time of settlement.

The Governor General agrees in your observation that it is a bad principle to create two classes of recognized proprietors in one estate, and it is likely to lead to the alienation of a larger proportion of the land revenue than if there were only one such class. But whilst the taluqdárí tenure, notwithstanding this drawback, is about to be recognized and re-established, because it is consonant with the feelings and traditions of the whole people of Oudh, the zamíndári tenure intermediate between the tenures of the Taluqdár and the ryot is not a new creation, and it is a tenure which, in the opinion of the Governor General, must be protected.

SECONDSCHEDULE

(*See section* 4.)

(1).— Dig-Bijay Singh, Rájá of Balrámpúr.

(2). — Rao Hardeo Bakhsh Singh, of Katíari.

(3). — Káshí Parshád, Taluqdár of Sisséndi.

(4). — Jhabba Singh, Zamíndár of Gopál Khéra.

(5). — Chandan Lál, Zamíndár of Moraon (Baiswára).