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The Gazette of India.

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

PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 19th December, 1884, and is hereby promulgated for general information :—

ACT No. XXI OF 1884.

An Act to repeal the Straits Settlements Emigration Act, 1877, and to amend the Indian Emigration Act, 1883.

V of 1877. XXI of 1883.

WHEREAS it is expedient to repeal the Straits Settlements Emigration Act, 1877, and to amend the Indian Emigration Act, 1883, in manner hereinafter appearing; It is hereby enacted as follows :—

1. The Straits Settlements Emigration Act, 1877, is repealed. V of 1877.

New section substituted for section 102 of Act XXI of 1883.

2. For section 102 of the Indian Emigration Act, 1883, the following section shall be substituted :— XXI of 1883.

Power for Governor General in Council to exempt emigration to Native States adjoining the Straits Settlements from Act.

"102. On and from such a date as the Governor General in Council may, by notification in the *Gazette of India*, fix in this behalf, a Native of India who departs by sea out of British India under an agreement to labour for hire in any protected Native State adjoining the Straits Settlements to which the notification refers shall not be deemed to emigrate within the meaning of this Act."

D. FITZPATRICK,
Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 2nd January, 1885, and is hereby promulgated for general information:—

ACT No. I OF 1885.

An Act to amend the Burma Steam-boilers and Prime-movers Act, 1882.

WHEREAS it is expedient to amend the Burma Steam-boilers and Prime-movers Act, 1882; It is hereby enacted as follows:—

Short title and commencement.

1. This Act may be called the Burma Steam-boilers and Prime-movers Act, 1885; and it shall come into force at once.

Amendment of section 4 of Act XVIII of 1882.

2. In section 4 of the Burma Steam-boilers and Prime-movers Act, 1882, after the words "first or second class" the words "or as engine-drivers" shall be added.

Amendment of sections 5, 8 and 11 of same Act.

3. In section 5, sub-section (2), section 8, clause (*b*), and section 11, clause (*b*), of the said Act, after the word "engineer" the words "or in the case of a boiler or prime-mover attached to an engine of not more than twenty horse-power of an engineer or engine-driver" shall be inserted.

D. FITZPATRICK,

Secretary to the Government of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, JANUARY 10, 1885.

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

PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 2nd January, 1885, and is hereby promulgated for general information:—

ACT No. I OF 1885.

An Act to amend the Burma Steam-boilers and Prime-movers Act, 1882.

XVIII of 1882.

WHEREAS it is expedient to amend the Burma Steam-boilers and Prime-movers Act, 1882; It is hereby enacted as follows:—

Short title and commencement.

1. This Act may be called the Burma Steam-boilers and Prime-movers Act, 1885; and it shall come into force at once.

Amendment of section 4 of Act XVIII of 1882.

2. In section 4 of the Burma Steam-boilers and Prime-movers Act, 1882, after the words "first or second class" the words "or as engine-drivers" shall be added. XVIII of 1882.

Amendment of sections 5, 8 and 11 of same Act.

3. In section 5, sub-section (2), section 8, clause (*b*), and section 11, clause (*b*), of the said Act, after the word "engineer" the words "or in the case of a boiler or prime-mover attached to an engine of not more than twenty-horse-power of an engineer or engine-driver" shall be inserted.

D. FITZPATRICK,

Secretary to the Government of India.

The Gazette of India.

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CALCUTTA, SATURDAY, JANUARY 17, 1885.

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

PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 2nd January, 1885, and is hereby promulgated for general information:—

ACT No. I OF 1885.

An Act to amend the Burma Steam-boilers and Prime-movers Act, 1882.

XVIII of 1882.

WHEREAS it is expedient to amend the Burma Steam-boilers and Prime-movers Act, 1882; It is hereby enacted as follows:—

Short title and commencement

1. This Act may be called the Burma Steam-boilers and Prime-movers Act, 1885; and it shall come into force at once.

Amendment of section 4 of Act XVIII of 1882.

2. In section 4 of the Burma Steam-boilers and Prime-movers Act, XVIII of 1882, after the words "first or second class" the words "or as engine-drivers" shall be added.

Amendment of sections 5, 8 and 11 of same Act.

3. In section 5, sub-section (2), section 8, clause (*b*), and section 11, clause (*b*), of the said Act, after the word "engineer" the words "or in the case of a boiler or prime-mover attached to an engine of not more than twenty horse-power of an engineer or engine-driver" shall be inserted.

R. J. CROSTHWAITE,

Officiating Secretary to the Government of India.

The Gazette of India.

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CALCUTTA, SATURDAY, JANUARY 31, 1885.

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

PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First Publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 30th January, 1885, and is hereby promulgated for general information :—

Act No. II of 1885.

An Act to amend the Negotiable Instruments Act, 1881.

XXVI of 1881.

WHEREAS it is expedient to amend the Negotiable Instruments Act, 1881, in manner hereinafter appearing; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Negotiable Instruments Act, 1885.

XXVI of 1881.

Amendment of section 7, Act XXVI of 1881.

2. In the fourth paragraph of section 7 of the Negotiable Instruments Act, 1881, for the words "When acceptance is refused and the bill is protested for non-acceptance" the following shall be substituted, namely :—"When a bill of exchange has been noted or protested for non-acceptance or for better security".

New section inserted after section 45 of the same Act.

3. After section 45 of the same Act the following shall be inserted :—

Holder's right to duplicate of lost bill.

"45A. Where a bill of exchange has been lost before it is over-due, the person who was the holder of it may apply to the drawer to give him another bill of the same tenor, giving security to the drawer, if required, to indemnify him against all persons whatever in case the bill alleged to have been lost shall be found again.

"If the drawer on request as aforesaid refuses to give such duplicate bill, he may be compelled to do so."

Addition to sections 61 and 64 of the same Act.

4. To section 61, and the first paragraph of section 64, of the same Act, the following shall be added :—

"Where authorised by agreement or usage, a presentment through the post office by means of a registered letter is sufficient."

Addition to section 101 of the same Act.

5. To section 101 of the same Act the following shall be added :—

"A notary public may make the demand mentioned in clause (*c*) of this section either in person or by his clerk or, where authorised by agreement or usage, by registered letter."

Section inserted after section 104 of the same Act.

6. After section 104 of the same Act the following shall be inserted :—

When noting equivalent to protest.

"104A. For the purposes of this Act, where a bill or note is required to be protested within a specified time or before some further proceeding is taken, it is sufficient that the bill has been noted for protest before the expiration of the specified time or the taking of the proceeding; and the formal protest may be extended at any time thereafter as of the date of the noting."

Section 108 of the same Act, in part, repealed.

7. In the same Act, section 108, the second sentence is repealed.

Amendment of section 109 of same Act.

8. In the same Act, section 109,

(*a*) for the words "in the presence of a notary public subscribe the bill with his own hand and" the following shall be substituted, namely :—"by writing on the bill under his hand"; and

(*b*) the last twelve words are repealed.

Amendment of section 113 of same Act.

9. In the same Act, section 113, after the words "the person so paying" the words "or his agent in that behalf" shall be inserted.

New chapter added to same Act.

10. After Chapter XVI of the same Act, the following shall be inserted :—

"CHAPTER XVII.

"NOTARIES PUBLIC.

Power to appoint notaries public.

"138. The Governor General in Council may, from time to time, by notification in the official Gazette, appoint any person, by name or by virtue of his office, to be a notary public under this Act and to exercise his functions as such within any local area, and may, by like notification, remove from office any notary public appointed under this Act.

Power to make rules for notaries public.

"139. The Governor General in Council may, from time to time, by notification in the official Gazette, make rules consistent with this Act for the guidance and control of notaries public appointed under this Act, and may, by such rules, (among other matters) fix the fees payable to such notaries."

R. J. CROSTHWAITE,
Offg. Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First Publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 30th January, 1885, and is hereby promulgated for general information :—

ACT No. III OF 1885.

An Act to amend the Transfer of Property Act, 1882.

IV of 1882.

WHEREAS it is expedient to amend the Transfer of Property Act, 1882; It is hereby enacted as follows :—

Amendment of section 1 of Act IV of 1882.

1. For the fifth clause of section 1 of the said Act the following shall be substituted, namely :—

"And any Local Government may, with the previous sanction of the Governor General in Council, from time to time, by notification in the local official Gazette, exempt, either retrospectively or prospectively, any part of the territories administered by such Local Government from all or any of the following provisions, namely :—

"Sections fifty-four, paragraphs two and three, fifty-nine, one hundred and seven and one hundred and twenty-three."

Addition to same section.

2. The following clause shall be deemed to have been added to the first section of the said Act from the date on which it came into force, namely :—

"Notwithstanding anything in the foregoing part of this section, sections fifty-four, paragraphs two and three, fifty-nine, one hundred and seven and one hundred and twenty-three shall not extend or be extended to any district or tract of country for the time being excluded from the operation of the Indian Registration Act, 1877, under the power conferred by the first section of that Act or otherwise." III of 1877.

Addition to section 4 of same Act.

3. To section 4 of the said Act the following shall be added, namely :—

"And sections fifty-four, paragraphs two and three, fifty-nine, one hundred and seven and one hundred and twenty-three shall be read as supplemental to the Indian Registration Act, 1877." III of 1877.

Addition to section 6 of same Act.

4. To section 6 of the said Act the following clause shall be added :—

"(*i*) Nothing in this section shall be deemed to authorize a tenant having an untransferable right of occupancy, the farmer of an estate in respect of which default has been made in paying revenue or the lessee of an estate under the management of a Court of Wards to assign his interest as such tenant, farmer or lessee."

Amendment of section 69 of same Act.

5. In section 69 of the said Act—

(*a*) after the words "is valid in the following cases" the words "and in no others" shall be inserted ; and

(*b*) after the words "Hindu, Muhammadan or Buddhist," in both places where they occur, there shall be inserted the words "or a member of any other race, sect, tribe or class from time to time specified in this behalf by the Local Government, with the previous sanction of the Governor General in Council, in the local official Gazette."

R. J. CROSTHWAITE,
Offg. Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First Publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 30th January, 1885, and is hereby promulgated for general information :—

ACT NO. IV OF 1885.

An Act to provide for the temporary appointment from time to time of an Additional Judicial Commissioner for Oudh.

WHEREAS it is expedient to provide for the temporary appointment from time to time of an Additional Judicial Commissioner to assist the Judicial Commissioner of Oudh ; It is hereby enacted as follows :—

1. (*1*) This Act may be called the Oudh Additional Judicial Commissioner's Act, 1885 ; and

Short title and commencement.

(*2*) It shall come into force at once.

2. (*1*) The Local Government may, from time to time, with the previous sanction of the Governor General in Council, by notification in the local official Gazette, appoint such person as it thinks fit to be an Additional Judicial Commissioner, and to sit as such in the Court of the Judicial Commissioner of Oudh.

Appointment of Additional Judicial Commissioner of Oudh.

(*2*) Every person so appointed shall hold his office during the pleasure of the Local Government.

3. Every Additional Judicial Commissioner shall exercise such jurisdiction and powers of the Judicial Commissioner under any enactment for the time being in force as the Local Government may, from time to time, prescribe, but only in such cases as the Judicial Commissioner may direct.

Jurisdiction and powers of Additional Judicial Commissioner.

4. Every enactment for the time being applicable to the Judicial Commissioner shall apply to the Additional Judicial Commissioner when exercising any jurisdiction or powers under the last foregoing section, as if he were the Judicial Commissioner.

Law applicable to Additional Judicial Commissioner.

R. J. CROSTHWAITE,
Offg. Secretary to the Government of India.

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CALCUTTA, SATURDAY, FEBRUARY 7, 1885.

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PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second Publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 30th January, 1885, and is hereby promulgated for general information :—

ACT No. II OF 1885.

An Act to amend the Negotiable Instruments Act, 1881.

XXVI 1881.

WHEREAS it is expedient to amend the Negotiable Instruments Act, 1881, in manner hereinafter appearing; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Negotiable Instruments Act, 1885.

XXVI of 1881.

Amendment of section 7, Act XXVI of 1881.

2. In the fourth paragraph of section 7 of the Negotiable Instruments Act, 1881, for the words "When acceptance is refused and the bill is protested for non-acceptance" the following shall be substituted, namely :—"When a bill of exchange has been noted or protested for non-acceptance or for better security".

New section inserted after section 45 of the same Act.

3. After section 45 of the same Act the following shall be inserted :—

Holder's right to duplicate of lost bill.

"45A. Where a bill of exchange has been lost before it is over-due, the person who was the holder of it may apply to the drawer to give him another bill of the same tenor, giving security to the drawer, if required, to indemnify him against all persons whatever in case the bill alleged to have been lost shall be found again.

"If the drawer on request as aforesaid refuses to give such duplicate bill, he may be compelled to do so."

Addition to sections 61 and 64 of the same Act.

4. To section 61, and the first paragraph of section 64, of the same Act, the following shall be added :—

"Where authorised by agreement or usage, a presentment through the post office by means of a registered letter is sufficient."

Addition to section 101 of the same Act.

5. To section 101 of the same Act the following shall be added :—

"A notary public may make the demand mentioned in clause (*c*) of this section either in person or by his clerk or, where authorised by agreement or usage, by registered letter."

Section inserted after section 104 of the same Act.

6. After section 104 of the same Act the following shall be inserted :—

When noting equivalent to protest.

"104A. For the purposes of this Act, where a bill or note is required to be protested within a specified time or before some further proceeding is taken, it is sufficient that the bill has been noted for protest before the expiration of the specified time or the taking of the proceeding; and the formal protest may be extended at any time thereafter as of the date of the noting."

Section 108 of the same Act, in part, repealed.

7. In the same Act, section 108, the second sentence is repealed.

Amendment of section 109 of same Act.

8. In the same Act, section 109,

(*a*) for the words "in the presence of a notary public subscribe the bill with his own hand and" the following shall be substituted, namely :—"by writing on the bill under his hand"; and

(*b*) the last twelve words are repealed.

Amendment of section 113 of same Act.

9. In the same Act, section 113, after the words "the person so paying" the words "or his agent in that behalf" shall be inserted.

New chapter added to same Act.

10. After Chapter XVI of the same Act, the following shall be inserted :—

"CHAPTER XVII.

"NOTARIES PUBLIC.

Power to appoint notaries public.

"138. The Governor General in Council may, from time to time, by notification in the official Gazette, appoint any person, by name or by virtue of his office, to be a notary public under this Act and to exercise his functions as such within any local area, and may, by like notification, remove from office any notary public appointed under this Act.

Power to make rules for notaries public.

"139. The Governor General in Council may, from time to time, by notification in the official Gazette, make rules consistent with this Act for the guidance and control of notaries public appointed under this Act, and may, by such rules, (among other matters) fix the fees payable to such notaries."

R. J. CROSTHWAITE,
Offg. Secretary Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second Publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 30th January, 1885, and is hereby promulgated for general information :—

ACT NO. III OF 1885.

An Act to amend the Transfer of Property Act, 1882.

WHEREAS it is expedient to amend the Transfer of Property Act, 1882; It is hereby enacted as follows :—

IV of 1882.

Amendment of section 1 of Act IV of 1882.

1. For the fifth clause of section 1 of the said Act the following shall be substituted, namely :—

"And any Local Government may, with the previous sanction of the Governor General in Council, from time to time, by notification in the local official Gazette, exempt, either retrospectively or prospectively, any part of the territories administered by such Local Government from all or any of the following provisions, namely :—

"Sections fifty-four, paragraphs two and three, fifty-nine, one hundred and seven and one hundred and twenty-three."

Addition to same section.

2. The following clause shall be deemed to have been added to the first section of the said Act from the date on which it came into force, namely :—

"Notwithstanding anything in the foregoing part of this section, sections fifty-four, paragraphs two and three, fifty-nine, one hundred and seven and one hundred and twenty-three shall not extend or be extended to any district or tract of country for the time being excluded from the operation of the Indian Registration Act, 1877, under the power conferred by the first section of that Act or otherwise." III of 1877.

Addition to section 4 of same Act.

3. To section 4 of the said Act the following shall be added, namely :—

"And sections fifty-four, paragraphs two and three, fifty-nine, one hundred and seven and one hundred and twenty-three shall be read as supplemental to the Indian Registration Act, 1877." III of 1877.

Addition to section 6 of same Act.

4. To section 6 of the said Act the following clause shall be added :—

"(*i*) Nothing in this section shall be deemed to authorize a tenant having an untransferable right of occupancy, the farmer of an estate in respect of which default has been made in paying revenue or the lessee of an estate under the management of a Court of Wards to assign his interest as such tenant, farmer or lessee."

Amendment of section 69 of same Act.

5. In section 69 of the said Act—

(*a*) after the words "is valid in the following cases" the words "and in no others" shall be inserted ; and

(*b*) after the words "Hindu, Muhammadan or Buddhist," in both places where they occur, there shall be inserted the words "or a member of any other race, sect, tribe or class from time to time specified in this behalf by the Local Government, with the previous sanction of the Governor General in Council, in the local official Gazette."

R. J. CROSTHWAITE,
Offg. Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second Publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 30th January, 1885, and is hereby promulgated for general information :—

ACT No. IV OF 1885.

An Act to provide for the temporary appointment from time to time of an Additional Judicial Commissioner for Oudh.

WHEREAS it is expedient to provide for the temporary appointment from time to time of an Additional Judicial Commissioner to assist the Judicial Commissioner of Oudh; It is hereby enacted as follows :—

1. (*1*) This Act may be called the Oudh Additional Judicial Commissioner's Act, 1885; and

Short title and commencement.

(*2*) It shall come into force at once.

2. (*1*) The Local Government may, from time to time, with the previous sanction of the Governor General in Council, by notification in the local official Gazette, appoint such person as it thinks fit to be an Additional Judicial Commissioner, and to sit as such in the Court of the Judicial Commissioner of Oudh.

Appointment of Additional Judicial Commissioner of Oudh.

(*2*) Every person so appointed shall hold his office during the pleasure of the Local Government.

3. Every Additional Judicial Commissioner shall exercise such jurisdiction and powers of the Judicial Commissioner under any enactment for the time being in force as the Local Government may, from time to time, prescribe, but only in such cases as the Judicial Commissioner may direct.

Jurisdiction and powers of Additional Judicial Commissioner.

4. Every enactment for the time being applicable to the Judicial Commissioner shall apply to the Additional Judicial Commissioner when exercising any jurisdiction or powers under the last foregoing section, as if he were the Judicial Commissioner.

Law applicable to Additional Judicial Commissioner.

R. J. CROSTHWAITE,
Offg. Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First Publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 6th February, 1885, and is hereby promulgated for general information:—

ACT No. V OF 1885.

An Act to amend the Indian Ports Act, 1875.

WHEREAS it is expedient to amend the Indian Ports Act, 1875, in manner hereinafter appearing; XII of 1875. It is hereby enacted as follows:—

Amendment of section 42 of the Indian Ports Act, 1875.

1. In section 42 of the said Act, for the words "Conservator of every port to which such order relates, and in the custom-house, if any, of every port subject to this Act" the following shall be substituted, namely:—"Conservator, and at the custom-house, if any, of every port to which such order relates".

Addition to section 47 of the same Act.

2. To the fourth paragraph of section 47 of the said Act the following shall be added, namely:—"The expenses aforesaid shall also include the pensions, allowances and gratuities of persons who have been employed under this Act in the port, or such portion of those pensions, allowances and gratuities as the Local Government may by rule determine."

Further addition to the same section.

3. After the fifth paragraph of the same section the following shall be inserted and shall be deemed to have been inserted from the date on which the said Act came into force, namely:—"With the previous sanction of the Local Government the authorities of any port may, from time to time, contribute a sum from the Port Fund Account of that port for all or any of the purposes mentioned in section sixty.

"The sum so contributed shall, if, and so long as, the Local Government so directs, be in substitution of any Hospital Port-dues imposed under section fifty-nine at that port."

Addition to paragraph 3, section 59, of the same Act.

4. To the third paragraph of section 59 of the same Act the following shall be added, namely:—"The Local Government may, from time to time, by notification in the official Gazette, cancel any such order."

Amendment of Schedule I, Part II, of the same Act.

5. In the entry relating to the Cuttack ports in Part II of the First Schedule of the same Act, for the words "not exceeding six annas per hundred maunds" the following shall be substituted, namely:—"Not exceeding four annas per ton".

R. J. CROSTHWAITE,

Offg. Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First Publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 6th February, 1885, and is hereby promulgated for general information :—

ACT No. VI OF 1885.

An Act to amend Act XXII of 1881.

WHEREAS it is expedient to amend the Excise Act, 1881 ; It is hereby enacted as follows :— XXII of 1881.

Amendment of section 28 of said Act.

1. In section 28 of the said Act, after the words " ten rupees " the words " or who receives an annual remuneration equivalent to such salary " shall be inserted.

Amendment of section 29 of same Act.

2. In the first paragraph of section 29 of the same Act, after the word " salary " the words " or annual remuneration " shall be inserted ; and in the second paragraph of the same section, after the word " rupees " the words " unless the Excise-officer is himself such an officer of police " shall be inserted.

New section inserted after section 34 of same Act.

3. In the same Act, after section 34, the following section shall be inserted :—

Power to invest police-officers with powers of Excise-officers.

" 34A. The Local Government may, from time to time, invest either by name or in virtue of his office—

" (*a*) any police-officer with the powers conferred on Excise-officers by section 27 of this Act ;

" (*b*) any police-officer in charge of a station or any police-officer of or above the grade of head-constable or sergeant with the powers conferred on Excise-officers by sections 28 and 29 of this Act.

" Every officer so invested shall, for all purposes connected with the exercise of these powers, be deemed to be an Excise-officer within the meaning of this Act."

New section substituted for section 47.

4. For section 47 of the same Act the following shall be substituted, namely :—

Prosecutions restricted.

" 47. A Court shall not take cognizance of an offence punishable under any one of the following sections, namely, thirty-five, thirty-six, thirty-seven, thirty-eight, thirty-nine, forty-one, forty-two and forty-three, except on the complaint or report of the Collector or an Excise-officer ; and a Court shall not take cognizance of any offence punishable under this Act unless the prosecution is instituted before the expiry of six months next after the commission of such offence."

R. J. CROSTHWAITE,
Offg. Secretary to the Government of India.

The Gazette of India.

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CALCUTTA, SATURDAY, FEBRUARY 14, 1885.

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

PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third Publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 30th January, 1885, and is hereby promulgated for general information :—

ACT No. II OF 1885.

An Act to amend the Negotiable Instruments Act, 1881.

WHEREAS it is expedient to amend the Negotiable Instruments Act, 1881, in manner hereinafter appearing; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Negotiable Instruments Act, 1885.

Amendment of section 7, Act XXVI of 1881.

2. In the fourth paragraph of section 7 of the Negotiable Instruments Act, 1881, for the words "When acceptance is refused and the bill is protested for non-acceptance" the following shall be substituted, namely :—"When a bill of exchange has been noted or protested for non-acceptance or for better security."

New section inserted after section 45 of the same Act.

3. After section 45 of the same Act the following shall be inserted :—

Holder's right to duplicate of lost bill.

"45A. Where a bill of exchange has been lost before it is over-due, the person who was the holder of it may apply to the drawer to give him another bill of the same tenor, giving security to the drawer, if required, to indemnify him against all persons whatever in case the bill alleged to have been lost shall be found again.

"If the drawer on request as aforesaid refuses to give such duplicate bill, he may be compelled to do so."

Addition to sections 61 and 64 of the same Act.

4. To section 61, and the first paragraph of section 64, of the same Act, the following shall be added :—

"Where authorised by agreement or usage, a presentment through the post office by means of a registered letter is sufficient."

Addition to section 101 of the same Act.

5. To section 101 of the same Act the following shall be added :—

"A notary public may make the demand mentioned in clause (*c*) of this section either in person or by his clerk or, where authorised by agreement or usage, by registered letter."

Section inserted after section 104 of the same Act.

6. After section 104 of the same Act the following shall be inserted :—

When noting equivalent to protest.

"104A. For the purposes of this Act, where a bill or note is required to be protested within a specified time or before some further proceeding is taken, it is sufficient that the bill has been noted for protest before the expiration of the specified time or the taking of the proceeding; and the formal protest may be extended at any time thereafter as of the date of the noting."

Section 108 of the same Act, in part, repealed.

7. In the same Act, section 108, the second sentence is repealed.

Amendment of section 109 of same Act.

8. In the same Act, section 109,

(*a*) for the words "in the presence of a notary public subscribe the bill with his own hand and" the following shall be substituted, namely :—"by writing on the bill under his hand;" and

(*b*) the last twelve words are repealed.

Amendment of section 113 of same Act.

9. In the same Act, section 113, after the words "the person so paying" the words "or his agent in that behalf" shall be inserted.

New chapter added to same Act.

10. After Chapter XVI of the same Act, the following shall be inserted :—

"CHAPTER XVII.

"NOTARIES PUBLIC.

Power to appoint notaries public.

"138. The Governor General in Council may, from time to time, by notification in the official Gazette, appoint any person, by name or by virtue of his office, to be a notary public under this Act and to exercise his functions as such within any local area, and may, by like notification, remove from office any notary public appointed under this Act.

Power to make rules for notaries public.

"139. The Governor General in Council may, from time to time, by notification in the official Gazette, make rules consistent with this Act for the guidance and control of notaries public appointed under this Act, and may, by such rules, (among other matters) fix the fees payable to such notaries."

R. J. CROSTHWAITE,
Offg. Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third Publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 30th January, 1885, and is hereby promulgated for general information :—

ACT No. III OF 1885.

An Act to amend the Transfer of Property Act, 1882.

WHEREAS it is expedient to amend the Transfer of Property Act, 1882; It is hereby enacted as follows :—

IV of 1882.

Amendment of section 1 of Act IV of 1882.

1. For the fifth clause of section 1 of the said Act the following shall be substituted, namely :—

"And any Local Government may, with the previous sanction of the Governor General in Council, from time to time, by notification in the local official Gazette, exempt, either retrospectively or prospectively, any part of the territories administered by such Local Government from all or any of the following provisions, namely :—

"Sections fifty-four, paragraphs two and three, fifty-nine, one hundred and seven and one hundred and twenty-three."

Addition to same section.

2. The following clause shall be deemed to have been added to the first section of the said Act from the date on which it came into force, namely :—

"Notwithstanding anything in the foregoing part of this section, sections fifty-four, paragraphs two and three, fifty-nine, one hundred and seven and one hundred and twenty-three shall not extend or be extended to any district or tract of country for the time being excluded from the operation of the Indian Registration Act, 1877, under the power conferred by the first section of that Act or otherwise." III of 1877.

Addition to section 4 of same Act.

3. To section 4 of the said Act the following shall be added, namely :—

"And sections fifty-four, paragraphs two and three, fifty-nine, one hundred and seven and one hundred and twenty-three shall be read as supplemental to the Indian Registration Act, 1877." III of 1877.

Addition to section 6 of same Act.

4. To section 6 of the said Act the following clause shall be added :—

"(*i*) Nothing in this section shall be deemed to authorize a tenant having an untransferable right of occupancy, the farmer of an estate in respect of which default has been made in paying revenue or the lessee of an estate under the management of a Court of Wards to assign his interest as such tenant, farmer or lessee."

Amendment of section 69 of same Act.

5. In section 69 of the said Act—

(*a*) after the words "is valid in the following cases" the words "and in no others" shall be inserted ; and

(*b*) after the words "Hindu, Muhammadan or Buddhist," in both places where they occur, there shall be inserted the words "or a member of any other race, sect, tribe or class from time to time specified in this behalf by the Local Government, with the previous sanction of the Governor General in Council, in the local official Gazette."

R. J. CROSTHWAITE,
Offg Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third Publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 30th January, 1885, and is hereby promulgated for general information :—

ACT NO. IV OF 1885.

An Act to provide for the temporary appointment from time to time of an Additional Judicial Commissioner for Oudh.

WHEREAS it is expedient to provide for the temporary appointment from time to time of an Additional Judicial Commissioner to assist the Judicial Commissioner of Oudh; It is hereby enacted as follows :—

1. (*1*) This Act may be called the Oudh Additional Judicial Commissioner's Act, 1885; and

Short title and commencement.

(*2*) It shall come into force at once.

2. (*1*) The Local Government may, from time to time, with the previous sanction of the Governor General in Council, by notification in the local official Gazette, appoint such person as it thinks fit to be an Additional Judicial Commissioner, and to sit as such in the Court of the Judicial Commissioner of Oudh.

Appointment of Additional Judicial Commissioner of Oudh.

(*2*) Every person so appointed shall hold his office during the pleasure of the Local Government.

3. Every Additional Judicial Commissioner shall exercise such jurisdiction and powers of the Judicial Commissioner under any enactment for the time being in force as the Local Government may, from time to time, prescribe, but only in such cases as the Judicial Commissioner may direct.

Jurisdiction and powers of Additional Judicial Commissioner.

4. Every enactment for the time being applicable to the Judicial Commissioner shall apply to the Additional Judicial Commissioner when exercising any jurisdiction or powers under the last foregoing section, as if he were the Judicial Commissioner.

Law applicable to Additional Judicial Commissioner.

R. J. CROSTHWAITE,
Offg. Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second Publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 6th February, 1885, and is hereby promulgated for general information:—

ACT NO. V OF 1885.

An Act to amend the Indian Ports Act, 1875.

WHEREAS it is expedient to amend the Indian Ports Act, 1875, in manner hereinafter appearing; XII of 1875. It is hereby enacted as follows:—

Amendment of section 42 of the Indian Ports Act, 1875.

1. In section 42 of the said Act, for the words "Conservator of every port to which such order relates, and in the custom-house, if any, of every port subject to this Act" the following shall be substituted, namely:—"Conservator, and at the custom-house, if any, of every port to which such order relates."

Addition to section 47 of the same Act.

2. To the fourth paragraph of section 47 of the said Act the following shall be added, namely:—"The expenses aforesaid shall also include the pensions, allowances and gratuities of persons who have been employed under this Act in the port, or such portion of those pensions, allowances and gratuities as the Local Government may by rule determine."

Further addition to the same section.

3. After the fifth paragraph of the same section the following shall be inserted and shall be deemed to have been inserted from the date on which the said Act came into force, namely:— "With the previous sanction of the Local Government the authorities of any port may, from time to time, contribute a sum from the Port Fund Account of that port for all or any of the purposes mentioned in section sixty.

"The sum so contributed shall, if, and so long as, the Local Government so directs, be in substitution of any Hospital Port-dues imposed under section fifty-nine at that port."

Addition to paragraph 3, section 59, of the same Act.

4. To the third paragraph of section 59 of the same Act the following shall be added, namely:—"The Local Government may, from time to time, by notification in the official Gazette, cancel any such order."

Amendment of Schedule I, Part II, of the same Act.

5. In the entry relating to the Cuttack ports in Part II of the First Schedule of the same Act, for the words "not exceeding six annas per hundred maunds" the following shall be substituted, namely:—"Not exceeding four annas per ton."

R. J. CROSTHWAITE,
Offg. Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second Publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 6th February, 1885, and is hereby promulgated for general information :—

ACT No. VI OF 1885.

An Act to amend Act XXII of 1881.

WHEREAS it is expedient to amend the Excise Act, 1881 ; It is hereby enacted as follows :—

XXII of 1881.

Amendment of section 28 of said Act.

1. In section 28 of the said Act, after the words "ten rupees" the words "or who receives an annual remuneration equivalent to such salary" shall be inserted.

Amendment of section 29 of same Act.

2. In the first paragraph of section 29 of the same Act, after the word "salary" the words "or annual remuneration" shall be inserted ; and in the second paragraph of the same section, after the word "rupees" the words "unless the Excise-officer is himself such an officer of police" shall be inserted.

New section inserted after section 34 of same Act.

3. In the same Act, after section 34, the following section shall be inserted :—

Power to invest police-officers with powers of Excise-officers.

"34A. The Local Government may, from time to time, invest either by name or in virtue of his office—

"(*a*) any police-officer with the powers conferred on Excise-officers by section 27 of this Act ;

"(*b*) any police-officer in charge of a station or any police-officer of or above the grade of head-constable or sergeant with the powers conferred on Excise-officers by sections 28 and 29 of this Act.

"Every officer so invested shall, for all purposes connected with the exercise of these powers, be deemed to be an Excise-officer within the meaning of this Act."

New section substituted for section 47.

4. For section 47 of the same Act the following shall be substituted, namely :—

Prosecutions restricted.

"47. A Court shall not take cognizance of an offence punishable under any one of the following sections, namely, thirty-five, thirty-six, thirty-seven, thirty-eight, thirty-nine, forty-one, forty-two and forty-three, except on the complaint or report of the Collector or an Excise-officer ; and a Court shall not take cognizance of any offence punishable under this Act unless the prosecution is instituted before the expiry of six months next after the commission of such offence."

R. J. CROSTHWAITE,
Offg. Secretary to the Government of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, FEBRUARY 21, 1885.

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

PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third Publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 6th February, 1885, and is hereby promulgated for general information:—

ACT No. V OF 1885.

An Act to amend the Indian Ports Act, 1875.

WHEREAS it is expedient to amend the Indian Ports Act, 1875, in manner hereinafter appearing; It is hereby enacted as follows:—

Amendment of section 42 of the Indian Ports Act, 1875.

1. In section 42 of the said Act, for the words "Conservator of every port to which such order relates, and in the custom-house, if any, of every port subject to this Act" the following shall be substituted, namely:—"Conservator, and at the custom-house, if any, of every port to which such order relates."

Addition to section 47 of the same Act.

2. To the fourth paragraph of section 47 of the said Act the following shall be added, namely:—"The expenses aforesaid shall also include the pensions, allowances and gratuities of persons who have been employed under this Act in the port, or such portion of those pensions, allowances and gratuities as the Local Government may by rule determine."

Further addition to the same section.

3. After the fifth paragraph of the same section the following shall be inserted and shall be deemed to have been inserted from the date on which the said Act came into force, namely:— "With the previous sanction of the Local Government the authorities of any port may, from time to time, contribute a sum from the Port Fund Account of that port for all or any of the purposes mentioned in section sixty.

"The sum so contributed shall, if, and so long as, the Local Government so directs, be in substitution of any Hospital Port-dues imposed under section fifty-nine at that port."

Addition to paragraph 3, section 59, of the same Act.

4. To the third paragraph of section 59 of the same Act the following shall be added, namely:— "The Local Government may, from time to time, by notification in the official Gazette, cancel any such order."

Amendment of Schedule I, Part II, of the same Act.

5. In the entry relating to the Cuttack ports in Part II of the First Schedule of the same Act, for the words "not exceeding six annas per hundred maunds" the following shall be substituted, namely:—"Not exceeding four annas per ton."

R. J. CROSTHWAITE,
Offg. Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First Publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 20th February, 1885, and is hereby promulgated for general information :—

ACT No. VII OF 1885.

An Act to amend the law in force in the Pánch Mahál.

WHEREAS it is expedient that the law in force in the territory comprised in the Pánch Mahál should, on and from the first day of May, 1885, be the same as the law in force in the district of Kaira, in the Bombay Presidency, and that the said territory should, on and from that day, cease to be a scheduled district under the Scheduled Districts Act, 1874, and the Laws Local Extent Act, 1874; It is hereby enacted as follows :—

XIV of 1874.
XV of 1874.

Short title.

1. This Act may be called the Pánch Mahál Laws Act, 1885.

Laws of Kaira to apply.

2. (*1*) Save and except the enactments specified in the schedule hereto annexed, all enactments which, on the first day of May, 1885, are in force in the district of Kaira and not in the Pánch Mahál shall be deemed to come into force in the Pánch Mahál on that day.

Other laws repealed.

(*2*) All enactments which on that day are in force in the Pánch Mahál and not in the district of Kaira shall be deemed to be repealed on and from that day in the Pánch Mahál.

Pending proceedings.

3. All proceedings commenced before any authority in the Pánch Mahál before the first day of May, 1885, and still pending on that day, shall be disposed of by such authority as the Local Government may direct, and, save as aforesaid, shall be carried on as if this Act had not been passed.

Territory to cease to be a scheduled district.

4. On and from the first day of May, 1885, the Pánch Mahál shall cease to be a scheduled district; and in Part II of the First Schedule to the Scheduled Districts Act, 1874, and in the same Part of the Sixth Schedule to the Laws Local Extent Act, 1874, the words "The Pánch Mahál" shall be repealed.

Partial repeal of Acts XIV and XV of 1874.

XIV of 1874.
XV of 1874.

THE SCHEDULE.

ENACTMENTS EXCEPTED FROM THE OPERATION OF SECTION 2.

Acts of the Governor General in Council.

Number and year.	Title.	Extent of exception.
VIII of 1870	For the prevention of the murder of female infants.	The whole.
XXI of 1881	To amend the law providing for the relief of Thákurs in the districts of Broach and Kaira.	The whole.

Acts of the Governor of Bombay in Council.

Number and year.	Title.	Extent of exception
V of 1862	For the preservation of the Bhágdári and Narwádári Tenures.	The whole.
V of 1879	To consolidate and amend the law relating to Revenue-officers and the Land-revenue in the Presidency of Bombay.	Section 85 and last fifteen words of section 58.

R. J. CROSTHWAITE,
Offg. Secretary to the Govt. of India.

The Gazette of India.

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CALCUTTA, SATURDAY, FEBRUARY 28, 1885.

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

PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second Publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 20th February, 1885, and is hereby promulgated for general information :—

ACT No. VII OF 1885.

An Act to amend the law in force in the Pánch Maháls.

WHEREAS it is expedient that the law in force in the territory comprised in the Pánch Maháls should, on and from the first day of May, 1885, be the same as the law in force in the district of Kaira, in the Bombay Presidency, and that the said territory should, on and from that day, cease to be a scheduled district under the Scheduled Districts Act, 1874, and the Laws Local Extent Act, 1874; It is hereby enacted as follows :—

XIV of 1874.
XV of 1874.

Short title.

1. This Act may be called the Pánch Maháls Laws Act, 1885.

Laws of Kaira to apply.

2. (*1*) Save and except the enactments specified in the schedule hereto annexed, all enactments which, on the first day of May, 1885, are in force in the district of Kaira and not in the Pánch Maháls shall be deemed to come into force in the Pánch Maháls on that day.

Other laws repealed.

(*2*) All enactments which on that day are in force in the Pánch Maháls and not in the district of Kaira shall be deemed to be repealed on and from that day in the Pánch Maháls.

Pending proceedings.

3. All proceedings commenced before any authority in the Pánch Maháls before the first day of May, 1885, and still pending on that day, shall be disposed of by such authority as the Local Government may direct, and, save as aforesaid, shall be carried on as if this Act had not been passed.

Territory to cease to be a scheduled district.

4. On and from the first day of May, 1885, the Pánch Maháls shall cease to be a scheduled district; and in Part II of the First Schedule to the Scheduled Districts Act, 1874, and in the same Part of the Sixth Schedule to the Laws Local Extent Act, 1874, the words "The Pánch Maháls" shall be repealed.

Partial repeal of Acts XIV and XV of 1874.

XIV of 187
XV of 187

THE SCHEDULE.

ENACTMENTS EXCEPTED FROM THE OPERATION OF SECTION 2.

Acts of the Governor General in Council.

Number and year.	Title.	Extent of exception.
VIII of 1870	For the prevention of the murder of female infants.	The whole.
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Acts of the Governor of Bombay in Council.

Number and year.	Title.	Extent of exception.
V of 1862	For the preservation of the Bhágdári and Narwádári Tenures.	The whole.
V of 1879	To consolidate and amend the law relating to Revenue-officers and the Land-revenue in the Presidency of Bombay.	Section 85 and last fifteen words of section 58.

R. J. CROSTHWAITE,
Offg. Secretary to the Govt. of India.

The Gazette of India.

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CALCUTTA, SATURDAY, MARCH 7, 1885.

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PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third Publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 20th February, 1885, and is hereby promulgated for general information :—

ACT NO. VII OF 1885.

An Act to amend the law in force in the Pánch Maháls.

WHEREAS it is expedient that the law in force in the territory comprised in the Pánch Maháls should, on and from the first day of May, 1885, be the same as the law in force in the district of Kaira, in the Bombay Presidency, and that the said territory should, on and from that day, cease to be a scheduled district under the Scheduled Districts Act, 1874, and the Laws Local Extent Act, 1874; It is hereby enacted as follows :—

XIV of 1874.
XV of 1874.

Short title.

1. This Act may be called the Pánch Maháls Laws Act, 1885.

Laws of Kaira to apply.

2. (*1*) Save and except the enactments specified in the schedule hereto annexed, all enactments which, on the first day of May, 1885, are in force in the district of Kaira and not in the Pánch Maháls shall be deemed to come into force in the Pánch Maháls on that day.

Other laws repealed.

(*2*) All enactments which on that day are in force in the Pánch Maháls and not in the district of Kaira shall be deemed to be repealed on and from that day in the Pánch Maháls.

Pending proceedings.

3. All proceedings commenced before any authority in the Pánch Maháls before the first day of May, 1885, and still pending on that day, shall be disposed of by such authority as the Local Government may direct, and, save as aforesaid, shall be carried on as if this Act had not been passed.

Territory to cease to be a scheduled district.

4. On and from the first day of May, 1885, the Pánch Maháls shall cease to be a scheduled district; and in Part II of the First Schedule to the Scheduled Districts Act, 1874, and in the same Part of the Sixth Schedule to the Laws Local Extent Act, 1874, the words "The Pánch Maháls" shall be repealed.

Partial repeal of Acts XIV and XV of 1874.

XIV of 1874
XV of 1874.

THE SCHEDULE.

ENACTMENTS EXCEPTED FROM THE OPERATION OF SECTION 2.

Acts of the Governor General in Council.

Number and year.	Title.	Extent of exception.
VIII of 1870	For the prevention of the murder of female infants.	The whole.
XXI of 1881	To amend the law providing for the relief of Thákurs in the districts of Broach and Kaira.	The whole.

Acts of the Governor of Bombay in Council.

Number and year.	Title.	Extent of exception
V of 1862 .	For the preservation of the Bhágdári and Narwádári Tenures.	The whole.
V of 1879 .	To consolidate and amend the law relating to Revenue-officers and the Land-revenue in the Presidency of Bombay.	Section 85 and last fifteen words of section 58.

R. J. CROSTHWAITE,
Offg. Secretary to the Govt. of India.

The Gazette of India.

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CALCUTTA, SATURDAY, MARCH 21, 1885.

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PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First Publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 14th March, 1885, and is hereby promulgated for general information :—

ACT NO. VIII OF 1885.

THE BENGAL TENANCY ACT, 1885.

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SCHEDULE I.—REPEAL OF ENACTMENTS.
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Bengal Tenancy Act.

(Chapter I.—Preliminary.—Secs. 1-3.)

An Act to amend and consolidate certain enactments relating to the Law of Landlord and Tenant within the territories under the administration of the Lieutenant-Governor of Bengal.

WHEREAS it is expedient to amend and consolidate certain enactments relating to the law of Landlord and Tenant within the territories under the administration of the Lieutenant-Governor of Bengal; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title.

1. (*1*) This Act may be called the Bengal Tenancy Act, 1885.

Commencement.

(*2*) It shall come into force on such date (hereinafter called the commencement of this Act) as the Local Government, with the previous sanction of the Governor General in Council, may, by notification in the local official Gazette, appoint in this behalf.

Local extent.

(*3*) It shall extend by its own operation to all the territories for the time being under the administration of the Lieutenant-Governor of Bengal, except the Town of Calcutta, the Division of Orissa, and the Scheduled Districts specified in the third Part of the First Schedule of the Scheduled Districts Act, 1874; and the Local Government may, with the previous sanction of the Governor General in Council, by notification in the local official Gazette, extend the whole or any portion of this Act to the Division of Orissa or any part thereof.

XIV of 1874.

Repeal.

2. (*1*) The enactments specified in Schedule I hereto annexed are repealed in the territories to which this Act extends by its own operation.

(*2*) When this Act is extended to the Division of Orissa or any part thereof, such of those enactments as are in force in that Division or part, or, where a portion only of this Act is so extended, so much of them as is inconsistent with that portion, shall be repealed in that Division or part.

(*3*) Any enactment or document referring to any enactment hereby repealed shall be construed to refer to this Act or to the corresponding portion thereof.

(*4*) The repeal of any enactment by this Act shall not revive any right, privilege, matter or thing not in force or existing at the commencement of this Act.

Definitions.

3. In this Act, unless there is something repugnant in the subject or context:—

(*1*) "Estate" means land included under one entry in any of the general registers of revenue-paying lands and revenue-free lands, prepared and maintained under the law for the time being in force by the Collector of a district, and includes Government khás maháls and revenue-free lands not entered in any register.

(*2*) "Proprietor" means a person owning, whether in trust or for his own benefit, an estate or a part of an estate.

(*3*) "Tenant" means a person who holds land under another person, and is, or but for a special contract would be, liable to pay rent for that land to that person.

(*4*) "Landlord" means a person immediately under whom a tenant holds, and includes the Government.

(*5*) "Rent" means whatever is lawfully payable or deliverable in money or kind by a tenant to his landlord on account of the use or occupation of the land held by the tenant:

In sections 53 to 68, both inclusive, sections 72 to 75, both inclusive, Chapter XII and Schedule III of this Act, "rent" includes also money recoverable under any enactment for the time being in force as if it was rent.

(*6*) "Pay," "payable" and "payment," used with reference to rent, include "deliver," "deliverable" and "delivery."

(*7*) "Tenure" means the interest of a tenure-holder or an under-tenure-holder.

(*8*) "Permanent tenure" means a tenure which is heritable and which is not held for a limited time.

(*9*) "Holding" means a parcel or parcels of land held by a raiyat and forming the subject of a separate tenancy.

(*10*) "Village" means an area included in a village map of the revenue-survey within the same exterior boundary, or, where no such maps have been prepared, such area as any officer appointed by the Local Government in this behalf may determine after local inquiry held on such notice as the Local Government considers sufficient for giving information to all persons interested.

(*11*) "Agricultural year" means, where the Bengalí year prevails, the year commencing on the first day of Bysák, where the Faslí or Amlí year

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(Chapter II.—Classes of Tenants.—Secs. 4-5.)

(Chapter III.—Tenure-holders.—Secs. 6-7.)

prevails, the year commencing on the first day of Asin, and, where any other year prevails for agricultural purposes, that year.

(12) "Permanent Settlement" means the Permanent Settlement of Bengal, Behar and Orissa, made in the year 1793.

(13) "Succession" includes both intestate and testamentary succession.

(14) "Signed" includes "marked" when the person making the mark is unable to write his name; it also includes "stamped" with the name of the person referred to.

(15) "Prescribed" means prescribed from time to time by the Local Government by notification in the official Gazette.

(16) "Collector" means the Collector of a district or any other officer appointed by the Local Government to discharge any of the functions of a Collector under this Act.

(17) "Revenue-officer" in any provision of this Act includes any officer whom the Local Government may appoint by name or by virtue of his office to discharge any of the functions of a Revenue-officer under that provision.

(18) "Registered" means registered under any Act for the time being in force for the registration of documents.

CHAPTER II.

CLASSES OF TENANTS.

Classes of tenants.

4. There shall be, for the purposes of this Act, the following classes of tenants, (namely) :—

(1) tenure-holders, including under-tenure-holders,

(2) raiyats, and

(3) under-raiyats, that is to say, tenants holding whether immediately or mediately under raiyats;

and the following classes of raiyats, (namely) :—

(a) raiyats holding at fixed rates, which expression means raiyats holding either at a rent fixed in perpetuity or at a rate of rent fixed in perpetuity,

(b) occupancy-raiyats, that is to say, raiyats having a right of occupancy in the land held by them, and

(c) non-occupancy-raiyats, that is to say, raiyats not having such a right of occupancy.

Meaning of "tenure-holder" and "raiyat".

5. (1) "Tenure-holder" means primarily a person who has acquired from a proprietor or from another tenure-holder a right to hold land for the purpose of collecting rents or bringing it under cultivation by establishing tenants on it, and includes also the successors in interest of persons who have acquired such a right.

(2) "Raiyat" means primarily a person who has acquired a right to hold land for the purpose of cultivating it by himself, or by members of his family, or by hired servants, or with the aid of partners, and includes also the successors in interest of persons who have acquired such a right.

Explanation.—Where a tenant of land has the right to bring it under cultivation, he shall be deemed to have acquired a right to hold it for the purpose of cultivation notwithstanding that he uses it for the purpose of gathering the produce of it or of grazing cattle on it.

(3) A person shall not be deemed to be a raiyat unless he holds land either immediately under a proprietor or immediately under a tenure-holder.

(4) In determining whether a tenant is a tenure-holder or a raiyat, the Court shall have regard to—

(a) local custom; and

(b) the purpose for which the right of tenancy was originally acquired.

(5) Where the area held by a tenant exceeds one hundred standard bighás, the tenant shall be presumed to be a tenure-holder until the contrary is shewn.

CHAPTER III.

TENURE-HOLDERS.

Enhancement of rent.

Tenure held since Permanent Settlement liable to enhancement only in certain cases.

Enhancement of rent.

6. Where a tenure has been held from the time of the Permanent Settlement, its rent shall not be liable to enhancement except on proof—

(a) that the landlord under whom it is held is entitled to enhance the rent thereof either by local custom or by the conditions under which the tenure is held, or

(b) that the tenure-holder, by receiving reductions of his rent, otherwise than on account of a diminution of the area of the tenure, has subjected himself to the payment of the increase demanded, and that the lands are capable of affording it.

Limits of enhancement of rent of tenures.

7. (1) Where the rent of a tenure-holder is liable to enhancement, it may, subject to any contract between the parties, be enhanced up to the limit of the customary rate payable by persons holding similar tenures in the vicinity.

(2) Where no such customary rate exists, it may, subject as aforesaid, be enhanced up to such limit as the Court thinks fair and equitable.

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(Chapter III.—Tenure-holders.—Secs. 8-15.)

Enhancement of rent.

(3) In determining what is fair and equitable, the Court shall not leave to the tenure-holder as profit less than ten per centum of the balance which remains after deducting from the gross rents payable to him the expenses of collecting them, and shall have regard to—

(a) the circumstances under which the tenure was created, for instance, whether the land comprised in the tenure, or a great portion of it, was first brought under cultivation by the agency or at the expense of the tenure-holder or his predecessors in interest, whether any fine or premium was paid on the creation of the tenure, and whether the tenure was originally created at a specially low rent for the purpose of reclamation; and

(b) the improvements, if any, made by the tenure-holder or his predecessors in interest.

(4) If the tenure-holder himself occupies any portion of the land included in the area of his tenure, or has made a grant of any portion of the land either rent-free or at a beneficial rent, a fair and equitable rent shall be calculated for that portion and included in the gross rents aforesaid.

Power to order gradual enhancement.

8. The Court may, if it thinks that an immediate increase of rent would produce hardship, direct that the enhancement shall be gradual; that is to say, that the rent shall increase yearly by degrees, for any number of years not exceeding five, until the limit of the enhancement allowed has been reached.

Rent once enhanced may not be altered for fifteen years.

9. When the rent of a tenure-holder has been enhanced by the Court or by contract, it shall not be again enhanced by the Court during the fifteen years next following the date on which it has been so enhanced.

Other incidents of tenures.

Other incidents of tenures.

Permanent tenure-holder not liable to ejectment.

10. A holder of a permanent tenure shall not be ejected by his landlord except on the ground that he has broken a condition on breach of which he is, under the terms of a contract between him and his landlord, liable to be ejected:

Provided that where the contract is made after the commencement of this Act, the condition is consistent with the provisions of this Act.

Transfer and transmission of permanent tenure.

11. Every permanent tenure shall, subject to the provisions of this Act, be capable of being transferred and bequeathed in the same manner and to the same extent as other immoveable property.

Other incidents of tenures.

Voluntary transfer of permanent tenure.

12. (1) A transfer of a permanent tenure by sale, gift or mortgage (other than a transfer by sale in execution of a decree or by summary sale under any law relating to patní or other tenures) can be made only by a registered instrument.

(2) A registering officer shall not register any instrument purporting or operating to transfer by sale, gift or mortgage a permanent tenure unless there is paid to him, in addition to any fees payable under the Act for the time being in force for the registration of documents, a process-fee of the prescribed amount and a fee (hereinafter called "the landlord's fee") of the following amount, namely :—

(a) when rent is payable in respect of the tenure, a fee of two per centum on the annual rent of the tenure: provided that no such fee shall be less than one rupee or more than one hundred rupees; and

(b) when rent is not payable in respect of the tenure, a fee of two rupees.

(3) When the registration of any such instrument is complete, the registering officer shall send to the Collector the landlord's fee and a notice of the transfer and registration in the prescribed form, and the Collector shall cause the fee to be paid to, and the notice to be served on, the landlord in the prescribed manner.

Transfer of permanent tenure by sale in execution of decree other than decree for rent.

13. (1) When a permanent tenure is sold in execution of a decree other than a decree for arrears of rent due in respect thereof, the Court shall, before confirming the sale under section 312 of the Code of Civil Procedure, require the purchaser to pay into Court the landlord's fee prescribed by the last foregoing section and such further fee for service of notice of the sale on the landlord as may be prescribed. XIV of 1882.

(2) When the sale has been confirmed, the Court shall send to the Collector the landlord's fee and a notice of the sale in the prescribed form, and the Collector shall cause the fee to be paid to, and the notice to be served on, the landlord in the prescribed manner.

Transfer of permanent tenure by sale in execution of decree for rent.

14. When a permanent tenure is transferred by sale in execution of a decree for arrears of rent due in respect thereof, the Court shall send to the Collector a notice of the sale in the prescribed form.

Succession to permanent tenure.

15. When a succession to a permanent tenure takes place, the person succeeding shall give notice of the succession to the Collector in the prescribed form, and shall pay to the Collector the prescribed fee for the service of the notice on the landlord and the landlord's fee

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(Chapter IV.—Raiyats holding at fixed rates.—Secs. 16-20.)
(Chapter V.—Occupancy-raiyats.—Secs. 21-22.)

Other incidents of tenures.

prescribed by section 12, and the Collector shall cause the landlord's fee to be paid to, and the notice to be served on, the landlord in the prescribed manner.

Bar to recovery of rent pending notice of succession.

16. A person becoming entitled to a permanent tenure by succession shall not be entitled to recover by suit, distraint or other proceeding any rent payable to him as the holder of the tenure, until the Collector has received the notice and fees referred to in the last foregoing section.

Transfer of, and succession to, share in permanent tenure.

17. Subject to the provisions of section 88, the foregoing sections shall apply to the transfer of, or succession to, a share in a permanent tenure.

CHAPTER IV.

RAIYATS HOLDING AT FIXED RATES.

Incidents of holding at fixed rates.

18. A raiyat holding at a rent, or rate of rent, fixed in perpetuity—

(*a*) shall be subject to the same provisions with respect to the transfer of, and succession to, his holding as the holder of a permanent tenure, and

(*b*) shall not be ejected by his landlord except on the ground that he has broken a condition consistent with this Act, and on breach of which he is, under the terms of a contract between him and his landlord, liable to be ejected.

CHAPTER V.

OCCUPANCY-RAIYATS.

General.

General.

Continuance of existing occupancy-rights.

19. Every raiyat who immediately before the commencement of this Act has, by the operation of any enactment, by custom or otherwise, a right of occupancy in any land shall, when this Act comes into force, have a right of occupancy in that land.

Definition of "settled raiyat".

20. (*1*) Every person who for a period of twelve years, whether wholly or partly before or after the commencement of this Act, has continuously held as a raiyat land situate in any village, whether under a lease or otherwise, shall be deemed to have become, on the expiration of that period, a settled raiyat of that village.

(*2*) A person shall be deemed for the purposes of this section to have continuously held land in a village notwithstanding that the particular land held by him has been different at different times. *General.*

(*3*) A person shall be deemed, for the purposes of this section, to have held as a raiyat any land held as a raiyat by a person whose heir he is.

(*4*) Land held by two or more co-sharers as a raiyatí holding shall be deemed, for the purposes of this section, to have been held as a raiyat by each such co-sharer.

(*5*) A person shall continue to be a settled raiyat of a village as long as he holds any land as a raiyat in that village and for one year thereafter.

(*6*) If a raiyat recovers possession of land under section 87, he shall be deemed to have continued to be a settled raiyat notwithstanding his having been out of possession more than a year.

(*7*) If, in any proceeding under this Act, it is proved or admitted that a person holds any land as a raiyat, it shall, as between him and the landlord under whom he holds the land, be presumed for the purposes of this section, until the contrary is proved or admitted, that he has for twelve years continuously held that land or some part of it as a raiyat.

Settled raiyats to have occupancy-rights.

21. (*1*) Every person who is a settled raiyat of a village within the meaning of the last foregoing section shall have a right of occupancy in all land for the time being held by him as a raiyat in that village.

(*2*) Every person who, being a settled raiyat of a village within the meaning of the last foregoing section, held land as a raiyat in that village at any time between the second day of March, 1883, and the commencement of this Act, shall be deemed to have acquired a right of occupancy in that land under the law then in force; but nothing in this sub-section shall affect any decree or order passed by a Court before the commencement of this Act.

Effect of acquisition of occupancy-right by landlord.

22. (*1*) When the immediate landlord of an occupancy-holding is a proprietor or permanent tenure-holder, and the entire interests of the landlord and the raiyat in the holding become united in the same person by transfer, succession or otherwise, the occupancy-right shall cease to exist; but nothing in this sub-section shall prejudicially affect the rights of any third person.

(*2*) If the occupancy-right in land is transferred to a person jointly interested in the land as proprietor or permanent tenure-holder, it shall cease to exist; but nothing in this sub-section shall prejudicially affect the rights of any third person.

(*3*) A person holding land as an ijárádár or farmer of rents shall not, while so holding, acquire a right of occupancy in any land comprised in his ijárá or farm.

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(Chapter V.—Occupancy-raiyats.—Secs. 23-30.)

General.

Explanation.—A person having a right of occupancy in land does not lose it by subsequently becoming jointly interested in the land as proprietor or permanent tenure-holder, or by subsequently holding the land in ijárá or farm.

Incidents of occupancy-right.

Incidents of occupancy-right.

Rights of raiyat in respect of use of land.

23. When a raiyat has a right of occupancy in respect of any land, he may use the land in any manner which does not materially impair the value of the land or render it unfit for the purposes of the tenancy; but shall not be entitled to cut down trees in contravention of any local custom.

Obligation of raiyat to pay rent.

24. An occupancy-raiyat shall pay rent for his holding at fair and equitable rates.

Protection from eviction except on specified grounds.

25. An occupancy-raiyat shall not be ejected by his landlord from his holding, except in execution of a decree for ejectment passed on the ground—

(*a*) that he has used the land comprised in his holding in a manner which renders it unfit for the purposes of the tenancy, or

(*b*) that he has broken a condition consistent with the provisions of this Act, and on breach of which he is, under the terms of a contract between himself and his landlord, liable to be ejected.

Devolution of occupancy-right on death.

26. If a raiyat dies intestate in respect of a right of occupancy, it shall, subject to any custom to the contrary, descend in the same manner as other immoveable property: provided that, in any case in which under the law of inheritance to which the raiyat is subject his other property goes to the Crown, his right of occupancy shall be extinguished.

Enhancement of rent.

Enhancement of rent.

Presumption as to fair and equitable rent.

27. The rent for the time being payable by an occupancy-raiyat shall be presumed to be fair and equitable until the contrary is proved.

Restriction on enhancement of money-rents.

28. Where an occupancy-raiyat pays his rent in money, his rent shall not be enhanced except as provided by this Act.

Enhancement of rent by contract.

29. The money-rent of an occupancy-raiyat may be enhanced by contract, subject to the following conditions:—

(*a*) the contract must be in writing and registered;

(*b*) the rent must not be enhanced so as to exceed by more than two annas in the rupee the rent previously payable by the raiyat;

(*c*) the rent fixed by the contract shall not be liable to enhancement during a term of fifteen years from the date of the contract; *Enhancement of rent.*

Provided as follows—

(i) Nothing in clause (*a*) shall prevent a landlord from recovering rent at the rate at which it has been actually paid for a continuous period of not less than three years immediately preceding the period for which the rent is claimed.

(ii) Nothing in clause (*b*) shall apply to a contract by which a raiyat binds himself to pay an enhanced rent in consideration of an improvement which has been or is to be effected in respect of the holding by, or at the expense of, his landlord, and to the benefit of which the raiyat is not otherwise entitled; but an enhanced rent fixed by such a contract shall be payable only when the improvement has been effected, and, except when the raiyat is chargeable with default in respect of the improvement, only so long as the improvement exists and substantially produces its estimated effect in respect of the holding.

(iii) When a raiyat has held his land at a specially low rate of rent in consideration of cultivating a particular crop for the convenience of the landlord, nothing in clause (*b*) shall prevent the raiyat from agreeing, in consideration of his being released from the obligation of cultivating that crop, to pay such rent as he may deem fair and equitable.

Enhancement of rent by suit.

30. The landlord of a holding held at a money-rent by an occupancy-raiyat may, subject to the provisions of this Act, institute a suit to enhance the rent on one or more of the following grounds, (namely):—

(*a*) that the rate of rent paid by the raiyat is below the prevailing rate paid by occupancy-raiyats for land of a similar description and with similar advantages in the same village, and that there is no sufficient reason for his holding at so low a rate;

(*b*) that there has been a rise in the average local prices of staple food-crops during the currency of the present rent;

(*c*) that the productive powers of the land held by the raiyat have been increased by an improvement effected by, or at the expense of, the landlord during the currency of the present rent;

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(*d*) that the productive powers of the land held by the raiyat have been increased by fluvial action.

Explanation.—"Fluvial action" includes a change in the course of a river rendering irrigation from the river practicable when it was not previously practicable.

Rules as to enhancement on ground of prevailing rate.

31. Where an enhancement is claimed on the ground that the rate of rent paid is below the prevailing rate—

(*a*) in determining what is the prevailing rate the Court shall have regard to the rates generally paid during a period of not less than three years before the institution of the suit, and shall not decree an enhancement unless there is a substantial difference between the rate paid by the raiyat and the prevailing rate found by the Court;

(*b*) if in the opinion of the Court the prevailing rate of rent cannot be satisfactorily ascertained without a local inquiry, the Court may direct that a local inquiry be held under Chapter XXV of the Code of Civil Procedure by such Revenue-officer as the Local Government may authorize in that behalf by rules made under section 392 of the said Code;

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(*c*) in determining under this section the rate of rent payable by a raiyat his caste shall not be taken into consideration, unless it is proved that by local custom caste is taken into account in determining the rate; and whenever it is found that by local custom any description of raiyats hold land at favourable rates of rent, the rate shall be determined in accordance with that custom;

(*d*) in ascertaining the prevailing rate of rent the amount of any enhancement authorized on account of a landlord's improvement shall not be taken into consideration.

Rules as to enhancement on ground of rise in prices.

32. Where an enhancement is claimed on the ground of a rise in prices—

(*a*) the Court shall compare the average prices during the decennial period immediately preceding the institution of the suit with the average prices during such other decennial period as it may appear equitable and practicable to take for comparison;

(*b*) the enhanced rent shall bear to the previous rent the same proportion as the average prices during the last decennial period bear to the average prices during the previous decennial period taken for purposes of comparison: provided that, in calculating this proportion, the average prices during the later period shall be reduced by one-third of their excess over the average prices during the earlier period;

Enhancement of rent.

(*c*) if in the opinion of the Court it is not practicable to take the decennial periods prescribed in clause (*a*), the Court may, in its discretion, substitute any shorter periods therefor.

Rules as to enhancement on ground of landlord's improvement.

33. (*1*) Where an enhancement is claimed on the ground of a landlord's improvement—

(*a*) the Court shall not grant an enhancement unless the improvement has been registered in accordance with this Act;

(*b*) in determining the amount of enhancement the Court shall have regard to—

(i) the increase in the productive powers of the land caused or likely to be caused by the improvement,

(ii) the cost of the improvement,

(iii) the cost of the cultivation required for utilizing the improvement, and

(iv) the existing rent and the ability of the land to bear a higher rent.

(*2*) A decree under this section shall, on the application of the tenant or his successor in interest, be subject to re-consideration in the event of the improvement not producing or ceasing to produce the estimated effect.

Rules as to enhancement on ground of increase in productive powers due to fluvial action.

34. Where an enhancement is claimed on the ground of an increase in productive powers due to fluvial action—

(*a*) the Court shall not take into account any increase which is merely temporary or casual;

(*b*) the Court may enhance the rent to such an amount as it may deem fair and equitable, but not so as to give the landlord more than one-half of the value of the net increase in the produce of the land.

Enhancement by suit to be fair and equitable.

35. Notwithstanding anything in the foregoing sections, the Court shall not in any case decree any enhancement which is under the circumstances of the case unfair or inequitable.

Power to order progressive enhancement.

36. If the Court passing a decree for enhancement considers that the immediate enforcement of the decree in its full extent will be attended with hardship to the raiyat, it may direct that the enhancement shall be gradual; that is to say, that the rent shall increase

Bengal Tenancy Act.

(Chapter V.—Occupancy-raiyats.—Secs. 37-40.)

Enhancement of rent.

yearly by degrees for any number of years not exceeding five until the limit of the enhancement decreed has been reached.

Limitation of right to bring successive enhancement suits.

37. (*1*) A suit instituted for the enhancement of the rent of a holding on the ground that the rate of rent paid is below the prevailing rate, or on the ground of a rise in prices, shall not be entertained if within the fifteen years next preceding its institution the rent of the holding has been enhanced by a contract made after the second day of March, 1883, or if within the said period of fifteen years the rent has been commuted under section 40, or a decree has been passed under this Act or any enactment repealed by this Act enhancing the rent on either of the grounds aforesaid or on any ground corresponding thereto or dismissing the suit on the merits.

XIV of 1882.

(*2*) Nothing in this section shall affect the provisions of section 373 of the Code of Civil Procedure.

Reduction of rent.

Reduction of rent.

Reduction of rent.

38. (*1*) An occupancy-raiyat holding at a money-rent may institute a suit for the reduction of his rent on the following grounds, and, except as hereinafter provided in the case of a diminution of the area of the holding, not otherwise, (namely):—

(*a*) on the ground that the soil of the holding has without the fault of the raiyat become permanently deteriorated by a deposit of sand or other specific cause, sudden or gradual, or

(*b*) on the ground that there has been a fall, not due to a temporary cause, in the average local prices of staple food-crops during the currency of the present rent.

(*2*) In any suit instituted under this section, the Court may direct such reduction of the rent as it thinks fair and equitable.

Price-lists.

Price lists.

Price-lists of staple food-crops.

39. (*1*) The Collector of every district shall prepare, monthly, or at shorter intervals, periodical lists of the market-prices of staple food-crops grown in such local areas as the Local Government may from time to time direct, and shall submit them to the Board of Revenue for approval or revision.

(*2*) The Collector may, if so directed by the Local Government, prepare for any local area like price-lists relating to such past times as the Local Government thinks fit, and shall submit the lists so prepared to the Board of Revenue for approval or revision.

Price-lists.

(*3*) The Collector shall, one month before submitting a price-list to the Board of Revenue under this section, publish it in the prescribed manner within the local area to which it relates, and if any landlord or tenant of land within the local area, within the said period of one month, presents to him in writing any objection to the list, he shall submit the same to the Board of Revenue with the list.

(*4*) The price-lists shall, when approved or revised by the Board of Revenue, be published in the official Gazette; and any manifest error in any such list discovered after its publication may be corrected by the Collector with the sanction of the Board of Revenue.

(*5*) The Local Government shall cause to be compiled from the periodical lists prepared under this section lists of the average prices prevailing throughout each year, and shall cause them to be published annually in the official Gazette.

(*6*) In any proceedings under this chapter for an enhancement or reduction of rent on the ground of a rise or fall in prices, the Court shall refer to the lists published under this section, and shall presume that the prices shown in the lists prepared for any year subsequent to the passing of this Act are correct, unless and until it is proved that they are incorrect.

(*7*) The Local Government, subject to the control of the Governor General in Council, shall make rules for determining what are to be deemed staple food-crops in any local area and for the guidance of officers preparing price-lists under this section.

Commutation.

Commutation

Commutation of rent payable in kind.

40. (*1*) Where an occupancy-raiyat pays for a holding rent in kind, or on the estimated value of a portion of the crop, or at rates varying with the crop, or partly in one of those ways and partly in another, either the raiyat or his landlord may apply to have the rent commuted to a money-rent.

(*2*) The application may be made to the Collector or Sub-divisional Officer, or to an officer making a settlement of rents under Chapter X, or to any other officer specially authorized in this behalf by the Local Government.

(*3*) On the receipt of the application the officer may determine the sum to be paid as money-rent, and may order that the raiyat shall, in lieu of paying his rent in kind, or otherwise as aforesaid, pay the sum so determined.

(*4*) In making the determination the officer shall have regard to—

(*a*) the average money-rent payable by occupancy-raiyats for land of a similar description and with similar advantages in the vicinity;

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(Chapter VI.—Non-occupancy-raiyats.—Secs. 41—46.)

Commutation.

(*b*) the average value of the rent actually received by the landlord during the preceding ten years or during any shorter period for which evidence may be available; and

(*c*) the charges incurred by the landlord in respect of irrigation under the system of rent in kind, and the arrangements made on commutation for continuing those charges.

(*5*) The order shall be in writing, shall state the grounds on which it is made, and the time from which it is to take effect, and shall be subject to appeal in like manner as if it were an order made in an ordinary revenue proceeding.

(*6*) If the application is opposed, the officer shall consider whether under all the circumstances of the case it is reasonable to grant it, and shall grant or refuse it accordingly. If he refuses it, he shall record in writing the reasons for the refusal.

CHAPTER VI.

NON-OCCUPANCY-RAIYATS.

41. This chapter shall apply to raiyats not having a right of occupancy, who are in this Act referred to as non-occupancy-raiyats.

Application of chapter.

42. When a non-occupancy-raiyat is admitted to the occupation of land, he shall become liable to pay such rent as may be agreed on between himself and his landlord at the time of his admission.

Initial rent of non-occupancy-raiyat.

43. The rent of a non-occupancy-raiyat shall not be enhanced except by registered agreement or by agreement under section 46:

Conditions of enhancement of rent.

Provided that nothing in this section shall prevent a landlord from recovering rent at the rate at which it has been actually paid for a continuous period of not less than three years immediately preceding the period for which the rent is claimed.

44. A non-occupancy-raiyat shall, subject to the provisions of this Act, be liable to ejectment on one or more of the following grounds, and not otherwise (namely):—

Grounds on which non-occupancy-raiyat may be ejected.

(*a*) on the ground that he has failed to pay an arrear of rent;

(*b*) on the ground that he has used the land in a manner which renders it unfit for the purposes of the tenancy, or that he has broken a condition consistent with this Act and on breach of which he is, under the terms of a contract between himself and his landlord, liable to be ejected;

(*c*) where he has been admitted to occupation of the land under a registered lease, on the ground that the term of the lease has expired;

(*d*) on the ground that he has refused to agree to pay a fair and equitable rent determined under section 46, or that the term for which he is entitled to hold at such a rent has expired.

45. A suit for ejectment on the ground of the expiration of the term of a lease shall not be instituted against a non-occupancy-raiyat unless notice to quit has been served on the raiyat not less than six months before the expiration of the term, and shall not be instituted after six months from the expiration of the term.

Conditions of ejectment on ground of expiration of lease.

46. (*1*) A suit for ejectment on the ground of refusal to agree to an enhancement of rent shall not be instituted against a non-occupancy-raiyat unless the landlord has tendered to the raiyat an agreement to pay the enhanced rent, and the raiyat has within three months before the institution of the suit refused to execute the agreement.

Conditions of ejectment on ground of refusal to agree to enhancement.

(*2*) A landlord desiring to tender an agreement to a raiyat under this section may file it in the office of such Court or officer as the Local Government appoints in this behalf for service on the raiyat. The Court or officer shall forthwith cause it to be served on the raiyat in the prescribed manner, and when it has been so served it shall for the purposes of this section be deemed to have been tendered.

(*3*) If a raiyat on whom an agreement has been served under sub-section (*2*) executes it, and within one month from the date of service files it in the office from which it issued, it shall take effect from the commencement of the agricultural year next following.

(*4*) When an agreement has been executed and filed by a raiyat under sub-section (*3*), the Court or officer in whose office it is so filed shall forthwith cause a notice of its being so executed and filed to be served on the landlord in the prescribed manner.

(*5*) If the raiyat does not execute the agreement and file it under sub-section (*3*), he shall be deemed for the purposes of this section to have refused to execute it.

(*6*) If a raiyat refuses to execute an agreement tendered to him under this section, and the landlord thereupon institutes a suit to eject him, the Court shall determine what rent is fair and equitable for the holding.

(*7*) If the raiyat agrees to pay the rent so determined, he shall be entitled to remain in occupation of his holding at that rent for a term of five years from the date of the agreement, but on the expiration of that term shall be liable to ejectment under the conditions mentioned in the last foregoing section, unless he has acquired a right of occupancy.

Bengal Tenancy Act.

(Chapter VII.—Under-raiyats.—Chapter VIII.—General Provisions as to Rent.—Secs. 47—52.)

(*8*) If the raiyat does not agree to pay the rent so determined, the Court shall pass a decree for ejectment.

(*9*) In determining what rent is fair and equitable, the Court shall have regard to the rents generally paid by raiyats for land of a similar description and with like advantages in the same village.

(*10*) A decree for ejectment passed under this section shall take effect from the end of the agricultural year in which it is passed.

47. Where a raiyat has been in occupation of land and a lease is executed with a view to a continuance of his occupation, he is not to be deemed to be admitted to occupation by that lease for the purposes of this chapter, notwithstanding that the lease may purport to admit him to occupation.

Explanation of "admitted to occupation."

CHAPTER VII.

UNDER-RAIYATS.

48. The landlord of an under-raiyat holding at a money-rent shall not be entitled to recover rent exceeding the rent which he himself pays by more than the following percentage of the same, (namely):—

Limit of rent recoverable from under-raiyats.

(*a*) when the rent payable by the under-raiyat is payable under a registered lease or agreement—fifty per cent.; and

(*b*) in any other case—twenty-five per cent.

49. An under-raiyat shall not be liable to be ejected by his landlord, except—

Restriction on ejectment of under-raiyats.

(*a*) on the expiration of the term of a written lease;

(*b*) when holding otherwise than under a written lease, at the end of the agricultural year next following the year in which a notice to quit is served upon him by his landlord.

CHAPTER VIII.

GENERAL PROVISIONS AS TO RENT.

Rules and presumptions as to amount of rent.

50. (*1*) Where a tenure-holder or raiyat and his predecessors in interest have held at a rent or rate of rent which has not been changed from the time of the Permanent Settlement, the rent or rate of rent shall not be liable to be increased except on the ground of an alteration in the area of the tenure or holding.

Rules and presumptions as to amount of rent.

Rules and presumptions as to fixity of rent.

(*2*) If it is proved in any suit or other proceeding under this Act that either a tenure-holder or raiyat and his predecessors in interest have held at a rent or rate of rent which has not been changed during the twenty years immediately before the institution of the suit or proceeding, it shall be presumed, until the contrary is shown, that they have held at that rent or rate of rent from the time of the Permanent Settlement:

Rules and presumptions as to amount of rent.

Provided that if it is required by or under any enactment that in any local area tenancies, or any classes of tenancies, at fixed rents or rates of rent shall be registered as such on, or before, a date specified by or under the enactment, the foregoing presumption shall not after that date apply to any tenancy or, as the case may be, to any tenancy of that class in that local area unless the tenancy has been so registered.

(*3*) The operation of this section, so far as it relates to land held by a raiyat, shall not be affected by the fact of the land having been separated from other land which formed with it a single holding, or amalgamated with other land into one holding.

(*4*) Nothing in this section shall apply to a tenure held for a term of years or determinable at the will of the landlord.

51. If a question arises as to the amount of a tenant's rent or the conditions under which he holds in any agricultural year, he shall be presumed, until the contrary is shown, to hold at the same rent and under the same conditions as in the last preceding agricultural year.

Presumption as to amount of rent and conditions of holding.

Alteration of rent on alteration of area.

52. (*1*) Every tenant shall—

Alteration of rent on alteration of area.

Alteration of rent in respect of alteration in area.

(*a*) be liable to pay additional rent for all land proved by measurement to be in excess of the area for which rent has been previously paid by him, unless it is proved that the excess is due to the addition to the tenure or holding of land which having previously belonged to the tenure or holding was lost by diluvion or otherwise without any reduction of the rent being made, and

(*b*) be entitled to a reduction of rent in respect of any deficiency proved by measurement to exist in the area of his tenure or holding as compared with the area for which rent has been previously paid by him, unless it is proved that the deficiency is due to the loss of land which was added to the area of the tenure or holding by alluvion or otherwise, and that an addition has not been made to the rent in respect of the addition to the area.

Bengal Tenancy Act.

(Chapter VIII.—General Provisions as to Rent.—Secs. 53—57.)

Alteration of rent on alteration of area.

(2) In determining the area for which rent has been previously paid, the Court shall, if so required by any party to the suit, have regard to—

(a) the origin and conditions of the tenancy, for instance, whether the rent was a consolidated rent for the entire tenure or holding;

(b) whether the tenant has been allowed to hold additional land in consideration of an addition to his total rent or otherwise with the knowledge and consent of the landlord;

(c) the length of time during which the tenancy has lasted without dispute as to rent or area; and

(d) the length of the measure used or in local use at the time of the origin of the tenancy as compared with that used or in local use at the time of the institution of the suit.

(3) In determining the amount to be added to the rent, the Court shall have regard to the rates payable by tenants of the same class for lands of a similar description and with similar advantages in the vicinity, and, in the case of a tenure-holder, to the profits to which he is entitled in respect of the rent of his tenure, and shall not in any case fix any rent which under the circumstances of the case is unfair or inequitable.

(4) The amount abated from the rent shall bear the same proportion to the rent previously payable as the diminution of the total yearly value of the tenure or holding bears to the previous total yearly value thereof, or, in default of satisfactory proof of the yearly value of the land lost, shall bear to the rent previously payable the same proportion as the diminution of area bears to the previous area of the tenure or holding.

Payment of rent.

Payment of rent.

Instalments of rent.

53. Subject to agreement or established usage, a money-rent payable by a tenant shall be paid in four equal instalments falling due on the last day of each quarter of the agricultural year.

Time and place for payment of rent.

54. (1) Every tenant shall pay each instalment of rent before sunset of the day on which it falls due.

(2) The payment shall, except in cases where a tenant is allowed under this Act to deposit his rent, be made at the landlord's village-office, or at such other convenient place as may be appointed in that behalf by the landlord:

Provided that the Local Government may from time to time make rules, either generally or for any specified local area, authorizing a tenant to pay his rent by postal money-order.

Payment of rent.

(3) Any instalment or part of an instalment of rent not duly paid at or before the time when it falls due shall be deemed an arrear.

Appropriation of payments.

55. (1) When a tenant makes a payment on account of rent, he may declare the year or the year and instalment to which he wishes the payment to be credited, and the payment shall be credited accordingly.

(2) If he does not make any such declaration, the payment may be credited to the account of such year and instalment as the landlord thinks fit.

Receipts and accounts.

Receipts and accounts.

Tenant making payment to his landlord entitled to a receipt.

56. (1) Every tenant who makes a payment on account of rent to his landlord shall be entitled to obtain forthwith from the landlord a written receipt for the amount paid by him, signed by the landlord.

(2) The landlord shall prepare and retain a counterfoil of the receipt.

(3) The receipt and counterfoil shall specify such of the several particulars shown in the form of receipt given in Schedule II to this Act as can be specified by the landlord at the time of payment:

Provided that the Local Government may, from time to time, prescribe or sanction a modified form either generally or for any particular local area or class of cases.

(4) If a receipt does not contain substantially the particulars required by this section, it shall be presumed, until the contrary is shown, to be an acquittance in full of all demands for rent up to the date on which the receipt was given.

Tenant entitled to full discharge or statement of account at close of year.

57. (1) Where a landlord admits that all rent payable by a tenant to the end of the agricultural year has been paid, the tenant shall be entitled to receive from the landlord, free of charge, within three months after the end of the year, a receipt in full discharge of all rent falling due to the end of the year, signed by the landlord.

(2) Where the landlord does not so admit, the tenant shall be entitled, on paying a fee of four annas, to receive within three months after the end of the year a statement of account specifying the several particulars shown in the form of account given in Schedule II to this Act, or in such other form as may from time to time be prescribed by the Local Government either generally or for any particular local area or class of cases.

(3) The landlord shall prepare and retain a copy of the statement containing similar particulars.

Bengal Tenancy Act.

(Chapter VIII.—General Provisions as to Rent.—Secs. 58—63.)

Receipts and accounts.

Penalties and fine for withholding receipts and statements of account and failing to keep counterparts.

58. (1) If a landlord without reasonable cause refuses or neglects to deliver to a tenant a receipt containing the particulars prescribed by section 56 for any rent paid by the tenant, the tenant may, within three months from the date of payment, institute a suit to recover from him such penalty, not exceeding double the amount or value of that rent, as the Court thinks fit.

(2) If a landlord without reasonable cause refuses or neglects to deliver to a tenant demanding the same either the receipt in full discharge or, if the tenant is not entitled to such a receipt, the statement of account for any year prescribed in section 57, the tenant may, within the next ensuing agricultural year, institute a suit to recover from him such penalty as the Court thinks fit, not exceeding double the aggregate amount or value of all rent paid by the tenant to the landlord during the year for which the receipt or account should have been delivered.

(3) If a landlord without reasonable cause fails to prepare and retain a counterfoil or copy of a receipt or statement as required by either of the said sections, he shall be punished with fine which may extend to fifty rupees.

Local Government to prepare forms of receipt and account.

59. (1) The Local Government shall cause to be prepared and kept for sale to landlords at all sub-divisional offices forms of receipts with counterfoils and of statements of account suitable for use under the foregoing sections.

(2) The forms may be sold in books with the leaves consecutively numbered or otherwise as the Local Government thinks fit.

Effect of receipt by registered proprietor, manager or mortgagee.

VII (B.C.) of 1876.

60. Where rent is due to the proprietor, manager or mortgagee of an estate, the receipt of the person registered under the Land Registration Act, 1876, as proprietor, manager or mortgagee of that estate, or of his agent authorized in that behalf, shall be a sufficient discharge for the rent; and the person liable for the rent shall not be entitled to plead in defence to a claim by the person so registered that the rent is due to any third person.

But nothing in this section shall affect any remedy which any such third person may have against the registered proprietor, manager or mortgagee.

Deposit of rent.

Deposit of rent.

Application to deposit rent in Court.

61. (1) In any of the following cases, namely:—

(a) when a tenant tenders money on account of rent and the landlord refuses to receive it or refuses to grant a receipt for it;

(b) when a tenant bound to pay money on account of rent has reason to believe, owing to a tender having been refused or a receipt withheld on a previous occasion, that the person to whom his rent is payable will not be willing to receive it and to grant him a receipt for it;

Deposit of rent.

(c) when the rent is payable to co-sharers jointly, and the tenant is unable to obtain the joint receipt of the co-sharers for the money, and no person has been empowered to receive the rent on their behalf; or

(d) when the tenant entertains a *bonâ fide* doubt as to who is entitled to receive the rent,

the tenant may present to the Court having jurisdiction to entertain a suit for the rent of his tenure or holding an application in writing for permission to deposit in the Court the full amount of the money then due.

(2) The application shall contain a statement of the grounds on which it is made; shall state—

in cases (a) and (b), the name of the person to whose credit the deposit is to be entered,

in case (c), the names of the sharers to whom the rent is due, or of so many of them as the tenant may be able to specify, and

in case (d), the names of the person to whom the rent was last paid and of the person or persons now claiming it;

shall be signed and verified, in the manner prescribed in section 52 of the Code of Civil Procedure, by the tenant, or, where he is not personally cognizant of the facts of the case, by some person so cognizant; and shall be accompanied by a fee of such amount as the Local Government, from time to time, by rule, directs. XIV of 1882.

Receipt granted by Court for rent deposited to be a valid acquittance.

62. (1) If it appears to the Court to which an application is made under the last foregoing section that the applicant is entitled under that section to deposit the rent, it shall receive the rent and give a receipt for it under the seal of the Court.

(2) A receipt given under this section shall operate as an acquittance for the amount of the rent payable by the tenant and deposited as aforesaid, in the same manner and to the same extent as if that amount of rent had been received—

in cases (a) and (b) of the last foregoing section, by the person specified in the application as the person to whose credit the deposit was to be entered;

in case (c) of that section, by the co-sharers to whom the rent is due; and

in case (d) of that section, by the person entitled to the rent.

Notification of receipt of deposit.

63. (1) The Court receiving the deposit shall forthwith cause to be affixed in a conspicuous place at the Court-house a notification of the receipt thereof, containing a statement of all material particulars.

Bengal Tenancy Act.

(Chapter VIII.—General Provisions as to Rent.—Secs. 64-69.)

Deposit of rent.

(2) If the amount of the deposit is not paid away under the next following section, within the period of fifteen days next following the date on which the notification is so affixed, the Court shall forthwith—

in cases (*a*) and (*b*) of section 61, cause a notice of the receipt of the deposit to be served, free of charge, on the person specified in the application as the person to whose credit the deposit was to be entered;

in case (*c*) of that section, cause a notice of the receipt of the deposit to be posted at the landlord's village-office or in some conspicuous place in the village in which the holding is situate; and

in case (*d*) of that section, cause a like notice to be served, free of charge, on every person who it has reason to believe claims or is entitled to the deposit.

Payment or refund of deposit.

64. (*1*) The Court may pay the amount of the deposit to any person appearing to it to be entitled to the same, or may, if it thinks fit, retain the amount pending the decision of a Civil Court as to the person so entitled.

(*2*) The payment may, if the Local Government so direct, be made by postal money-order.

(*3*) If no payment is made under this section before the expiration of three years from the date on which a deposit is made, the amount deposited may, in the absence of any order of a Civil Court to the contrary, be repaid to the depositor upon his application and on his returning the receipt given by the Court with which the rent was deposited.

(*4*) No suit or other proceeding shall be instituted against the Secretary of State for India in Council, or against any officer of the Government, in respect of anything done by a Court receiving a deposit under the foregoing sections; but nothing in this section shall prevent any person entitled to receive the amount of any such deposit from recovering the same from a person to whom it has been paid under this section.

Arrears of rent.

Arrears of rent.

Liability to sale for arrears in case of permanent tenure, holding at fixed rates or occupancy-holding.

65. Where a tenant is a permanent tenure-holder, a raiyat holding at fixed rates or an occupancy-raiyat, he shall not be liable to ejectment for arrears of rent, but his tenure or holding shall be liable to sale in execution of a decree for the rent thereof, and the rent shall be a first charge thereon.

Ejectment for arrears in other cases.

66. (*1*) When an arrear of rent remains due from a tenant not being a permanent tenure-holder, a raiyat holding at fixed rates or an occupancy-raiyat, at the end of the Bengali year where that year prevails, or at the end of the month of Jeyt where the Fasli or Amli year prevails, the landlord may, whether he has obtained a decree for the recovery of the arrear or not, and whether he is entitled by the terms of any contract to eject the tenant for arrears or not, institute a suit to eject the tenant.

Arrears of rent.

(*2*) In a suit for ejectment for an arrear of rent a decree passed in favour of the plaintiff shall specify the amount of the arrear and of the interest (if any) due thereon, and the decree shall not be executed if that amount and the costs of the suit are paid into Court within fifteen days from the date of the decree, or, when the Court is closed on the fifteenth day, on the day upon which the Court reopens.

(*3*) The Court may for special reasons extend the period of fifteen days mentioned in this section.

Interest on arrears.

67. An arrear of rent shall bear simple interest at the rate of twelve per centum per annum from the expiration of that quarter of the agricultural year in which the instalment falls due to the institution of the suit.

Power to award damages on rent withheld without reasonable cause, or to defendant improperly sued for rent.

68. (*1*) If, in any suit brought for the recovery of arrears of rent, it appears to the Court that the defendant has, without reasonable or probable cause, neglected or refused to pay the amount of rent due by him, the Court may award to the plaintiff, in addition to the amount decreed for rent and costs, such damages, not exceeding twenty-five per centum on the amount of rent decreed, as it thinks fit:

Provided that interest shall not be decreed when damages are awarded under this section.

(*2*) If, in any suit brought for the recovery of arrears of rent, it appears to the Court that the plaintiff has instituted the suit without reasonable or probable cause, the Court may award to the defendant, by way of damages, such sum, not exceeding twenty-five per centum on the whole amount claimed by the plaintiff, as it thinks fit.

Produce-rents.

Order for appraising or dividing produce.

69. (*1*) Where rent is taken by appraisement or division of the produce,— *Produce-rents.*

(*a*) if either the landlord or the tenant neglects to attend, either personally or by agent, at the proper time for making the appraisement or division, or

(*b*) if there is a dispute about the quantity, value or division of the produce,

Bengal Tenancy Act.

(Chapter VIII.—General Provisions as to Rent.—Secs. 70-75.)

Produce-rents.

the Collector may, on the application of either party, and on his depositing such sum on account of expenses as the Collector may require, make an order appointing such officer as he thinks fit to appraise or divide the produce.

(*2*) The Collector may, without such an application, make the like order in any case where in the opinion of the District or Sub-divisional Magistrate the making of the order would be likely to prevent a breach of the peace.

(*3*) Where a Collector makes an order under this section, he may, by order, prohibit the removal of the produce until the appraisement or division has been effected.

Procedure where officer appointed.

70. (*1*) When a Collector appoints an officer under the last foregoing section, the Collector may, in his discretion, direct the officer to associate with himself any other persons as assessors, and may give him instructions regarding the number, qualifications and mode of selection of those assessors (if any), and the procedure to be followed in making the appraisement or division; and the officer shall conform to the instructions so given.

(*2*) The officer shall, before making an appraisement or division, give notice to the landlord and tenant of the time and place at which the appraisement or division will be made; but if either the landlord or the tenant fails to attend either personally or by agent, he may proceed *ex parte*.

(*3*) When the officer has made the appraisement or division, he shall submit a report of his proceedings to the Collector.

(*4*) The Collector shall consider the report, and, after giving the parties an opportunity of being heard and making such enquiry (if any) as he may think necessary, shall pass such order thereon as he thinks just.

(*5*) The Collector may, if he thinks fit, refer any question in dispute between the parties for the decision of a Civil Court, but, subject as aforesaid, his order shall be final and shall, on application to a Civil Court by the landlord or the tenant, be enforceable as a decree.

(*6*) Where the officer makes an appraisement, the appraisement papers shall be filed in the Collector's office.

Rights and liabilities as to possession of crop.

71. (*1*) Where rent is taken by appraisement of the produce, the tenant shall be entitled to the exclusive possession of the produce.

(*2*) Where rent is taken by division of the produce, the tenant shall be entitled to the exclusive possession of the whole produce until it is divided, but shall not be entitled to remove any portion of the produce from the threshing-floor at such a time or in such a manner as to prevent the due division thereof at the proper time. *Produce-rents.*

(*3*) In either case the tenant shall be entitled to cut and harvest the produce in due course of husbandry without any interference on the part of the landlord.

(*4*) If the tenant removes any portion of the produce at such a time or in such a manner as to prevent the due appraisement or division thereof at the proper time, the produce shall be deemed to have been as full as the fullest crop of the same description appraised in the neighbourhood on similar land for that harvest.

Liability for rent on change of landlord or after transfer of tenure or holding.

Liability for rent on change of landlord or after transfer of tenure or holding.

Tenant not liable to transferee of landlord's interest for rent paid to former landlord, without notice of the transfer.

72. (*1*) A tenant shall not, when his landlord's interest is transferred, be liable to the transferee for rent which became due after the transfer and was paid to the landlord whose interest was so transferred, unless the transferee has before the payment given notice of the transfer to the tenant.

(*2*) Where there is more than one tenant paying rent to the landlord whose interest is transferred, a general notice from the transferee to the tenants published in the prescribed manner shall be a sufficient notice for the purposes of this section.

Liability for rent after transfer of occupancy-holding.

73. When an occupancy-raiyat transfers his holding without the consent of the landlord, the transferor and transferee shall be jointly and severally liable to the landlord for arrears of rent accruing due after the transfer, unless and until notice of the transfer is given to the landlord in the prescribed manner.

Illegal Cesses, &c.

Illegal cesses, &c.

Abwáb, &c., illegal.

74. All impositions upon tenants under the denomination of *abwáb*, *mahtut*, or other like appellations, in addition to the actual rent, shall be illegal, and all stipulations and reservations for the payment of such shall be void.

Penalty for exaction by landlord from tenant of sum in excess of the rent payable.

75. Every tenant from whom, except under any special enactment for the time being in force, any sum of money or any portion of the produce of his land is exacted by his landlord in excess of the rent lawfully payable, may, within six months from the date of the exaction, institute a suit to recover from the landlord, in addition to the amount or value of what is so exacted, such sum by way of penalty as the Court thinks fit, not exceeding

two hundred rupees; or, when double the amount or value of what is so exacted exceeds two hundred rupees, not exceeding double that amount or value.

CHAPTER IX.

MISCELLANEOUS PROVISIONS AS TO LANDLORDS AND TENANTS.

Improvements.

Improvements.

Definition of "improvement."

76. (*1*) For the purposes of this Act, the term "improvement," used with reference to a raiyat's holding, shall mean any work which adds to the value of the holding, which is suitable to the holding and consistent with the purpose for which it was let, and which, if not exeeuted on the holding, is either executed directly for its benefit, or is, after execution, made directly beneficial to it.

(*2*) Until the contrary is shown, the following shall be presumed to be improvements within the meaning of this section:—

(*a*) the construction of wells, tanks, water-channels and other works for the storage, supply or distribution of water for the purposes of agriculture, or for the use of men and cattle employed in agriculture;

(*b*) the preparation of land for irrigation;

(*c*) the drainage, reclamation from rivers or other waters, or protection from floods, or from erosion or other damage by water, of land used for agricultural purposes, or waste-land which is culturable;

(*d*) the reclamation, clearance, enclosure or permanent improvement of land for agricultural purposes;

(*e*) the renewal or re-construction of any of the foregoing works, or alterations therein, or additions thereto; and

(*f*) the erection of a suitable dwelling-house for the raiyat and his family, together with all necessary out-offices.

(*3*) But no work executed by the raiyat of a holding shall be deemed to be an improvement for the purposes of this Act if it substantially diminishes the value of his landlord's property.

Right to make improvements in case of holding at fixed rates and occupancy-holding.

77. (*1*) Where a raiyat holds at fixed rates or has an occupancy-right in his holding, neither the raiyat nor his landlord shall, as such, be entitled to prevent the other from making an improvement in respect of the holding, except on the ground that he is willing to make it himself.

(*2*) If both the raiyat and his landlord wish to make the same improvement, the raiyat shall have the prior right to make it, unless it affects another holding or other holdings under the same landlord.

Improvements.

Collector to decide question as to right to make improvement, &c.

78. If a question arises between the raiyat and his landlord—

(*a*) as to the right to make an improvement, or

(*b*) as to whether a particular work is an improvement,

the Collector may, on the application of either party, decide the question, and his decision shall be final.

Right to make improvements in case of non-occupancy-holding.

79. (*1*) A non-occupancy-raiyat shall be entitled to construct, maintain and repair a well for the irrigation of his holding, with all works incidental thereto, and to erect a suitable dwelling-house for himself and his family, with all necessary out-offices; but shall not, except as aforesaid and as next hereinafter provided, be entitled to make any other improvement in respect of his holding without his landlord's permission.

(*2*) A non-occupancy-raiyat who would, but for the want of his landlord's permission, be entitled to make an improvement in respect of his holding, may, if he desires that the improvement be made, deliver, or cause to be delivered, to his landlord a request in writing calling upon him to make the improvement within a reasonable time; and, if the landlord is unable or neglects to comply with that request, may make the improvement himself.

Registration of landlords' improvements.

80. (*1*) A landlord may, by application to such Revenue-officer as the Local Government may appoint, register any improvement which he has lawfully made or which has been lawfully made at his expense or which he has assisted a tenant in making.

(*2*) The application shall be in such form, shall contain such information, and shall be verified in such manner, by local inquiry or otherwise, as the Local Government from time to time by rule directs.

(*3*) The officer receiving the application may reject it if it has not been made within twelve months—

(*a*) in the case of improvements made before the commencement of this Act—from the commencement of this Act;

(*b*) in the case of improvements made after the commencement of this Act—from the date of the completion of the work.

Improvements.

Application to record evidence as to improvement.

81. (*1*) If any landlord or tenant of a holding desires that evidence relating to any improvement made in respect thereof be recorded, he may apply to a Revenue-officer, who shall thereupon, at a time and place of which notice shall be given to the parties, record the evidence, unless he considers that there are no reasonable grounds for making the application, or it is made to appear that the subject-matter thereof is under inquiry in a Civil Court.

(*2*) When any matter has been recorded under this section, the record thereof shall be admissible in evidence in any subsequent proceedings between the landlord and tenant or any persons claiming under them.

Compensation for raiyats' improvements.

82. (*1*) Every raiyat who is ejected from his holding shall be entitled to compensation for improvements which have been made in respect thereof in accordance with this Act by him, or by his predecessor in interest, and for which compensation has not already been paid.

(*2*) Whenever a Court makes a decree or order for the ejectment of a raiyat, it shall determine the amount of compensation (if any) due under this section to the raiyat for improvements, and shall make the decree or order of ejectment conditional on the payment of that amount to the raiyat.

(*3*) No compensation under this section for an improvement shall be claimable where the raiyat has made the improvement in pursuance of a contract or under a lease binding him, in consideration of some substantial advantage to be obtained by him, to make the improvement without compensation, and he has obtained that advantage.

(*4*) Improvements made by a raiyat between the 2nd day of March, 1883, and the commencement of this Act shall be deemed to have been made in accordance with this Act.

(*5*) The Local Government may, from time to time, by notification in the official Gazette, make rules requiring the Court to associate with itself, for the purpose of estimating the compensation to be awarded under this section for an improvement, such number of assessors as the Local Government thinks fit, and determining the qualifications of those assessors and the mode of selecting them.

Principle on which compensation is to be estimated.

83. (*1*) In estimating the compensation to be awarded under the last foregoing section for an improvement, regard shall be had—

(*a*) to the amount by which the value, or the produce, of the holding, or the value of that produce, is increased by the improvement;

(*b*) to the condition of the improvement, and the probable duration of its effects;

(*c*) to the labour and capital required for the making of such an improvement;

(*d*) to any reduction or remission of rent or any other advantage given by the landlord to the raiyat in consideration of the improvement; and

(*e*) in the case of a reclamation or of the conversion of unirrigated into irrigated land, to the length of time during which the raiyat has had the benefit of the improvement at an unenhanced rent.

(*2*) When the amount of the compensation has been assessed, the Court may, if the landlord and raiyat agree, direct that, instead of being paid wholly in money, it shall be made wholly or partly in some other way.

Improvements.

Acquisition of land for building and other purposes.

Acquisition of land for building and other purposes.

Acquisition of land for building and other purposes.

84. A Civil Court may, on the application of the landlord of a holding, and on being satisfied that he is desirous of acquiring the holding or part thereof for some reasonable and sufficient purpose having relation to the good of the holding or of the estate in which it is comprised, including the use of the ground as building ground, or for any religious, educational or charitable purpose,

and on being satisfied on the certificate of the Collector that the purpose is reasonable and sufficient,

authorise the acquisition thereof by the landlord upon such conditions as the Court may think fit, and require the tenant to sell his interest in the whole or such part of the holding to the landlord upon such terms as may be approved by the Court, including full compensation to the tenant.

Sub-letting.

Sub-letting.

Restrictions on sub-letting.

85. (*1*) If a raiyat sub-lets otherwise than by a registered instrument, the sub-lease shall not be valid against his landlord unless made with the landlord's consent.

(*2*) A sub-lease by a raiyat shall not be admitted to registration if it purports to create a term exceeding nine years.

(*3*) Where a raiyat has, without the consent of his landlord, granted a sub-lease by an instrument registered before the commencement of this Act, the sub-lease shall not be valid for more than nine years from the commencement of this Act.

Surrender and abandonment.

Surrender and abandonment.

Surrender.

86. (*1*) A raiyat not bound by a lease or other agreement for a fixed period may, at the end of any agricultural year, surrender his holding.

Surrender and abandonment.

(2) But, notwithstanding the surrender, the raiyat shall be liable to indemnify the landlord against any loss of the rent of the holding for the agricultural year next following the date of the surrender, unless he gives to his landlord, at least three months before he surrenders, notice of his intention to surrender.

(3) When a raiyat has surrendered his holding, the Court shall in the following cases for the purposes of sub-section (2) presume, until the contrary is shown, that such notice was so given, namely:—

(*a*) if the raiyat takes a new holding in the same village from the same landlord during the agricultural year next following the surrender;

(*b*) if the raiyat ceases, at least three months before the end of the agricultural year at the end of which the surrender is made, to reside in the village in which the surrendered holding is situate.

(4) The raiyat may, if he thinks fit, cause the notice to be served through the Civil Court within the jurisdiction of which the holding or any portion of it is situate.

(5) When a raiyat has surrendered his holding, the landlord may enter on the holding and either let it to another tenant or take it into cultivation himself.

(6) When a holding is subject to an incumbrance secured by a registered instrument, the surrender of the holding shall not be valid unless it is made with the consent of the landlord and the incumbrancer.

(7) Save as provided in the last foregoing sub-section, nothing in this section shall affect any arrangement by which a raiyat and his landlord may arrange for a surrender of the whole or a part of the holding.

87. (1) If a raiyat voluntarily abandons his residence without notice to his landlord and without arranging for payment of his rent as it falls due, and ceases to cultivate his holding either by himself or by some other person, the landlord may, at any time after the expiration of the agricultural year in which the raiyat so abandons and ceases to cultivate, enter on the holding and let it to another tenant or take it into cultivation himself.

Abandonment.

(2) Before a landlord enters under this section, he shall file a notice in the prescribed form in the Collector's office stating that he has treated the holding as abandoned and is about to enter on it accordingly; and the Collector shall cause the notice to be published in such manner as the Local Government, by rule, directs.

(3) When a landlord enters under this section, the raiyat shall be entitled to institute a suit for recovery of possession of the land at any time not later than the expiration of two years, or, in the case of a non-occupancy-raiyat, six months, from the date of the publication of the notice; and thereupon the Court may, on being satisfied that the raiyat did not voluntarily abandon his holding, order recovery of possession on such terms, if any, with respect to compensation to persons injured and payment of arrears of rent as to the Court may seem just.

Surrender and abandonment.

(4) Where the whole or part of a holding has been sub-let by a registered instrument, the landlord shall, before entering under this section on the holding, offer the whole holding to the sub-lessee for the remainder of the term of the sub-lease at the rent paid by the raiyat who has ceased to cultivate the holding, and on condition of the sub-lessee paying up all arrears due from that raiyat. If the sub-lessee refuses or neglects within a reasonable time to accept the offer, the landlord may avoid the sub-lease and may enter on the holding and let it to another tenant or cultivate it himself as provided in sub-sections (1) and (2).

Sub-dirision of tenancy.

Sub-division of tenancy.

88. A division of a tenure or holding, or distribution of the rent payable in respect thereof, shall not be binding on the landlord unless it is made with his consent in writing.

Division of tenancy not binding on landlord without his consent.

Ejectment.

Ejectment.

89. No tenant shall be ejected from his tenure or holding except in execution of a decree.

No ejectment except in execution of decree.

Measurements.

Measurements.

90. (1) Subject to the provisions of this section and any contract, a landlord may, by himself, or by any person authorized by him in this behalf, enter on and measure all land comprised in his estate or tenure, other than land exempt from the payment of revenue.

Landlord's right to measure land.

(2) A landlord shall not, without the consent of the tenant, or the written permission of the Collector, be entitled to measure land more than once in ten years, except in the following cases (namely):—

(*a*) where the area of the tenure or holding is liable, by reason of alluvion or diluvion, to vary from year to year, and the rent payable depends on the area;

(*b*) where the area under cultivation is liable to vary from year to year and the rent payable depends on the area under cultivation;

(*c*) where the landlord is a purchaser otherwise than by voluntary transfer and not more than two years have elapsed since the date of his entry under the purchase.

Measurements.

(3) The ten years shall be computed from the date of the last measurement, whether made before or after the commencement of this Act.

91. (1) Where a landlord desires to measure any land which he is entitled to measure under the last foregoing section, the Civil Court may, on the application of the landlord, make an order requiring the tenant to attend and point out the boundaries of the land.

Power for Court to order tenant to attend and point out boundaries.

(2) If the tenant refuses or neglects to comply with the order, a map or other record of the boundaries and measurements of the land, prepared under the direction of the landlord at the time when the tenant was directed to attend, shall be presumed to be correct until the contrary is shown.

92. (1) Every measurement of land made by order of a Civil Court, or of a Revenue-officer, in any suit or proceeding between a landlord and tenant, shall be made by the acre, unless the Court or Revenue-officer directs that it be made by any other specified standard.

Standard of measurement.

(2) If the rights of the parties are regulated by any local measure other than the acre, the acre shall be converted into the local measure for the purposes of the suit or proceeding.

(3) The Local Government may, after local enquiry, make rules declaring for any local area the standard or standards of measurement locally in use in that area, and every declaration so made shall be presumed to be correct until the contrary is shown.

Managers.

Managers.

93. When any dispute exists between co-owners of an estate or tenure as to the management thereof, and in consequence there has ensued, or is likely to ensue,

Power to call upon co-owners to show cause why they should not appoint a common manager.

(*a*) inconvenience to the public, or

(*b*) injury to private rights,

the District Judge may, on the application in case (*a*) of the Collector, and in case (*b*) of any one having an interest in the estate or tenure, direct a notice to be served on all the co-owners, calling on them to show cause why they should not appoint a common manager:

Provided that a co-owner of an estate or tenure shall not be entitled to apply under this section unless he is actually in possession of the interest he claims, and, if he is a co-owner of an estate, unless his name and the extent of his interest are registered under the Land Registration Act, 1876.

VII (B.C.) of 1876.

94. If the co-owners fail to show cause as aforesaid within one month after service of a notice under the last foregoing section, the District Judge may make an order directing them to appoint a common manager, and a copy of the order shall be served on any co-owner who did not appear before it was made.

Power to order them to appoint a manager if cause is not shown.

Managers.

95. If the co-owners do not, within such period, not being less than one month after the making of an order under the last foregoing section, as the District Judge may fix in this behalf, or, where the order has been served as directed by that section, within a like period after such service, appoint a common manager and report the appointment for the information of the District Judge, the District Judge may, unless it is shown to his satisfaction that there is a prospect of a satisfactory arrangement being made within a reasonable time,—

Power to appoint manager if order is not obeyed.

(*a*) direct that the estate or tenure be managed by the Court of Wards in any case in which the Court of Wards consents to undertake the management thereof; or

(*b*) in any case appoint a manager.

96. The Local Government may nominate a person for any local area to manage all estates and tenures within that local area for which it may be necessary to appoint a manager under clause (*b*) of the last foregoing section; and, when any person has been so nominated, no other person shall be appointed manager under that clause by the District Judge, unless in the case of any estate the Judge thinks fit to appoint one of the co-owners themselves as manager.

Power to nominate person to act in all cases under clause (*b*) of last section.

97. In any case in which the Court of Wards undertakes under section 95 the management of an estate or tenure, so much of the provisions of the Court of Wards Act, 1879, as relates to the management of immoveable property shall apply to the management.

The Court of Wards Act, 1879, applicable to management by Court of Wards.

IX (B.C.) of 1879.

98. (1) A manager appointed under section 95 may, if the District Judge thinks fit, be remunerated by a fixed salary or percentage of the money collected by him as manager, or partly in one way and partly in the other, as the District Judge from time to time directs.

Provisions applicable to manager.

(2) He shall give such security for the proper discharge of his duties as the District Judge directs.

(3) He shall, subject to the control of the District Judge, have, for the purposes of management, the same powers as the co-owners jointly might but for his appointment have exercised, and the co-owners shall not exercise any such power

Managers.

(4) He shall deal with and distribute the profits in accordance with the orders of the District Judge.

(5) He shall keep regular accounts, and allow the co-owners or any of them to inspect and take copies of those accounts.

(6) He shall pass his accounts at such period and in such form as the District Judge may direct.

(7) He may make any application which the proprietors could make under section 103.

(8) He shall be removable by the order of the District Judge, and not otherwise.

Power to restore management to co-owners.

99. When an estate or tenure has been placed under the management of the Court of Wards, or a manager has been appointed for the same under section 95, the District Judge may at any time direct that the management of it be restored to the co-owners, if he is satisfied that the management will be conducted by them without inconvenience to the public or injury to private rights.

Power to make rules.

100. The High Court may, from time to time, make rules defining the powers and duties of managers under the foregoing sections.

CHAPTER X.

RECORD-OF-RIGHTS AND SETTLEMENT OF RENTS.

Power to order survey and preparation of record-of-rights.

101. (1) The Local Government may, in any case with the previous sanction of the Governor General in Council, and may, if it thinks fit, without such sanction in any of the cases next hereinafter mentioned, make an order directing that a survey be made, and a record-of-rights be prepared, in respect of the lands in a local area by a Revenue-officer.

(2) The cases in which an order may be made under this section without the previous sanction of the Governor General in Council are the following (namely):—

(a) where the landlord or a large proportion of the landlords or of the tenants applies for such an order and deposits, or gives security for, such amount, for the payment of expenses, as the Local Government directs;

(b) where the preparation of such a record is calculated to settle or avert a serious dispute existing or likely to arise between the tenants and their landlords generally;

(c) where the local area is comprised in an estate or tenure which belongs to or is managed by the Government or the Court of Wards; and

(d) where a settlement of revenue is being made in respect of the local area.

(3) A notification in the official Gazette of an order under this section shall be conclusive evidence that the order has been duly made.

Particulars to be recorded.

102. Where an order is made under the last foregoing section, the particulars to be recorded shall be specified in the order, and may include, either without or in addition to other particulars, some or all of the following, namely:—

(a) the name of each tenant;

(b) the class to which he belongs, that is to say, whether he is a tenure-holder, raiyat holding at fixed rates, occupancy-raiyat, non-occupancy-raiyat or under-raiyat, and, if he is a tenure-holder, whether he is a permanent tenure-holder or not, and whether his rent is liable to enhancement during the continuance of his tenure;

(c) the situation, quantity and boundaries of the land held by him;

(d) the name of his landlord;

(e) the rent payable;

(f) the mode in which that rent has been fixed, whether by contract, by order of a Court, or otherwise;

(g) if the rent is a gradually increasing rent, the time at which, and the steps by which, it increases;

(h) the special conditions and incidents, if any, of the tenancy.

Power for Revenue-officer to record particulars on application of proprietor or tenure-holder.

103. On the application of a proprietor or tenure-holder, and on his depositing or giving security for the required amount for expenses, a Revenue-officer may, subject to and in accordance with rules made in this behalf by the Local Government, ascertain and record the particulars specified in the last foregoing section with respect to the estate or tenure or any part thereof.

Procedure as to recording or settling rents.

104. (1) When, in any proceeding under this chapter, it does not appear that the tenant is holding land in excess of or less than that for which he is paying rent, and neither the landlord nor the tenant applies for a settlement of rent, the officer shall record the rent payable by the tenant, and the land in respect of which the rent is payable.

(2) When it appears that a tenant is holding land in excess of, or less than, that for which he is paying rent, or either the landlord or the tenant applies for a settlement of rent, or in any case under section 101, sub-section (2), clause (d), the officer shall settle a fair and equitable rent in respect of the land held by the tenant.

(3) In settling rents under this section, the officer shall presume, until the contrary is proved, that the existing rent is fair and equitable, and shall have regard to the rules laid down in this Act for the guidance of the Civil Court in increasing or reducing rents, as the case may be.

Publication of record.

105. (1) When the Revenue-officer has completed a record made under this chapter, he shall cause a draft thereof to be locally published in the prescribed manner and for the prescribed period, and shall receive and consider any objection which may be made to any entry therein during the period of publication.

(2) After the expiration of this period the Revenue-officer shall finally frame the record, and shall cause it to be locally published in the prescribed manner, and the publication shall be conclusive evidence that the record has been duly made under this chapter.

Procedure in case of dispute as to entries in record.

106. If at any time before the final publication of the record under the last foregoing section a dispute arises as to the correctness of any entry (not being an entry of a rent settled under this chapter), or as to the propriety of any omission, which the Revenue-officer proposes to make or has made therein or therefrom, the Revenue-officer shall hear and decide the dispute.

Procedure to be adopted by Revenue-officer.

107. In all proceedings for the settlement of rents under this chapter, and in all proceedings under the last foregoing section, the Revenue-officer shall, subject to rules made by the Local Government under this Act, adopt the procedure laid down in the Code of Civil Procedure for the trial of suits, and his decision in every such proceeding shall have the force of a decree.

XIV of 1882.

Appeals from decisions of Revenue-officers.

108. (1) The Local Government shall appoint one or more persons to be a Special Judge or Special Judges for the purpose of hearing appeals from the decisions of Revenue-officers under this chapter.

(2) An appeal shall lie to the Special Judge from the decision of a Revenue-officer under this chapter, and the provisions of the Code of Civil Procedure relating to appeals shall, as nearly as may be, apply to all such appeals.

XIV of 1882.

(3) Subject to the provisions of Chapter XLII of the Code of Civil Procedure, an appeal shall lie to the High Court from the decision of a Special Judge in any case under section 106 as if he were a Court subordinate to the High Court within the meaning of the first section of that chapter:

XIV of 1882.

Provided that, if in a second appeal the High Court alters the decision of the Special Judge in respect of any of the particulars with reference to which the rent of any tenure or holding has been settled, the Court may settle a new rent for the tenure or holding, but in so doing shall be guided by the rents of the other tenures or holdings of the same class comprised in the same record as ascertained or settled under section 104.

Undisputed entries in record to be presumptive evidence.

109. (1) Every record made under this chapter shall distinguish between the disputed and the undisputed entries therein.

(2) Every undisputed entry in the record shall be presumed to be correct until the contrary is proved.

Time at which settlement of rent is to take effect.

110. When any rent is settled under this chapter, the settlement shall take effect from the beginning of the agricultural year next after the final publication of the record.

Stay of proceedings in Civil Court during preparation of record.

111. When an order has been made under section 101,—

(a) a Civil Court shall not, until the final publication of the record, entertain a suit or application for the alteration of the rent or the determination of the status of any tenant in the area to which the order applies; and

(b) the High Court may, if it thinks fit, transfer to the Revenue-officer any proceedings pending in a Civil Court for the alteration of any such rent or for the determination of any of the matters specified or referred to in section 102.

Power to authorize a special settlement in special cases.

112. (1) The Local Government, with the previous sanction of the Governor General in Council, may, on being satisfied that the exercise of the powers hereinafter mentioned is necessary in the interests of public order or of the local welfare, invest a Revenue-officer acting under this chapter with the following powers or either of them, namely:—

(a) power to settle all rents;

(b) power, when settling rents, to reduce rents if in the opinion of the officer the maintenance of existing rents would on any ground, whether specified in this Act or not, be unfair or inequitable.

(2) The powers given under this section may be made exercisable within a specified area either generally or with reference to specified cases or classes of cases.

(3) When the Local Government takes any action under this section, the settlement-record prepared by the Revenue-officer shall not take effect until it has been finally confirmed by the Governor General in Council.

Bengal Tenancy Act.

(Chaper XI.—Record of Proprietors' Private Lands.—Secs. 113—120.)
(Chapter XII.—Distraint.—Sec. 121.)

113. When the rent of a tenure or holding is settled under this chapter, it shall not, except on the ground of a landlord's improvement or of a subsequent alteration in the area of the tenure or holding, be enhanced, in the case of a tenure or an occupancy-holding for fifteen years, and, in the case of a non-occupancy-holding, if the rent is settled in any case under section 112 or on the application of the landlord under section 104, for five years. The periods of fifteen and five years shall be counted from the date of the final publication of the record.

Period for which rents as settled are to remain unaltered.

114. Where an order is made under this chapter in any case except under section 101, sub-section (*2*), clause (*d*), the expenses incurred by the Government in carrying out the provisions of this chapter in any local area, or such part of those expenses as the Local Government may direct, shall be defrayed by the landlords and tenants of land in that local area, in such proportions as the Local Government, having regard to all the circumstances of each case, may determine; and the proportion of those expenses so to be defrayed by any person shall be recoverable by the Government from him as if it were an arrear of revenue due by him.

Expenses of proceedings under chapter.

115. When the particulars mentioned in section 102, clause (*b*), have been recorded under this chapter in respect of any tenancy, the presumption under section 50 shall not thereafter apply to that tenancy.

Presumption as to fixity of rent not to apply where record has been prepared.

CHAPTER XI.

RECORD OF PROPRIETORS' PRIVATE LANDS.

116. Nothing in Chapter V shall confer a right of occupancy in, and nothing in Chapter VI shall apply to, a proprietor's private lands known in Bengal as khámár, nij or nij-jot, and in Behar as zirát, nij, sír or kamat, where any such land is held under a lease for a term of years or under a lease from year to year.

Saving as to khámár land.

117. The Local Government may, from time to time, make an order directing a Revenue-officer to make a survey and record of all the lands in a specified local area which are a proprietor's private lands within the meaning of the last foregoing section.

Power for Government to order survey and record of proprietor's private lands.

118. In the case of any land alleged to be a proprietor's private land, on the application of the proprietor or of any tenant of the land, and on his depositing the required amount for expenses, a Revenue-officer may, subject to and in accordance with rules made in this behalf by the Local Government, ascertain and record whether the land is or is not a proprietor's private land.

Power for Revenue-officer to record private land on application of proprietor or tenant.

119. When a Revenue-officer proceeds under either of the two last foregoing sections, the provisions of sections 105 to 109, both inclusive, shall apply.

Procedure for recording private land.

120. (*1*) The Revenue-officer shall record as a proprietor's private land—

Rules for determination of proprietor's private land.

(*a*) land which is proved to have been cultivated as khámár, zirát, sír, nij, nij-jot or kamat by the proprietor himself with his own stock or by his own servants or by hired labour for twelve continuous years immediately before the passing of this Act, and

(*b*) cultivated land which is recognized by village usage as proprietor's khámár, zirát, sír, nij, nij-jot or kamat.

(*2*) In determining whether any other land ought to be recorded as a proprietor's private land, the officer shall have regard to local custom, and to the question whether the land was before the second day of March, 1883, specifically let as proprietor's private land, and to any other evidence that may be produced; but shall presume that land is not a proprietor's private land until the contrary is shown.

(*3*) If any question arises in a Civil Court as to whether land is or is not a proprietor's private land, the Court shall have regard to the rules laid down in this section for the guidance of Revenue-officers.

CHAPTER XII.

DISTRAINT.

121. Where an arrear of rent is due to the landlord of a raiyat or under-raiyat, and has not been due for more than a year, and no security has been accepted therefor by the landlord, the landlord may, in addition to any other remedy to which he is entitled by law, present an application to the Civil Court requesting the Court to recover the arrear by distraining, while in the possession of the cultivator,—

Cases in which an application for distraint may be made.

(*a*) any crops or other products of the earth standing or ungathered on the holding;

(*b*) any crops or other products of the earth which have been grown on the holding and have been reaped or gathered and are deposited on the holding, or on a threshing-floor or place for treading out grain, or the like, whether in the fields or within a homestead:

Bengal Tenancy Act.

(Chapter XII.—Distraint.—Secs. 122-126.)

Provided that an application shall not be made under this section—

(*1*) by a proprietor or manager as defined under the Land Registration Act, 1876, or a mortgagee of such a proprietor or manager, unless his name and the extent of his interest in the land in respect of which the arrear is due have been registered under the provisions of that Act; or

VII (B.C.) of 1876.

(*2*) for the recovery of any sum in excess of the rent payable for the holding in the preceding agricultural year, unless that sum is payable under a written contract or in consequence of a proceeding under this Act or an enactment hereby repealed; or

(*3*) in respect of the produce of any part of the holding which the tenant has sub-let with the written consent of the landlord.

122. (*1*) Every application under the last foregoing section shall specify—

Form of application.

(*a*) the holding in respect of which the arrear is claimed, and the boundaries thereof, or such other particulars as may suffice for its identification;

(*b*) the name of the tenant;

(*c*) the period in respect of which the arrear is claimed;

(*d*) the amount of the arrear, with the interest, if any, claimed thereon, and, when an amount in excess of the rent payable by the tenant in the last preceding agricultural year is claimed, the contract, or proceeding, as the case may be, under which that amount is payable;

(*e*) the nature and approximate value of the produce to be distrained;

(*f*) the place where it is to be found, or such other particulars as may suffice for its identification; and

(*g*) if it is standing or ungathered, the time at which it is likely to be cut or gathered.

(*2*) The application shall be signed and verified in the manner prescribed by the Code of Civil Procedure for the signing and verification of plaints.

XIV of 1882.

123. (*1*) The applicant shall, at the time of filing an application under the foregoing sections, file in Court such documentary evidence (if any) as he may consider necessary for the purposes of the application.

Procedure on receipt of application.

(*2*) The Court may, if it thinks fit, examine the applicant, and shall, with as little delay as possible, admit the application or reject it, or permit the applicant to furnish additional evidence in support of it.

(*3*) Where a Court cannot forthwith admit or reject an application under sub-section (*2*), it may, if it thinks fit, make an order prohibiting the removal of the produce specified in the application pending the execution of an order for distraining the same or the rejection of the application.

(*4*) When an order for distraining any produce is made under this section at a considerable time before the produce is likely to be cut or gathered, the Court may suspend the execution of the order for such time as it thinks fit, and may, if it thinks fit, make a further order prohibiting the removal of the produce pending the execution of the order for distraint.

124. If an application is admitted under the last foregoing section, the Court shall depute an officer to distrain the produce specified therein, or such portion of that produce as it thinks fit; and the officer shall proceed to the place where the produce is, and distrain the produce by taking charge of it himself or placing some other person in charge of it in his behalf, and publishing a notification of the distraint in accordance with rules to that effect to be made by the High Court:

Execution of order for distraint.

Provided that produce which from its nature does not admit of being stored shall not be distrained under this section at any time less than twenty days before the time when it would be fit for reaping or gathering.

125. (*1*) The distraining officer shall, at the time of making the distraint, serve on the defaulter a written demand for the arrear due, and the costs incurred in making the distraint, with an account exhibiting the grounds on which the distraint is made.

Service of demand and account.

(*2*) Where the distraining officer has reason to believe that a person other than the defaulter is the owner of the property distrained, he shall serve copies of the demand and account on that person likewise.

(*3*) The demand and account shall, if practicable, be served personally; but, if a person on whom they are to be served absconds or conceals himself, or cannot otherwise be found, the officer shall affix copies of the demand and account on a conspicuous part of the outside of the house in which he usually resides.

126. (*1*) A distraint under this chapter shall not prevent any person from reaping, gathering or storing any produce, or doing any other act necessary for its due preservation.

Right to reap, &c., produce.

(*2*) If the person entitled to do so fails to do so at the proper time, the distraining officer shall cause any standing crops or ungathered products

Bengal Tenancy Act.

(Chapter XII.—Distraint.—Secs. 127—136.)

distrained to be reaped or gathered when ripe, and stored in such granaries or other places as are commonly used for the purpose, or in some other convenient place in the neighbourhood, or shall do whatever else may be necessary for the due preservation of the same.

(3) In either case the distrained property shall remain in the charge of the distraining officer, or of some other person appointed by him in this behalf.

Sale proclamation to be issued unless demand is satisfied.

127. (1) Unless the demand, with all costs of the distraint, be immediately satisfied, the distraining officer shall issue a proclamation specifying the particulars of the property distrained and the demand for which it is distrained, and notifying that he will, at a place and on a day specified, not being less than three or more than seven days after the time of making the distraint, sell the distrained property by public auction:

Provided that when the crops or products distrained from their nature admit of being stored but have not yet been stored, the day of the sale shall be so fixed as to admit of their being made ready for storing before its arrival.

(2) The proclamation shall be stuck up on a conspicuous place in the village in which the land is situate for which the arrears of rent are claimed.

Place of sale.

128. The sale shall be held at the place where the distrained property is, or at the nearest place of public resort if the distraining officer is of opinion that it is likely to sell there to better advantage.

When produce may be sold standing.

129. (1) Crops or products which from their nature admit of being stored shall not be sold before they are reaped or gathered and are ready for storing.

(2) Crops or products which from their nature do not admit of being stored may be sold before they are reaped or gathered, and the purchaser shall be entitled to enter on the land by himself, or by any person appointed by him in this behalf, and do all that is necessary for the purpose of tending and reaping or gathering them.

Manner of sale.

130. The property shall be sold by public auction, in one or more lots as the officer holding the sale may think advisable; and if the demand, with the costs of distraint and sale, is satisfied by the sale of a portion of the property, the distraint shall be immediately withdrawn with respect to the remainder.

Postponement of sale.

131. If, on the property being put up for sale, a fair price (in the estimation of the officer holding the sale) is not offered for it, and if the owner of the property, or a person authorised to act in his behalf, applies to have the sale postponed till the next day, or (if a market is held at the place of sale) the next market-day, the sale shall be postponed until that day, and shall be then completed, whatever price may be offered for the property.

Payment of purchase-money.

132. The price of every lot shall be paid at the time of sale, or as soon thereafter as the officer holding the sale directs, and in default of such payment the property shall be put up again and sold.

Certificate to be given to purchaser.

133. When the purchase-money has been paid in full, the officer holding the sale shall give the purchaser a certificate describing the property purchased by him and the price paid.

Proceeds of sale how to be applied.

134. (1) From the proceeds of every sale of distrained property under this chapter, the officer holding the sale shall pay the costs of the distraint and sale, calculated on a scale of charges prescribed by rules to be made, from time to time, by the Local Government in this behalf.

(2) The remainder shall be applied to the discharge of the arrear for which the distress was made, with interest thereon up to the day of sale; and the surplus (if any) shall be paid to the person whose property has been sold.

Certain persons may not purchase.

135. Officers holding sales of property under this Act, and all persons employed by, or subordinate to, such officers, are prohibited from purchasing, either directly or indirectly, any property sold by such officers.

Procedure where demand is paid before the sale.

136. (1) If at any time after a distraint has been made under this chapter, and before the sale of the distrained property, the defaulter, or the owner of the distrained property where he is not the defaulter, deposits in the Court issuing the order of distraint, or in the hands of the distraining officer, the amount specified in the demand served under section 125, with all costs which may have been incurred after the service of the demand, the Court or officer, as the case may be, shall grant a receipt for the same and the distraint shall forthwith be withdrawn.

(2) When the distraining officer receives the deposit, he shall forthwith pay it into the Court.

(3) A receipt granted under this section to an owner of distrained property not being the defaulter shall afford a full protection to him against any subsequent claim for the arrears of rent on account of which the distraint was made.

(4) After the expiration of one month from the date of a deposit being made under this section,

Bengal Tenancy Act.

(Chapter XII.—Distraint.—Secs. 137-142.)

(Chapter XIV.—Judicial Procedure.—Secs. 143-144.)

the Court shall pay therefrom to the applicant for distraint the amount due to him, unless in the meanwhile the owner of the property distrained has instituted a suit against the applicant contesting the legality of the distraint and claiming compensation in respect of the same.

(5) A landlord shall not be deemed to have consented to his tenant's sub-letting the holding or any part thereof merely by reason of his having received an amount deposited under this section by an inferior tenant.

Amount paid by under-tenant for his lessor may be deducted from rent.

137. (1) When an inferior tenant, on his property being lawfully distrained under this chapter for the default of a superior tenant, makes any payment under the last foregoing section, he shall be entitled to deduct the amount of that payment from any rent payable by him to his immediate landlord, and that landlord, if he is not the defaulter, shall in like manner be entitled to deduct the amount so deducted from any rent payable by him to his immediate landlord, and so on until the defaulter is reached.

(2) Nothing in this section shall affect the right of an inferior tenant making a payment under the last foregoing section to institute a suit for the recovery from the defaulter of any portion of the amount paid which he has not deducted under this section.

Conflict between rights of superior and inferior landlords.

138. When land is sub-let, and any conflict arises under this chapter between the rights of a superior and of an inferior landlord who distrain the same property, the right of the superior landlord shall prevail.

Distraint of property which is under attachment.

139. When any conflict arises between an order for distraint issued under this chapter and an order issued by a Civil Court for the attachment or sale of the property which is the subject of the distraint, the order for distraint shall prevail; but, if the property is sold under that order, the surplus proceeds of the sale shall not be paid under section 134 to the owner of the property without the sanction of the Court by which the order of attachment or sale was issued.

Suit for compensation for wrongful distraint.

140. No appeal shall lie from any order passed by a Civil Court under this chapter; but any person whose property is distrained on an application made under section 121 in any case in which such an application is not permitted by that section may institute a suit against the applicant for the recovery of compensation.

Power for Local Government to authorise distraint in certain cases.

141. (1) When the Local Government is of opinion that in any local area or in any class of cases it would, by reason of the character of the cultivation or the habits of the cultivators, be impracticable for a landlord to realize his rent by an application under this chapter, to the Civil Court, it may, from time to time, by order, authorize the landlord to distrain, by himself or his agent, any produce for the distraint of which he would be entitled to apply under this chapter to the Civil Court:

Provided that every person distraining any produce under such authorization shall proceed in the manner prescribed by section 124, and shall forthwith give notice, in such form as the High Court may, by rule, prescribe, to the Civil Court having jurisdiction to entertain an application for distraining the produce, and that Court shall, with no avoidable delay, depute an officer to take charge of the produce distrained.

(2) When an officer of the Court has taken charge of any distrained produce under this section, the proceedings shall thereafter be conducted in all respects as if he had distrained it under section 124.

(3) The Local Government may at any time rescind any order made by it under this section.

Power for High Court to make rules.

142. The High Court may, from time to time, make rules consistent with this Act for regulating the procedure in all cases under this chapter.

CHAPTER XIII.

JUDICIAL PROCEDURE.

Power to modify Civil Procedure Code in its application to landlord and tenant suits.

143. (1) The High Court may, from time to time, with the approval of the Governor General in Council, make rules consistent with this Act declaring that any portions of the Code of Civil Procedure shall not apply to suits between landlord and tenant as such or to any specified classes of such suits, or shall apply to them subject to modifications specified in the rules.

(2) Subject to any rules so made, and subject also to the other provisions of this Act, the Code of Civil Procedure shall apply to all such suits. XIV of 1882.

Jurisdiction in proceedings under Act.

144. (1) The cause of action in all suits between landlord and tenant as such shall, for the purposes of the Code of Civil Procedure, be deemed to have arisen within the local limits of the jurisdiction of the Civil Court which would have jurisdiction to entertain a suit for the possession of the tenure or holding in connection with which the suit is brought. XIV of 1882.

(2) When under this Act a Civil Court is authorized to make an order on the application of a landlord or a tenant, the application shall be made to the Court which would have jurisdiction to entertain a suit for the possession of the tenure or holding in connection with which the application is brought.

Bengal Tenancy Act.

(Chapter XIII.—Judicial Procedure.—Secs. 145-151.)

145. Every náib or gumáshta of a landlord empowered in this behalf by a written authority under the hand of the landlord shall, for the purposes of every such suit or application, be deemed to be the recognized agent of the landlord within the meaning of the Code of Civil Procedure, notwithstanding that the landlord may reside within the local limits of the jurisdiction of the Court in which the suit is to be instituted or is pending, or in which the application is made.

Náibs or gumáshtas to be recognized agents.

XIV of 1882.

146. The particulars referred to in section 58 of the Code of Civil Procedure shall, in the case of such suits, instead of being entered in the register of civil suits prescribed by that section, be entered in a special register to be kept by each Civil Court, in such form as the Local Government may, from time to time, prescribe in this behalf.

XIV of 1882

Special register of suits.

147. Subject to the provisions of section 373 of the Code of Civil Procedure, where a landlord has instituted a suit against a raiyat for the recovery of any rent of his holding, the landlord shall not institute another suit against him for the recovery of any rent of that holding until after three months from the date of the institution of the previous suit.

XIV of 1882.

Successive rent-suits.

Procedure in rent-suits.

148. The following rules shall apply to suits for the recovery of rent:—

(*a*) sections 121 to 127 (both inclusive), 129, 305, and 320 to 326 (both inclusive) of the Code of Civil Procedure shall not apply to any such suit:

XIV of 1882.

(*b*) the plaint shall contain, in addition to the particulars specified in section 50 of the Code of Civil Procedure, a statement of the situation, designation, extent and boundaries of the land held by the tenant; or, where the plaintiff is unable to give the extent or boundaries, in lieu thereof a description sufficient for identification:

XIV of 1882.

(*c*) the summons shall be for the final disposal of the suit, unless the Court is of opinion that the summons should be for the settlement of issues only:

(*d*) the service of the summons may, if the High Court by rule, either generally, or specially for any local area, so directs, be effected, either in addition to, or in substitution for, any other mode of service, by forwarding the summons by post in a letter addressed to the defendant and registered under Part III of the Indian Post Office Act, 1866;

XIV of 1866.

when a summons is so forwarded in a letter, and it is proved that the letter was duly posted and registered, the Court may presume that the summons has been duly served:

(*e*) a written statement shall not be filed without the leave of the Court:

(*f*) the rules for recording the evidence of witnesses prescribed by section 189 of the Code of Civil Procedure shall apply, whether an appeal is allowed or not:

XIV of 1882.

(*g*) the Court may, when passing the decree, order on the oral application of the decree-holder the execution thereof, unless it is a decree for ejectment for arrears;

(*h*) notwithstanding anything contained in section 232 of the Code of Civil Procedure, an application for the execution of a decree for arrears obtained by a landlord shall not be made by an assignee of the decree unless the landlord's interest in the land has become and is vested in him.

149. (*1*) When a defendant admits that money is due from him on account of rent, but pleads that it is due not to the plaintiff but to a third person, the Court shall, except for special reasons to be recorded in writing, refuse to take cognizance of the plea unless the defendant pays into Court the amount so admitted to be due.

Payment into Court of money admitted to be due to third person.

(*2*) Where such a payment is made, the Court shall forthwith cause notice of the payment to be served on the third person.

(*3*) Unless the third person within three months from the receipt of the notice institutes a suit against the plaintiff and therein obtains an order restraining payment out of the money, it shall be paid out to the plaintiff on his application.

(*4*) Nothing in this section shall affect the right of any person to recover from the plaintiff money paid to him under sub-section (*3*).

150. When a defendant admits that money is due from him to the plaintiff on account of rent, but pleads that the amount claimed is in excess of the amount due, the Court shall, except for special reasons to be recorded in writing, refuse to take cognizance of the plea unless the defendant pays into Court the amount so admitted to be due.

Payment into Court of money admitted to be due to landlord.

151. When a defendant is liable to pay money into Court under either of the two last foregoing sections, if the Court thinks that there are sufficient reasons for so ordering, it may take cognizance of the defendant's plea on his paying into Court such reasonable portion of the money as the Court directs.

Provision as to payment of portion of money.

Bengal Tenancy Act.

(Chapter XIII.—Judicial Procedure.—Secs. 152-156.)

152. When a defendant pays money into Court under either of the said sections, the Court shall give the defendant a receipt, and the receipt so given shall operate as an acquittance in the same manner and to the same extent as if it had been given by the plaintiff or the third person as the case may be.

Court to grant receipt.

153. An appeal shall not lie from any decree or order passed, whether in the first instance or on appeal, in any suit instituted by a landlord for the recovery of rent where—

Appeals in rent-suits.

(*a*) the decree or order is passed by a District Judge, Additional Judge or Subordinate Judge, and the amount claimed in the suit does not exceed one hundred rupees, or

(*b*) the decree or order is passed by any other judicial officer specially empowered by the Local Government to exercise final jurisdiction under this section, and the amount claimed in the suit does not exceed fifty rupees;

unless in either case the decree or order has decided a question relating to title to land or to some interest in land as between parties having conflicting claims thereto, or a question of a right to enhance or vary the rent of a tenant, or a question of the amount of rent annually payable by a tenant:

Provided that the District Judge may call for the record of any case in which a judicial officer as aforesaid has passed a decree or order to which this section applies, if it appears that the judicial officer has exercised a jurisdiction not vested in him by law, or has failed to exercise a jurisdiction so vested, or has acted in the exercise of his jurisdiction illegally or with material irregularity; and may pass such order as the District Judge thinks fit.

154. A decree for enhancement of rent under this Act, if passed in a suit instituted in the first eight months of an agricultural year, shall ordinarily take effect on the commencement of the agricultural year next following; and, if passed in a suit instituted in the last four months of the agricultural year, shall ordinarily take effect on the commencement of the agricultural year next but one following; but nothing in this section shall prevent the Court from fixing, for special reasons, a later date from which any such decree shall take effect.

Date from which decree for enhancement takes effect.

155. (*1*) A suit for the ejectment of a tenant, on the ground—

Relief against forfeitures.

(*a*) that he has used the land in a manner which renders it unfit for the purposes of the tenancy, or

(*b*) that he has broken a condition on breach of which he is, under the terms of a contract between him and the landlord, liable to ejectment,

shall not be entertained unless the landlord has served, in the prescribed manner, a notice on the tenant specifying the particular misuse or breach complained of, and, where the misuse or breach is capable of remedy, requiring the tenant to remedy the same, and, in any case, to pay reasonable compensation for the misuse or breach, and the tenant has failed to comply within a reasonable time with that request.

(*2*) A decree passed in favour of a landlord in any such suit shall declare the amount of compensation which would reasonably be payable to the plaintiff for the misuse or breach, and whether, in the opinion of the Court, the misuse or breach is capable of remedy, and shall fix a period during which it shall be open to the defendant to pay that amount to the plaintiff, and, where the misuse or breach is declared to be capable of remedy, to remedy the same.

(*3*) The Court may, from time to time, for special reasons, extend a period fixed by it under sub-section (*2*).

(*4*) If the defendant, within the period or extended period (as the case may be) fixed by the Court under this section, pays the compensation mentioned in the decree, and, where the misuse or breach is declared by the Court to be capable of remedy, remedies the misuse or breach to the satisfaction of the Court, the decree shall not be executed.

Rights of ejected raiyats in respect of crops and land prepared for sowing.

156. The following rules shall apply in the case of every raiyat ejected from a holding:—

(*a*) when the raiyat has, before the date of his ejectment, sown or planted crops in any land comprised in the holding, he shall be entitled, at the option of the landlord, either to retain possession of that land and to use it for the purpose of tending and gathering in the crops, or to receive from the landlord the value of the crops as estimated by the Court executing the decree for ejectment;

(*b*) when the raiyat has, before the date of his ejectment, prepared for sowing any land comprised in his holding, but has not sown or planted crops in that land, he shall be entitled to receive from the landlord the value of the labour and capital expended by him in so preparing the land, as estimated by the Court executing the decree for ejectment, together with reasonable interest on that value;

(*c*) but a raiyat shall not be entitled to retain possession of any land or receive any sum in respect thereof under this section where, after the commencement of pro-

Bengal Tenancy Act.

(Chapter XIV.—Sale for Arrears under Decree.—Secs. 157—162.)

ceedings by the landlord for his ejectment, he has cultivated or prepared the land contrary to local usage;

(*d*) if the landlord elects under this section to allow a raiyat to retain possession of the land, the raiyat shall pay to the landlord, for the use and occupation of the land during the period for which he is allowed to retain possession of the same, such rent as the Court executing the decree for ejectment may deem reasonable.

Power for Court to fix fair rent as alternative to ejectment.

157. When a plaintiff institutes a suit for the ejectment of a trespasser he may, if he thinks fit, claim as alternative relief that the defendant be declared liable to pay for the land in his possession a fair and equitable rent to be determined by the Court, and the Court may grant such relief accordingly.

Application to determine incidents of tenancy.

158. (*1*) The Court having jurisdiction to determine a suit for the possession of land may, on the application of either the landlord or the tenant of the land, determine all or any of the following matters, (namely):—

(*a*) the situation, quantity and boundaries of the land;

(*b*) the name and description of the tenant thereof (if any);

(*c*) the class to which he belongs, that is to say, whether he is a tenure-holder, raiyat holding at fixed rates, occupancy-raiyat, non-occupancy-raiyat, or under-raiyat, and, if he is a tenure-holder, whether he is a permanent tenure-holder or not and whether his rent is liable to enhancement during the continuance of his tenure; and

(*d*) the rent payable by him at the time of the application.

(*2*) If, in the opinion of the Court, any of these matters cannot be satisfactorily determined without a local inquiry, the Court may direct that a local inquiry be held under Chapter XXV of the Code of Civil Procedure by such Revenue-officer as the Local Government may authorize in that behalf by rule made under section 392 of the said Code. XIV of 1882.

(*3*) The order on any application under this section shall have the effect of, and be subject to the like appeal as, a decree.

CHAPTER XIV.

SALE FOR ARREARS UNDER DECREE.

General powers of purchaser as to avoidance of incumbrances.

159. Where a tenure or holding is sold in execution of a decree for arrears due in respect thereof, the purchaser shall take subject to the interests defined in this chapter as "protected interests", but with power to annul the interests defined in this chapter as "incumbrances":

Provided as follows:—

(*a*) a registered and notified incumbrance within the meaning of this chapter shall not be so annulled except in the case hereinafter mentioned in that behalf;

(*b*) the power to annul shall be exercisable only in manner by this chapter directed.

Protected interests.

160. The following shall be deemed to be protected interests within the meaning of this chapter:—

(*a*) any under-tenure existing from the time of the Permanent Settlement;

(*b*) any under-tenure recognized by the settlement-proceedings of any current temporary settlement as a tenure at a rent fixed for the period of that settlement;

(*c*) any lease of land whereon dwelling-houses, manufactories or other permanent buildings have been erected, or permanent gardens, plantations, tanks, canals, places of worship or burning or burying grounds have been made;

(*d*) any right of occupancy;

(*e*) the right of a non-occupancy-raiyat to hold for five years at a rent fixed under Chapter VI by a Court, or under Chapter X by a Revenue-officer;

(*f*) any right conferred on an occupancy-raiyat to hold at a rent which was a fair and reasonable rent at the time the right was conferred; and

(*g*) any right or interest which the landlord at whose instance the tenure or holding is sold, or his predecessor in title, has expressly and in writing given the tenant for the time being permission to create.

Meaning of "incumbrance" and "registered and notified incumbrance."

161. For the purposes of this chapter—

(*a*) the term "incumbrance", used with reference to a tenancy, means any lien, sub-tenancy, easement or other right or interest created by the tenant on his tenure or holding or in limitation of his own interest therein, and not being a protected interest as defined in the last foregoing section;

(*b*) the term "registered and notified incumbrance", used with reference to a tenure or holding sold or liable to sale in execution of a decree for an arrear of rent due in respect thereof, means an incumbrance created by a registered instrument of which a copy has, not less than three months before the accrual of the arrear, been served on the landlord in manner hereinafter provided.

Application for sale of tenure or holding.

162. When a decree has been passed for an arrear of rent due for a tenure or holding, and the decree-holder applies under section 235 of the Code of Civil Procedure for the attachment and sale of the tenure or holding in execution of the decree, he shall produce a statement showing the parganá, estate and village in which the land comprised in the tenure or holding is situate, the yearly rent payable for the same and the total amount recoverable under the decree. XIV of 1882.

Bengal Tenancy Act.

(Chapter XIV.—Sale for Arrears under Decree.—Secs. 163-167.)

Order of attachment and proclamation of sale to be issued simultaneously.

163. (*1*) Notwithstanding anything contained in the Code of Civil Procedure, when the decree-holder makes the application mentioned in the last foregoing section, the Court shall, if under section 245 of the said Code it admits the application and orders execution of the decree as applied for, issue simultaneously the order of attachment and the proclamation required by section 287 of the said Code. XIV of 1882.

(*2*) The proclamation shall, in addition to stating and specifying the particulars mentioned in section 287 of the said Code, announce—

(*a*) in the case of a tenure or a holding of a raiyat holding at fixed rates, that the tenure or holding will first be put up to auction subject to the registered and notified incumbrances, and will be sold subject to those incumbrances if the sum bid is sufficient to liquidate the amount of the decree and costs, and that otherwise it will, if the decree-holder so desires, be sold on a subsequent day, of which due notice will be given, with power to annul all incumbrances; and

(*b*) in the case of an occupancy-holding, that the holding will be sold with power to annul all incumbrances.

(*3*) The proclamation shall, besides being made in the manner prescribed by section 289 of the said Code, be published by fixing up a copy thereof in a conspicuous place on the land comprised in the tenure or holding ordered to be sold, and shall also be published in such manner as the Local Government may, from time to time, direct in this behalf.

(*4*) Notwithstanding anything contained in section 290 of the said Code, the sale shall not, without the consent in writing of the judgment-debtor, take place until after the expiration of at least thirty days, calculated from the date on which the copy of the proclamation has been fixed up on the land comprised in the tenure or holding ordered to be sold.

Sale of tenure or holding subject to registered and notified incumbrances, and effect thereof.

164. (*1*) When a tenure or a holding at fixed rates has been advertised for sale under the last foregoing section, it shall be put up to auction, subject to registered and notified incumbrances; and, if the bidding reaches a sum sufficient to liquidate the amount of the decree and costs, including the costs of sale, the tenure or holding shall be sold subject to such incumbrances.

(*2*) The purchaser at a sale under this section may, in manner provided by section 167, and not otherwise, annul any incumbrance upon the tenure or holding not being a registered and notified incumbrance.

Sale of tenure or holding with power to avoid all incumbrances, and effect thereof.

165. (*1*) If the bidding for a tenure or a holding at fixed rates put up to auction under the last foregoing section does not reach a sum sufficient to liquidate the amount of the decree and costs as aforesaid, and if the decree-holder thereupon desires that the tenure or holding be sold with power to avoid all incumbrances, the officer holding the sale shall adjourn the sale and make a fresh proclamation under section 289 of the Code of Civil Procedure, announcing that the tenure or holding will be put up to auction and sold with power to avoid all incumbrances upon a future day specified therein, not less than fifteen or more than thirty days from the date of the postponement; and upon that day the tenure or holding shall be put up to auction and sold with power to avoid all incumbrances. XIV of 1882.

(*2*) The purchaser at a sale under this section may, in manner provided by section 167, and not otherwise, annul any incumbrance on the tenure or holding.

Sale of occupancy-holding with power to avoid all incumbrances, and effect thereof.

166. (*1*) When an occupancy-holding has been advertised for sale under section 163, it shall be put up to auction and sold with power to avoid all incumbrances.

(*2*) The purchaser at a sale under this section may, in manner provided by the next following section, and not otherwise, annul any incumbrance on the holding.

Procedure for annulling incumbrances under the foregoing sections.

167. (*1*) A purchaser having power to annul an incumbrance under any of the foregoing sections and desiring to annul the same, may, within one year from the date of the sale or the date on which he first has notice of the incumbrance, whichever is later, present to the Collector an application in writing, requesting him to serve on the incumbrancer a notice declaring that the incumbrance is annulled.

(*2*) Every such application must be accompanied by such fee for the service of the notice as the Board of Revenue may fix in this behalf.

(*3*) When an application for service of a notice is made to the Collector in manner prescribed by this section, he shall cause the notice to be served in compliance therewith, and the incumbrance shall be deemed to be annulled from the date on which it is so served.

(*4*) When a tenure or holding is sold in execution of a decree for arrears due in respect thereof, and there is on the tenure or holding a protected interest of the kind specified in section 160, clause (*c*), the purchaser may, if he has power under this chapter to avoid all incumbrances, sue to enhance the rent of the land which is the subject of the protected interest. On proof that the land is held at a rent which was not at the time the lease was granted a fair rent, the Court may enhance the rent to such amount as appears to be fair and equitable.

This sub-section shall not apply to land which has been held for a term exceeding twelve years at a fixed rent equal to the rent of good arable land.

Bengal Tenancy Act.

(Chapter XIV.—Sale for Arrears under Decree.—Secs. 168-174.)

168. (*1*) The Local Government may, from time to time, by notification in the official Gazette, direct that occupancy-holdings or any specified class of occupancy-holdings in any local area put up for sale in execution of decrees for rent due on them shall, before being put up with power to avoid all incumbrances, be put up subject to registered and notified incumbrances, and may by like notification rescind any such direction.

Power to direct that occupancy-holdings be dealt with under foregoing sections as tenures.

(*2*) While any such direction remains in force in respect of any local area, all occupancy-holdings, or, as the case may be, occupancy-holdings of the specified class in that local area, shall, for the purposes of sale under the foregoing sections of this chapter, be treated in all respects as if they were tenures.

169. (*1*) In disposing of the proceeds of a sale under this chapter, the following rules, instead of those prescribed by section 295 of the Code of Civil Procedure, shall be observed, that is to say:—

Rules for disposal of the sale-proceeds.

XIV of 1882.

(*a*) there shall first be paid to the decree-holder the costs incurred by him in bringing the tenure or holding to sale;

(*b*) there shall, in the next place, be paid to the decree-holder the amount due to him under the decree in execution of which the sale was made;

(*c*) if there remains a balance after these sums have been paid, there shall be paid to the decree-holder therefrom any rent which may have fallen due to him in respect of the tenure or holding between the institution of the suit and the date of the sale;

(*d*) the balance (if any) remaining after the payment of the rent mentioned in clause (*c*) shall, upon the expiration of two months from the confirmation of the sale, be paid to the judgment-debtor upon his application.

(*2*) If the judgment-debtor disputes the decree-holder's right to receive any sum on account of rent under clause (*c*), the Court shall determine the dispute, and the determination shall have the force of a decree.

170. (*1*) Sections 278 to 283 (both inclusive) of the Code of Civil Procedure shall not apply to a tenure or holding attached in execution of a decree for arrears due thereon.

Tenure or holding to be released from attachment only on payment into Court of amount of decree with costs, or on confession of satisfaction by decree-holder.

XIV of 1882.

(*2*) When an order for the sale of a tenure or holding in execution of such a decree has been made, the tenure or holding shall not be released from attachment unless, before it is knocked down to the auction-purchaser, the amount of the decree, including the costs decreed, together with the costs incurred in order to the sale, is paid into Court, or the decree-holder makes an application for the release of the tenure or holding on the ground that the decree has been satisfied out of Court.

(*3*) The judgment-debtor or any person having in the tenure or holding any interest voidable on the sale may pay money into Court under this section.

171. (*1*) When any person having, in a tenure or holding advertised for sale under this chapter, an interest which would be avoidable upon the sale, pays into Court the amount requisite to prevent the sale,—

Amount paid into Court to prevent sale to be in certain cases a mortgage-debt on the tenure or holding.

(*a*) the amount so paid by him shall be deemed to be a debt bearing interest at twelve per centum per annum and secured by a mortgage of the tenure or holding to him;

(*b*) his mortgage shall take priority of every other charge on the tenure or holding other than a charge for arrear of rent; and

(*c*) he shall be entitled to possession of the tenure or holding as mortgagee of the tenant, and to retain possession of it as such until the debt, with the interest due thereon, has been discharged.

(*2*) Nothing in this section shall affect any other remedy to which any such person would be entitled.

172. When a tenure or holding is advertised for sale under this chapter in execution of a decree against a superior tenant defaulting, and an inferior tenant, whose interest would be voidable upon the sale, pays money into Court in order to prevent the sale, he may, in addition to any other remedy provided for him by law, deduct the whole or any portion of the amount so paid from any rent payable by him to his immediate landlord; and that landlord, if he is not the defaulter, may in like manner deduct the amount so deducted from any rent payable by him to his immediate landlord, and so on until the defaulter is reached.

Inferior tenant paying into Court may deduct from rent.

173. (*1*) Notwithstanding anything contained in section 294 of the Code of Civil Procedure, the holder of a decree in execution of which a tenure or holding is sold under this chapter may, without the permission of the Court, bid for or purchase the tenure or holding.

Decree-holder may bid at sale; judgment-debtor may not.

XIV of 18

(*2*) The judgment-debtor shall not bid for or purchase a tenure or holding so sold.

(*3*) When a judgment-debtor purchases by himself or through another person a tenure or holding so sold, the Court may, if it thinks fit, on the application of the decree-holder or any other person interested in the sale, by order set aside the sale, and the costs of the application and order, and any deficiency of price which may happen on the re-sale, and all expenses attending it, shall be paid by the judgment-debtor.

174. (*1*) Where a tenure or holding is sold for an arrear of rent due thereon, then, at any time within thirty days from the date of sale, the judgment-debtor may apply to have the sale set aside, on his depositing in Court, for payment to the decree-holder, the amount recoverable

Application by judgment-debtor to set aside sale.

Bengal Tenancy Act.

(Chapter XV.—Contract and Custom.—Secs. 175—179.)

under the decree with costs, and, for payment to the purchaser, a sum equal to five per centum of the purchase-money.

(*2*) If such deposit is made within the thirty days, the Court shall pass an order setting aside the sale, and the provisions of section 315 of the Code of Civil Procedure shall apply in the case of a sale so set aside:

XIV of 1882.

Provided that, if a judgment-debtor applies under section 311 of the Code of Civil Procedure to set aside the sale of his tenure or holding, he shall not be entitled to make an application under this section.

XIV of 1882.

(*3*) Section 313 of the Code of Civil Procedure shall not apply to any sale under this chapter.

175. Notwithstanding anything contained in Part IV of the Indian Registration Act, 1877, an instrument creating an incumbrance upon any tenure or holding which has been executed before the commencement of this Act, and is not required by section 17 of the said Registration Act to be registered, shall be accepted for registration under that Act if it is presented for that purpose to the proper officer within a year from the commencement of this Act.

Registration of certain instruments creating incumbrances.

III of 1877.

176. Every officer who has, whether before or after the passing of this Act, registered an instrument executed by a tenant of a tenure or holding and creating an incumbrance on the tenure or holding, shall, at the request of the tenant or of the person in whose favour the incumbrance is created, and on payment by him of such fee as the Local Government may fix in this behalf, notify the incumbrance to the landlord by causing a copy of the instrument to be served on him in the prescribed manner.

Notification of incumbrances to landlord.

177. Nothing contained in this chapter shall be deemed to enable a person to create an incumbrance which he could not otherwise lawfully create.

Power to create incumbrances not extended.

CHAPTER XV.

CONTRACT AND CUSTOM.

178. (*1*) Nothing in any contract between a landlord and a tenant made before or after the passing of this Act—

Restrictions on exclusion of Act by agreement.

(*a*) shall bar in perpetuity the acquisition of an occupancy-right in land, or

(*b*) shall take away an occupancy-right in existence at the date of the contract, or

(*c*) shall entitle a landlord to eject a tenant otherwise than in accordance with the provisions of this Act, or

(*d*) shall take away or limit the right of a tenant, as provided by this Act, to make improvements and claim compensation for them.

(*2*) Nothing in any contract made between a landlord and a tenant since the 15th day of July, 1880, and before the passing of this Act shall prevent a raiyat from acquiring in accordance with this Act an occupancy-right in land.

(*3*) Nothing in any contract made between a landlord and a tenant after the passing of this Act shall—

(*a*) prevent a raiyat from acquiring in accordance with this Act an occupancy-right in land;

(*b*) take away or limit the right of an occupancy-raiyat to use land as provided by section 23;

(*c*) take away the right of a raiyat to surrender his holding in accordance with section 86;

(*d*) take away the right of a raiyat to transfer or bequeath his holding in accordance with local usage;

(*e*) take away the right of an occupancy-raiyat to sub-let subject to and in accordance with the provisions of this Act;

(*f*) take away the right of a raiyat to apply for a reduction of rent under section 38 or section 52;

(*g*) take away the right of a landlord or a tenant to apply for a commutation of rent under section 40; or

(*h*) affect the provisions of section 67 relating to interest payable on arrears of rent:

Provided as follows:—

(i) nothing in this section shall affect the terms or conditions of a lease granted *bonâ fide* for the reclamation of waste land, except that, where, on or after the expiration of the term created by the lease, the lessee would under Chapter V be entitled to an occupancy-right in the land comprised in the lease, nothing in the lease shall prevent him from acquiring that right;

(ii) when a landlord has reclaimed waste land by his own servants or hired labourers, and subsequently lets the same or a part thereof to a raiyat, nothing in this Act shall affect the terms of any contract whereby a raiyat is prevented from acquiring an occupancy-right in the land or part during a period of thirty years from the date on which the land or part is first let to a raiyat;

(iii) nothing in this section shall affect the terms or conditions of any contract for the temporary cultivation of orchard land with agricultural crops.

179. Nothing in this Act shall be deemed to prevent a proprietor or a holder of a permanent tenure in a permanently-settled area from granting a permanent mukarrarí lease on any terms agreed on between him and his tenant.

Permanent mukarrarí leases.

Bengal Tenancy Act.

(Chapter XV.—Contract and Custom.—Secs. 180-183.)

(Chapter XVI.—Limitation. Chapter XVII.—Supplemental.—Secs. 184-187.)

Útbandi, chur and dearah lands.

180. (*1*) Notwithstanding anything in this Act, a raiyat—

(*a*) who in any part of the country where the custom of útbandi prevails, holds land ordinarily let under that custom and for the time being let under that custom, or

(*b*) who holds land of the kind known as chur or dearah,

shall not acquire a right of occupancy—

in case (*a*), in land ordinarily held under the custom of útbandi and for the time being held under that custom, or

in case (*b*), in the chur or dearah land,

until he has held the land in question for twelve continuous years; and, until he acquires a right of occupancy in the land, he shall be liable to pay such rent for his holding as may be agreed on between him and his landlord.

(*2*) Chapter VI shall not apply to raiyats holding land under the custom of útbandi in respect of land held by them under that custom.

(*3*) The Collector may, on the application of either the landlord or the tenant or on a reference from the Civil Court, declare that any land has ceased to be chur or dearah land within the meaning of this section, and thereupon all the provisions of this Act shall apply to the land.

Saving as to service-tenures.

181. Nothing in this Act shall affect any incident of a ghátwálí or other service-tenure, or, in particular, shall confer a right to transfer or bequeath a service-tenure which, before the passing of this Act, was not capable of being transferred or bequeathed.

Homesteads.

182. When a raiyat holds his homestead otherwise than as part of his holding as a raiyat, the incidents of his tenancy of the homestead shall be regulated by local custom or usage, and, subject to local custom or usage, by the provisions of this Act applicable to land held by a raiyat.

Saving of custom.

183. Nothing in this Act shall affect any custom, usage or customary right not inconsistent with, or not expressly or by necessary implication modified or abolished by, its provisions.

Illustrations.

(1) A usage under which a raiyat is entitled to sell his holding without the consent of his landlord is not inconsistent with, and is not expressly or by necessary implication modified or abolished by, the provisions of this Act. That usage, accordingly, wherever it may exist, will not be affected by this Act.

(2) The custom or usage that an under-raiyat should, under certain circumstances, acquire a right of occupancy is not inconsistent with, and is not expressly or by necessary implication modified or abolished by, the provisions of this Act. That custom or usage, accordingly, wherever it exists, will not be affected by this Act.

CHAPTER XVI.

LIMITATION.

Limitation in suits, appeals and applications in Schedule III.

184. (*1*) The suits, appeals and applications specified in Schedule III annexed to this Act shall be instituted and made within the time prescribed in that schedule for them respectively; and every such suit or appeal instituted, and application made, after the period of limitation so prescribed, shall be dismissed, although limitation has not been pleaded.

(*2*) Nothing in this section shall revive the right to institute any suit or appeal or make any application which would have been barred by limitation if it had been instituted or made immediately before the commencement of this Act.

Portions of the Indian Limitation Act not applicable to such suits, &c.

185. (*1*) Sections 7, 8 and 9 of the Indian Limitation Act, 1877, shall not apply to the suits and applications mentioned in the last foregoing section. XV of 1877.

(*2*) Subject to the provisions of this chapter, the provisions of the Indian Limitation Act, 1877, shall apply to all suits, appeals and applications mentioned in the last foregoing section. XV of 1877.

CHAPTER XVII.

SUPPLEMENTAL.

Penalties.

Penalties.

Penalties for illegal interference with produce.

186. (*1*) If any person, otherwise than in accordance with this Act or some other enactment for the time being in force,—

(*a*) distrains or attempts to distrain the produce of a tenant's holding, or

(*b*) resists a distraint duly made under this Act, or forcibly or clandestinely removes any property duly distrained under this Act, or

(*c*) except with the authority or consent of the tenant, prevents or attempts to prevent the reaping, gathering, storing, removing or otherwise dealing with any produce of a holding,

he shall be deemed to have committed criminal trespass within the meaning of the Indian Penal Code. XLV of 1860.

(*2*) Any person who abets within the meaning of the Indian Penal Code the doing of any act mentioned in sub-section (*1*), shall be deemed to have abetted the commission of criminal trespass within the meaning of that Code. XLV of 1860.

Agents and representatives of landlords.

Agents and representatives of landlords.

Power for landlord to act through agent.

187. (*1*) Any appearance, application or act, in, before or to any Court or authority, required or authorised by this Act to be made or done by a landlord, may, unless the Court or authority otherwise directs, be made or done also by an agent empowered in this behalf by a written authority under the hand of the landlord.

Bengal Tenancy Act.

(Chapter XVII.—Supplemental.—Secs. 188-194.)

Agents and representatives of landlords.

(*2*) Every notice required by this Act to be served on, or given to, a landlord shall, if served on, or given to, an agent empowered as aforesaid to accept service of or receive the same on behalf of the landlord, be as effectual for the purposes of this Act as if it had been served on, or given to, the landlord in person.

(*3*) Every document required by this Act to be signed or certified by a landlord, except an instrument appointing or authorizing an agent, may be signed or certified by an agent of the landlord authorized in writing in that behalf.

Joint-landlords to act collectively or by common agent.

188. Where two or more persons are joint-landlords, anything which the landlord is under this Act required or authorized to do must be done either by both or all those persons acting together, or by an agent authorized to act on behalf of both or all of them.

Rules under Act.

Rules under Act.

Power to make rules regarding procedure, powers of officers and service of notices.

189. The Local Government may, from time to time, by notification in the official Gazette, make rules consistent with this Act—

(*1*) to regulate the procedure to be followed by Revenue-officers in the discharge of any duty imposed upon them by or under this Act, and may by such rules confer upon any such officer—

(*a*) any power exercised by a Civil Court in the trial of suits;

(*b*) power to enter upon any land, and to survey, demarcate and make a map of the same, and any power exercisable by any officer under the Bengal Survey Act, 1875; and V (B.C.) of 1875.

(*c*) power to cut and thresh the crops on any land and weigh the produce, with a view to estimating the capabilities of the soil; and

(*2*) to prescribe the mode of service of notices under this Act where no mode is prescribed by this or any other Act.

Procedure for making, publication and confirmation of rules.

190. (*1*) Every authority having power to make rules under any section of this Act shall, before making the rules, publish a draft of the proposed rules for the information of persons likely to be affected thereby.

(*2*) The publication shall be made, in the case of rules made by the Local Government or High Court, in such manner as may in its opinion be sufficient for giving information to persons interested, and, in the case of rules made by any other authority, in the prescribed manner:

Provided that every such draft shall be published in the official Gazette.

(*3*) There shall be published with the draft a notice specifying a date, not earlier than the expiration of one month after the date of publication, at or after which the draft will be taken into consideration. Rules under Act.

(*4*) The authority shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

(*5*) The publication in the official Gazette of a rule purporting to be made under this Act shall be conclusive evidence that it has been duly made.

(*6*) All rules made under this Act may, from time to time, subject to the sanction (if any) required for making them, be amended, added to or cancelled by the authority having power to make the same.

Provisions as to temporarily-settled districts.

Saving as to land held in a district not permanently settled.

191. Where the area comprised in a tenure is situate in an estate which has never been permanently settled, nothing in this Act shall prevent the enhancement of the rent upon the expiration of a temporary settlement of the revenue, unless the right to hold beyond the term of the settlement at a particular rate of rent has been expressly recognized in settlement-proceedings by a Revenue-authority empowered by the Government to make definitively or confirm settlements. Provisions as to temporarily-settled districts.

Power to alter rent in case of new assessment of revenue.

192. When a landlord grants a lease, or makes any other contract, purporting to entitle the tenant of land not included in an area permanently settled to hold that land free of rent or at a particular rent, and while the lease or contract is in force—

(*a*) land-revenue is for the first time made payable in respect of the land, or

(*b*) land-revenue having been previously payable in respect of it, a fresh settlement of land-revenue is made,

a Revenue-officer may, notwithstanding anything in the contract between the parties, by order, on the application of the landlord or of the tenant, fix a fair and equitable rent for the land in accordance with the provisions of this Act.

Rights of pasturage, &c.

Rights of pasturage, forest-rights, &c.

193. The provisions of this Act applicable to suits for the recovery of arrears of rent shall, as far as may be, apply to suits for the recovery of anything payable or deliverable in respect of any rights of pasturage, forest-rights, rights over fisheries and the like. Rights of pasturage, &c.

Saving for conditions binding on landlords.

Tenant not enabled by Act to violate conditions binding on landlord.

194. Where a proprietor or permanent tenure-holder holds his estate or tenure subject to the observance of any specified rule or condition, nothing in this Act shall entitle Saving for conditions binding on landlords.

Bengal Tenancy Act.

(Schedule I.—Repeal of Enactments.)

any person occupying land within the estate or tenure to do any act which involves a violation of that rule or condition.

Savings for special enactments.

Savings for special enactments.

Savings for special enactments. **195.** Nothing in this Act shall affect—

(*a*) the powers and duties of Settlement-officers as defined by any law not expressly repealed by this Act;

(*b*) any enactment regulating the procedure for the realization of rents in estates belonging to the Government, or under the management of the Court of Wards or of the Revenue-authorities;

(*c*) any enactment relating to the avoidance of tenancies and incumbrances by a sale for arrears of the Government revenue;

(*d*) any enactment relating to the partition of revenue-paying estates;

(*e*) any enactment relating to patní tenures, in so far as it relates to those tenures; or

(*f*) any other special or local law not repealed either expressly or by necessary implication by this Act.

Construction of Act.

Construction of Act.

Act to be read subject to Acts hereafter passed by Lieutenant-Governor of Bengal in Council. **196.** This Act shall be read subject to every Act passed after its commencement by the Lieutenant-Governor of Bengal in Council.

SCHEDULE I.

(*See section 2.*)

REPEAL OF ENACTMENTS.

Regulations of the Bengal Code.

Number and year.	Subject of Regulation.	Extent of repeal.
VIII of 1793	A Regulation for re-enacting with modifications and amendments the rules for the Decennial Settlement of the Public Revenue payable from the lands of the zamíndárs, independent taluqdárs and other actual proprietors of land in Bengal, Behar and Orissa, passed for those Provinces respectively on the 18th September, 1789, the 25th November, 1789, and the 10th February, 1790, and subsequent dates.	Sections 51, 52, 53, 54, 55, 64 and 65.
XII of 1805	A Regulation for the settlement and collection of the Public Revenue in the zila of Cuttack, including the parganas of Patteáspur, Kummadichour, and Bagrae, at present included in the zila of Midnapur.	Section 7.

SCHEDULE I—*contd.*

Number and year.	Subject of Regulation.	Extent of repeal.
V of 1812	A Regulation for amending some of the rules at present in force for the collection of the Land-revenue.	Sections 2, 3, 4, 26 and 27.
XVIII of 1812	A Regulation for explaining Section 2, Regulation V, 1812, and rescinding Sections 3 and 4, Regulation XLIV, 1793, and Sections 3 and 4, Regulation L, 1795, and enacting other rules in lieu thereof.	The preamble and sections 2 and 3.
XI of 1825	A Regulation for declaring the rules to be observed in determining claims to lands gained by alluvion or by dereliction of a river or the sea.	In clause 1 of section 4, from and including the words "nor if annexed to a subordinate tenure" to the end of the clause.

Acts of the Bengal Council.

Number and year.	Subject of Act.	Extent of repeal.
VI of 1862	An Act to amend Act X of 1859 (to amend the law relating to the recovery of rent in the Presidency of Fort William in Bengal).	The whole Act.
IV of 1867	An Act to explain and amend Act VI of 1862, passed by the Lieutenant-Governor of Bengal in Council, and to give validity to certain judgments.	The whole Act.
VIII of 1869	An Act to amend the Procedure in suits between Landlords and Tenants.	The whole Act.
VIII of 1879	An Act to define and limit the powers of Settlement-officers.	The whole Act.

Act of the Governor General in Council.

Number and year.	Subject of Act.	Extent of repeal.
X of 1859	An Act to amend the law relating to the recovery of rent in the Presidency of Fort William in Bengal.	The whole Act.

Bengal Tenancy Act.

(Schedule II.—Forms of Receipt and Account.)

SCHEDULE II.

FORMS OF RECEIPT AND ACCOUNT.

(*See sections 56 and 57.*)

FORM OF RECEIPT.

PARTICULARS OF THE HOLDING (TENANT'S PORTION).

1. Serial number of Receipt
2. Estate ; Village ; Thánd
3. Tenant's name , Son of
4. Particulars of the holding—

Nukdi, Bighás ; rent Rs.

Baoúi, Bighás ; Maunds ; or Rs.

Government Cesses { Julkur, Rs. / Bunkur, Rs. / Phulkur, Rs. } { Road Cess, Rs. / Public Works Cess, Rs. }

5. Signature of the Landlord or his Authorized Agent

FORM OF RECEIPT.

PARTICULARS OF THE HOLDING (LANDLORD'S PORTION).

1. Serial number of Receipt
2. Estate ; Village ; Thánd
3. Tenant's name , Son of
4. Particulars of the holding—

Nukdi, Bighás ; rent Rs.

Baoúi, Bighás ; Maunds ; or Rs.

Government Cesses { Julkur, Rs. / Bunkur, Rs. / Phulkur, Rs. } { Road Cess, Rs. / Public Works Cess, Rs. }

5. Signature of the Landlord or his Authorized Agent

Section 55 of the Bengal Tenancy Act, 1885, provides as follows:—

(*1*) When a tenant makes a payment on account of rent, he may declare the year or the year and instalment to which he wishes the payment to be credited, and the payment shall be credited accordingly.

(*2*) If he does not make any such declaration, the payment may be credited to the account of such year and instalment as the landlord thinks fit.

Bengal Tenancy Act.

(Schedule II.—Forms of Receipt and Account.)

DETAILS OF PAYMENTS (LANDLORD'S PORTION).

Date of payment, and name of person through whom paid.	Nukdi.		Baouli.		Julkur, &c.		Cesses.	
	Current on account of kist.	Arrear on account of year, kist.	Current on account of crop.	Arrear on account of year, crop.	Current on account of kist.	Arrear on account of year, kist.	Current on account of kist.	Arrear on account of year, kist.

DETAILS OF PAYMENTS (TENANT'S PORTION).

Date of payment, and name of person through whom paid.	Nukdi.		Baouli.		Julkur, &c.		Cesses.		Signature of the landlord or his authorized agent.
	Current on account of kist.	Arrear on account of year, kist.	Current on account of crop.	Arrear on account of year, crop.	Current on account of kist.	Arrear on account of year, kist.	Current on account of kist.	Arrear on account of year, kist.	

FORM OF ACCOUNT.

1. Year
2. Tenant's name
3. Particulars of holding—(area, rent, &c.)

	Bíghás	Rate	Rs. A. P.
Nukdi			
Government Cesses			

	Bíghás	Maunds	Rs. A. P.
Baouli			
Julkur			
Bunkur			
Phulkur			

	Maunds	Rs. A. P.
4. Demand of the year		
5 Balance of former years (Bakaya)		
		Rs. A. P.
6. Total demand (current and arrear)		
7. Paid each on account of { Current demand ...		
{ Arrear demand ...		
	Maunds	
8. Paid in kind		
		Rs. A. P.

9. Balance outstanding at end of year
10. Signature of the Landlord or his authorized Agent

FORM OF ACCOUNT.

1. Year
2. Tenant's name
3. Particulars of holding—(area, rent, &c.)

	Bíghás	Rate	Rs. A. P.
Nukdi			
Government Cesses			

	Bíghás	Maunds	Rs. A. P.
Baouli			
Julkur			
Bunkur			
Phulkur			

	Maunds	Rs. A. P.
4. Demand of the year		
5. Balance of former years (Bakaya)		
		Rs. A. P.
6. Total demand (current and arrear)		
7. Paid each on account of { Current demand ...		
{ Arrear demand ...		
	Maunds	
8. Paid in kind		
		Rs. A. P.

9. Balance outstanding at end of year
10. Signature of the Landlord or his authorized Agent

Bengal Tenancy Act.

(Schedule II.—Forms of Receipt and Account.)

Bengal Tenancy Act.

(Schedule III.—Limitation.)

SCHEDULE III.

LIMITATION.

(See section 184.)

PART I.—*Suits.*

Description of Suit.	Period of Limitation.	Time from which period begins to run.
1. To eject any tenure-holder or raiyat on account of any breach of a condition in respect of which there is a contract expressly providing that ejectment shall be the penalty of such breach.	One year .	The date of the breach.
2. For the recovery of an arrear of rent—		
(*a*) when the arrear fell due before a deposit was made under section 61 on account of the rent of the same holding.	Six months .	The date of the service of notice of the deposit.
(*b*) in other cases .	Three years .	The last day of the Bengali year in which the arrear fell due, where that year prevails, and the last day of the month of Jeyt of the Amli or Fasli year in which the arrear fell due, where either of those years prevails.
3. To recover possession of land claimed by the plaintiff as an occupancy-raiyat.	Two years .	The date of dispossession.

PART II.—*Appeals.*

Description of Appeal.	Period of Limitation.	Time from which period begins to run.
From any decree or order under this Act, to the Court of a District Judge or Special Judge.	Thirty days .	The date of the decree or order appealed against.
From any order of a Collector under this Act, to the Commissioner.	Thirty days .	The date of the order appealed against.

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Description of Application.	Period of Limitation.	Time from which period begins to run.
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R. J. CROSTHWAITE,

Offg. Secy. to the Govt. of India.

The Gazette of India.

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CALCUTTA, SATURDAY, MARCH 28, 1885.

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

PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second Publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 14th March, 1885, and is hereby promulgated for general information:—

ACT No. VIII OF 1885.

THE BENGAL TENANCY ACT, 1885.

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SCHEDULE I.—REPEAL OF ENACTMENTS.

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SCHEDULE III.—LIMITATION.

Bengal Tenancy Act.

(*Chapter I.—Preliminary.—Secs. 1-3.*)

An Act to amend and consolidate certain enactments relating to the Law of Landlord and Tenant within the territories under the administration of the Lieutenant-Governor of Bengal.

WHEREAS it is expedient to amend and consolidate certain enactments relating to the law of Landlord and Tenant within the territories under the administration of the Lieutenant-Governor of Bengal; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. (*1*) This Act may be called the Bengal Tenancy Act, 1885.
Short title.

(*2*) It shall come into force on such date (hereinafter called the commencement of this Act) as the Local Government, with the previous sanction of the Governor General in Council, may, by notification in the local official Gazette, appoint in this behalf.
Commencement.

(*3*) It shall extend by its own operation to all the territories for the time being under the administration of the Lieutenant-Governor of Bengal, except the Town of Calcutta, the Division of Orissa, and the Scheduled Districts specified in the third Part of the First Schedule of the Scheduled Districts Act, 1874; and the Local Government may, with the previous sanction of the Governor General in Council, by notification in the local official Gazette, extend the whole or any portion of this Act to the Division of Orissa or any part thereof.
Local extent.
XIV of 1874.

2. (*1*) The enactments specified in Schedule I hereto annexed are repealed in the territories to which this Act extends by its own operation.
Repeal.

(*2*) When this Act is extended to the Division of Orissa or any part thereof, such of those enactments as are in force in that Division or part, or, where a portion only of this Act is so extended, so much of them as is inconsistent with that portion, shall be repealed in that Division or part.

(*3*) Any enactment or document referring to any enactment hereby repealed shall be construed to refer to this Act or to the corresponding portion thereof.

(*4*) The repeal of any enactment by this Act shall not revive any right, privilege, matter or thing not in force or existing at the commencement of this Act.

3. In this Act, unless there is something repugnant in the subject or context:—
Definitions.

(*1*) "Estate" means land included under one entry in any of the general registers of revenue-paying lands and revenue-free lands, prepared and maintained under the law for the time being in force by the Collector of a district, and includes Government khás mahál and revenue-free lands not entered in any register.

(*2*) "Proprietor" means a person owning, whether in trust or for his own benefit, an estate or a part of an estate.

(*3*) "Tenant" means a person who holds land under another person, and is, or but for a special contract would be, liable to pay rent for that land to that person.

(*4*) "Landlord" means a person immediately under whom a tenant holds, and includes the Government.

(*5*) "Rent" means whatever is lawfully payable or deliverable in money or kind by a tenant to his landlord on account of the use or occupation of the land held by the tenant:

In sections 53 to 68, both inclusive, sections 72 to 75, both inclusive, Chapter XII and Schedule III of this Act, "rent" includes also money recoverable under any enactment for the time being in force as if it was rent.

(*6*) "Pay," "payable" and "payment," used with reference to rent, include "deliver," "deliverable" and "delivery."

(*7*) "Tenure" means the interest of a tenure-holder or an under-tenure-holder.

(*8*) "Permanent tenure" means a tenure which is heritable and which is not held for a limited time.

(*9*) "Holding" means a parcel or parcels of land held by a raiyat and forming the subject of a separate tenancy.

(*10*) "Village" means an area included in a village map of the revenue-survey within the same exterior boundary, or, where no such maps have been prepared, such area as any officer appointed by the Local Government in this behalf may determine after local inquiry held on such notice as the Local Government considers sufficient for giving information to all persons interested.

(*11*) "Agricultural year" means, where the Bengalí year prevails, the year commencing on the first day of Bysák, where the Faslí or Amlí year

Bengal Tenancy Act

(Chapter II.—Classes of Tenants.—Secs. 4-5.)

(Chapter III.—Tenure-holders.—Secs. 6-7.)

prevails, the year commencing on the first day of Asin, and, where any other year prevails for agricultural purposes, that year.

(12) "Permanent Settlement" means the Permanent Settlement of Bengal, Behar and Orissa, made in the year 1793.

(13) "Succession" includes both intestate and testamentary succession.

(14) "Signed" includes "marked" when the person making the mark is unable to write his name; it also includes "stamped" with the name of the person referred to.

(15) "Prescribed" means prescribed from time to time by the Local Government by notification in the official Gazette.

(16) "Collector" means the Collector of a district or any other officer appointed by the Local Government to discharge any of the functions of a Collector under this Act.

(17) "Revenue-officer" in any provision of this Act includes any officer whom the Local Government may appoint by name or by virtue of his office to discharge any of the functions of a Revenue-officer under that provision.

(18) "Registered" means registered under any Act for the time being in force for the registration of documents.

CHAPTER II.

CLASSES OF TENANTS.

Classes of tenants.

4. There shall be, for the purposes of this Act, the following classes of tenants, (namely):—

(1) tenure-holders, including under-tenure-holders,

(2) raiyats, and

(3) under-raiyats, that is to say, tenants holding whether immediately or mediately under raiyats;

and the following classes of raiyats, (namely):—

(a) raiyats holding at fixed rates, which expression means raiyats holding either at a rent fixed in perpetuity or at a rate of rent fixed in perpetuity,

(b) occupancy-raiyats, that is to say, raiyats having a right of occupancy in the land held by them, and

(c) non-occupancy-raiyats, that is to say, raiyats not having such a right of occupancy.

Meaning of "tenure-holder" and "raiyat".

5. (1) "Tenure-holder" means primarily a person who has acquired from a proprietor or from another tenure-holder a right to hold land for the purpose of collecting rents or bringing it under cultivation by establishing tenants on it, and includes also the successors in interest of persons who have acquired such a right.

(2) "Raiyat" means primarily a person who has acquired a right to hold land for the purpose of cultivating it by himself, or by members of his family, or by hired servants, or with the aid of partners, and includes also the successors in interest of persons who have acquired such a right.

Explanation.—Where a tenant of land has the right to bring it under cultivation, he shall be deemed to have acquired a right to hold it for the purpose of cultivation notwithstanding that he uses it for the purpose of gathering the produce of it or of grazing cattle on it.

(3) A person shall not be deemed to be a raiyat unless he holds land either immediately under a proprietor or immediately under a tenure-holder.

(4) In determining whether a tenant is a tenure-holder or a raiyat, the Court shall have regard to—

(a) local custom; and

(b) the purpose for which the right of tenancy was originally acquired.

(5) Where the area held by a tenant exceeds one hundred standard bighás, the tenant shall be presumed to be a tenure-holder until the contrary is shewn.

CHAPTER III.

TENURE-HOLDERS.

Enhancement of rent.

Enhancement of rent.

Tenure held since Permanent Settlement liable to enhancement only in certain cases.

6. Where a tenure has been held from the time of the Permanent Settlement, its rent shall not be liable to enhancement except on proof—

(a) that the landlord under whom it is held is entitled to enhance the rent thereof either by local custom or by the conditions under which the tenure is held, or

(b) that the tenure-holder, by receiving reductions of his rent, otherwise than on account of a diminution of the area of the tenure, has subjected himself to the payment of the increase demanded, and that the lands are capable of affording it.

Limits of enhancement of rent of tenures.

7. (1) Where the rent of a tenure-holder is liable to enhancement, it may, subject to any contract between the parties, be enhanced up to the limit of the customary rate payable by persons holding similar tenures in the vicinity.

(2) Where no such customary rate exists, it may, subject as aforesaid, be enhanced up to such limit as the Court thinks fair and equitable.

Bengal Tenancy Act.

(Chapter III.—Tenure-holders.—Secs. 8-15.)

Enhancement of rent.

(3) In determining what is fair and equitable, the Court shall not leave to the tenure-holder as profit less than ten per centum of the balance which remains after deducting from the gross rents payable to him the expenses of collecting them, and shall have regard to—

(a) the circumstances under which the tenure was created, for instance, whether the land comprised in the tenure, or a great portion of it, was first brought under cultivation by the agency or at the expense of the tenure-holder or his predecessors in interest, whether any fine or premium was paid on the creation of the tenure, and whether the tenure was originally created at a specially low rent for the purpose of reclamation; and

(b) the improvements, if any, made by the tenure-holder or his predecessors in interest.

(4) If the tenure-holder himself occupies any portion of the land included in the area of his tenure, or has made a grant of any portion of the land either rent-free or at a beneficial rent, a fair and equitable rent shall be calculated for that portion and included in the gross rents aforesaid.

Power to order gradual enhancement.

8. The Court may, if it thinks that an immediate increase of rent would produce hardship, direct that the enhancement shall be gradual; that is to say, that the rent shall increase yearly by degrees, for any number of years not exceeding five, until the limit of the enhancement allowed has been reached.

Rent once enhanced may not be altered for fifteen years.

9. When the rent of a tenure-holder has been enhanced by the Court or by contract, it shall not be again enhanced by the Court during the fifteen years next following the date on which it has been so enhanced.

Other incidents of tenures.

Other incidents of tenures.

Permanent tenure-holder not liable to ejectment.

10. A holder of a permanent tenure shall not be ejected by his landlord except on the ground that he has broken a condition on breach of which he is, under the terms of a contract between him and his landlord, liable to be ejected:

Provided that where the contract is made after the commencement of this Act, the condition is consistent with the provisions of this Act.

Transfer and transmission of permanent tenure.

11. Every permanent tenure shall, subject to the provisions of this Act, be capable of being transferred and bequeathed in the same manner and to the same extent as other immoveable property.

Other incidents of tenures.

Voluntary transfer of permanent tenure.

12. (1) A transfer of a permanent tenure by sale, gift or mortgage (other than a transfer by sale in execution of a decree or by summary sale under any law relating to patní or other tenures) can be made only by a registered instrument.

(2) A registering officer shall not register any instrument purporting or operating to transfer by sale, gift or mortgage a permanent tenure unless there is paid to him, in addition to any fees payable under the Act for the time being in force for the registration of documents, a process-fee of the prescribed amount and a fee (hereinafter called "the landlord's fee") of the following amount, namely:—

(a) when rent is payable in respect of the tenure, a fee of two per centum on the annual rent of the tenure: provided that no such fee shall be less than one rupee or more than one hundred rupees; and

(b) when rent is not payable in respect of the tenure, a fee of two rupees.

(3) When the registration of any such instrument is complete, the registering officer shall send to the Collector the landlord's fee and a notice of the transfer and registration in the prescribed form, and the Collector shall cause the fee to be paid to, and the notice to be served on, the landlord in the prescribed manner.

Transfer of permanent tenure by sale in execution of decree other than decree for rent.

13. (1) When a permanent tenure is sold in execution of a decree other than a decree for arrears of rent due in respect thereof, the Court shall, before confirming the sale under section 312 of the Code of Civil Procedure, require the purchaser to pay into Court the landlord's fee prescribed by the last foregoing section and such further fee for service of notice of the sale on the landlord as may be prescribed. XIV of 1882.

(2) When the sale has been confirmed, the Court shall send to the Collector the landlord's fee and a notice of the sale in the prescribed form, and the Collector shall cause the fee to be paid to, and the notice to be served on, the landlord in the prescribed manner.

Transfer of permanent tenure by sale in execution of decree for rent.

14. When a permanent tenure is transferred by sale in execution of a decree for arrears of rent due in respect thereof, the Court shall send to the Collector a notice of the sale in the prescribed form.

Succession to permanent tenure.

15. When a succession to a permanent tenure takes place, the person succeeding shall give notice of the succession to the Collector in the prescribed form, and shall pay to the Collector the prescribed fee for the service of the notice on the landlord and the landlord's fee

Bengal Tenancy Act.

(Chapter IV.—Raiyats holding at fixed rates.—Secs. 16-20.)
(Chapter V.—Occupancy-raiyats.—Secs. 21-33.)

Other incidents of tenures.

prescribed by section 12, and the Collector shall cause the landlord's fee to be paid to, and the notice to be served on, the landlord in the prescribed manner.

Bar to recovery of rent pending notice of succession.

16. A person becoming entitled to a permanent tenure by succession shall not be entitled to recover by suit, distraint or other proceeding any rent payable to him as the holder of the tenure, until the Collector has received the notice and fees referred to in the last foregoing section.

Transfer of, and succession to, share in permanent tenure.

17. Subject to the provisions of section 88, the foregoing sections shall apply to the transfer of, or succession to, a share in a permanent tenure.

CHAPTER IV.

RAIYATS HOLDING AT FIXED RATES.

Incidents of holding at fixed rates.

18. A raiyat holding at a rent, or rate of rent, fixed in perpetuity—

(*a*) shall be subject to the same provisions with respect to the transfer of, and succession to, his holding as the holder of a permanent tenure, and

(*b*) shall not be ejected by his landlord except on the ground that he has broken a condition consistent with this Act, and on breach of which he is, under the terms of a contract between him and his landlord, liable to be ejected.

CHAPTER V.

OCCUPANCY-RAIYATS.

General.

General.

Continuance of existing occupancy-rights.

19. Every raiyat who immediately before the commencement of this Act has, by the operation of any enactment, by custom or otherwise, a right of occupancy in any land shall, when this Act comes into force, have a right of occupancy in that land.

Definition of "settled raiyat".

20. (*1*) Every person who for a period of twelve years, whether wholly or partly before or after the commencement of this Act, has continuously held as a raiyat land situate in any village, whether under a lease or otherwise, shall be deemed to have become, on the expiration of that period, a settled raiyat of that village.

(*2*) A person shall be deemed for the purposes of this section to have continuously held land in a village notwithstanding that the particular land held by him has been different at different times. *General.*

(*3*) A person shall be deemed, for the purposes of this section, to have held as a raiyat any land held as a raiyat by a person whose heir he is.

(*4*) Land held by two or more co-sharers as a raiyatí holding shall be deemed, for the purposes of this section, to have been held as a raiyat by each such co-sharer.

(*5*) A person shall continue to be a settled raiyat of a village as long as he holds any land as a raiyat in that village and for one year thereafter.

(*6*) If a raiyat recovers possession of land under section 87, he shall be deemed to have continued to be a settled raiyat notwithstanding his having been out of possession more than a year.

(*7*) If, in any proceeding under this Act, it is proved or admitted that a person holds any land as a raiyat, it shall, as between him and the landlord under whom he holds the land, be presumed for the purposes of this section, until the contrary is proved or admitted, that he has for twelve years continuously held that land or some part of it as a raiyat.

Settled raiyats to have occupancy-rights.

21. (*1*) Every person who is a settled raiyat of a village within the meaning of the last foregoing section shall have a right of occupancy in all land for the time being held by him as a raiyat in that village.

(*2*) Every person who, being a settled raiyat of a village within the meaning of the last foregoing section, held land as a raiyat in that village at any time between the second day of March, 1883, and the commencement of this Act, shall be deemed to have acquired a right of occupancy in that land under the law then in force; but nothing in this sub-section shall affect any decree or order passed by a Court before the commencement of this Act.

Effect of acquisition of occupancy-right by landlord.

22. (*1*) When the immediate landlord of an occupancy-holding is a proprietor or permanent tenure-holder, and the entire interests of the landlord and the raiyat in the holding become united in the same person by transfer, succession or otherwise, the occupancy-right shall cease to exist; but nothing in this sub-section shall prejudicially affect the rights of any third person.

(*2*) If the occupancy-right in land is transferred to a person jointly interested in the land as proprietor or permanent tenure-holder, it shall cease to exist; but nothing in this sub-section shall prejudicially affect the rights of any third person.

(*3*) A person holding land as an ijárádár or farmer of rents shall not, while so holding, acquire a right of occupancy in any land comprised in his ijárá or farm.

Bengal Tenancy Act.

(Chapter V.—Occupancy-raiyats.—Secs. 23-30.)

General.

Explanation.—A person having a right of occupancy in land does not lose it by subsequently becoming jointly interested in the land as proprietor or permanent tenure-holder, or by subsequently holding the land in ijárá or farm.

Incidents of occupancy-right.

Incidents of occupancy-right.

Rights of raiyat in respect of use of land.

23. When a raiyat has a right of occupancy in respect of any land, he may use the land in any manner which does not materially impair the value of the land or render it unfit for the purposes of the tenancy; but shall not be entitled to cut down trees in contravention of any local custom.

Obligation of raiyat to pay rent.

24. An occupancy-raiyat shall pay rent for his holding at fair and equitable rates.

Protection from eviction except on specified grounds.

25. An occupancy-raiyat shall not be ejected by his landlord from his holding, except in execution of a decree for ejectment passed on the ground—

(*a*) that he has used the land comprised in his holding in a manner which renders it unfit for the purposes of the tenancy, or

(*b*) that he has broken a condition consistent with the provisions of this Act, and on breach of which he is, under the terms of a contract between himself and his landlord, liable to be ejected.

Devolution of occupancy-right on death.

26. If a raiyat dies intestate in respect of a right of occupancy, it shall, subject to any custom to the contrary, descend in the same manner as other immoveable property: provided that, in any case in which under the law of inheritance to which the raiyat is subject his other property goes to the Crown, his right of occupancy shall be extinguished.

Enhancement of rent.

Enhancement of rent.

Presumption as to fair and equitable rent.

27. The rent for the time being payable by an occupancy-raiyat shall be presumed to be fair and equitable until the contrary is proved.

Restriction on enhancement of money-rents.

28. Where an occupancy-raiyat pays his rent in money, his rent shall not be enhanced except as provided by this Act.

Enhancement of rent by contract.

29. The money-rent of an occupancy-raiyat may be enhanced by contract, subject to the following conditions:—

(*a*) the contract must be in writing and registered;

(*b*) the rent must not be enhanced so as to exceed by more than two annas in the rupee the rent previously payable by the raiyat;

(*c*) the rent fixed by the contract shall not be liable to enhancement during a term of fifteen years from the date of the contract; *Enhancement of rent.*

Provided as follows—

(i) Nothing in clause (*a*) shall prevent a landlord from recovering rent at the rate at which it has been actually paid for a continuous period of not less than three years immediately preceding the period for which the rent is claimed.

(ii) Nothing in clause (*b*) shall apply to a contract by which a raiyat binds himself to pay an enhanced rent in consideration of an improvement which has been or is to be effected in respect of the holding by, or at the expense of, his landlord, and to the benefit of which the raiyat is not otherwise entitled; but an enhanced rent fixed by such a contract shall be payable only when the improvement has been effected, and, except when the raiyat is chargeable with default in respect of the improvement, only so long as the improvement exists and substantially produces its estimated effect in respect of the holding.

(iii) When a raiyat has held his land at a specially low rate of rent in consideration of cultivating a particular crop for the convenience of the landlord, nothing in clause (*b*) shall prevent the raiyat from agreeing, in consideration of his being released from the obligation of cultivating that crop, to pay such rent as he may deem fair and equitable.

Enhancement of rent by suit.

30. The landlord of a holding held at a money-rent by an occupancy-raiyat may, subject to the provisions of this Act, institute a suit to enhance the rent on one or more of the following grounds, (namely):—

(*a*) that the rate of rent paid by the raiyat is below the prevailing rate paid by occupancy-raiyats for land of a similar description and with similar advantages in the same village, and that there is no sufficient reason for his holding at so low a rate;

(*b*) that there has been a rise in the average local prices of staple food-crops during the currency of the present rent;

(*c*) that the productive powers of the land held by the raiyat have been increased by an improvement effected by, or at the expense of, the landlord during the currency of the present rent;

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(Chapter V.—Occupancy-raiyats.—Secs. 31-36.)

Enhancement of rent.

(*d*) that the productive powers of the land held by the raiyat have been increased by fluvial action.

Explanation.—"Fluvial action" includes a change in the course of a river rendering irrigation from the river practicable when it was not previously practicable.

Rules as to enhancement on ground of prevailing rate.

31. Where an enhancement is claimed on the ground that the rate of rent paid is below the prevailing rate—

(*a*) in determining what is the prevailing rate the Court shall have regard to the rates generally paid during a period of not less than three years before the institution of the suit, and shall not decree an enhancement unless there is a substantial difference between the rate paid by the raiyat and the prevailing rate found by the Court;

(*b*) if in the opinion of the Court the prevailing rate of rent cannot be satisfactorily ascertained without a local inquiry, the Court may direct that a local inquiry be held under Chapter XXV of the Code of Civil Procedure by such Revenue-officer as the Local Government may authorize in that behalf by rules made under section 392 of the said Code;

XIV of 1882.

(*c*) in determining under this section the rate of rent payable by a raiyat his caste shall not be taken into consideration, unless it is proved that by local custom caste is taken into account in determining the rate; and whenever it is found that by local custom any description of raiyats hold land at favourable rates of rent, the rate shall be determined in accordance with that custom;

(*d*) in ascertaining the prevailing rate of rent the amount of any enhancement authorized on account of a landlord's improvement shall not be taken into consideration.

Rules as to enhancement on ground of rise in prices.

32. Where an enhancement is claimed on the ground of a rise in prices—

(*a*) the Court shall compare the average prices during the decennial period immediately preceding the institution of the suit with the average prices during such other decennial period as it may appear equitable and practicable to take for comparison;

(*b*) the enhanced rent shall bear to the previous rent the same proportion as the average prices during the last decennial period bear to the average prices during the previous decennial period taken for purposes of comparison: provided that, in calculating this proportion, the average prices during the later period shall be reduced by one-third of their excess over the average prices during the earlier period;

Enhancement of rent.

(*c*) if in the opinion of the Court it is not practicable to take the decennial periods prescribed in clause (*a*), the Court may, in its discretion, substitute any shorter periods therefor.

Rules as to enhancement on ground of landlord's improvement.

33. (*1*) Where an enhancement is claimed on the ground of a landlord's improvement—

(*a*) the Court shall not grant an enhancement unless the improvement has been registered in accordance with this Act;

(*b*) in determining the amount of enhancement the Court shall have regard to—

(i) the increase in the productive powers of the land caused or likely to be caused by the improvement,

(ii) the cost of the improvement,

(iii) the cost of the cultivation required for utilizing the improvement, and

(iv) the existing rent and the ability of the land to bear a higher rent.

(*2*) A decree under this section shall, on the application of the tenant or his successor in interest, be subject to re-consideration in the event of the improvement not producing or ceasing to produce the estimated effect.

Rules as to enhancement on ground of increase in productive powers due to fluvial action.

34. Where an enhancement is claimed on the ground of an increase in productive powers due to fluvial action—

(*a*) the Court shall not take into account any increase which is merely temporary or casual;

(*b*) the Court may enhance the rent to such an amount as it may deem fair and equitable, but not so as to give the landlord more than one-half of the value of the net increase in the produce of the land.

Enhancement by suit to be fair and equitable.

35. Notwithstanding anything in the foregoing sections, the Court shall not in any case decree any enhancement which is under the circumstances of the case unfair or inequitable.

Power to order progressive enhancement.

36. If the Court passing a decree for enhancement considers that the immediate enforcement of the decree in its full extent will be attended with hardship to the raiyat, it may direct that the enhancement shall be gradual; that is to say, that the rent shall increase

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(Chapter V.—Occupancy-raiyats.—Secs. 37-40.)

Enhancement of rent.

yearly by degrees for any number of years not exceeding five until the limit of the enhancement decreed has been reached.

Limitation of right to bring successive enhancement-suits.

37. (*1*) A suit instituted for the enhancement of the rent of a holding on the ground that the rate of rent paid is below the prevailing rate, or on the ground of a rise in prices, shall not be entertained if within the fifteen years next preceding its institution the rent of the holding has been enhanced by a contract made after the second day of March, 1883, or if within the said period of fifteen years the rent has been commuted under section 40, or a decree has been passed under this Act or any enactment repealed by this Act enhancing the rent on either of the grounds aforesaid or on any ground corresponding thereto or dismissing the suit on the merits.

(*2*) Nothing in this section shall affect the provisions of section 373 of the Code of Civil Procedure.

XIV of 1882.

Reduction of rent.

Reduction of rent.

Reduction of rent.

38. (*1*) An occupancy-raiyat holding at a money-rent may institute a suit for the reduction of his rent on the following grounds, and, except as hereinafter provided in the case of a diminution of the area of the holding, not otherwise, (namely):—

(*a*) on the ground that the soil of the holding has without the fault of the raiyat become permanently deteriorated by a deposit of sand or other specific cause, sudden or gradual, or

(*b*) on the ground that there has been a fall, not due to a temporary cause, in the average local prices of staple food-crops during the currency of the present rent.

(*2*) In any suit instituted under this section, the Court may direct such reduction of the rent as it thinks fair and equitable.

Price-lists.

Price lists.

Price-lists of staple food-crops.

39. (*1*) The Collector of every district shall prepare, monthly, or at shorter intervals, periodical lists of the market-prices of staple food-crops grown in such local areas as the Local Government may from time to time direct, and shall submit them to the Board of Revenue for approval or revision.

(*2*) The Collector may, if so directed by the Local Government, prepare for any local area like price-lists relating to such past times as the Local Government thinks fit, and shall submit the lists so prepared to the Board of Revenue for approval or revision.

Price-lists.

(*3*) The Collector shall, one month before submitting a price-list to the Board of Revenue under this section, publish it in the prescribed manner within the local area to which it relates, and if any landlord or tenant of land within the local area, within the said period of one month, presents to him in writing any objection to the list, he shall submit the same to the Board of Revenue with the list.

(*4*) The price-lists shall, when approved or revised by the Board of Revenue, be published in the official Gazette; and any manifest error in any such list discovered after its publication may be corrected by the Collector with the sanction of the Board of Revenue.

(*5*) The Local Government shall cause to be compiled from the periodical lists prepared under this section lists of the average prices prevailing throughout each year, and shall cause them to be published annually in the official Gazette.

(*6*) In any proceedings under this chapter for an enhancement or reduction of rent on the ground of a rise or fall in prices, the Court shall refer to the lists published under this section, and shall presume that the prices shown in the lists prepared for any year subsequent to the passing of this Act are correct, unless and until it is proved that they are incorrect.

(*7*) The Local Government, subject to the control of the Governor General in Council, shall make rules for determining what are to be deemed staple food-crops in any local area and for the guidance of officers preparing price-lists under this section.

Commutation.

Commutation.

Commutation of rent payable in kind.

40. (*1*) Where an occupancy-raiyat pays for a holding rent in kind, or on the estimated value of a portion of the crop, or at rates varying with the crop, or partly in one of those ways and partly in another, either the raiyat or his landlord may apply to have the rent commuted to a money-rent.

(*2*) The application may be made to the Collector or Sub-divisional Officer, or to an officer making a settlement of rents under Chapter X, or to any other officer specially authorized in this behalf by the Local Government.

(*3*) On the receipt of the application the officer may determine the sum to be paid as money-rent, and may order that the raiyat shall, in lieu of paying his rent in kind, or otherwise as aforesaid, pay the sum so determined.

(*4*) In making the determination the officer shall have regard to—

(*a*) the average money-rent payable by occupancy-raiyats for land of a similar description and with similar advantages in the vicinity;

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(Chapter VI.—Non-occupancy-raiyats.—Secs. 41—46.)

Commutation.

(*b*) the average value of the rent actually received by the landlord during the preceding ten years or during any shorter period for which evidence may be available; and

(*c*) the charges incurred by the landlord in respect of irrigation under the system of rent in kind, and the arrangements made on commutation for continuing those charges.

(*5*) The order shall be in writing, shall state the grounds on which it is made, and the time from which it is to take effect, and shall be subject to appeal in like manner as if it were an order made in an ordinary revenue proceeding.

(*6*) If the application is opposed, the officer shall consider whether under all the circumstances of the case it is reasonable to grant it, and shall grant or refuse it accordingly. If he refuses it, he shall record in writing the reasons for the refusal.

CHAPTER VI.

NON-OCCUPANCY-RAIYATS.

Application of chapter.

41. This chapter shall apply to raiyats not having a right of occupancy, who are in this Act referred to as non-occupancy-raiyats.

Initial rent of non-occupancy-raiyat.

42. When a non-occupancy-raiyat is admitted to the occupation of land, he shall become liable to pay such rent as may be agreed on between himself and his landlord at the time of his admission.

Conditions of enhancement of rent.

43. The rent of a non-occupancy-raiyat shall not be enhanced except by registered agreement or by agreement under section 46:

Provided that nothing in this section shall prevent a landlord from recovering rent at the rate at which it has been actually paid for a continuous period of not less than three years immediately preceding the period for which the rent is claimed.

Grounds on which non-occupancy-raiyat may be ejected.

44. A non-occupancy-raiyat shall, subject to the provisions of this Act, be liable to ejectment on one or more of the following grounds, and not otherwise (namely):—

(*a*) on the ground that he has failed to pay an arrear of rent;

(*b*) on the ground that he has used the land in a manner which renders it unfit for the purposes of the tenancy, or that he has broken a condition consistent with this Act and on breach of which he is, under the terms of a contract between himself and his landlord, liable to be ejected;

(*c*) where he has been admitted to occupation of the land under a registered lease, on the ground that the term of the lease has expired;

(*d*) on the ground that he has refused to agree to pay a fair and equitable rent determined under section 46, or that the term for which he is entitled to hold at such a rent has expired.

Conditions of ejectment on ground of expiration of lease.

45. A suit for ejectment on the ground of the expiration of the term of a lease shall not be instituted against a non-occupancy-raiyat unless notice to quit has been served on the raiyat not less than six months before the expiration of the term, and shall not be instituted after six months from the expiration of the term.

Conditions of ejectment on ground of refusal to agree to enhancement.

46. (*1*) A suit for ejectment on the ground of refusal to agree to an enhancement of rent shall not be instituted against a non-occupancy-raiyat unless the landlord has tendered to the raiyat an agreement to pay the enhanced rent, and the raiyat has within three months before the institution of the suit refused to execute the agreement.

(*2*) A landlord desiring to tender an agreement to a raiyat under this section may file it in the office of such Court or officer as the Local Government appoints in this behalf for service on the raiyat. The Court or officer shall forthwith cause it to be served on the raiyat in the prescribed manner, and when it has been so served it shall for the purposes of this section be deemed to have been tendered.

(*3*) If a raiyat on whom an agreement has been served under sub-section (*2*) executes it, and within one month from the date of service files it in the office from which it issued, it shall take effect from the commencement of the agricultural year next following.

(*4*) When an agreement has been executed and filed by a raiyat under sub-section (*3*), the Court or officer in whose office it is so filed shall forthwith cause a notice of its being so executed and filed to be served on the landlord in the prescribed manner.

(*5*) If the raiyat does not execute the agreement and file it under sub-section (*3*), he shall be deemed for the purposes of this section to have refused to execute it.

(*6*) If a raiyat refuses to execute an agreement tendered to him under this section, and the landlord thereupon institutes a suit to eject him, the Court shall determine what rent is fair and equitable for the holding.

(*7*) If the raiyat agrees to pay the rent so determined, he shall be entitled to remain in occupation of his holding at that rent for a term of five years from the date of the agreement, but on the expiration of that term shall be liable to ejectment under the conditions mentioned in the last foregoing section, unless he has acquired a right of occupancy.

Bengal Tenancy Act.

(Chapter VII.—Under-raiyats.—Chapter VIII.—General Provisions as to Rent.—Secs. 47—52.)

(*8*) If the raiyat does not agree to pay the rent so determined, the Court shall pass a decree for ejectment.

(*9*) In determining what rent is fair and equitable, the Court shall have regard to the rents generally paid by raiyats for land of a similar description and with like advantages in the same village.

(*10*) A decree for ejectment passed under this section shall take effect from the end of the agricultural year in which it is passed.

Explanation of "admitted to occupation."

47. Where a raiyat has been in occupation of land and a lease is executed with a view to a continuance of his occupation, he is not to be deemed to be admitted to occupation by that lease for the purposes of this chapter, notwithstanding that the lease may purport to admit him to occupation.

CHAPTER VII.

UNDER-RAIYATS.

Limit of rent recoverable from under-raiyats.

48. The landlord of an under-raiyat holding at a money-rent shall not be entitled to recover rent exceeding the rent which he himself pays by more than the following percentage of the same, (namely):—

(*a*) when the rent payable by the under-raiyat is payable under a registered lease or agreement—fifty per cent.; and

(*b*) in any other case—twenty-five per cent.

Restriction on ejectment of under-raiyats.

49. An under-raiyat shall not be liable to be ejected by his landlord, except—

(*a*) on the expiration of the term of a written lease;

(*b*) when holding otherwise than under a written lease, at the end of the agricultural year next following the year in which a notice to quit is served upon him by his landlord.

CHAPTER VIII.

GENERAL PROVISIONS AS TO RENT.

Rules and presumptions as to amount of rent.

Rules and presumptions as to amount of rent.

Rules and presumptions as to fixity of rent.

50. (*1*) Where a tenure-holder or raiyat and his predecessors in interest have held at a rent or rate of rent which has not been changed from the time of the Permanent Settlement, the rent or rate of rent shall not be liable to be increased except on the ground of an alteration in the area of the tenure or holding.

Rules and presumptions as to amount of rent.

(*2*) If it is proved in any suit or other proceeding under this Act that either a tenure-holder or raiyat and his predecessors in interest have held at a rent or rate of rent which has not been changed during the twenty years immediately before the institution of the suit or proceeding, it shall be presumed, until the contrary is shown, that they have held at that rent or rate of rent from the time of the Permanent Settlement:

Provided that if it is required by or under any enactment that in any local area tenancies, or any classes of tenancies, at fixed rents or rates of rent shall be registered as such on, or before, a date specified by or under the enactment, the foregoing presumption shall not after that date apply to any tenancy or, as the case may be, to any tenancy of that class in that local area unless the tenancy has been so registered.

(*3*) The operation of this section, so far as it relates to land held by a raiyat, shall not be affected by the fact of the land having been separated from other land which formed with it a single holding, or amalgamated with other land into one holding.

(*4*) Nothing in this section shall apply to a tenure held for a term of years or determinable at the will of the landlord.

Presumption as to amount of rent and conditions of holding.

51. If a question arises as to the amount of a tenant's rent or the conditions under which he holds in any agricultural year, he shall be presumed, until the contrary is shown, to hold at the same rent and under the same conditions as in the last preceding agricultural year.

Alteration of rent on alteration of area.

Alteration of rent on alteration of area.

Alteration of rent in respect of alteration in area.

52. (*1*) Every tenant shall—

(*a*) be liable to pay additional rent for all land proved by measurement to be in excess of the area for which rent has been previously paid by him, unless it is proved that the excess is due to the addition to the tenure or holding of land which having previously belonged to the tenure or holding was lost by diluvion or otherwise without any reduction of the rent being made, and

(*b*) be entitled to a reduction of rent in respect of any deficiency proved by measurement to exist in the area of his tenure or holding as compared with the area for which rent has been previously paid by him, unless it is proved that the deficiency is due to the loss of land which was added to the area of the tenure or holding by alluvion or otherwise, and that an addition has not been made to the rent in respect of the addition to the area.

Bengal Tenancy Act.

(Chapter VIII.—General Provisions as to Rent.—Secs. 53—57.)

Alteration of rent on alteration of area.

(2) In determining the area for which rent has been previously paid, the Court shall, if so required by any party to the suit, have regard to—

(a) the origin and conditions of the tenancy, for instance, whether the rent was a consolidated rent for the entire tenure or holding;

(b) whether the tenant has been allowed to hold additional land in consideration of an addition to his total rent or otherwise with the knowledge and consent of the landlord;

(c) the length of time during which the tenancy has lasted without dispute as to rent or area; and

(d) the length of the measure used or in local use at the time of the origin of the tenancy as compared with that used or in local use at the time of the institution of the suit.

(3) In determining the amount to be added to the rent, the Court shall have regard to the rates payable by tenants of the same class for lands of a similar description and with similar advantages in the vicinity, and, in the case of a tenure-holder, to the profits to which he is entitled in respect of the rent of his tenure, and shall not in any case fix any rent which under the circumstances of the case is unfair or inequitable.

(4) The amount abated from the rent shall bear the same proportion to the rent previously payable as the diminution of the total yearly value of the tenure or holding bears to the previous total yearly value thereof, or, in default of satisfactory proof of the yearly value of the land lost, shall bear to the rent previously payable the same proportion as the diminution of area bears to the previous area of the tenure or holding.

Payment of rent.

Payment of rent.

53. Subject to agreement or established usage, a money-rent payable by a tenant shall be paid in four equal instalments falling due on the last day of each quarter of the agricultural year.

Instalments of rent.

54. (1) Every tenant shall pay each instalment of rent before sunset of the day on which it falls due.

Time and place for payment of rent.

(2) The payment shall, except in cases where a tenant is allowed under this Act to deposit his rent, be made at the landlord's village-office, or at such other convenient place as may be appointed in that behalf by the landlord:

Provided that the Local Government may from time to time make rules, either generally or for any specified local area, authorizing a tenant to pay his rent by postal money-order.

Payment of rent.

(3) Any instalment or part of an instalment of rent not duly paid at or before the time when it falls due shall be deemed an arrear.

Appropriation of payments.

55. (1) When a tenant makes a payment on account of rent, he may declare the year or the year and instalment to which he wishes the payment to be credited, and the payment shall be credited accordingly.

(2) If he does not make any such declaration, the payment may be credited to the account of such year and instalment as the landlord thinks fit.

Receipts and accounts.

Receipts and accounts.

56. (1) Every tenant who makes a payment on account of rent to his landlord shall be entitled to obtain forthwith from the landlord a written receipt for the amount paid by him, signed by the landlord.

Tenant making payment to his landlord entitled to a receipt.

(2) The landlord shall prepare and retain a counterfoil of the receipt.

(3) The receipt and counterfoil shall specify such of the several particulars shown in the form of receipt given in Schedule II to this Act as can be specified by the landlord at the time of payment:

Provided that the Local Government may, from time to time, prescribe or sanction a modified form either generally or for any particular local area or class of cases.

(4) If a receipt does not contain substantially the particulars required by this section, it shall be presumed, until the contrary is shown, to be an acquittance in full of all demands for rent up to the date on which the receipt was given.

Tenant entitled to full discharge or statement of account at close of year.

57. (1) Where a landlord admits that all rent payable by a tenant to the end of the agricultural year has been paid, the tenant shall be entitled to receive from the landlord, free of charge, within three months after the end of the year, a receipt in full discharge of all rent falling due to the end of the year, signed by the landlord.

(2) Where the landlord does not so admit, the tenant shall be entitled, on paying a fee of four annas, to receive within three months after the end of the year a statement of account specifying the several particulars shown in the form of account given in Schedule II to this Act, or in such other form as may from time to time be prescribed by the Local Government either generally or for any particular local area or class of cases.

(3) The landlord shall prepare and retain a copy of the statement containing similar particulars.

Bengal Tenancy Act.

(Chapter VIII.—General Provisions as to Rent.—Secs. 58—63.)

Receipts and accounts.

Penalties and fine for withholding receipts and statements of account and failing to keep counterparts.

58. (1) If a landlord without reasonable cause refuses or neglects to deliver to a tenant a receipt containing the particulars prescribed by section 56 for any rent paid by the tenant, the tenant may, within three months from the date of payment, institute a suit to recover from him such penalty, not exceeding double the amount or value of that rent, as the Court thinks fit.

(2) If a landlord without reasonable cause refuses or neglects to deliver to a tenant demanding the same either the receipt in full discharge or, if the tenant is not entitled to such a receipt, the statement of account for any year prescribed in section 57, the tenant may, within the next ensuing agricultural year, institute a suit to recover from him such penalty as the Court thinks fit, not exceeding double the aggregate amount or value of all rent paid by the tenant to the landlord during the year for which the receipt or account should have been delivered.

(3) If a landlord without reasonable cause fails to prepare and retain a counterfoil or copy of a receipt or statement as required by either of the said sections, he shall be punished with fine which may extend to fifty rupees.

Local Government to prepare forms of receipt and account.

59. (1) The Local Government shall cause to be prepared and kept for sale to landlords at all sub-divisional offices forms of receipts with counterfoils and of statements of account suitable for use under the foregoing sections.

(2) The forms may be sold in books with the leaves consecutively numbered or otherwise as the Local Government thinks fit.

Effect of receipt by registered proprietor, manager or mortgagee.

60. Where rent is due to the proprietor, manager or mortgagee of an estate, the receipt of the person registered under the Land Registration Act, 1876, as proprietor, manager or mortgagee of that estate, or of his agent authorized in that behalf, shall be a sufficient discharge for the rent; and the person liable for the rent shall not be entitled to plead in defence to a claim by the person so registered that the rent is due to any third person.

VII (B.C.) of 1876.

But nothing in this section shall affect any remedy which any such third person may have against the registered proprietor, manager or mortgagee.

Deposit of rent.

Deposit of rent.

Application to deposit rent in Court.

61. (1) In any of the following cases, namely:—

(a) when a tenant tenders money on account of rent and the landlord refuses to receive it or refuses to grant a receipt for it;

(b) when a tenant bound to pay money on account of rent has reason to believe, owing to a tender having been refused or a receipt withheld on a previous occasion, that the person to whom his rent is payable will not be willing to receive it and to grant him a receipt for it;

Deposit of rent.

(c) when the rent is payable to co-sharers jointly, and the tenant is unable to obtain the joint receipt of the co-sharers for the money, and no person has been empowered to receive the rent on their behalf; or

(d) when the tenant entertains a *bond fide* doubt as to who is entitled to receive the rent,

the tenant may present to the Court having jurisdiction to entertain a suit for the rent of his tenure or holding an application in writing for permission to deposit in the Court the full amount of the money then due.

(2) The application shall contain a statement of the grounds on which it is made; shall state—

in cases (a) and (b), the name of the person to whose credit the deposit is to be entered,

in case (c), the names of the sharers to whom the rent is due, or of so many of them as the tenant may be able to specify, and

in case (d), the names of the person to whom the rent was last paid and of the person or persons now claiming it;

shall be signed and verified, in the manner prescribed in section 52 of the Code of Civil Procedure, by the tenant, or, where he is not personally cognizant of the facts of the case, by some person so cognizant; and shall be accompanied by a fee of such amount as the Local Government, from time to time, by rule, directs.

XIV of 1882.

Receipt granted by Court for rent deposited to be a valid acquittance.

62. (1) If it appears to the Court to which an application is made under the last foregoing section that the applicant is entitled under that section to deposit the rent, it shall receive the rent and give a receipt for it under the seal of the Court.

(2) A receipt given under this section shall operate as an acquittance for the amount of the rent payable by the tenant and deposited as aforesaid, in the same manner and to the same extent as if that amount of rent had been received—

in cases (a) and (b) of the last foregoing section, by the person specified in the application as the person to whose credit the deposit was to be entered;

in case (c) of that section, by the co-sharers to whom the rent is due; and

in case (d) of that section, by the person entitled to the rent.

Notification of receipt of deposit.

63. (1) The Court receiving the deposit shall forthwith cause to be affixed in a conspicuous place at the Court-house a notification of the receipt thereof, containing a statement of all material particulars.

Bengal Tenancy Act.

(Chapter VIII.—General Provisions as to Rent.—Secs. 64-69.)

Deposit of rent.

(2) If the amount of the deposit is not paid away under the next following section, within the period of fifteen days next following the date on which the notification is so affixed, the Court shall forthwith—

in cases (*a*) and (*b*) of section 61, cause a notice of the receipt of the deposit to be served, free of charge, on the person specified in the application as the person to whose credit the deposit was to be entered;

in case (*c*) of that section, cause a notice of the receipt of the deposit to be posted at the landlord's village-office or in some conspicuous place in the village in which the holding is situate; and

in case (*d*) of that section, cause a like notice to be served, free of charge, on every person who it has reason to believe claims or is entitled to the deposit.

Payment or refund of deposit.

64. (1) The Court may pay the amount of the deposit to any person appearing to it to be entitled to the same, or may, if it thinks fit, retain the amount pending the decision of a Civil Court as to the person so entitled.

(2) The payment may, if the Local Government so direct, be made by postal money-order.

(3) If no payment is made under this section before the expiration of three years from the date on which a deposit is made, the amount deposited may, in the absence of any order of a Civil Court to the contrary, be repaid to the depositor upon his application and on his returning the receipt given by the Court with which the rent was deposited.

(4) No suit or other proceeding shall be instituted against the Secretary of State for India in Council, or against any officer of the Government, in respect of anything done by a Court receiving a deposit under the foregoing sections; but nothing in this section shall prevent any person entitled to receive the amount of any such deposit from recovering the same from a person to whom it has been paid under this section.

Arrears of rent.

Arrears of rent.

Liability to sale for arrears in case of permanent tenure, holding at fixed rates or occupancy-holding.

65. Where a tenant is a permanent tenure-holder, a raiyat holding at fixed rates or an occupancy-raiyat, he shall not be liable to ejectment for arrears of rent, but his tenure or holding shall be liable to sale in execution of a decree for the rent thereof, and the rent shall be a first charge thereon.

Ejectment for arrears in other cases.

66. (1) When an arrear of rent remains due from a tenant not being a permanent tenure-holder, a raiyat holding at fixed rates or an occupancy-raiyat, at the end of the Bengali year where that year prevails, or at the end of the month of Jeyt where the Fasli or Amli year prevails, the landlord may, whether he has obtained a decree for the recovery of the arrear or not, and whether he is entitled by the terms of any contract to eject the tenant for arrears or not, institute a suit to eject the tenant.

Arrears of rent.

(2) In a suit for ejectment for an arrear of rent a decree passed in favour of the plaintiff shall specify the amount of the arrear and of the interest (if any) due thereon, and the decree shall not be executed if that amount and the costs of the suit are paid into Court within fifteen days from the date of the decree, or, when the Court is closed on the fifteenth day, on the day upon which the Court reopens.

(3) The Court may for special reasons extend the period of fifteen days mentioned in this section.

Interest on arrears.

67. An arrear of rent shall bear simple interest at the rate of twelve per centum per annum from the expiration of that quarter of the agricultural year in which the instalment falls due to the institution of the suit.

Power to award damages on rent withheld without reasonable cause, or to defendant improperly sued for rent.

68. (1) If, in any suit brought for the recovery of arrears of rent, it appears to the Court that the defendant has, without reasonable or probable cause, neglected or refused to pay the amount of rent due by him, the Court may award to the plaintiff, in addition to the amount decreed for rent and costs, such damages, not exceeding twenty-five per centum on the amount of rent decreed, as it thinks fit:

Provided that interest shall not be decreed when damages are awarded under this section.

(2) If, in any suit brought for the recovery of arrears of rent, it appears to the Court that the plaintiff has instituted the suit without reasonable or probable cause, the Court may award to the defendant, by way of damages, such sum, not exceeding twenty-five per centum on the whole amount claimed by the plaintiff, as it thinks fit.

Produce-rents.

Produce-rents.

Order for appraising or dividing produce.

69. (1) Where rent is taken by appraisement or division of the produce,—

(*a*) if either the landlord or the tenant neglects to attend, either personally or by agent, at the proper time for making the appraisement or division, or

(*b*) if there is a dispute about the quantity, value or division of the produce,

Bengal Tenancy Act.

(Chapter VIII.—General Provisions as to Rent.—Secs. 70-75.)

Produce-rents.

the Collector may, on the application of either party, and on his depositing such sum on account of expenses as the Collector may require, make an order appointing such officer as he thinks fit to appraise or divide the produce.

(2) The Collector may, without such an application, make the like order in any case where in the opinion of the District or Sub-divisional Magistrate the making of the order would be likely to prevent a breach of the peace.

(3) Where a Collector makes an order under this section, he may, by order, prohibit the removal of the produce until the appraisement or division has been effected.

Procedure where officer appointed.

70. (1) When a Collector appoints an officer under the last foregoing section, the Collector may, in his discretion, direct the officer to associate with himself any other persons as assessors, and may give him instructions regarding the number, qualifications and mode of selection of those assessors (if any), and the procedure to be followed in making the appraisement or division; and the officer shall conform to the instructions so given.

(2) The officer shall, before making an appraisement or division, give notice to the landlord and tenant of the time and place at which the appraisement or division will be made; but if either the landlord or the tenant fails to attend either personally or by agent, he may proceed *ex parte*.

(3) When the officer has made the appraisement or division, he shall submit a report of his proceedings to the Collector.

(4) The Collector shall consider the report, and, after giving the parties an opportunity of being heard and making such enquiry (if any) as he may think necessary, shall pass such order thereon as he thinks just.

(5) The Collector may, if he thinks fit, refer any question in dispute between the parties for the decision of a Civil Court, but, subject as aforesaid, his order shall be final and shall, on application to a Civil Court by the landlord or the tenant, be enforceable as a decree.

(6) Where the officer makes an appraisement, the appraisement papers shall be filed in the Collector's office.

Rights and liabilities as to possession of crop.

71. (1) Where rent is taken by appraisement of the produce, the tenant shall be entitled to the exclusive possession of the produce.

(2) Where rent is taken by division of the produce, the tenant shall be entitled to the exclusive possession of the whole produce until it is divided, but shall not be entitled to remove any portion of the produce from the threshing-floor at such a time or in such a manner as to prevent the due division thereof at the proper time.

Produce-rents.

(3) In either case the tenant shall be entitled to cut and harvest the produce in due course of husbandry without any interference on the part of the landlord.

(4) If the tenant removes any portion of the produce at such a time or in such a manner as to prevent the due appraisement or division thereof at the proper time, the produce shall be deemed to have been as full as the fullest crop of the same description appraised in the neighbourhood on similar land for that harvest.

Liability for rent on change of landlord or after transfer of tenure or holding.

Liability for rent on change of landlord or after transfer of tenure or holding.

Tenant not liable to transferee of landlord's interest for rent paid to former landlord, without notice of the transfer.

72. (1) A tenant shall not, when his landlord's interest is transferred, be liable to the transferee for rent which became due after the transfer and was paid to the landlord whose interest was so transferred, unless the transferee has before the payment given notice of the transfer to the tenant.

(2) Where there is more than one tenant paying rent to the landlord whose interest is transferred, a general notice from the transferee to the tenants published in the prescribed manner shall be a sufficient notice for the purposes of this section.

Liability for rent after transfer of occupancy-holding.

73. When an occupancy-raiyat transfers his holding without the consent of the landlord, the transferor and transferee shall be jointly and severally liable to the landlord for arrears of rent accruing due after the transfer, unless and until notice of the transfer is given to the landlord in the prescribed manner.

Illegal Cesses, &c.

Illegal cesses, &c.

Abwáb, &c., illegal.

74. All impositions upon tenants under the denomination of *abwáb*, *mahsút*, or other like appellations, in addition to the actual rent, shall be illegal, and all stipulations and reservations for the payment of such shall be void.

75. Every tenant from whom, except under any special stipulation for [illegible] the time being in force, the sum of [illegible] of the produce of his land is exacted by his landlord in excess of the rent lawfully payable, may, within six months from the date of the exaction, institute a suit to recover from the landlord, in addition to the amount or value of what is so exacted, such sum by way of penalty as the Court thinks fit, not exceeding

two hundred rupees; or, when double the amount or value of what is so exacted exceeds two hundred rupees, not exceeding double that amount or value.

CHAPTER IX.

MISCELLANEOUS PROVISIONS AS TO LANDLORDS AND TENANTS.

Improvements.

Improvements.

76. (*1*) For the purposes of this Act, the term "improvement," used with reference to a raiyat's holding, shall mean any work which adds to the value of the holding, which is suitable to the holding and consistent with the purpose for which it was let, and which, if not executed on the holding, is either executed directly for its benefit, or is, after execution, made directly beneficial to it.

Definition of "improvement."

(*2*) Until the contrary is shown, the following shall be presumed to be improvements within the meaning of this section:—

(*a*) the construction of wells, tanks, water-channels and other works for the storage, supply or distribution of water for the purposes of agriculture, or for the use of men and cattle employed in agriculture;

(*b*) the preparation of land for irrigation;

(*c*) the drainage, reclamation from rivers or other waters, or protection from floods, or from erosion or other damage by water, of land used for agricultural purposes, or waste-land which is culturable;

(*d*) the reclamation, clearance, enclosure or permanent improvement of land for agricultural purposes;

(*e*) the renewal or re-construction of any of the foregoing works, or alterations therein, or additions thereto; and

(*f*) the erection of a suitable dwelling-house for the raiyat and his family, together with all necessary out-offices.

(*3*) But no work executed by the raiyat of a holding shall be deemed to be an improvement for the purposes of this Act if it substantially diminishes the value of his landlord's property.

77. (*1*) Where a raiyat holds at fixed rates or has an occupancy-right in his holding, neither the raiyat nor his landlord shall, as such, be entitled to prevent the other from making an improvement in respect of the holding, except on the ground that he is willing to make it himself.

Right to make improvements in case of holding at fixed rates and occupancy-holding.

(*2*) If both the raiyat and his landlord wish to make the same improvement, the raiyat shall have the prior right to make it, unless it affects another holding or other holdings under the same landlord.

Improvements.

78. If a question arises between the raiyat and his landlord—

Collector to decide question as to right to make improvement, &c.

(*a*) as to the right to make an improvement, or

(*b*) as to whether a particular work is an improvement,

the Collector may, on the application of either party, decide the question, and his decision shall be final.

79. (*1*) A non-occupancy-raiyat shall be entitled to construct, maintain and repair a well for the irrigation of his holding, with all works incidental thereto, and to erect a suitable dwelling-house for himself and his family, with all necessary out-offices; but shall, not, except as aforesaid and as next hereinafter provided, be entitled to make any other improvement in respect of his holding without his landlord's permission.

Right to make improvements in case of non-occupancy-holding.

(*2*) A non-occupancy-raiyat who would, but for the want of his landlord's permission, be entitled to make an improvement in respect of his holding, may, if he desires that the improvement be made, deliver, or cause to be delivered, to his landlord a request in writing calling upon him to make the improvement within a reasonable time; and, if the landlord is unable or neglects to comply with that request, may make the improvement himself.

80. (*1*) A landlord may, by application to such Revenue-officer as the Local Government may appoint, register any improvement which he has lawfully made or which has been lawfully made at his expense or which he has assisted a tenant in making.

Registration of landlords' improvements.

(*2*) The application shall be in such form, shall contain such information, and shall be verified in such manner, by local inquiry or otherwise, as the Local Government from time to time by rule directs.

(*3*) The officer receiving the application may reject it if it has not been made within twelve months—

(*a*) in the case of improvements made before the commencement of this Act—from the commencement of this Act;

(*b*) in the case of improvements made after the commencement of this Act—from the date of the completion of the work.

81. (*1*) If any landlord or tenant of a holding desires that evidence relating to any improvement made in respect thereof be recorded, he may apply to a Revenue-officer, who shall thereupon, at a time and place of which notice shall be given to the parties, record the evidence, unless he considers that there are no reasonable grounds for making the application, or it is made to appear that the subject-matter thereof is under inquiry in a Civil Court.

Application to record evidence as to improvement.

(*2*) When any matter has been recorded under this section, the record thereof shall be admissible in evidence in any subsequent proceedings between the landlord and tenant or any persons claiming under them.

82. (*1*) Every raiyat who is ejected from his holding shall be entitled to compensation for improvements which have been made in respect thereof in accordance with this Act by him, or by his predecessor in interest, and for which compensation has not already been paid.

Compensation for raiyats' improvements.

(*2*) Whenever a Court makes a decree or order for the ejectment of a raiyat, it shall determine the amount of compensation (if any) due under this section to the raiyat for improvements, and shall make the decree or order of ejectment conditional on the payment of that amount to the raiyat.

(*3*) No compensation under this section for an improvement shall be claimable where the raiyat has made the improvement in pursuance of a contract or under a lease binding him, in consideration of some substantial advantage to be obtained by him, to make the improvement without compensation, and he has obtained that advantage.

(*4*) Improvements made by a raiyat between the 2nd day of March, 1883, and the commencement of this Act shall be deemed to have been made in accordance with this Act.

(*5*) The Local Government may, from time to time, by notification in the official Gazette, make rules requiring the Court to associate with itself, for the purpose of estimating the compensation to be awarded under this section for an improvement, such number of assessors as the Local Government thinks fit, and determining the qualifications of those assessors and the mode of selecting them.

83. (*1*) In estimating the compensation to be awarded under the last foregoing section for an improvement, regard shall be had—

Principle on which compensation is to be estimated.

(*a*) to the amount by which the value, or the produce, of the holding, or the value of that produce, is increased by the improvement;

(*b*) to the condition of the improvement, and the probable duration of its effects

Improvements.

(*c*) to the labour and capital required for the making of such an improvement;

(*d*) to any reduction or remission of rent or any other advantage given by the landlord to the raiyat in consideration of the improvement; and

(*e*) in the case of a reclamation or of the conversion of unirrigated into irrigated land, to the length of time during which the raiyat has had the benefit of the improvement at an unenhanced rent.

(*2*) When the amount of the compensation has been assessed, the Court may, if the landlord and raiyat agree, direct that, instead of being paid wholly in money, it shall be made wholly or partly in some other way.

Acquisition of land for building and other purposes.

Acquisition of land for building and other purposes.

84. A Civil Court may, on the application of the landlord of a holding, and on being satisfied that he is desirous of acquiring the holding or part thereof for some reasonable and sufficient purpose having relation to the good of the holding or of the estate in which it is comprised, including the use of the ground as building ground, or for any religious, educational or charitable purpose,

Acquisition of land for building and other purposes.

and on being satisfied on the certificate of the Collector that the purpose is reasonable and sufficient,

authorise the acquisition thereof by the landlord upon such conditions as the Court may think fit, and require the tenant to sell his interest in the whole or such part of the holding to the landlord upon such terms as may be approved by the Court, including full compensation to the tenant.

Sub-letting.

Sub-letting.

85. (*1*) If a raiyat sub-lets otherwise than by a registered instrument, the sub-lease shall not be valid against his landlord unless made with the landlord's consent.

Restrictions on sub-letting.

(*2*) A sub-lease by a raiyat shall not be admitted to registration if it purports to create a term exceeding nine years.

(*3*) Where a raiyat has, without the consent of his landlord, granted a sub-lease by an instrument registered before the commencement of this Act, the sub-lease shall not be valid for more than nine years from the commencement of this Act.

Surrender and abandonment.

86. (*1*) A raiyat not bound by a lease or other agreement for a fixed period may, at the end of any agricultural year, surrender his holding.

Surrender.

Bengal Tenancy Act.

(Chapter IX.—Miscellaneous Provisions as to Landlords and Tenants.—Secs. 87-90.)

Surrender and abandonment.

(2) But, notwithstanding the surrender, the raiyat shall be liable to indemnify the landlord against any loss of the rent of the holding for the agricultural year next following the date of the surrender, unless he gives to his landlord, at least three months before he surrenders, notice of his intention to surrender.

(3) When a raiyat has surrendered his holding, the Court shall in the following cases for the purposes of sub-section (2) presume, until the contrary is shown, that such notice was so given, namely:—

(a) if the raiyat takes a new holding in the same village from the same landlord during the agricultural year next following the surrender;

(b) if the raiyat ceases, at least three months before the end of the agricultural year at the end of which the surrender is made, to reside in the village in which the surrendered holding is situate.

(4) The raiyat may, if he thinks fit, cause the notice to be served through the Civil Court within the jurisdiction of which the holding or any portion of it is situate.

(5) When a raiyat has surrendered his holding, the landlord may enter on the holding and either let it to another tenant or take it into cultivation himself.

(6) When a holding is subject to an incumbrance secured by a registered instrument, the surrender of the holding shall not be valid unless it is made with the consent of the landlord and the incumbrancer.

(7) Save as provided in the last foregoing sub-section, nothing in this section shall affect any arrangement by which a raiyat and his landlord may arrange for a surrender of the whole or a part of the holding.

Abandonment.

87. (1) If a raiyat voluntarily abandons his residence without notice to his landlord and without arranging for payment of his rent as it falls due, and ceases to cultivate his holding either by himself or by some other person, the landlord may, at any time after the expiration of the agricultural year in which the raiyat so abandons and ceases to cultivate, enter on the holding and let it to another tenant or take it into cultivation himself.

(2) Before a landlord enters under this section, he shall file a notice in the prescribed form in the Collector's office stating that he has treated the holding as abandoned and is about to enter on it accordingly; and the Collector shall cause this notice to be published in such manner as the Local Government, by rule, directs.

(3) When a landlord enters under this section, the raiyat shall be entitled to institute a suit for recovery of possession of the land at any time not later than the expiration of two years, or, in the case of a non-occupancy-raiyat, six months, from the date of the publication of the notice; and thereupon the Court may, on being satisfied that the raiyat did not voluntarily abandon his holding, order recovery of possession on such terms, if any, with respect to compensation to persons injured and payment of arrears of rent as to the Court may seem just.

Surrender and abandonment.

(4) Where the whole or part of a holding has been sub-let by a registered instrument, the landlord shall, before entering under this section on the holding, offer the whole holding to the sub-lessee for the remainder of the term of the sub-lease at the rent paid by the raiyat who has ceased to cultivate the holding, and on condition of the sub-lessee paying up all arrears due from that raiyat. If the sub-lessee refuses or neglects within a reasonable time to accept the offer, the landlord may avoid the sub-lease and may enter on the holding and let it to another tenant or cultivate it himself as provided in sub-sections (1) and (2).

Sub-division of tenancy.

Sub-division of tenancy.

88. A division of a tenure or holding, or distribution of the rent payable in respect thereof, shall not be binding on the landlord unless it is made with his consent in writing.

Division of tenancy not binding on landlord without his consent.

Ejectment.

Ejectment.

89. No tenant shall be ejected from his tenure or holding except in execution of a decree.

No ejectment except in execution of decree.

Measurements.

Measurements.

90. (1) Subject to the provisions of this section and any contract, a landlord may, by himself, or by any person authorized by him in this behalf, enter on and measure all land comprised in his estate or tenure, other than land exempt from the payment of revenue.

Landlord's right to measure land.

(2) A landlord shall not, without the consent of the tenant, or the written permission of the Collector, be entitled to measure land more than once in ten years, except in the following cases (namely):—

(a) where the area of the tenure or holding is liable, by reason of alluvion or diluvion, to vary from year to year, and the rent payable depends on the area;

(b) where the area under cultivation is liable to vary from year to year and the rent payable depends on the area under cultivation;

(c) where the landlord is a purchaser otherwise than by voluntary transfer and not more than two years have elapsed since the date of his entry under the purchase.

Bengal Tenancy Act.

(Chapter IX.—Miscellaneous Provisions as to Landlords and Tenants.—Secs. 91-98.)

Measurements.

(3) The ten years shall be computed from the date of the last measurement, whether made before or after the commencement of this Act.

91. (1) Where a landlord desires to measure any land which he is entitled to measure under the last foregoing section, the Civil Court may, on the application of the landlord, make an order requiring the tenant to attend and point out the boundaries of the land.

Power for Court to order tenant to attend and point out boundaries.

(2) If the tenant refuses or neglects to comply with the order, a map or other record of the boundaries and measurements of the land, prepared under the direction of the landlord at the time when the tenant was directed to attend, shall be presumed to be correct until the contrary is shown.

92. (1) Every measurement of land made by order of a Civil Court, or of a Revenue-officer, in any suit or proceeding between a landlord and tenant, shall be made by the acre, unless the Court or Revenue-officer directs that it be made by any other specified standard.

Standard of measurement.

(2) If the rights of the parties are regulated by any local measure other than the acre, the acre shall be converted into the local measure for the purposes of the suit or proceeding.

(3) The Local Government may, after local enquiry, make rules declaring for any local area the standard or standards of measurement locally in use in that area, and every declaration so made shall be presumed to be correct until the contrary is shown.

Managers.

Managers.

93. When any dispute exists between co-owners of an estate or tenure as to the management thereof, and in consequence there has ensued, or is likely to ensue,

Power to call upon co-owners to show cause why they should not appoint a common manager.

(a) inconvenience to the public, or

(b) injury to private rights,

the District Judge may, on the application in case (a) of the Collector, and in case (b) of any one having an interest in the estate or tenure, direct a notice to be served on all the co-owners, calling on them to show cause why they should not appoint a common manager:

Provided that a co-owner of an estate or tenure shall not be entitled to appear under this section unless he is entered in the [illegible] as a co-owner of the estate, unless his claim, and, if he is a co-owner of an estate, unless his name and the extent of his interest are registered under the Land Registration Act, 1876.

[illegible] of land.

94. If the co-owners fail to show cause as aforesaid within one month after service of a notice under the last foregoing section, the District Judge may make an order directing them to appoint a common manager, and a copy of the order shall be served on any co-owner who did not appear before it was made.

Power to order them to appoint a manager.

Managers.

95. If the co-owners do not, within such period, not being less than one month after the making of an order under the last foregoing section, as the District Judge may fix in this behalf, or, where the order has been served as directed by that section, within a like period after such service, appoint a common manager and report the appointment for the information of the District Judge, the District Judge may, unless it is shown to his satisfaction that there is a prospect of a satisfactory arrangement being made within a reasonable time,—

Power to appoint manager if order is not obeyed.

(a) direct that the estate or tenure be managed by the Court of Wards in any case in which the Court of Wards consents to undertake the management thereof; or

(b) in any case appoint a manager.

96. The Local Government may nominate a person for any local area to manage all estates and tenures within that local area for which it may be necessary to appoint a manager under clause (b) of the last foregoing section; and, when any person has been so nominated, no other person shall be appointed manager under that clause by the District Judge, unless in the case of any estate the Judge thinks fit to appoint one of the co-owners themselves as manager.

Power to nominate person to act in all cases under clause (b) of last section.

97. In any case in which the Court of Wards undertakes under section 95 the management of an estate or tenure, so much of the provisions of the Court of Wards Act, 1879, as relates to the management of immoveable property shall apply to the management.

The Court of Wards Act, 1879, applicable to management by Court of Wards.

IX (9 & 10) of 1879.

98. (1) A manager appointed under section 95 may, if the District Judge thinks fit, be remunerated by a fixed salary or percentage of the money collected by him as manager, or partly in one way and partly in the other, as the District Judge from time to time directs.

Provisions applicable to managers.

[illegible]

(3) He shall, subject to the control of the District Judge, have, for the purposes of management, the same powers as the co-owners jointly might, but for his appointment, have exercised, and the co-owners shall not exercise any such power.

Managers.

(4) He shall deal with and distribute the profits in accordance with the orders of the District Judge.

(5) He shall keep regular accounts, and allow the co-owners or any of them to inspect and take copies of those accounts.

(6) He shall pass his accounts at such period and in such form as the District Judge may direct.

(7) He may make any application which the proprietors could make under section 103.

(8) He shall be removable by the order of the District Judge, and not otherwise.

Power to restore management to co-owners.

99. When an estate or tenure has been placed under the management of the Court of Wards, or a manager has been appointed for the same under section 95, the District Judge may at any time direct that the management of it be restored to the co-owners, if he is satisfied that the management will be conducted by them without inconvenience to the public or injury to private rights.

Power to make rules.

100. The High Court may, from time to time, make rules defining the powers and duties of managers under the foregoing sections.

CHAPTER X.

RECORD-OF-RIGHTS AND SETTLEMENT OF RENTS.

Power to order survey and preparation of record-of-rights.

101. (1) The Local Government may, in any case with the previous sanction of the Governor General in Council, and may, if it thinks fit, without such sanction in any of the cases next hereinafter mentioned, make an order directing that a survey be made, and a record-of-rights be prepared, in respect of the lands in a local area by a Revenue-officer.

(2) The cases in which an order may be made under this section without the previous sanction of the Governor General in Council are the following (namely) :—

(a) where the landlord or a large proportion of the landlords or of the tenants applies for such an order and deposits, or gives security for, such amount, for the payment of expenses, as the Local Government directs;

(b) where the preparation of such a record is calculated to settle or avert a serious dispute existing or likely to arise between the tenants and their landlords generally;

(c) where the local area is comprised in an estate or tenure which belongs to or is managed by the Government or the Court of Wards; and

(d) where a settlement of revenue is being made in respect of the local area.

(3) A notification in the official Gazette of an order under this section shall be conclusive evidence that the order has been duly made.

Particulars to be recorded.

102. Where an order is made under the last foregoing section, the particulars to be recorded shall be specified in the order, and may include, either without or in addition to other particulars, some or all of the following, namely :—

(a) the name of each tenant;

(b) the class to which he belongs, that is to say, whether he is a tenure-holder, raiyat holding at fixed rates, occupancy-raiyat, non-occupancy-raiyat or under-raiyat, and, if he is a tenure-holder, whether he is a permanent tenure-holder or not, and whether his rent is liable to enhancement during the continuance of his tenure;

(c) the situation, quantity and boundaries of the land held by him;

(d) the name of his landlord;

(e) the rent payable;

(f) the mode in which that rent has been fixed, whether by contract, by order of a Court, or otherwise;

(g) if the rent is a gradually increasing rent, the time at which, and the steps by which, it increases;

(h) the special conditions and incidents, if any, of the tenancy.

Power for Revenue-officer to record particulars on application of proprietor or tenure-holder.

103. On the application of a proprietor or tenure-holder, and on his depositing or giving security for the required amount for expenses, a Revenue-officer may, subject to and in accordance with rules made in this behalf by the Local Government, ascertain and record the particulars specified in the last foregoing section with respect to the estate or tenure or any part thereof.

Procedure as to recording or settling rents.

104. (1) When, in any proceeding under this chapter, it does not appear that the tenant is holding land in excess of or less than that for which he is paying rent, and neither the landlord nor the tenant applies for a settlement of rent, the officer shall record the rent payable by the tenant, and the land in respect of which the rent is payable.

(2) When it appears that a tenant is holding land in excess of, or less than, that for which he is paying rent, or either the landlord or the tenant applies for a settlement of rent, or in any case under section 101, sub-section (2), clause (d), the officer shall settle a fair and equitable rent in respect of the land held by the tenant.

(3) In settling rents under this section, the officer shall presume, until the contrary is proved, that the existing rent is fair and equitable, and shall have regard to the rules laid down in this Act for the guidance of the Civil Court in increasing or reducing rents, as the case may be.

Publication of record.

105. (1) When the Revenue-officer has completed a record made under this chapter, he shall cause a draft thereof to be locally published in the prescribed manner and for the prescribed period, and shall receive and consider any objection which may be made to any entry therein during the period of publication.

(2) After the expiration of this period the Revenue-officer shall finally frame the record, and shall cause it to be locally published in the prescribed manner, and the publication shall be conclusive evidence that the record has been duly made under this chapter.

Procedure in case of dispute as to entries in record.

106. If at any time before the final publication of the record under the last foregoing section a dispute arises as to the correctness of any entry (not being an entry of a rent settled under this chapter), or as to the propriety of any omission, which the Revenue-officer proposes to make or has made therein or therefrom, the Revenue-officer shall hear and decide the dispute.

Procedure to be adopted by Revenue-officer.

107. In all proceedings for the settlement of rents under this chapter, and in all proceedings under the last foregoing section, the Revenue-officer shall, subject to rules made by the Local Government under this Act, adopt the procedure laid down in the Code of Civil Procedure for the trial of suits, and his decision in every such proceeding shall have the force of a decree.

XIV of 1882.

Appeals from decisions of Revenue-officers.

108. (1) The Local Government shall appoint one or more persons to be a Special Judge or Special Judges for the purpose of hearing appeals from the decisions of Revenue-officers under this chapter.

(2) An appeal shall lie to the Special Judge from the decision of a Revenue-officer under this chapter, and the provisions of the Code of Civil Procedure relating to appeals shall, as nearly as may be, apply to all such appeals.

XIV of 1882.

(3) Subject to the provisions of Chapter XLII of the Code of Civil Procedure, an appeal shall lie to the High Court from the decision of a Special Judge in any case under section 106 as if he were a Court subordinate to the High Court within the meaning of the first section of that chapter:

XIV of 1882.

Provided that, if in a second appeal the High Court alters the decision of the Special Judge in respect of any of the particulars with reference to which the rent of any tenure or holding has been settled, the Court may settle a new rent for the tenure or holding, but in so doing shall be guided by the rents of the other tenures or holdings of the same class comprised in the same record as ascertained or settled under section 104.

Undisputed entries in record to be presumptive evidence.

109. (1) Every record made under this chapter shall distinguish between the disputed and the undisputed entries therein.

(2) Every undisputed entry in the record shall be presumed to be correct until the contrary is proved.

Time at which settlement of rent is to take effect.

110. When any rent is settled under this chapter, the settlement shall take effect from the beginning of the agricultural year next after the final publication of the record.

Stay of proceedings in Civil Court during preparation of record.

111. When an order has been made under section 101,—

(a) a Civil Court shall not, until the final publication of the record, entertain a suit or application for the alteration of the rent or the determination of the status of any tenant in the area to which the order applies; and

(b) the High Court may, if it thinks fit, transfer to the Revenue-officer any proceedings pending in a Civil Court for the alteration of any such rent or for the determination of any of the matters specified or referred to in section 102.

Power to authorise a special settlement in special cases.

112. (1) The Local Government, with the previous sanction of the Governor General in Council, may, on being satisfied that the exercise of the powers hereinafter mentioned is necessary in the interests of public order or of the local welfare, invest a Revenue-officer acting under this chapter with the following powers or either of them, namely :—

(a) power to settle all rents;

(b) power, when settling rents, to reduce rents if in the opinion of the officer the maintenance of existing rents would on any ground, whether specified in this Act or not, be unfair or inequitable.

(2) The powers given under this section may be limited as within a specified area either generally or with reference to specified cases or classes of cases.

(3) When the Local Government takes any action under this section, the settlement-record prepared by the Revenue-officer shall not take effect until it has been finally confirmed by the Governor General in Council.

Bengal Tenancy Act.

(Chaper XI.—Record of Proprietors' Private Lands.—Secs. 113—120.)
(Chapter XII.—Distraint.—Sec. 121.)

113. When the rent of a tenure or holding is settled under this chapter, it shall not, except on the ground of a landlord's improvement or of a subsequent alteration in the area of the tenure or holding, be enhanced, in the case of a tenure or an occupancy-holding for fifteen years, and, in the case of a non-occupancy-holding, if the rent is settled in any case under section 112 or on the application of the landlord under section 104, for five years. The periods of fifteen and five years shall be counted from the date of the final publication of the record.

Period for which rents as settled are to remain unaltered.

114. Where an order is made under this chapter in any case except under section 101, sub-section (*2*), clause (*d*), the expenses incurred by the Government in carrying out the provisions of this chapter in any local area, or such part of those expenses as the Local Government may direct, shall be defrayed by the landlords and tenants of land in that local area, in such proportions as the Local Government, having regard to all the circumstances of each case, may determine; and the proportion of those expenses so to be defrayed by any person shall be recoverable by the Government from him as if it were an arrear of revenue due by him.

Expenses of proceedings under chapter.

115. When the particulars mentioned in section 102, clause (*b*), have been recorded under this chapter in respect of any tenancy, the presumption under section 50 shall not thereafter apply to that tenancy.

Presumption as to fixity of rent not to apply where record has been prepared.

CHAPTER XI.

RECORD OF PROPRIETORS' PRIVATE LANDS.

116. Nothing in Chapter V shall confer a right of occupancy in, and nothing in Chapter VI shall apply to, a proprietor's private lands known in Bengal as khámár, nij or nij-jot, and in Behar as zirát, nij, sír or kamat, where any such land is held under a lease for a term of years or under a lease from year to year.

Saving as to khámár land.

117. The Local Government may, from time to time, make an order directing a Revenue-officer to make a survey and record of all the lands in a specified local area which are a proprietor's private lands within the meaning of the last foregoing section.

Power for Government to order survey and record of proprietor's private lands.

118. In the case of any land alleged to be a proprietor's private land, on the application of the proprietor or of any tenant of the land, and on his depositing the required amount for expenses, a Revenue-officer may, subject to and in accordance with rules made in this behalf by the Local Government, ascertain and record whether the land is or is not a proprietor's private land.

Power for Revenue-officer to record private land on application of proprietor or tenant.

119. When a Revenue-officer proceeds under either of the two last foregoing sections, the provisions of sections 105 to 109, both inclusive, shall apply.

Procedure for recording private land.

120. (*1*) The Revenue-officer shall record as a proprietor's private land—

Rules for determination of proprietor's private land.

(*a*) land which is proved to have been cultivated as khámár, zirát, sír, nij, nij-jot or kamat by the proprietor himself with his own stock or by his own servants or by hired labour for twelve continuous years immediately before the passing of this Act, and

(*b*) cultivated land which is recognized by village usage as proprietor's khámár, zirát, sír, nij, nij-jot or kamat.

(*2*) In determining whether any other land ought to be recorded as a proprietor's private land, the officer shall have regard to local custom, and to the question whether the land was before the second day of March, 1883, specifically let as proprietor's private land, and to any other evidence that may be produced; but shall presume that land is not a proprietor's private land until the contrary is shown.

(*3*) If any question arises in a Civil Court as to whether land is or is not a proprietor's private land, the Court shall have regard to the rules laid down in this section for the guidance of Revenue-officers.

CHAPTER XII.

DISTRAINT.

121. Where an arrear of rent is due to the landlord of a raiyat or under-raiyat, and has not been due for more than a year, and no security has been accepted therefor by the landlord, the landlord may, in addition to any other remedy to which he is entitled by law, present an application to the Civil Court requesting the Court to recover the arrear by distraining, while in the possession of the cultivator,—

Cases in which an application for distraint may be made.

(*a*) any crops or other products of the earth standing or ungathered on the holding;

(*b*) any crops or other products of the earth which have been grown on the holding and have been reaped or gathered and are deposited on the holding, or on a threshing-floor or place for treading out grain, or the like, whether in the fields or within a homestead:

Bengal Tenancy Act.

(Chapter XII.—Distraint.—Secs. 122-126.)

Provided that an application shall not be made under this section—

VII (B.C.) of 1876.

(*1*) by a proprietor or manager as defined under the Land Registration Act, 1876, or a mortgagee of such a proprietor or manager, unless his name and the extent of his interest in the land in respect of which the arrear is due have been registered under the provisions of that Act; or

(*2*) for the recovery of any sum in excess of the rent payable for the holding in the preceding agricultural year, unless that sum is payable under a written contract or in consequence of a proceeding under this Act or an enactment hereby repealed; or

(*3*) in respect of the produce of any part of the holding which the tenant has sub-let with the written consent of the landlord.

122. (*1*) Every application under the last foregoing section shall specify—

Form of application.

(*a*) the holding in respect of which the arrear is claimed, and the boundaries thereof, or such other particulars as may suffice for its identification;

(*b*) the name of the tenant;

(*c*) the period in respect of which the arrear is claimed;

(*d*) the amount of the arrear, with the interest, if any, claimed thereon, and, when an amount in excess of the rent payable by the tenant in the last preceding agricultural year is claimed, the contract, or proceeding, as the case may be, under which that amount is payable;

(*e*) the nature and approximate value of the produce to be distrained;

(*f*) the place where it is to be found, or such other particulars as may suffice for its identification; and

(*g*) if it is standing or ungathered, the time at which it is likely to be cut or gathered.

(*2*) The application shall be signed and verified in the manner prescribed by the Code of Civil Procedure for the signing and verification of plaints.

XIV of 1882.

123. (*1*) The applicant shall, at the time of filing an application under the foregoing sections, file in Court such documentary evidence (if any) as he may consider necessary for the purposes of the application.

Procedure on receipt of application.

(*2*) The Court may, if it thinks fit, examine the applicant, and shall, with as little delay as possible, admit the application or reject it, or permit the applicant to furnish additional evidence in support of it.

(*3*) Where a Court cannot forthwith admit or reject an application under sub-section (*2*), it may, if it thinks fit, make an order prohibiting the removal of the produce specified in the application pending the execution of an order for distraining the same or the rejection of the application.

(*4*) When an order for distraining any produce is made under this section at a considerable time before the produce is likely to be cut or gathered, the Court may suspend the execution of the order for such time as it thinks fit, and may, if it thinks fit, make a further order prohibiting the removal of the produce pending the execution of the order for distraint.

124. If an application is admitted under the last foregoing section, the Court shall depute an officer to distrain the produce specified therein, or such portion of that produce as it thinks fit; and the officer shall proceed to the place where the produce is, and distrain the produce by taking charge of it himself or placing some other person in charge of it in his behalf, and publishing a notification of the distraint in accordance with rules to that effect to be made by the High Court:

Execution of order for distraint.

Provided that produce which from its nature does not admit of being stored shall not be distrained under this section at any time less than twenty days before the time when it would be fit for reaping or gathering.

125. (*1*) The distraining officer shall, at the time of making the distraint, serve on the defaulter a written demand for the arrear due, and the costs incurred in making the distraint, with an account exhibiting the grounds on which the distraint is made.

Service of demand and account.

(*2*) Where the distraining officer has reason to believe that a person other than the defaulter is the owner of the property distrained, he shall serve copies of the demand and account on that person likewise.

(*3*) The demand and account shall, if practicable, be served personally; but if a person on whom they are to be served absconds or conceals himself, or cannot otherwise be found, the officer shall affix copies of the demand and account on a conspicuous part of the outside of the house in which he usually resides.

126. (*1*) A distraint under this chapter shall not prevent any person from reaping, gathering or storing any produce, or doing any other act necessary for its due preservation.

Right to reap, &c., produce.

(*2*) If the person entitled to do so fails to do so at the proper time, the distraining officer shall cause any standing crops or ungathered products

Bengal Tenancy Act.

(Chapter XII.—Distraint.—Secs. 127—136.)

distrained to be reaped or gathered when ripe, and stored in such granaries or other places as are commonly used for the purpose, or in some other convenient place in the neighbourhood, or shall do whatever else may be necessary for the due preservation of the same.

(3) In either case the distrained property shall remain in the charge of the distraining officer, or of some other person appointed by him in this behalf.

Sale proclamation to be issued unless demand is satisfied.

127. (1) Unless the demand, with all costs of the distraint, be immediately satisfied, the distraining officer shall issue a proclamation specifying the particulars of the property distrained and the demand for which it is distrained, and notifying that he will, at a place and on a day specified, not being less than three or more than seven days after the time of making the distraint, sell the distrained property by public auction:

Provided that when the crops or products distrained from their nature admit of being stored but have not yet been stored, the day of the sale shall be so fixed as to admit of their being made ready for storing before its arrival.

(2) The proclamation shall be stuck up on a conspicuous place in the village in which the land is situate for which the arrears of rent are claimed.

Place of sale.

128. The sale shall be held at the place where the distrained property is, or at the nearest place of public resort if the distraining officer is of opinion that it is likely to sell there to better advantage.

When produce may be sold standing.

129. (1) Crops or products which from their nature admit of being stored shall not be sold before they are reaped or gathered and are ready for storing.

(2) Crops or products which from their nature do not admit of being stored may be sold before they are reaped or gathered, and the purchaser shall be entitled to enter on the land by himself, or by any person appointed by him in this behalf, and do all that is necessary for the purpose of tending and reaping or gathering them.

Manner of sale.

130. The property shall be sold by public auction, in one or more lots as the officer holding the sale may think advisable; and if the demand, with the costs of distraint and sale, is satisfied by the sale of a portion of the property, the distraint shall be immediately withdrawn with respect to the remainder.

Postponement of sale.

131. If, on the property being put up for sale, a fair price (in the estimation of the officer holding the sale) is not offered for it, and if the owner of the property, or a person authorised to act in his behalf, applies to have the sale postponed till the next day, or (if a market is held at the place of sale) the next market-day, the sale shall be postponed until that day, and shall be then completed, whatever price may be offered for the property.

Payment of purchase-money.

132. The price of every lot shall be paid at the time of sale, or as soon thereafter as the officer holding the sale directs, and in default of such payment the property shall be put up again and sold.

Certificate to be given to purchaser.

133. When the purchase-money has been paid in full, the officer holding the sale shall give the purchaser a certificate describing the property purchased by him and the price paid.

Proceeds of sale how to be applied.

134. (1) From the proceeds of every sale of distrained property under this chapter, the officer holding the sale shall pay the costs of the distraint and sale, calculated on a scale of charges prescribed by rules to be made, from time to time, by the Local Government in this behalf.

(2) The remainder shall be applied to the discharge of the arrear for which the distress was made, with interest thereon up to the day of sale; and the surplus (if any) shall be paid to the person whose property has been sold.

Certain persons may not purchase.

135. Officers holding sales of property under this Act, and all persons employed by, or subordinate to, such officers, are prohibited from purchasing, either directly or indirectly, any property sold by such officers.

Procedure where demand is paid before the sale.

136. (1) If at any time after a distraint has been made under this chapter, and before the sale of the distrained property, the defaulter, or the owner of the distrained property where he is not the defaulter, deposits in the Court issuing the order of distraint, or in the hands of the distraining officer, the amount specified in the demand served under section 125, with all costs which may have been incurred after the service of the demand, the Court or officer, as the case may be, shall grant a receipt for the same and the distraint shall forthwith be withdrawn.

(2) When the distraining officer receives the deposit, he shall forthwith pay it into the Court.

(3) A receipt granted under this section to an owner of distrained property not being the defaulter shall afford a full protection to him against any subsequent claim for the arrears of rent on account of which the distraint was made.

(4) After the expiration of one month from the date of a deposit being made under this section,

Bengal Tenancy Act.

(Chapter XII.—Distraint.—Secs. 137-142.)

(Chapter XIV.—Judicial Procedure.—Secs. 143-144.)

the Court shall pay therefrom to the applicant for distraint the amount due to him, unless in the meanwhile the owner of the property distrained has instituted a suit against the applicant contesting the legality of the distraint and claiming compensation in respect of the same.

(5) A landlord shall not be deemed to have consented to his tenant's sub-letting the holding or any part thereof merely by reason of his having received an amount deposited under this section by an inferior tenant.

Amount paid by under-tenant for his lessor may be deducted from rent.

137. (1) When an inferior tenant, on his property being lawfully distrained under this chapter for the default of a superior tenant, makes any payment under the last foregoing section, he shall be entitled to deduct the amount of that payment from any rent payable by him to his immediate landlord, and that landlord, if he is not the defaulter, shall in like manner be entitled to deduct the amount so deducted from any rent payable by him to his immediate landlord, and so on until the defaulter is reached.

(2) Nothing in this section shall affect the right of an inferior tenant making a payment under the last foregoing section to institute a suit for the recovery from the defaulter of any portion of the amount paid which he has not deducted under this section.

Conflict between rights of superior and inferior landlords.

138. When land is sub-let and any conflict arises under this chapter between the rights of a superior and of an inferior landlord who distrain the same property, the right of the superior landlord shall prevail.

Distraint of property which is under attachment.

139. When any conflict arises between an order for distraint issued under this chapter and an order issued by a Civil Court for the attachment or sale of the property which is the subject of the distraint, the order for distraint shall prevail; but, if the property is sold under that order, the surplus proceeds of the sale shall not be paid under section 134 to the owner of the property without the sanction of the Court by which the order of attachment or sale was issued.

Suit for compensation for wrongful distraint.

140. No appeal shall lie from any order passed by a Civil Court under this chapter; but any person whose property is distrained on an application made under section 121 in any case in which such an application is not permitted by that section may institute a suit against the applicant for the recovery of compensation.

Power for Local Government to authorise distraint in certain cases.

141. (1) When the Local Government is of opinion that in any local area or in any class of cases it would, by reason of the character of the cultivation or the habits of the cultivators, be impracticable for a landlord to realize his rent by an application under this chapter, to the Civil Court, it may, from time to time, by order, authorize the landlord to distrain, by himself or his agent, any produce for the distraint of which he would be entitled to apply under this chapter to the Civil Court:

Provided that every person distraining any produce under such authorization shall proceed in the manner prescribed by section 124, and shall forthwith give notice, in such form as the High Court may, by rule, prescribe, to the Civil Court having jurisdiction to entertain an application for distraining the produce, and that Court shall, with no avoidable delay, depute an officer to take charge of the produce distrained.

(2) When an officer of the Court has taken charge of any distrained produce under this section, the proceedings shall thereafter be conducted in all respects as if he had distrained it under section 124.

(3) The Local Government may at any time rescind any order made by it under this section.

Power for High Court to make rules.

142. The High Court may, from time to time, make rules consistent with this Act for regulating the procedure in all cases under this chapter.

CHAPTER XIII.

JUDICIAL PROCEDURE.

Power to modify Civil Procedure Code in its application to landlord and tenant suits.

143. (1) The High Court may, from time to time, with the approval of the Governor General in Council, make rules consistent with this Act declaring that any portions of the Code of Civil Procedure shall not apply to suits between landlord and tenant as such or to any specified classes of such suits, or shall apply to them subject to modifications specified in the rules.

(2) Subject to any rules so made, and subject also to the other provisions of this Act, the Code of Civil Procedure shall apply to all such suits. XIV of 1882.

Jurisdiction in proceedings under Act.

144. (1) The cause of action in all suits between landlord and tenant as such shall, for the purposes of the Code of Civil Procedure, be deemed to have arisen XIV of 1882. within the local limits of the jurisdiction of the Civil Court which would have jurisdiction to entertain a suit for the possession of the tenure or holding in connection with which the suit is brought.

(2) When under this Act a Civil Court is authorized to make an order on the application of a landlord or a tenant, the application shall be made to the Court which would have jurisdiction to entertain a suit for the possession of the tenure or holding in connection with which the application is brought.

Bengal Tenancy Act.

(Chapter XIII.—Judicial Procedure.—Secs. 145-151.)

145. Every náib or gumáshta of a landlord empowered in this behalf by a written authority under the hand of the landlord shall, for the purposes of every such suit or application, be deemed to be the recognized agent of the landlord within the meaning of the Code of Civil Procedure, notwithstanding that the landlord may reside within the local limits of the jurisdiction of the Court in which the suit is to be instituted or is pending, or in which the application is made.

Náibs or gumáshtas to be recognized agents.

XIV of 1882.

146. The particulars referred to in section 58 of the Code of Civil Procedure shall, in the case of such suits, instead of being entered in the register of civil suits prescribed by that section, be entered in a special register to be kept by each Civil Court, in such form as the Local Government may, from time to time, prescribe in this behalf.

XIV of 1882.

Special register of suits.

147. Subject to the provisions of section 373 of the Code of Civil Procedure, where a landlord has instituted a suit against a raiyat for the recovery of any rent of his holding, the landlord shall not institute another suit against him for the recovery of any rent of that holding until after three months from the date of the institution of the previous suit.

XIV of 1882.

Successive rent-suits.

148. The following rules shall apply to suits for the recovery of rent:—

Procedure in rent-suits.

(*a*) sections 121 to 127 (both inclusive), 129, 305, and 320 to 326 (both inclusive) of the Code of Civil Procedure shall not apply to any such suit:

XIV of 1882.

(*b*) the plaint shall contain, in addition to the particulars specified in section 50 of the Code of Civil Procedure, a statement of the situation, designation, extent and boundaries of the land held by the tenant; or, where the plaintiff is unable to give the extent or boundaries, in lieu thereof a description sufficient for identification:

XIV of 1882.

(*c*) the summons shall be for the final disposal of the suit, unless the Court is of opinion that the summons should be for the settlement of issues only:

(*d*) the service of the summons may, if the High Court by rule, either generally, or specially for any local area, so directs, be effected, either in addition to, or in substitution for, any other mode of service, by forwarding the summons by post in a letter addressed to the defendant and registered under Part III of the Indian Post Office Act, 1866;

XIV of 1866.

when a summons is so forwarded in a letter, and it is proved that the letter was duly posted and registered, the Court may presume that the summons has been duly served:

(*e*) a written statement shall not be filed without the leave of the Court:

(*f*) the rules for recording the evidence of witnesses prescribed by section 189 of the Code of Civil Procedure shall apply, whether an appeal is allowed or not: XIV of 1882.

(*g*) the Court may, when passing the decree, order on the oral application of the decree-holder the execution thereof, unless it is a decree for ejectment for arrears:

(*h*) notwithstanding anything contained in section 232 of the Code of Civil Procedure, an application for the execution of a decree for arrears obtained by a landlord shall not be made by an assignee of the decree unless the landlord's interest in the land has become and is vested in him.

149. (*1*) When a defendant admits that money is due from him on account of rent, but pleads that it is due not to the plaintiff but to a third person, the Court shall, except for special reasons to be recorded in writing, refuse to take cognizance of the plea unless the defendant pays into Court the amount so admitted to be due.

Payment into Court of money admitted to be due to third person.

(*2*) Where such a payment is made, the Court shall forthwith cause notice of the payment to be served on the third person.

(*3*) Unless the third person within three months from the receipt of the notice institutes a suit against the plaintiff and therein obtains an order restraining payment out of the money, it shall be paid out to the plaintiff on his application.

(*4*) Nothing in this section shall affect the right of any person to recover from the plaintiff money paid to him under sub-section (*3*).

150. When a defendant admits that money is due from him to the plaintiff on account of rent, but pleads that the amount claimed is in excess of the amount due, the Court shall, except for special reasons to be recorded in writing, refuse to take cognizance of the plea unless the defendant pays into Court the amount so admitted to be due.

Payment into Court of money admitted to be due to landlord.

151. When a defendant is liable to pay money into Court under either of the two last foregoing sections, if the Court thinks that there are sufficient reasons for so ordering, it may take cognizance of the defendant's plea on his paying into Court such reasonable portion of the money as the Court directs.

Provision as to payment of portion of money.

Bengal Tenancy Act.

(Chapter XIII.—Judicial Procedure.—Secs. 152-156.)

152. When a defendant pays money into Court under either of the said sections, the Court shall give the defendant a receipt, and the receipt so given shall operate as an acquittance in the same manner and to the same extent as if it had been given by the plaintiff or the third person as the case may be.

Court to grant receipt.

153. An appeal shall not lie from any decree or order passed, whether in the first instance or on appeal, in any suit instituted by a landlord for the recovery of rent where—

Appeals in rent-suits.

(*a*) the decree or order is passed by a District Judge, Additional Judge or Subordinate Judge, and the amount claimed in the suit does not exceed one hundred rupees, or

(*b*) the decree or order is passed by any other judicial officer specially empowered by the Local Government to exercise final jurisdiction under this section, and the amount claimed in the suit does not exceed fifty rupees;

unless in either case the decree or order has decided a question relating to title to land or to some interest in land as between parties having conflicting claims thereto, or a question of a right to enhance or vary the rent of a tenant, or a question of the amount of rent annually payable by a tenant:

Provided that the District Judge may call for the record of any case in which a judicial officer as aforesaid has passed a decree or order to which this section applies, if it appears that the judicial officer has exercised a jurisdiction not vested in him by law, or has failed to exercise a jurisdiction so vested, or has acted in the exercise of his jurisdiction illegally or with material irregularity; and may pass such order as the District Judge thinks fit.

154. A decree for enhancement of rent under this Act, if passed in a suit instituted in the first eight months of an agricultural year, shall ordinarily take effect on the commencement of the agricultural year next following; and, if passed in a suit instituted in the last four months of the agricultural year, shall ordinarily take effect on the commencement of the agricultural year next but one following; but nothing in this section shall prevent the Court from fixing, for special reasons, a later date from which any such decree shall take effect.

Date from which decree for enhancement takes effect.

155. (*1*) A suit for the ejectment of a tenant, on the ground—

Relief against forfeitures.

(*a*) that he has used the land in a manner which renders it unfit for the purposes of the tenancy, or

(*b*) that he has broken a condition on breach of which he is, under the terms of a contract between him and the landlord, liable to ejectment,

shall not be entertained unless the landlord has served, in the prescribed manner, a notice on the tenant specifying the particular misuse or breach complained of, and, where the misuse or breach is capable of remedy, requiring the tenant to remedy the same, and, in any case, to pay reasonable compensation for the misuse or breach, and the tenant has failed to comply within a reasonable time with that request.

(*2*) A decree passed in favour of a landlord in any such suit shall declare the amount of compensation which would reasonably be payable to the plaintiff for the misuse or breach, and whether, in the opinion of the Court, the misuse or breach is capable of remedy, and shall fix a period during which it shall be open to the defendant to pay that amount to the plaintiff, and, where the misuse or breach is declared to be capable of remedy, to remedy the same.

(*3*) The Court may, from time to time, for special reasons, extend a period fixed by it under sub-section (*2*).

(*4*) If the defendant, within the period or extended period (as the case may be) fixed by the Court under this section, pays the compensation mentioned in the decree, and, where the misuse or breach is declared by the Court to be capable of remedy, remedies the misuse or breach to the satisfaction of the Court, the decree shall not be executed.

156. The following rules shall apply in the case of every raiyat ejected from a holding:—

Rights of ejected raiyats in respect of crops and land prepared for sowing.

(*a*) when the raiyat has, before the date of his ejectment, sown or planted crops in any land comprised in the holding, he shall be entitled, at the option of the landlord, either to retain possession of that land and to use it for the purpose of tending and gathering in the crops, or to receive from the landlord the value of the crops as estimated by the Court executing the decree for ejectment;

(*b*) when the raiyat has, before the date of his ejectment, prepared for sowing any land comprised in his holding, but has not sown or planted crops in that land, he shall be entitled to receive from the landlord the value of the labour and capital expended by him in so preparing the land, as estimated by the Court executing the decree for ejectment, together with reasonable interest on that value;

(*c*) but a raiyat shall not be entitled to retain possession of any land or receive any sum in respect thereof under this section where, after the commencement of pro-

Bengal Tenancy Act.

(Chapter XIV.—Sale for Arrears under Decree.—Secs. 157—162.)

ceedings by the landlord for his ejectment, he has cultivated or prepared the land contrary to local usage;

(*d*) if the landlord elects under this section to allow a raiyat to retain possession of the land, the raiyat shall pay to the landlord, for the use and occupation of the land during the period for which he is allowed to retain possession of the same, such rent as the Court executing the decree for ejectment may deem reasonable.

Power for Court to fix fair rent as alternative to ejectment.

157. When a plaintiff institutes a suit for the ejectment of a trespasser he may, if he thinks fit, claim as alternative relief that the defendant be declared liable to pay for the land in his possession a fair and equitable rent to be determined by the Court, and the Court may grant such relief accordingly.

Application to determine incidents of tenancy.

158. (*1*) The Court having jurisdiction to determine a suit for the possession of land may, on the application of either the landlord or the tenant of the land, determine all or any of the following matters, (namely):—

(*a*) the situation, quantity and boundaries of the land;

(*b*) the name and description of the tenant thereof (if any);

(*c*) the class to which he belongs, that is to say, whether he is a tenure-holder, raiyat holding at fixed rates, occupancy-raiyat, non-occupancy-raiyat, or under-raiyat, and, if he is a tenure-holder, whether he is a permanent tenure-holder or not and whether his rent is liable to enhancement during the continuance of his tenure; and

(*d*) the rent payable by him at the time of the application.

(*2*) If, in the opinion of the Court, any of these matters cannot be satisfactorily determined without a local inquiry, the Court may direct that a local inquiry be held under Chapter XXV of the Code of Civil Procedure by such Revenue-officer as the Local Government may authorize in that behalf by rule made under section 392 of the said Code. XIV of 1882.

(*3*) The order on any application under this section shall have the effect of, and be subject to the like appeal as, a decree.

CHAPTER XIV.

SALE FOR ARREARS UNDER DECREE.

General powers of purchaser as to avoidance of incumbrances.

159. Where a tenure or holding is sold in execution of a decree for arrears due in respect thereof, the purchaser shall take subject to the interests defined in this chapter as "protected interests", but with power to annul the interests defined in this chapter as "incumbrances":

Provided as follows:—

(*a*) a registered and notified incumbrance within the meaning of this chapter shall not be so annulled except in the case hereinafter mentioned in that behalf;

(*b*) the power to annul shall be exercisable only in manner by this chapter directed.

Protected interests.

160. The following shall be deemed to be protected interests within the meaning of this chapter:—

(*a*) any under-tenure existing from the time of the Permanent Settlement;

(*b*) any under-tenure recognized by the settlement-proceedings of any current temporary settlement as a tenure at a rent fixed for the period of that settlement;

(*c*) any lease of land whereon dwelling-houses, manufactories or other permanent buildings have been erected, or permanent gardens, plantations, tanks, canals, places of worship or burning or burying grounds have been made;

(*d*) any right of occupancy;

(*e*) the right of a non-occupancy-raiyat to hold for five years at a rent fixed under Chapter VI by a Court, or under Chapter X by a Revenue-officer;

(*f*) any right conferred on an occupancy-raiyat to hold at a rent which was a fair and reasonable rent at the time the right was conferred; and

(*g*) any right or interest which the landlord at whose instance the tenure or holding is sold, or his predecessor in title, has expressly and in writing given the tenant for the time being permission to create.

Meaning of "incumbrance" and "registered and notified incumbrance."

161. For the purposes of this chapter—

(*a*) the term "incumbrance", used with reference to a tenancy, means any lien, sub-tenancy, easement or other right or interest created by the tenant on his tenure or holding or in limitation of his own interest therein, and not being a protected interest as defined in the last foregoing section;

(*b*) the term "registered and notified incumbrance", used with reference to a tenure or holding sold or liable to sale in execution of a decree for an arrear of rent due in respect thereof, means an incumbrance created by a registered instrument of which a copy has, not less than three months before the accrual of the arrear, been served on the landlord in manner hereinafter provided.

Application for sale of tenure or holding.

162. When a decree has been passed for an arrear of rent due for a tenure or holding, and the decree-holder applies under section 235 of the Code of Civil Procedure for the attachment and sale of the tenure or holding in execution of the decree, he shall produce a statement showing the parganá, estate and village in which the land comprised in the tenure or holding is situate, the yearly rent payable for the same and the total amount recoverable under the decree. XIV of 1882.

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(Chapter XIV.—Sale for Arrears under Decree.—Secs. 163-167.)

Order of attachment and proclamation of sale to be issued simultaneously.

163. (*1*) Notwithstanding anything contained in the Code of Civil Procedure, when the decree-holder makes the application mentioned in the last foregoing section, the Court shall, if under section 245 of the said Code it admits the application and orders execution of the decree as applied for, issue simultaneously the order of attachment and the proclamation required by section 287 of the said Code. XIV of 1882.

(*2*) The proclamation shall, in addition to stating and specifying the particulars mentioned in section 287 of the said Code, announce—

(*a*) in the case of a tenure or a holding of a raiyat holding at fixed rates, that the tenure or holding will first be put up to auction subject to the registered and notified incumbrances, and will be sold subject to those incumbrances if the sum bid is sufficient to liquidate the amount of the decree and costs, and that otherwise it will, if the decree-holder so desires, be sold on a subsequent day, of which due notice will be given, with power to annul all incumbrances; and

(*b*) in the case of an occupancy-holding, that the holding will be sold with power to annul all incumbrances.

(*3*) The proclamation shall, besides being made in the manner prescribed by section 289 of the said Code, be published by fixing up a copy thereof in a conspicuous place on the land comprised in the tenure or holding ordered to be sold, and shall also be published in such manner as the Local Government may, from time to time, direct in this behalf.

(*4*) Notwithstanding anything contained in section 290 of the said Code, the sale shall not, without the consent in writing of the judgment-debtor, take place until after the expiration of at least thirty days, calculated from the date on which the copy of the proclamation has been fixed up on the land comprised in the tenure or holding ordered to be sold.

Sale of tenure or holding subject to registered and notified incumbrances, and effect thereof.

164. (*1*) When a tenure or a holding at fixed rates has been advertised for sale under the last foregoing section, it shall be put up to auction, subject to registered and notified incumbrances; and, if the bidding reaches a sum sufficient to liquidate the amount of the decree and costs, including the costs of sale, the tenure or holding shall be sold subject to such incumbrances.

(*2*) The purchaser at a sale under this section may, in manner provided by section 167, and not otherwise, annul any incumbrance upon the tenure or holding not being a registered and notified incumbrance.

Sale of tenure or holding with power to avoid all incumbrances, and effect thereof.

165. (*1*) If the bidding for a tenure or a holding at fixed rates put up to auction under the last foregoing section does not reach a sum sufficient to liquidate the amount of the decree and costs as aforesaid, and if the decree-holder thereupon desires that the tenure or holding be sold with power to avoid all incumbrances, the officer holding the sale shall adjourn the sale and make a fresh proclamation under section 289 of the Code of Civil Procedure, announcing that the tenure or holding will be put up to auction and sold with power to avoid all incumbrances upon a future day specified therein, not less than fifteen or more than thirty days from the date of the postponement; and upon that day the tenure or holding shall be put up to auction and sold with power to avoid all incumbrances. XIV of 1882.

(*2*) The purchaser at a sale under this section may, in manner provided by section 167, and not otherwise, annul any incumbrance on the tenure or holding.

Sale of occupancy-holding with power to avoid all incumbrances, and effect thereof.

166. (*1*) When an occupancy-holding has been advertised for sale under section 163, it shall be put up to auction and sold with power to avoid all incumbrances.

(*2*) The purchaser at a sale under this section may, in manner provided by the next following section, and not otherwise, annul any incumbrance on the holding.

Procedure for annulling incumbrances under the foregoing sections.

167. (*1*) A purchaser having power to annul an incumbrance under any of the foregoing sections and desiring to annul the same, may, within one year from the date of the sale or the date on which he first has notice of the incumbrance, whichever is later, present to the Collector an application in writing, requesting him to serve on the incumbrancer a notice declaring that the incumbrance is annulled.

(*2*) Every such application must be accompanied by such fee for the service of the notice as the Board of Revenue may fix in this behalf.

(*3*) When an application for service of a notice is made to the Collector in manner prescribed by this section, he shall cause the notice to be served in compliance therewith, and the incumbrance shall be deemed to be annulled from the date on which it is so served.

(*4*) When a tenure or holding is sold in execution of a decree for arrears due in respect thereof, and there is on the tenure or holding a protected interest of the kind specified in section 160, clause (*c*), the purchaser may, if he has power under this chapter to avoid all incumbrances, sue to enhance the rent of the land which is the subject of the protected interest. On proof that the land is held at a rent which was not at the time the lease was granted a fair rent, the Court may enhance the rent to such amount as appears to be fair and equitable.

This sub-section shall not apply to land which has been held for a term exceeding twelve years at a fixed rent equal to the rent of good arable land.

Bengal Tenancy Act.

(Chapter XIV.—Sale for Arrears under Decree.—Secs. 168-171.)

168. (*1*) The Local Government may, from time to time, by notification in the official Gazette, direct that occupancy-holdings or any specified class of occupancy-holdings in any local area put up for sale in execution of decrees for rent due on them shall, before being put up with power to avoid all incumbrances, be put up subject to registered and notified incumbrances, and may by like notification rescind any such direction.

Power to direct that occupancy-holdings be dealt with under foregoing sections as tenures.

(*2*) While any such direction remains in force in respect of any local area, all occupancy-holdings, or, as the case may be, occupancy-holdings of the specified class in that local area, shall, for the purposes of sale under the foregoing sections of this chapter, be treated in all respects as if they were tenures.

169. (*1*) In disposing of the proceeds of a sale under this chapter, the following rules, instead of those prescribed by section 295 of the Code of Civil Procedure, shall be observed, that is to say:—

Rules for disposal of the sale-proceeds.

XIV of 1882.

(*a*) there shall first be paid to the decree-holder the costs incurred by him in bringing the tenure or holding to sale;

(*b*) there shall, in the next place, be paid to the decree-holder the amount due to him under the decree in execution of which the sale was made;

(*c*) if there remains a balance after these sums have been paid, there shall be paid to the decree-holder therefrom any rent which may have fallen due to him in respect of the tenure or holding between the institution of the suit and the date of the sale;

(*d*) the balance (if any) remaining after the payment of the rent mentioned in clause (*c*) shall, upon the expiration of two months from the confirmation of the sale, be paid to the judgment-debtor upon his application.

(*2*) If the judgment-debtor disputes the decree-holder's right to receive any sum on account of rent under clause (*c*), the Court shall determine the dispute, and the determination shall have the force of a decree.

170. (*1*) Sections 278 to 283 (both inclusive) of the Code of Civil Procedure shall not apply to a tenure or holding attached in execution of a decree for arrears due thereon.

Tenure or holding to be released from attachment only on payment into Court of amount of decree with costs, or on confession of satisfaction by decree-holder.

XIV of 1882.

(*2*) When an order for the sale of a tenure or holding in execution of such a decree has been made, the tenure or holding shall not be released from attachment unless, before it is knocked down to the auction-purchaser, the amount of the decree, including the costs decreed, together with the costs incurred in order to the sale, is paid into Court, or the decree-holder makes an application for the release of the tenure or holding on the ground that the decree has been satisfied out of Court.

(*3*) The judgment-debtor or any person having in the tenure or holding any interest voidable on the sale may pay money into Court under this section.

171. (*1*) When any person having, in a tenure or holding advertised for sale under this chapter, an interest which would be avoidable upon the sale, pays into Court the amount requisite to prevent the sale,—

Amount paid into Court to prevent sale to be in certain cases a mortgage-debt on the tenure or holding.

(*a*) the amount so paid by him shall be deemed to be a debt bearing interest at twelve per centum per annum and secured by a mortgage of the tenure or holding to him;

(*b*) his mortgage shall take priority of every other charge on the tenure or holding other than a charge for arrear of rent; and

(*c*) he shall be entitled to possession of the tenure or holding as mortgagee of the tenant, and to retain possession of it as such until the debt, with the interest due thereon, has been discharged.

(*2*) Nothing in this section shall affect any other remedy to which any such person would be entitled.

172. When a tenure or holding is advertised for sale under this chapter in execution of a decree against a superior tenant defaulting, and an inferior tenant, whose interest would be voidable upon the sale, pays money into Court in order to prevent the sale, he may, in addition to any other remedy provided for him by law, deduct the whole or any portion of the amount so paid from any rent payable by him to his immediate landlord; and that landlord, if he is not the defaulter, may in like manner deduct the amount so deducted from any rent payable by him to his immediate landlord, and so on until the defaulter is reached.

Inferior tenant paying into Court may deduct from rent.

173. (*1*) Notwithstanding anything contained in section 294 of the Code of Civil Procedure, the holder of a decree in execution of which a tenure or holding is sold under this chapter may, without the permission of the Court, bid for or purchase the tenure or holding.

Decree-holder may bid at sale; judgment-debtor may not.

XIV of 1882.

(*2*) The judgment-debtor shall not bid for or purchase a tenure or holding so sold.

(*3*) When a judgment-debtor purchases by himself or through another person a tenure or holding so sold, the Court may, if it thinks fit, on the application of the decree-holder or any other person interested in the sale, by order set aside the sale, and the costs of the application and order, and any deficiency of price which may happen on the re-sale, and all expenses attending it, shall be paid by the judgment-debtor.

174. (*1*) Where a tenure or holding is sold for an arrear of rent due thereon, then, at any time within thirty days from the date of sale, the judgment-debtor may apply to have the sale set aside, on his depositing in Court, for payment to the decree-holder, the amount recoverable

Application by judgment-debtor to set aside sale.

Bengal Tenancy Act.

(Chapter XV.—Contract and Custom.—Secs. 175—179.)

under the decree with costs, and, for payment to the purchaser, a sum equal to five per centum of the purchase-money.

(*2*) If such deposit is made within the thirty days, the Court shall pass an order setting aside the sale, and the provisions of section 315 of the Code of Civil Procedure shall apply in the case of a sale so set aside:

XIV of 1882.

Provided that, if a judgment-debtor applies under section 311 of the Code of Civil Procedure to set aside the sale of his tenure or holding, he shall not be entitled to make an application under this section.

XIV of 1882.

(*3*) Section 313 of the Code of Civil Procedure shall not apply to any sale under this chapter.

XIV of 1882.

175. Notwithstanding anything contained in Part IV of the Indian Registration Act, 1877, an instrument creating an incumbrance upon any tenure or holding which has been executed before the commencement of this Act, and is not required by section 17 of the said Registration Act to be registered, shall be accepted for registration under that Act if it is presented for that purpose to the proper officer within one year from the commencement of this Act.

Registration of certain instruments creating incumbrances.

III of 1877.

176. Every officer who has, whether before or after the passing of this Act, registered an instrument executed by a tenant of a tenure or holding and creating an incumbrance on the tenure or holding, shall, at the request of the tenant or of the person in whose favour the incumbrance is created, and on payment by him of such fee as the Local Government may fix in this behalf, notify the incumbrance to the landlord by causing a copy of the instrument to be served on him in the prescribed manner.

Notification of incumbrances to landlord.

177. Nothing contained in this chapter shall be deemed to enable a person to create an incumbrance which he could not otherwise lawfully create.

Power to create incumbrances not extended.

CHAPTER XV.

CONTRACT AND CUSTOM.

178. (*1*) Nothing in any contract between a landlord and a tenant made before or after the passing of this Act—

Restrictions on exclusion of Act by agreement.

(*a*) shall bar in perpetuity the acquisition of an occupancy-right in land, or

(*b*) shall take away an occupancy-right in existence at the date of the contract, or

(*c*) shall entitle a landlord to eject a tenant otherwise than in accordance with the provisions of this Act, or

(*d*) shall take away or limit the right of a tenant, as provided by this Act, to make improvements and claim compensation for them.

(*2*) Nothing in any contract made between a landlord and a tenant since the 15th day of July, 1880, and before the passing of this Act shall prevent a raiyat from acquiring in accordance with this Act an occupancy-right in land.

(*3*) Nothing in any contract made between a landlord and a tenant after the passing of this Act shall—

(*a*) prevent a raiyat from acquiring in accordance with this Act an occupancy-right in land;

(*b*) take away or limit the right of an occupancy-raiyat to use land as provided by section 23;

(*c*) take away the right of a raiyat to surrender his holding in accordance with section 86;

(*d*) take away the right of a raiyat to transfer or bequeath his holding in accordance with local usage;

(*e*) take away the right of an occupancy-raiyat to sub-let subject to and in accordance with the provisions of this Act;

(*f*) take away the right of a raiyat to apply for a reduction of rent under section 38 or section 52;

(*g*) take away the right of a landlord or a tenant to apply for a commutation of rent under section 40; or

(*h*) affect the provisions of section 67 relating to interest payable on arrears of rent:

Provided as follows:—

(i) nothing in this section shall affect the terms or conditions of a lease granted *bond fide* for the reclamation of waste land, except that, where, on or after the expiration of the term created by the lease, the lessee would under Chapter V be entitled to an occupancy-right in the land comprised in the lease, nothing in the lease shall prevent him from acquiring that right;

(ii) when a landlord has reclaimed waste land by his own servants or hired labourers, and subsequently lets the same or a part thereof to a raiyat, nothing in this Act shall affect the terms of any contract whereby a raiyat is prevented from acquiring an occupancy-right in the land or part during a period of thirty years from the date on which the land or part is first let to a raiyat;

(iii) nothing in this section shall affect the terms or conditions of any contract for the temporary cultivation of orchard land with agricultural crops.

179. Nothing in this Act shall be deemed to prevent a proprietor or a holder of a permanent tenure in a permanently-settled area from granting a permanent mukarrarí lease on any terms agreed on between him and his tenant.

Permanent mukarrarí leases.

Bengal Tenancy Act.

(Chapter XV.—Contract and Custom.—Secs. 180-183.)

(Chapter XVI.—Limitation. Chapter XVII.—Supplemental.—Secs. 184-187.)

Útbandi, chur and dearah lands.

180. (*1*) Notwithstanding anything in this Act, a raiyat—

(*a*) who in any part of the country where the custom of útbandi prevails, holds land ordinarily let under that custom and for the time being let under that custom, or

(*b*) who holds land of the kind known as chur or dearah,

shall not acquire a right of occupancy—

in case (*a*), in land ordinarily held under the custom of útbandi and for the time being held under that custom, or

in case (*b*), in the chur or dearah land,

until he has held the land in question for twelve continuous years; and, until he acquires a right of occupancy in the land, he shall be liable to pay such rent for his holding as may be agreed on between him and his landlord.

(*2*) Chapter VI shall not apply to raiyats holding land under the custom of útbandi in respect of land held by them under that custom.

(*3*) The Collector may, on the application of either the landlord or the tenant or on a reference from the Civil Court, declare that any land has ceased to be chur or dearah land within the meaning of this section, and thereupon all the provisions of this Act shall apply to the land.

Saving as to service-tenures.

181. Nothing in this Act shall affect any incident of a ghátwálí or other service-tenure, or, in particular, shall confer a right to transfer or bequeath a service-tenure which, before the passing of this Act, was not capable of being transferred or bequeathed.

Homesteads.

182. When a raiyat holds his homestead otherwise than as part of his holding as a raiyat, the incidents of his tenancy of the homestead shall be regulated by local custom or usage, and, subject to local custom or usage, by the provisions of this Act applicable to land held by a raiyat.

Saving of custom.

183. Nothing in this Act shall affect any custom, usage or customary right not inconsistent with, or not expressly or by necessary implication modified or abolished by, its provisions.

Illustrations.

(*1*) A usage under which a raiyat is entitled to sell his holding without the consent of his landlord is not inconsistent with, and is not expressly or by necessary implication modified or abolished by, the provisions of this Act. That usage, accordingly, wherever it may exist, will not be affected by this Act.

(*2*) The custom or usage that an under-raiyat should, under certain circumstances, acquire a right of occupancy is not inconsistent with, and is not expressly or by necessary implication modified or abolished by, the provisions of this Act. That custom or usage, accordingly, wherever it exists, will not be affected by this Act.

CHAPTER XVI.

LIMITATION.

Limitation in suits, appeals and applications in Schedule III.

184. (*1*) The suits, appeals and applications specified in Schedule III annexed to this Act shall be instituted and made within the time prescribed in that schedule for them respectively; and every such suit or appeal instituted, and application made, after the period of limitation so prescribed, shall be dismissed, although limitation has not been pleaded.

(*2*) Nothing in this section shall revive the right to institute any suit or appeal or make any application which would have been barred by limitation if it had been instituted or made immediately before the commencement of this Act.

Portions of the Indian Limitation Act not applicable to such suits, &c.

185. (*1*) Sections 7, 8 and 9 of the Indian Limitation Act, 1877, shall not apply to the suits and applications mentioned in the last foregoing section. XV of 1877.

(*2*) Subject to the provisions of this chapter, the provisions of the Indian Limitation Act, 1877, shall apply to all suits, appeals and applications mentioned in the last foregoing section. XV of 1877.

CHAPTER XVII.

SUPPLEMENTAL.

Penalties.

Penalties for illegal interference with produce.

186. (*1*) If any person, otherwise than in accordance with this Act or some other enactment for the time being in force,— *Penalties.*

(*a*) distrains or attempts to distrain the produce of a tenant's holding, or

(*b*) resists a distraint duly made under this Act, or forcibly or clandestinely removes any property duly distrained under this Act, or

(*c*) except with the authority or consent of the tenant, prevents or attempts to prevent the reaping, gathering, storing, removing or otherwise dealing with any produce of a holding,

he shall be deemed to have committed criminal trespass within the meaning of the Indian Penal Code. XLV of 1860.

(*2*) Any person who abets within the meaning of the Indian Penal Code the doing of any act mentioned in sub-section (*1*), shall be deemed to have abetted the commission of criminal trespass within the meaning of that Code. XLV of 1860.

Agents and representatives of landlords.

Power for landlord to act through agent.

187. (*1*) Any appearance, application or act, in, before or to any Court or authority, required or authorised by this Act to be made or done by a landlord, may, unless the Court or authority otherwise directs, be made or done also by an agent empowered in this behalf by a written authority under the hand of the landlord. *Agents and representatives of landlords.*

Bengal Tenancy Act.

(Chapter XVII.—Supplemental.—Secs. 188-194.)

Agents and representatives of landlords.

(*2*) Every notice required by this Act to be served on, or given to, a landlord shall, if served on, or given to, an agent empowered as aforesaid to accept service of or receive the same on behalf of the landlord, be as effectual for the purposes of this Act as if it had been served on, or given to, the landlord in person.

(*3*) Every document required by this Act to be signed or certified by a landlord, except an instrument appointing or authorizing an agent, may be signed or certified by an agent of the landlord authorized in writing in that behalf.

Joint-landlords to act collectively or by common agent.

188. Where two or more persons are joint-landlords, anything which the landlord is under this Act required or authorized to do must be done either by both or all those persons acting together, or by an agent authorized to act on behalf of both or all of them.

Rules under Act.

Rules under Act.

Power to make rules regarding procedure, powers of officers and service of notices.

189. The Local Government may, from time to time, by notification in the official Gazette, make rules consistent with this Act—

(*1*) to regulate the procedure to be followed by Revenue-officers in the discharge of any duty imposed upon them by or under this Act, and may by such rules confer upon any such officer—

(*a*) any power exercised by a Civil Court in the trial of suits;

(*b*) power to enter upon any land, and to survey, demarcate and make a map of the same, and any power exercisable by any officer under the Bengal Survey Act, 1875; and V (B.C.) of 1875.

(*c*) power to cut and thresh the crops on any land and weigh the produce, with a view to estimating the capabilities of the soil; and

(*2*) to prescribe the mode of service of notices under this Act where no mode is prescribed by this or any other Act.

Procedure for making, publication and confirmation of rules.

190. (*1*) Every authority having power to make rules under any section of this Act shall, before making the rules, publish a draft of the proposed rules for the information of persons likely to be affected thereby.

(*2*) The publication shall be made, in the case of rules made by the Local Government or High Court, in such manner as may in its opinion be sufficient for giving information to persons interested, and, in the case of rules made by any other authority, in the prescribed manner:

Provided that every such draft shall be published in the official Gazette.

(*3*) There shall be published with the draft a notice specifying a date, not earlier than the expiration of one month after the date of publication, at or after which the draft will be taken into consideration. Rules under Act.

(*4*) The authority shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

(*5*) The publication in the official Gazette of a rule purporting to be made under this Act shall be conclusive evidence that it has been duly made.

(*6*) All rules made under this Act may, from time to time, subject to the sanction (if any) required for making them, be amended, added to or cancelled by the authority having power to make the same.

Provisions as to temporarily-settled districts.

Saving as to land held in a district not permanently settled.

191. Where the area comprised in a tenure is situate in an estate which has never been permanently settled, nothing in this Act shall prevent the enhancement of the rent upon the expiration of a temporary settlement of the revenue, unless the right to hold beyond the term of the settlement at a particular rate of rent has been expressly recognized in settlement-proceedings by a Revenue-authority empowered by the Government to make definitively or confirm settlements. Provisions as to temporarily-settled districts.

Power to alter rent in case of new assessment of revenue.

192. When a landlord grants a lease, or makes any other contract, purporting to entitle the tenant of land not included in an area permanently settled to hold that land free of rent or at a particular rent, and while the lease or contract is in force—

(*a*) land-revenue is for the first time made payable in respect of the land, or

(*b*) land-revenue having been previously payable in respect of it, a fresh settlement of land-revenue is made,

a Revenue-officer may, notwithstanding anything in the contract between the parties, by order, on the application of the landlord or of the tenant, fix a fair and equitable rent for the land in accordance with the provisions of this Act.

Rights of pasturage, &c.

Rights of pasturage, forest-rights, &c.

193. The provisions of this Act applicable to suits for the recovery of arrears of rent shall, as far as may be, apply to suits for the recovery of anything payable or deliverable in respect of any rights of pasturage, forest-rights, rights over fisheries and the like. Rights of pasturage, &c.

Saving for conditions binding on landlords.

Tenant not enabled by Act to violate conditions binding on landlord.

194. Where a proprietor or permanent tenure-holder holds his estate or tenure subject to the observance of any specified rule or condition, nothing in this Act shall entitle Saving as to conditions binding on landlords.

Bengal Tenancy Act.

(Schedule I.—Repeal of Enactments.)

any person occupying land within the estate or tenure to do any act which involves a violation of that rule or condition.

Savings for special enactments.

Savings for special enactments.

Savings for special enactments.

195. Nothing in this Act shall affect—

(*a*) the powers and duties of Settlement-officers as defined by any law not expressly repealed by this Act;

(*b*) any enactment regulating the procedure for the realization of rents in estates belonging to the Government, or under the management of the Court of Wards or of the Revenue-authorities;

(*c*) any enactment relating to the avoidance of tenancies and incumbrances by a sale for arrears of the Government revenue;

(*d*) any enactment relating to the partition of revenue-paying estates;

(*e*) any enactment relating to patní tenures, in so far as it relates to those tenures; or

(*f*) any other special or local law not repealed either expressly or by necessary implication by this Act.

Construction of Act.

Construction of Act.

Act to be read subject to Acts hereafter passed by Lieutenant-Governor of Bengal in Council.

196. This Act shall be read subject to every Act passed after its commencement by the Lieutenant-Governor of Bengal in Council.

SCHEDULE I.

(*See section 2.*)

REPEAL OF ENACTMENTS.

Regulations of the Bengal Code.

Number and year.	Subject of Regulation.	Extent of repeal.
VIII of 1793	A Regulation for re-enacting with modifications and amendments the rules for the Decennial Settlement of the Public Revenue payable from the lands of the zamíndárs, independent taluqdárs and other actual proprietors of land in Bengal, Behar and Orissa, passed for those Provinces respectively on the 18th September, 1789, the 25th November, 1789, and the 10th February, 1790, and subsequent dates.	Sections 51, 52, 53, 54, 55, 61 and 65.
XII of 1805	A Regulation for the settlement and collection of the Public Revenue in the zila of Cuttack, including the pargands of Pattáspur, Kummadichour, and Bagrae, at present included in the zila of Midnapur.	Section 7.

SCHEDULE I—*contd.*

Number and year.	Subject of Regulation.	Extent of repeal.
V of 1812	A Regulation for amending some of the rules at present in force for the collection of the Land-revenue.	Sections 2, 3, 4, 26 and 27.
XVIII of 1812	A Regulation for explaining Section 2, Regulation V, 1812, and rescinding Sections 3 and 4, Regulation XLIV, 1793, and Sections 3 and 4, Regulation L, 1795, and enacting other rules in lieu thereof.	The preamble and sections 2 and 3.
XI of 1825	A Regulation for declaring the rules to be observed in determining claims to lands gained by alluvion or by dereliction of a river or the sea.	In clause 1 of section 4, from and including the words "nor if annexed to a subordinate tenure" to the end of the clause.

Acts of the Bengal Council.

Number and year.	Subject of Act.	Extent of repeal.
VI of 1862	An Act to amend Act X of 1859 (to amend the law relating to the recovery of rent in the Presidency of Fort William in Bengal).	The whole Act.
IV of 1867	An Act to explain and amend Act VI of 1862, passed by the Lieutenant-Governor of Bengal in Council, and to give validity to certain judgments.	The whole Act.
VIII of 1869	An Act to amend the Procedure in suits between Landlords and Tenants.	The whole Act.
VIII of 1879	An Act to define and limit the powers of Settlement-officers.	The whole Act.

Act of the Governor General in Council.

Number and year.	Subject of Act.	Extent of repeal.
X of 1859	An Act to amend the law relating to the recovery of rent in the Presidency of Fort William in Bengal.	The whole Act.

Bengal Tenancy Act.

(Schedule II.—Forms of Receipt and Account.)

SCHEDULE II.

FORMS OF RECEIPT AND ACCOUNT.

(*See sections 56 and 57.*)

FORM OF RECEIPT.

PARTICULARS OF THE HOLDING (TENANT'S PORTION).

1. Serial number of Receipt
2. Estate ; Village ; Thána
3. Tenant's name , Son of
4. Particulars of the holding—

Nukdi, Bighás ; rent Rs.

Baouli, Bighás ; Maunds ; or Rs.

Government Cesses { Julkur, Rs. / Bunkur, Rs. / Phulkur, Rs. } Road Cess, Rs. / Public Works Cess, Rs.

5. Signature of the Landlord or his Authorized Agent

FORM OF RECEIPT.

PARTICULARS OF THE HOLDING (LANDLORD'S PORTION).

1. Serial number of Receipt
2. Estate ; Village ; Thána
3. Tenant's name , Son of
4. Particulars of the holding—

Nukdi, Bighás ; rent Rs.

Baouli, Bighás ; Maunds ; or Rs.

Government Cesses { Julkur, Rs. / Bunkur, Rs. / Phulkur, Rs. } Road Cess, Rs. / Public Works Cess, Rs.

5. Signature of the Landlord or his Authorized Agent

Section 55 of the Bengal Tenancy Act, 1885, provides as follows:—

(1) When a tenant makes a payment on account of rent, he may declare the year or the year and instalment to which he wishes the payment to be credited, and the payment shall be credited accordingly.

(2) If he does not make any such declaration, the payment may be credited to the account of such year and instalment as the landlord thinks fit.

Bengal Tenancy Act.

(Schedule II.—Forms of Receipt and Account.)

DETAILS OF PAYMENTS (LANDLORD'S PORTION).

Date of payment, and name of person through whom paid.	Nukdi.		Baouli.		Julkur, &c.		Cesses.	
	Current on account of kist.	Arrear on account of year, kist.	Current on account of crop.	Arrear on account of year, crop.	Current on account of kist.	Arrear on account of year, kist.	Current on account of kist.	Arrear on account of year, kist.

DETAILS OF PAYMENTS (TENANT'S PORTION).

Date of payment, and name of person through whom paid.	Nukdi.		Baouli.		Julkur, &c.		Cesses.		Signature of the landlord or his authorized agent.
	Current on account of kist.	Arrear on account of year, kist.	Current on account of crop.	Arrear on account of year, crop.	Current on account of kist.	Arrear on account of year, kist.	Current on account of kist.	Arrear on account of year, kist.	

Bengal Tenancy Act.

(Schedule II.—Forms of Receipt and Account.)

FORM OF ACCOUNT.

1. Year
2. Tenant's name
3. Particulars of holding—(area, rent, &c.)

	Bighás	Rate	Rs. A. P.
Nukdi			
Government Cesses			

	Bighás	Maunds	Rs. A. P.
Baouli			
Julkur			
Bunkur			
Phulkur			

	Maunds	Rs. A. P.
4. Demand of the year		
5. Balance of former years (Bakaya)		

	Rs. A. P.
6. Total demand (current and arrear)	
7. Paid each on account of { Current demand ...	
{ Arrear demand ...	
	Maunds
8. Paid in kind	

	Rs. A. P.
9. Balance outstanding at end of year	
10. Signature of the Landlord or his authorized Agent	

FORM OF ACCOUNT.

1. Year
2. Tenant's name
3. Particulars of holding—(area, rent, &c.)

	Bighás	Rate	Rs. A. P.
Nukdi			
Government Cesses			

	Bighás	Maunds	Rs. A. P.
Baouli			
Julkur			
Bunkur			
Phulkur			

	Maunds	Rs. A. P.
4. Demand of the year		
5. Balance of former years (Bakaya)		

	Rs. A. P.
6. Total demand (current and arrear)	
7. Paid each on account of { Current demand ...	
{ Arrear demand ...	
	Maunds
8. Paid in kind	

	Rs. A. P.
9. Balance outstanding at end of year	
10. Signature of the Landlord or his authorized Agent	

Bengal Tenancy Act.

(Schedule III.—Limitation.)

SCHEDULE III.

LIMITATION.

(See section 184.)

PART I.—*Suits.*

Description of Suit.	Period of Limitation.	Time from which period begins to run.
1. To eject any tenure-holder or raiyat on account of any breach of a condition in respect of which there is a contract expressly providing that ejectment shall be the penalty of such breach.	One year .	The date of the breach.
2. For the recovery of an arrear of rent—		
(a) when the arrear fell due before a deposit was made under section 61 on account of the rent of the same holding.	Six months .	The date of the service of notice of the deposit.
(b) in other cases .	Three years .	The last day of the Bengali year in which the arrear fell due, where that year prevails, and the last day of the month of Jeyt of the Amli or Fasli year in which the arrear fell due, where either of those years prevails.
3. To recover possession of land claimed by the plaintiff as an occupancy-raiyat.	Two years .	The date of dispossession.

PART II.—*Appeals.*

Description of Appeal.	Period of Limitation.	Time from which period begins to run.
From any decree or order under this Act, to the Court of a District Judge or Special Judge.	Thirty days .	The date of the decree or order appealed against.
From any order of a Collector under this Act, to the Commissioner.	Thirty days .	The date of the order appealed against.

PART III.—*Applications.*

Description of Application.	Period of Limitation.	Time from which period begins to run.
6. For the execution of a decree or order made under this Act, or any Act repealed by this Act, and not being a decree for a sum of money exceeding Rs. 500, exclusive of any interest which may have accrued after decree upon the sum decreed, but inclusive of the costs of executing such decree; except where the judgment-debtor has by fraud or force prevented the execution of the decree, in which case the period of limitation shall be governed by the provisions of the Indian Limitation Act, 1877.	Three years .	(1) The date of the decree or order; or (2) where there has been an appeal, the date of the final decree or order of the Appellate Court; or (3) where there has been a review of judgment, the date of the decision passed on the review.

XV of 1877.

R. J. CROSTHWAITE,

Offg. Secy. to the Govt. of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, APRIL 4, 1885.

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

PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third Publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 14th March, 1885, and is hereby promulgated for general information :—

ACT No. VIII OF 1885.

THE BENGAL TENANCY ACT, 1885.

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Bengal Tenancy Act.

(*Chapter I.—Preliminary.—Secs. 1-3.*)

An Act to amend and consolidate certain enactments relating to the Law of Landlord and Tenant within the territories under the administration of the Lieutenant-Governor of Bengal.

WHEREAS it is expedient to amend and consolidate certain enactments relating to the law of Landlord and Tenant within the territories under the administration of the Lieutenant-Governor of Bengal; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title.

1. (*1*) This Act may be called the Bengal Tenancy Act, 1885.

Commencement.

(*2*) It shall come into force on such date (hereinafter called the commencement of this Act) as the Local Government, with the previous sanction of the Governor General in Council, may, by notification in the local official Gazette, appoint in this behalf.

Local extent.

(*3*) It shall extend by its own operation to all the territories for the time being under the administration of the Lieutenant-Governor of Bengal, except the Town of Calcutta, the Division of Orissa, and the Scheduled Districts specified in the third Part of the First Schedule of the Scheduled Districts Act, 1874; and the Local Government may, with the previous sanction of the Governor General in Council, by notification in the local official Gazette, extend the whole or any portion of this Act to the Division of Orissa or any part thereof.

XIV of 1874.

Repeal.

2. (*1*) The enactments specified in Schedule I hereto annexed are repealed in the territories to which this Act extends by its own operation.

(*2*) When this Act is extended to the Division of Orissa or any part thereof, such of those enactments as are in force in that Division or part, or, where a portion only of this Act is so extended, so much of them as is inconsistent with that portion, shall be repealed in that Division or part.

(*3*) Any enactment or document referring to any enactment hereby repealed shall be construed to refer to this Act or to the corresponding portion thereof.

(*4*) The repeal of any enactment by this Act shall not revive any right, privilege, matter or thing not in force or existing at the commencement of this Act.

Definitions.

3. In this Act, unless there is something repugnant in the subject or context:—

(*1*) "Estate" means land included under one entry in any of the general registers of revenue-paying lands and revenue-free lands, prepared and maintained under the law for the time being in force by the Collector of a district, and includes Government khás maháls and revenue-free lands not entered in any register.

(*2*) "Proprietor" means a person owning, whether in trust or for his own benefit, an estate or a part of an estate.

(*3*) "Tenant" means a person who holds land under another person, and is, or but for a special contract would be, liable to pay rent for that land to that person.

(*4*) "Landlord" means a person immediately under whom a tenant holds, and includes the Government.

(*5*) "Rent" means whatever is lawfully payable or deliverable in money or kind by a tenant to his landlord on account of the use or occupation of the land held by the tenant:

In sections 53 to 68, both inclusive, sections 72 to 75, both inclusive, Chapter XII and Schedule III of this Act, "rent" includes also money recoverable under any enactment for the time being in force as if it was rent.

(*6*) "Pay," "payable" and "payment," used with reference to rent, include "deliver," "deliverable" and "delivery."

(*7*) "Tenure" means the interest of a tenure-holder or an under-tenure-holder.

(*8*) "Permanent tenure" means a tenure which is heritable and which is not held for a limited time.

(*9*) "Holding" means a parcel or parcels of land held by a raiyat and forming the subject of a separate tenancy.

(*10*) "Village" means an area included in a village map of the revenue-survey within the same exterior boundary, or, where no such maps have been prepared, such area as any officer appointed by the Local Government in this behalf may determine after local inquiry held on such notice as the Local Government considers sufficient for giving information to all persons interested.

(*11*) "Agricultural year" means, where the Bengalí year prevails, the year commencing on the first day of Bysák, where the Faslí or Amlí year

Bengal Tenancy Act.

(Chapter II.—Classes of Tenants.—Secs. 4-5.)

(Chapter III.—Tenure-holders.—Secs. 6-7.)

prevails, the year commencing on the first day of Asin, and, where any other year prevails for agricultural purposes, that year.

(12) "Permanent Settlement" means the Permanent Settlement of Bengal, Behar and Orissa, made in the year 1793.

(13) "Succession" includes both intestate and testamentary succession.

(14) "Signed" includes "marked" when the person making the mark is unable to write his name; it also includes "stamped" with the name of the person referred to.

(15) "Prescribed" means prescribed from time to time by the Local Government by notification in the official Gazette.

(16) "Collector" means the Collector of a district or any other officer appointed by the Local Government to discharge any of the functions of a Collector under this Act.

(17) "Revenue-officer" in any provision of this Act includes any officer whom the Local Government may appoint by name or by virtue of his office to discharge any of the functions of a Revenue-officer under that provision.

(18) "Registered" means registered under any Act for the time being in force for the registration of documents.

CHAPTER II.

CLASSES OF TENANTS.

Classes of tenants.

4. There shall be, for the purposes of this Act, the following classes of tenants, (namely):—

(1) tenure-holders, including under-tenure-holders,

(2) raiyats, and

(3) under-raiyats, that is to say, tenants holding whether immediately or mediately under raiyats;

and the following classes of raiyats, (namely):—

(a) raiyats holding at fixed rates, which expression means raiyats holding either at a rent fixed in perpetuity or at a rate of rent fixed in perpetuity,

(b) occupancy-raiyats, that is to say, raiyats having a right of occupancy in the land held by them, and

(c) non-occupancy-raiyats, that is to say, raiyats not having such a right of occupancy.

Meaning of "tenure-holder" and "raiyat".

5. (1) "Tenure-holder" means primarily a person who has acquired from a proprietor or from another tenure-holder a right to hold land for the purpose of collecting rents or bringing it under cultivation by establishing tenants on it, and includes also the successors in interest of persons who have acquired such a right.

(2) "Raiyat" means primarily a person who has acquired a right to hold land for the purpose of cultivating it by himself, or by members of his family, or by hired servants, or with the aid of partners, and includes also the successors in interest of persons who have acquired such a right.

Explanation.—Where a tenant of land has the right to bring it under cultivation, he shall be deemed to have acquired a right to hold it for the purpose of cultivation notwithstanding that he uses it for the purpose of gathering the produce of it or of grazing cattle on it.

(3) A person shall not be deemed to be a raiyat unless he holds land either immediately under a proprietor or immediately under a tenure-holder.

(4) In determining whether a tenant is a tenure-holder or a raiyat, the Court shall have regard to—

(a) local custom; and

(b) the purpose for which the right of tenancy was originally acquired.

(5) Where the area held by a tenant exceeds one hundred standard bighás, the tenant shall be presumed to be a tenure-holder until the contrary is shewn.

CHAPTER III.

TENURE-HOLDERS.

Enhancement of rent.

Enhancement of rent.

Tenure held since Permanent Settlement liable to enhancement only in certain cases.

6. Where a tenure has been held from the time of the Permanent Settlement, its rent shall not be liable to enhancement except on proof—

(a) that the landlord under whom it is held is entitled to enhance the rent thereof either by local custom or by the conditions under which the tenure is held, or

(b) that the tenure-holder, by receiving reductions of his rent, otherwise than on account of a diminution of the area of the tenure, has subjected himself to the payment of the increase demanded, and that the lands are capable of affording it.

Limits of enhancement of rent of tenures.

7. (1) Where the rent of a tenure-holder is liable to enhancement, it may, subject to any contract between the parties, be enhanced up to the limit of the customary rate payable by persons holding similar tenures in the vicinity.

(2) Where no such customary rate exists, it may, subject as aforesaid, be enhanced up to such limit as the Court thinks fair and equitable.

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(Chapter III.—Tenure-holders.—Secs. 8-15.)

Enhancement of rent.

(3) In determining what is fair and equitable, the Court shall not leave to the tenure-holder as profit less than ten per centum of the balance which remains after deducting from the gross rents payable to him the expenses of collecting them, and shall have regard to—

(a) the circumstances under which the tenure was created, for instance, whether the land comprised in the tenure, or a great portion of it, was first brought under cultivation by the agency or at the expense of the tenure-holder or his predecessors in interest, whether any fine or premium was paid on the creation of the tenure, and whether the tenure was originally created at a specially low rent for the purpose of reclamation; and

(b) the improvements, if any, made by the tenure-holder or his predecessors in interest.

(4) If the tenure-holder himself occupies any portion of the land included in the area of his tenure, or has made a grant of any portion of the land either rent-free or at a beneficial rent, a fair and equitable rent shall be calculated for that portion and included in the gross rents aforesaid.

Power to order gradual enhancement.

8. The Court may, if it thinks that an immediate increase of rent would produce hardship, direct that the enhancement shall be gradual; that is to say, that the rent shall increase yearly by degrees, for any number of years not exceeding five, until the limit of the enhancement allowed has been reached.

Rent once enhanced may not be altered for fifteen years.

9. When the rent of a tenure-holder has been enhanced by the Court or by contract, it shall not be again enhanced by the Court during the fifteen years next following the date on which it has been so enhanced.

Other incidents of tenures.

Other incidents of tenures.

Permanent tenure-holder not liable to ejectment.

10. A holder of a permanent tenure shall not be ejected by his landlord except on the ground that he has broken a condition on breach of which he is, under the terms of a contract between him and his landlord, liable to be ejected:

Provided that where the contract is made after the commencement of this Act, the condition is consistent with the provisions of this Act.

Transfer and transmission of permanent tenure.

11. Every permanent tenure shall, subject to the provisions of this Act, be capable of being transferred and bequeathed in the same manner and to the same extent as other immoveable property.

Other incidents of tenures.

Voluntary transfer of permanent tenure.

12. (1) A transfer of a permanent tenure by sale, gift or mortgage (other than a transfer by sale in execution of a decree or by summary sale under any law relating to patní or other tenures) can be made only by a registered instrument.

(2) A registering officer shall not register any instrument purporting or operating to transfer by sale, gift or mortgage a permanent tenure unless there is paid to him, in addition to any fees payable under the Act for the time being in force for the registration of documents, a process-fee of the prescribed amount and a fee (hereinafter called "the landlord's fee") of the following amount, namely:—

(a) when rent is payable in respect of the tenure, a fee of two per centum on the annual rent of the tenure: provided that no such fee shall be less than one rupee or more than one hundred rupees; and

(b) when rent is not payable in respect of the tenure, a fee of two rupees.

(3) When the registration of any such instrument is complete, the registering officer shall send to the Collector the landlord's fee and a notice of the transfer and registration in the prescribed form, and the Collector shall cause the fee to be paid to, and the notice to be served on, the landlord in the prescribed manner.

Transfer of permanent tenure by sale in execution of decree other than decree for rent.

13. (1) When a permanent tenure is sold in execution of a decree other than a decree for arrears of rent due in respect thereof, the Court shall, before confirming the sale under section 312 of the Code of Civil Procedure, require the purchaser to pay into Court the landlord's fee prescribed by the last foregoing section and such further fee for service of notice of the sale on the landlord as may be prescribed. XIV of 1882.

(2) When the sale has been confirmed, the Court shall send to the Collector the landlord's fee and a notice of the sale in the prescribed form, and the Collector shall cause the fee to be paid to, and the notice to be served on, the landlord in the prescribed manner.

Transfer of permanent tenure by sale in execution of decree for rent.

14. When a permanent tenure is transferred by sale in execution of a decree for arrears of rent due in respect thereof, the Court shall send to the Collector a notice of the sale in the prescribed form.

Succession to permanent tenure.

15. When a succession to a permanent tenure takes place, the person succeeding shall give notice of the succession to the Collector in the prescribed form, and shall pay to the Collector the prescribed fee for the service of the notice on the landlord and the landlord's fee

Other incidents of tenures.

prescribed by section 12, and the Collector shall cause the landlord's fee to be paid to, and the notice to be served on, the landlord in the prescribed manner.

Bar to recovery of rent pending notice of succession.

16. A person becoming entitled to a permanent tenure by succession shall not be entitled to recover by suit, distraint or other proceeding any rent payable to him as the holder of the tenure, until the Collector has received the notice and fees referred to in the last foregoing section.

Transfer of, and succession to, share in permanent tenure.

17. Subject to the provisions of section 88, the foregoing sections shall apply to the transfer of, or succession to, a share in a permanent tenure.

CHAPTER IV.

RAIYATS HOLDING AT FIXED RATES.

Incidents of holding at fixed rates.

18. A raiyat holding at a rent, or rate of rent, fixed in perpetuity—

(*a*) shall be subject to the same provisions with respect to the transfer of, and succession to, his holding as the holder of a permanent tenure, and

(*b*) shall not be ejected by his landlord except on the ground that he has broken a condition consistent with this Act, and on breach of which he is, under the terms of a contract between him and his landlord, liable to be ejected.

CHAPTER V.

OCCUPANCY-RAIYATS.

General.

General.

Continuance of existing occupancy-rights.

19. Every raiyat who immediately before the commencement of this Act has, by the operation of any enactment, by custom or otherwise, a right of occupancy in any land shall, when this Act comes into force, have a right of occupancy in that land.

Definition of "settled raiyat".

20. (*1*) Every person who for a period of twelve years, whether wholly or partly before or after the commencement of this Act, has continuously held as a raiyat land situate in any village, whether under a lease or otherwise, shall be deemed to have become, on the expiration of that period, a settled raiyat of that village.

(*2*) A person shall be deemed for the purposes of this section to have continuously held land in a village notwithstanding that the particular land held by him has been different at different times. *General.*

(*3*) A person shall be deemed, for the purposes of this section, to have held as a raiyat any land held as a raiyat by a person whose heir he is.

(*4*) Land held by two or more co-sharers as a raiyatí holding shall be deemed, for the purposes of this section, to have been held as a raiyat by each such co-sharer.

(*5*) A person shall continue to be a settled raiyat of a village as long as he holds any land as a raiyat in that village and for one year thereafter.

(*6*) If a raiyat recovers possession of land under section 87, he shall be deemed to have continued to be a settled raiyat notwithstanding his having been out of possession more than a year.

(*7*) If, in any proceeding under this Act, it is proved or admitted that a person holds any land as a raiyat, it shall, as between him and the landlord under whom he holds the land, be presumed for the purposes of this section, until the contrary is proved or admitted, that he has for twelve years continuously held that land or some part of it as a raiyat.

Settled raiyats to have occupancy-rights.

21. (*1*) Every person who is a settled raiyat of a village within the meaning of the last foregoing section shall have a right of occupancy in all land for the time being held by him as a raiyat in that village.

(*2*) Every person who, being a settled raiyat of a village within the meaning of the last foregoing section, held land as a raiyat in that village at any time between the second day of March, 1883, and the commencement of this Act, shall be deemed to have acquired a right of occupancy in that land under the law then in force; but nothing in this sub-section shall affect any decree or order passed by a Court before the commencement of this Act.

Effect of acquisition of occupancy-right by landlord.

22. (*1*) When the immediate landlord of an occupancy-holding is a proprietor or permanent tenure-holder, and the entire interests of the landlord and the raiyat in the holding become united in the same person by transfer, succession or otherwise, the occupancy-right shall cease to exist; but nothing in this sub-section shall prejudicially affect the rights of any third person.

(*2*) If the occupancy-right in land is transferred to a person jointly interested in the land as proprietor or permanent tenure-holder, it shall cease to exist; but nothing in this sub-section shall prejudicially affect the rights of any third person.

(*3*) A person holding land as an ijárádár or farmer of rents shall not, while so holding, acquire a right of occupancy in any land comprised in his ijárá or farm.

Bengal Tenancy Act.

(*Chapter V.—Occupancy-raiyats.—Secs. 23-30.*)

eneral.

Explanation.—A person having a right of occupancy in land does not lose it by subsequently becoming jointly interested in the land as proprietor or permanent tenure-holder, or by subsequently holding the land in ijárá or farm.

Incidents of occupancy-right.

ncidents of ccupancy-ight.

23. When a raiyat has a right of occupancy in respect of any land, he may use the land in any manner which does not materially impair the value of the land or render it unfit for the purposes of the tenancy; but shall not be entitled to cut down trees in contravention of any local custom.

Rights of raiyat in respect of use of land.

24. An occupancy-raiyat shall pay rent for his holding at fair and equitable rates.

Obligation of raiyat to pay rent.

25. An occupancy-raiyat shall not be ejected by his landlord from his holding, except in execution of a decree for ejectment passed on the ground—

Protection from eviction except on specified grounds.

(*a*) that he has used the land comprised in his holding in a manner which renders it unfit for the purposes of the tenancy, or

(*b*) that he has broken a condition consistent with the provisions of this Act, and on breach of which he is, under the terms of a contract between himself and his landlord, liable to be ejected.

26. If a raiyat dies intestate in respect of a right of occupancy, it shall, subject to any custom to the contrary, descend in the same manner as other immoveable property: provided that, in any case in which under the law of inheritance to which the raiyat is subject his other property goes to the Crown, his right of occupancy shall be extinguished.

Devolution of occupancy-right on death.

Enhancement of rent.

Enhancement of rent.

27. The rent for the time being payable by an occupancy-raiyat shall be presumed to be fair and equitable until the contrary is proved.

Presumption as to fair and equitable rent.

28. Where an occupancy-raiyat pays his rent in money, his rent shall not be enhanced except as provided by this Act.

Restriction on enhancement of money-rents.

29. The money-rent of an occupancy-raiyat may be enhanced by contract, subject to the following conditions:—

Enhancement of rent by contract.

(*a*) the contract must be in writing and registered;

(*b*) the rent must not be enhanced so as to exceed by more than two annas in the rupee the rent previously payable by the raiyat;

(*c*) the rent fixed by the contract shall not be liable to enhancement during a term of fifteen years from the date of the contract;

Enhancement of rent.

Provided as follows:—

(i) Nothing in clause (*a*) shall prevent a landlord from recovering rent at the rate at which it has been actually paid for a continuous period of not less than three years immediately preceding the period for which the rent is claimed.

(ii) Nothing in clause (*b*) shall apply to a contract by which a raiyat binds himself to pay an enhanced rent in consideration of an improvement which has been or is to be effected in respect of the holding by, or at the expense of, his landlord, and to the benefit of which the raiyat is not otherwise entitled; but an enhanced rent fixed by such a contract shall be payable only when the improvement has been effected, and, except when the raiyat is chargeable with default in respect of the improvement, only so long as the improvement exists and substantially produces its estimated effect in respect of the holding.

(iii) When a raiyat has held his land at a specially low rate of rent in consideration of cultivating a particular crop for the convenience of the landlord, nothing in clause (*b*) shall prevent the raiyat from agreeing, in consideration of his being released from the obligation of cultivating that crop, to pay such rent as he may deem fair and equitable.

30. The landlord of a holding held at a money-rent by an occupancy-raiyat may, subject to the provisions of this Act, institute a suit to enhance the rent on one or more of the following grounds, (namely):—

Enhancement of rent by suit.

(*a*) that the rate of rent paid by the raiyat is below the prevailing rate paid by occupancy-raiyats for land of a similar description and with similar advantages in the same village, and that there is no sufficient reason for his holding at so low a rate;

(*b*) that there has been a rise in the average local prices of staple food-crops during the currency of the present rent;

(*c*) that the productive powers of the land held by the raiyat have been increased by an improvement effected by, or at the expense of, the landlord during the currency of the present rent;

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(Chapter V.—Occupancy-raiyats.—Secs. 31-36.)

Enhancement of rent.

(*d*) that the productive powers of the land held by the raiyat have been increased by fluvial action.

Explanation.—"Fluvial action" includes a change in the course of a river rendering irrigation from the river practicable when it was not previously practicable.

Rules as to enhancement on ground of prevailing rate.

31. Where an enhancement is claimed on the ground that the rate of rent paid is below the prevailing rate—

(*a*) in determining what is the prevailing rate the Court shall have regard to the rates generally paid during a period of not less than three years before the institution of the suit, and shall not decree an enhancement unless there is a substantial difference between the rate paid by the raiyat and the prevailing rate found by the Court;

(*b*) if in the opinion of the Court the prevailing rate of rent cannot be satisfactorily ascertained without a local inquiry, the Court may direct that a local inquiry be held under Chapter XXV of the Code of Civil Procedure by such Revenue-officer as the Local Government may authorize in that behalf by rules made under section 392 of the said Code;

XIV of 1882.

(*c*) in determining under this section the rate of rent payable by a raiyat his caste shall not be taken into consideration, unless it is proved that by local custom caste is taken into account in determining the rate; and whenever it is found that by local custom any description of raiyats hold land at favourable rates of rent, the rate shall be determined in accordance with that custom;

(*d*) in ascertaining the prevailing rate of rent the amount of any enhancement authorized on account of a landlord's improvement shall not be taken into consideration.

Rules as to enhancement on ground of rise in prices.

32. Where an enhancement is claimed on the ground of a rise in prices—

(*a*) the Court shall compare the average prices during the decennial period immediately preceding the institution of the suit with the average prices during such other decennial period as it may appear equitable and practicable to take for comparison;

(*b*) the enhanced rent shall bear to the previous rent the same proportion as the average prices during the last decennial period bear to the average prices during the previous decennial period taken for purposes of comparison: provided that, in calculating this proportion, the average prices during the later period shall be reduced by one-third of their excess over the average prices during the earlier period;

Enhancement of rent.

(*c*) if in the opinion of the Court it is not practicable to take the decennial periods prescribed in clause (*a*), the Court may, in its discretion, substitute any shorter periods therefor.

Rules as to enhancement on ground of landlord's improvement.

33. (*1*) Where an enhancement is claimed on the ground of a landlord's improvement—

(*a*) the Court shall not grant an enhancement unless the improvement has been registered in accordance with this Act;

(*b*) in determining the amount of enhancement the Court shall have regard to—

(i) the increase in the productive powers of the land caused or likely to be caused by the improvement,

(ii) the cost of the improvement,

(iii) the cost of the cultivation required for utilizing the improvement, and

(iv) the existing rent and the ability of the land to bear a higher rent.

(*2*) A decree under this section shall, on the application of the tenant or his successor in interest, be subject to re-consideration in the event of the improvement not producing or ceasing to produce the estimated effect.

Rules as to enhancement on ground of increase in productive powers due to fluvial action.

34. Where an enhancement is claimed on the ground of an increase in productive powers due to fluvial action—

(*a*) the Court shall not take into account any increase which is merely temporary or casual;

(*b*) the Court may enhance the rent to such an amount as it may deem fair and equitable, but not so as to give the landlord more than one-half of the value of the net increase in the produce of the land.

Enhancement by suit to be fair and equitable.

35. Notwithstanding anything in the foregoing sections, the Court shall not in any case decree any enhancement which is under the circumstances of the case unfair or inequitable.

Power to order progressive enhancement.

36. If the Court passing a decree for enhancement considers that the immediate enforcement of the decree in its full extent will be attended with hardship to the raiyat, it may direct that the enhancement shall be gradual; that is to say, that the rent shall increase

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(Chapter V.—Occupancy-raiyats.—Secs. 37-40.)

Enhancement of rent.

yearly by degrees for any number of years not exceeding five until the limit of the enhancement decreed has been reached.

Limitation of right to bring successive enhancement-suits.

37. (*1*) A suit instituted for the enhancement of the rent of a holding on the ground that the rate of rent paid is below the prevailing rate, or on the ground of a rise in prices, shall not be entertained if within the fifteen years next preceding its institution the rent of the holding has been enhanced by a contract made after the second day of March, 1883, or if within the said period of fifteen years the rent has been commuted under section 40, or a decree has been passed under this Act or any enactment repealed by this Act enhancing the rent on either of the grounds aforesaid or on any ground corresponding thereto or dismissing the suit on the merits.

(*2*) Nothing in this section shall affect the provisions of section 373 of the Code of Civil Procedure.

XIV of 1882.

Reduction of rent.

Reduction of rent.

Reduction of rent.

38. (*1*) An occupancy-raiyat holding at a money-rent may institute a suit for the reduction of his rent on the following grounds, and, except as hereinafter provided in the case of a diminution of the area of the holding, not otherwise, (namely):—

(*a*) on the ground that the soil of the holding has without the fault of the raiyat become permanently deteriorated by a deposit of sand or other specific cause, sudden or gradual, or

(*b*) on the ground that there has been a fall, not due to a temporary cause, in the average local prices of staple food-crops during the currency of the present rent.

(*2*) In any suit instituted under this section, the Court may direct such reduction of the rent as it thinks fair and equitable.

Price-lists.

Price-lists.

Price-lists of staple food-crops.

39. (*1*) The Collector of every district shall prepare, monthly, or at shorter intervals, periodical lists of the market-prices of staple food-crops grown in such local areas as the Local Government may from time to time direct, and shall submit them to the Board of Revenue for approval or revision.

(*2*) The Collector may, if so directed by the Local Government, prepare for any local area like price-lists relating to such past times as the Local Government thinks fit, and shall submit the lists so prepared to the Board of Revenue for approval or revision.

Price-lists.

(*3*) The Collector shall, one month before submitting a price-list to the Board of Revenue under this section, publish it in the prescribed manner within the local area to which it relates, and if any landlord or tenant of land within the local area, within the said period of one month, presents to him in writing any objection to the list, he shall submit the same to the Board of Revenue with the list.

(*4*) The price-lists shall, when approved or revised by the Board of Revenue, be published in the official Gazette; and any manifest error in any such list discovered after its publication may be corrected by the Collector with the sanction of the Board of Revenue.

(*5*) The Local Government shall cause to be compiled from the periodical lists prepared under this section lists of the average prices prevailing throughout each year, and shall cause them to be published annually in the official Gazette.

(*6*) In any proceedings under this chapter for an enhancement or reduction of rent on the ground of a rise or fall in prices, the Court shall refer to the lists published under this section, and shall presume that the prices shown in the lists prepared for any year subsequent to the passing of this Act are correct, unless and until it is proved that they are incorrect.

(*7*) The Local Government, subject to the control of the Governor General in Council, shall make rules for determining what are to be deemed staple food-crops in any local area and for the guidance of officers preparing price-lists under this section.

Commutation.

Commutation.

Commutation of rent payable in kind.

40. (*1*) Where an occupancy-raiyat pays for a holding rent in kind, or on the estimated value of a portion of the crop, or at rates varying with the crop, or partly in one of those ways and partly in another, either the raiyat or his landlord may apply to have the rent commuted to a money-rent.

(*2*) The application may be made to the Collector or Sub-divisional Officer, or to an officer making a settlement of rents under Chapter X, or to any other officer specially authorized in this behalf by the Local Government.

(*3*) On the receipt of the application the officer may determine the sum to be paid as money-rent, and may order that the raiyat shall, in lieu of paying his rent in kind, or otherwise as aforesaid, pay the sum so determined.

(*4*) In making the determination the officer shall have regard to—

(*a*) the average money-rent payable by occupancy-raiyats for land of a similar description and with similar advantages in the vicinity;

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(Chapter VI.—Non-occupancy-raiyats.—Secs. 41—46.)

Commutation.

(*b*) the average value of the rent actually received by the landlord during the preceding ten years or during any shorter period for which evidence may be available; and

(*c*) the charges incurred by the landlord in respect of irrigation under the system of rent in kind, and the arrangements made on commutation for continuing those charges.

(*5*) The order shall be in writing, shall state the grounds on which it is made, and the time from which it is to take effect, and shall be subject to appeal in like manner as if it were an order made in an ordinary revenue proceeding.

(*6*) If the application is opposed, the officer shall consider whether under all the circumstances of the case it is reasonable to grant it, and shall grant or refuse it accordingly. If he refuses it, he shall record in writing the reasons for the refusal.

CHAPTER VI.

NON-OCCUPANCY-RAIYATS.

41. This chapter shall apply to raiyats not having a right of occupancy, who are in this Act referred to as non-occupancy-raiyats.

Application of chapter.

42. When a non-occupancy-raiyat is admitted to the occupation of land, he shall become liable to pay such rent as may be agreed on between himself and his landlord at the time of his admission.

Initial rent of non-occupancy-raiyat.

43. The rent of a non-occupancy-raiyat shall not be enhanced except by registered agreement or by agreement under section 46:

Conditions of enhancement of rent.

Provided that nothing in this section shall prevent a landlord from recovering rent at the rate at which it has been actually paid for a continuous period of not less than three years immediately preceding the period for which the rent is claimed.

44. A non-occupancy-raiyat shall, subject to the provisions of this Act, be liable to ejectment on one or more of the following grounds, and not otherwise (namely):—

Grounds on which non-occupancy-raiyat may be ejected.

(*a*) on the ground that he has failed to pay an arrear of rent;

(*b*) on the ground that he has used the land in a manner which renders it unfit for the purposes of the tenancy, or that he has broken a condition consistent with this Act and on breach of which he is, under the terms of a contract between himself and his landlord, liable to be ejected;

(*c*) where he has been admitted to occupation of the land under a registered lease, on the ground that the term of the lease has expired;

(*d*) on the ground that he has refused to agree to pay a fair and equitable rent determined under section 46, or that the term for which he is entitled to hold at such a rent has expired.

45. A suit for ejectment on the ground of the expiration of the term of a lease shall not be instituted against a non-occupancy-raiyat unless notice to quit has been served on the raiyat not less than six months before the expiration of the term, and shall not be instituted after six months from the expiration of the term.

Conditions of ejectment on ground of expiration of lease.

46. (*1*) A suit for ejectment on the ground of refusal to agree to an enhancement of rent shall not be instituted against a non-occupancy-raiyat unless the landlord has tendered to the raiyat an agreement to pay the enhanced rent, and the raiyat has within three months before the institution of the suit refused to execute the agreement.

Conditions of ejectment on ground of refusal to agree to enhancement.

(*2*) A landlord desiring to tender an agreement to a raiyat under this section may file it in the office of such Court or officer as the Local Government appoints in this behalf for service on the raiyat. The Court or officer shall forthwith cause it to be served on the raiyat in the prescribed manner, and when it has been so served it shall for the purposes of this section be deemed to have been tendered.

(*3*) If a raiyat on whom an agreement has been served under sub-section (*2*) executes it, and within one month from the date of service files it in the office from which it issued, it shall take effect from the commencement of the agricultural year next following.

(*4*) When an agreement has been executed and filed by a raiyat under sub-section (*3*), the Court or officer in whose office it is so filed shall forthwith cause a notice of its being so executed and filed to be served on the landlord in the prescribed manner.

(*5*) If the raiyat does not execute the agreement and file it under sub-section (*3*), he shall be deemed for the purposes of this section to have refused to execute it.

(*6*) If a raiyat refuses to execute an agreement tendered to him under this section, and the landlord thereupon institutes a suit to eject him, the Court shall determine what rent is fair and equitable for the holding.

(*7*) If the raiyat agrees to pay the rent so determined, he shall be entitled to remain in occupation of his holding at that rent for a term of five years from the date of the agreement, but on the expiration of that term shall be liable to ejectment under the conditions mentioned in the last foregoing section, unless he has acquired a right of occupancy.

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(Chapter VII.—Under-raiyats.—Chapter VIII.—General Provisions as to Rent.—Secs. 47—52.)

(*8*) If the raiyat does not agree to pay the rent so determined, the Court shall pass a decree for ejectment.

(*9*) In determining what rent is fair and equitable, the Court shall have regard to the rents generally paid by raiyats for land of a similar description and with like advantages in the same village.

(*10*) A decree for ejectment passed under this section shall take effect from the end of the agricultural year in which it is passed.

47. Where a raiyat has been in occupation of land and a lease is executed with a view to a continuance of his occupation, he is not to be deemed to be admitted to occupation by that lease for the purposes of this chapter, notwithstanding that the lease may purport to admit him to occupation.

Explanation of "admitted to occupation."

CHAPTER VII.

UNDER-RAIYATS.

48. The landlord of an under-raiyat holding at a money-rent shall not be entitled to recover rent exceeding the rent which he himself pays by more than the following percentage of the same, (namely):—

Limit of rent recoverable from under-raiyats.

(*a*) when the rent payable by the under-raiyat is payable under a registered lease or agreement—fifty per cent.; and

(*b*) in any other case—twenty-five per cent.

49. An under-raiyat shall not be liable to be ejected by his landlord, except—

Restriction on ejectment of under-raiyats.

(*a*) on the expiration of the term of a written lease;

(*b*) when holding otherwise than under a written lease, at the end of the agricultural year next following the year in which a notice to quit is served upon him by his landlord.

CHAPTER VIII.

GENERAL PROVISIONS AS TO RENT.

Rules and presumptions as to amount of rent.

Rules and presumptions as to amount of rent.

50. (*1*) Where a tenure-holder or raiyat and his predecessors in interest have held at a rent or rate of rent which has not been changed from the time of the Permanent Settlement, the rent or rate of rent shall not be liable to be increased except on the ground of an alteration in the area of the tenure or holding.

Rules and presumptions as to fixity of rent.

(*2*) If it is proved in any suit or other proceeding under this Act that either a tenure-holder or raiyat and his predecessors in interest have held at a rent or rate of rent which has not been changed during the twenty years immediately before the institution of the suit or proceeding, it shall be presumed, until the contrary is shown, that they have held at that rent or rate of rent from the time of the Permanent Settlement:

Rules and presumptions as to amount of rent.

Provided that if it is required by or under any enactment that in any local area tenancies, or any classes of tenancies, at fixed rents or rates of rent shall be registered as such on, or before, a date specified by or under the enactment, the foregoing presumption shall not after that date apply to any tenancy or, as the case may be, to any tenancy of that class in that local area unless the tenancy has been so registered.

(*3*) The operation of this section, so far as it relates to land held by a raiyat, shall not be affected by the fact of the land having been separated from other land which formed with it a single holding, or amalgamated with other land into one holding.

(*4*) Nothing in this section shall apply to a tenure held for a term of years or determinable at the will of the landlord.

51. If a question arises as to the amount of a tenant's rent or the conditions under which he holds in any agricultural year, he shall be presumed, until the contrary is shown, to hold at the same rent and under the same conditions as in the last preceding agricultural year.

Presumption as to amount of rent and conditions of holding.

Alteration of rent on alteration of area.

Alteration of rent on alteration of area.

52. (*1*) Every tenant shall—

Alteration of rent in respect of alteration in area.

(*a*) be liable to pay additional rent for all land proved by measurement to be in excess of the area for which rent has been previously paid by him, unless it is proved that the excess is due to the addition to the tenure or holding of land which having previously belonged to the tenure or holding was lost by diluvion or otherwise without any reduction of the rent being made, and

(*b*) be entitled to a reduction of rent in respect of any deficiency proved by measurement to exist in the area of the tenure or holding as compared with the area for which rent has been previously paid by him, unless it is proved that the deficiency is due to the loss of land which was added to the area of the tenure or holding by alluvion or otherwise, and that an addition has not been made to the rent in respect of the addition to the area.

Bengal Tenancy Act.

(Chapter VIII.—General Provisions as to Rent.—Secs. 53—57.)

Alteration of rent on alteration of area.

(2) In determining the area for which rent has been previously paid, the Court shall, if so required by any party to the suit, have regard to—

(a) the origin and conditions of the tenancy, for instance, whether the rent was a consolidated rent for the entire tenure or holding;

(b) whether the tenant has been allowed to hold additional land in consideration of an addition to his total rent or otherwise with the knowledge and consent of the landlord;

(c) the length of time during which the tenancy has lasted without dispute as to rent or area; and

(d) the length of the measure used or in local use at the time of the origin of the tenancy as compared with that used or in local use at the time of the institution of the suit.

(3) In determining the amount to be added to the rent, the Court shall have regard to the rates payable by tenants of the same class for lands of a similar description and with similar advantages in the vicinity, and, in the case of a tenure-holder, to the profits to which he is entitled in respect of the rent of his tenure, and shall not in any case fix any rent which under the circumstances of the case is unfair or inequitable.

(4) The amount abated from the rent shall bear the same proportion to the rent previously payable as the diminution of the total yearly value of the tenure or holding bears to the previous total yearly value thereof, or, in default of satisfactory proof of the yearly value of the land lost, shall bear to the rent previously payable the same proportion as the diminution of area bears to the previous area of the tenure or holding.

Payment of rent.

Payment of rent.

58. Subject to agreement or established usage, a money-rent payable by a tenant shall be paid in four equal instalments falling due on the last day of each quarter of the agricultural year.

Instalments of rent.

54. (1) Every tenant shall pay each instalment of rent before sunset of the day on which it falls due.

Time and place for payment of rent.

(2) The payment shall, except in cases where a tenant is allowed under this Act to deposit his rent, be made at the landlord's village-office, or at such other convenient place as may be appointed in that behalf by the landlord:

Provided that the Local Government may from time to time make rules, either generally or for any specified local area, authorizing a tenant to pay his rent by postal money-order.

(3) Any instalment or part of an instalment of rent not duly paid at or before the time when it falls due shall be deemed an arrear.

Payment of rent.

55. (1) When a tenant makes a payment on account of rent, he may declare the year or the year and instalment to which he wishes the payment to be credited, and the payment shall be credited accordingly.

Appropriation of payments.

(2) If he does not make any such declaration, the payment may be credited to the account of such year and instalment as the landlord thinks fit.

Receipts and accounts.

Receipts and accounts.

56. (1) Every tenant who makes a payment on account of rent to his landlord shall be entitled to obtain forthwith from the landlord a written receipt for the amount paid by him, signed by the landlord.

Tenant making payment to his landlord entitled to a receipt.

(2) The landlord shall prepare and retain a counterfoil of the receipt.

(3) The receipt and counterfoil shall specify such of the several particulars shown in the form of receipt given in Schedule II to this Act as can be specified by the landlord at the time of payment:

Provided that the Local Government may, from time to time, prescribe or sanction a modified form either generally or for any particular local area or class of cases.

(4) If a receipt does not contain substantially the particulars required by this section, it shall be presumed, until the contrary is shown, to be an acquittance in full of all demands for rent up to the date on which the receipt was given.

57. (1) Where a landlord admits that all rent payable by a tenant to the end of the agricultural year has been paid, the tenant shall be entitled to receive from the landlord, free of charge, within three months after the end of the year, a receipt in full discharge of all rent falling due to the end of the year, signed by the landlord.

Tenant entitled to full discharge or statement of account at close of year.

(2) Where the landlord does not so admit, the tenant shall be entitled, on paying a fee of four annas, to receive within three months after the end of the year a statement of account specifying the several particulars shown in the form of account given in Schedule II to this Act, or in such other form as may from time to time be prescribed by the Local Government either generally or for any particular local area or class of cases.

(3) The landlord shall prepare and retain a copy of the statement containing similar particulars.

Bengal Tenancy Act.

(Chapter VIII.—General Provisions as to Rent.—Secs. 58—63.)

Receipts and accounts.

58. (1) If a landlord without reasonable cause refuses or neglects to deliver to a tenant a receipt containing the particulars prescribed by section 56 for any rent paid by the tenant, the tenant may, within three months from the date of payment, institute a suit to recover from him such penalty, not exceeding double the amount or value of that rent, as the Court thinks fit.

Penalties and fine for withholding receipts and statements of account and failing to keep counterparts.

(2) If a landlord without reasonable cause refuses or neglects to deliver to a tenant demanding the same either the receipt in full discharge or, if the tenant is not entitled to such a receipt, the statement of account for any year prescribed in section 57, the tenant may, within the next ensuing agricultural year, institute a suit to recover from him such penalty as the Court thinks fit, not exceeding double the aggregate amount or value of all rent paid by the tenant to the landlord during the year for which the receipt or account should have been delivered.

(3) If a landlord without reasonable cause fails to prepare and retain a counterfoil or copy of a receipt or statement as required by either of the said sections, he shall be punished with fine which may extend to fifty rupees.

59. (1) The Local Government shall cause to be prepared and kept for sale to landlords at all sub-divisional offices forms of receipts with counterfoils and of statements of account suitable for use under the foregoing sections.

Local Government to prepare forms of receipt and account.

(2) The forms may be sold in books with the leaves consecutively numbered or otherwise as the Local Government thinks fit.

60. Where rent is due to the proprietor, manager or mortgagee of an estate, the receipt of the person registered under the Land Registration Act, 1876, as proprietor, manager or mortgagee of that estate, or of his agent authorized in that behalf, shall be a sufficient discharge for the rent; and the person liable for the rent shall not be entitled to plead in defence to a claim by the person so registered that the rent is due to any third person.

Effect of receipt by registered proprietor, manager or mortgagee.

VII (B.C.) of 1876.

But nothing in this section shall affect any remedy which any such third person may have against the registered proprietor, manager or mortgagee.

Deposit of rent.

Deposit of rent.

61. (1) In any of the following cases, namely:—

Application to deposit rent in Court.

(a) when a tenant tenders money on account of rent and the landlord refuses to receive it or refuses to grant a receipt for it;

(b) when a tenant bound to pay money on account of rent has reason to believe, owing to a tender having been refused or a receipt withheld on a previous occasion, that the person to whom his rent is payable will not be willing to receive it and to grant him a receipt for it;

(c) when the rent is payable to co-sharers jointly, and the tenant is unable to obtain the joint receipt of the co-sharers for the money, and no person has been empowered to receive the rent on their behalf; or

(d) when the tenant entertains a *bond fide* doubt as to who is entitled to receive the rent,

the tenant may present to the Court having jurisdiction to entertain a suit for the rent of his tenure or holding an application in writing for permission to deposit in the Court the full amount of the money then due.

(2) The application shall contain a statement of the grounds on which it is made; shall state—

in cases (a) and (b), the name of the person to whose credit the deposit is to be entered,

in case (c), the names of the sharers to whom the rent is due, or of so many of them as the tenant may be able to specify, and

in case (d), the names of the person to whom the rent was last paid and of the person or persons now claiming it;

shall be signed and verified, in the manner prescribed in section 52 of the Code of Civil Procedure, by the tenant, or, where he is not personally cognizant of the facts of the case, by some person so cognizant; and shall be accompanied by a fee of such amount as the Local Government, from time to time, by rule, directs.

XIV of 1882.

62. (1) If it appears to the Court to which an application is made under the last foregoing section that the applicant is entitled under that section to deposit the rent, it shall receive the rent and give a receipt for it under the seal of the Court.

Receipt granted by Court for rent deposited to be a valid acquittance.

(2) A receipt given under this section shall operate as an acquittance for the amount of the rent payable by the tenant and deposited as aforesaid, in the same manner and to the same extent as if that amount of rent had been received—

in cases (a) and (b) of the last foregoing section, by the person specified in the application as the person to whose credit the deposit was to be entered;

in case (c) of that section, by the co-sharers to whom the rent is due; and

in case (d) of that section, by the person entitled to the rent.

63. (1) The Court receiving the deposit shall forthwith cause to be affixed in a conspicuous place at the Court-house a notification of the receipt thereof, containing a statement of all material particulars.

Notification of receipt of deposit.

Bengal Tenancy Act.

(Chapter VIII.—General Provisions as to Rent.—Secs. 64-69.)

Deposit of rent.

(2) If the amount of the deposit is not paid away under the next following section, within the period of fifteen days next following the date on which the notification is so affixed, the Court shall forthwith—

in cases (*a*) and (*b*) of section 61, cause a notice of the receipt of the deposit to be served, free of charge, on the person specified in the application as the person to whose credit the deposit was to be entered;

in case (*c*) of that section, cause a notice of the receipt of the deposit to be posted at the landlord's village-office or in some conspicuous place in the village in which the holding is situate; and

in case (*d*) of that section, cause a like notice to be served, free of charge, on every person who it has reason to believe claims or is entitled to the deposit.

Payment or refund of deposit.

64. (*1*) The Court may pay the amount of the deposit to any person appearing to it to be entitled to the same, or may, if it thinks fit, retain the amount pending the decision of a Civil Court as to the person so entitled.

(2) The payment may, if the Local Government so direct, be made by postal money-order.

(3) If no payment is made under this section before the expiration of three years from the date on which a deposit is made, the amount deposited may, in the absence of any order of a Civil Court to the contrary, be repaid to the depositor upon his application and on his returning the receipt given by the Court with which the rent was deposited.

(4) No suit or other proceeding shall be instituted against the Secretary of State for India in Council, or against any officer of the Government, in respect of anything done by a Court receiving a deposit under the foregoing sections; but nothing in this section shall prevent any person entitled to receive the amount of any such deposit from recovering the same from a person to whom it has been paid under this section.

Arrears of rent.

Arrears of rent.

Liability to sale for arrears in case of permanent tenure, holding at fixed rates or occupancy-holding.

65. Where a tenant is a permanent tenure-holder, a raiyat holding at fixed rates or an occupancy-raiyat, he shall not be liable to ejectment for arrears of rent, but his tenure or holding shall be liable to sale in execution of a decree for the rent thereof, and the rent shall be a first charge thereon.

Ejectment for arrears in other cases.

66. (*1*) When an arrear of rent remains due from a tenant not being a permanent tenure-holder, a raiyat holding at fixed rates or an occupancy-raiyat, at the end of the Bengali year where that year prevails, or at the end of the month of Jeyt where the Fasli or Amli year prevails, the landlord may, whether he has obtained a decree for the recovery of the arrear or not, and whether he is entitled by the terms of any contract to eject the tenant for arrears or not, institute a suit to eject the tenant. *Arrears of rent.*

(2) In a suit for ejectment for an arrear of rent a decree passed in favour of the plaintiff shall specify the amount of the arrear and of the interest (if any) due thereon, and the decree shall not be executed if that amount and the costs of the suit are paid into Court within fifteen days from the date of the decree, or, when the Court is closed on the fifteenth day, on the day upon which the Court re-opens.

(3) The Court may for special reasons extend the period of fifteen days mentioned in this section.

Interest on arrears.

67. An arrear of rent shall bear simple interest at the rate of twelve per centum per annum from the expiration of that quarter of the agricultural year in which the instalment falls due to the institution of the suit.

Power to award damages on rent withheld without reasonable cause, or to defendant improperly sued for rent.

68. (*1*) If, in any suit brought for the recovery of arrears of rent, it appears to the Court that the defendant has, without reasonable or probable cause, neglected or refused to pay the amount of rent due by him, the Court may award to the plaintiff, in addition to the amount decreed for rent and costs, such damages, not exceeding twenty-five per centum on the amount of rent decreed, as it thinks fit:

Provided that interest shall not be decreed when damages are awarded under this section.

(2) If, in any suit brought for the recovery of arrears of rent, it appears to the Court that the plaintiff has instituted the suit without reasonable or probable cause, the Court may award to the defendant, by way of damages, such sum, not exceeding twenty-five per centum on the whole amount claimed by the plaintiff, as it thinks fit.

Produce-rents.

Produce-rents.

Order for appraising or dividing produce.

69. (*1*) Where rent is taken by appraisement or division of the produce,—

(*a*) if either the landlord or the tenant neglects to attend, either personally or by agent, at the proper time for making the appraisement or division, or

(*b*) if there is a dispute about the quantity, value or division of the produce,

Bengal Tenancy Act.

(Chapter VIII.—General Provisions as to Rent.—Secs. 70-75.)

Produce-rents.

the Collector may, on the application of either party, and on his depositing such sum on account of expenses as the Collector may require, make an order appointing such officer as he thinks fit to appraise or divide the produce.

(2) The Collector may, without such an application, make the like order in any case where in the opinion of the District or Sub-divisional Magistrate the making of the order would be likely to prevent a breach of the peace.

(3) Where a Collector makes an order under this section, he may, by order, prohibit the removal of the produce until the appraisement or division has been effected.

Procedure where officer appointed.

70. (*1*) When a Collector appoints an officer under the last foregoing section, the Collector may, in his discretion, direct the officer to associate with himself any other persons as assessors, and may give him instructions regarding the number, qualifications and mode of selection of those assessors (if any), and the procedure to be followed in making the appraisement or division; and the officer shall conform to the instructions so given.

(2) The officer shall, before making an appraisement or division, give notice to the landlord and tenant of the time and place at which the appraisement or division will be made; but if either the landlord or the tenant fails to attend either personally or by agent, he may proceed *ex parte*.

(3) When the officer has made the appraisement or division, he shall submit a report of his proceedings to the Collector.

(4) The Collector shall consider the report, and, after giving the parties an opportunity of being heard and making such enquiry (if any) as he may think necessary, shall pass such order thereon as he thinks just.

(5) The Collector may, if he thinks fit, refer any question in dispute between the parties for the decision of a Civil Court, but, subject as aforesaid, his order shall be final and shall, on application to a Civil Court by the landlord or the tenant, be enforceable as a decree.

(6) Where the officer makes an appraisement, the appraisement papers shall be filed in the Collector's office.

Rights and liabilities as to possession of crop.

71. (*1*) Where rent is taken by appraisement of the produce, the tenant shall be entitled to the exclusive possession of the produce.

(2) Where rent is taken by division of the produce, the tenant shall be entitled to the exclusive possession of the whole produce until it is divided, but shall not be entitled to remove any portion of the produce from the threshing-floor at such a time or in such a manner as to prevent the due division thereof at the proper time. *Produce-rents.*

(3) In either case the tenant shall be entitled to cut and harvest the produce in due course of husbandry without any interference on the part of the landlord.

(4) If the tenant removes any portion of the produce at such a time or in such a manner as to prevent the due appraisement or division thereof at the proper time, the produce shall be deemed to have been as full as the fullest crop of the same description appraised in the neighbourhood on similar land for that harvest.

Liability for rent on change of landlord or after transfer of tenure or holding.

Liability for rent on change of landlord or after transfer of tenure or holding.

Tenant not liable to transferee of landlord's interest for rent paid to former landlord, without notice of the transfer.

72. (*1*) A tenant shall not, when his landlord's interest is transferred, be liable to the transferee for rent which became due after the transfer and was paid to the landlord whose interest was so transferred, unless the transferee has before the payment given notice of the transfer to the tenant.

(2) Where there is more than one tenant paying rent to the landlord whose interest is transferred, a general notice from the transferee to the tenants published in the prescribed manner shall be a sufficient notice for the purposes of this section.

Liability for rent after transfer of occupancy-holding.

73. When an occupancy-raiyat transfers his holding without the consent of the landlord, the transferor and transferee shall be jointly and severally liable to the landlord for arrears of rent accruing due after the transfer, unless and until notice of the transfer is given to the landlord in the prescribed manner.

Illegal Cesses, &c.

Illegal cesses, &c.

Abwáb, &c., illegal.

74. All impositions upon tenants under the denomination of *abwáb*, *mahtut*, or other like appellations, in addition to the actual rent, shall be illegal, and all stipulations and reservations for the payment of such shall be void.

Penalty for exaction by landlord from tenant of sum in excess of the rent payable.

75. Every tenant from whom, except under any special enactment for the time being in force, any sum of money or any portion of the produce of his land is exacted by his landlord in excess of the rent lawfully payable, may, within six months from the date of the exaction, institute a suit to recover from the landlord, in addition to the amount or value of what is so exacted, such sum by way of penalty as the Court thinks fit, not exceeding

Bengal Tenancy Act.

(Chapter IX.—Miscellaneous Provisions as to Landlords and Tenants.—Secs. 76—80.)

two hundred rupees; or, when double the amount or value of what is so exacted exceeds two hundred rupees, not exceeding double that amount or value.

CHAPTER IX.

MISCELLANEOUS PROVISIONS AS TO LANDLORDS AND TENANTS.

Improvements.

Improvements.

76. (*1*) For the purposes of this Act, the term "improvement," used with reference to a raiyat's holding, shall mean any work which adds to the value of the holding, which is suitable to the holding and consistent with the purpose for which it was let, and which, if not executed on the holding, is either executed directly for its benefit, or is, after execution, made directly beneficial to it.

Definition of "improvement."

(*2*) Until the contrary is shown, the following shall be presumed to be improvements within the meaning of this section:—

(*a*) the construction of wells, tanks, water-channels and other works for the storage, supply or distribution of water for the purposes of agriculture, or for the use of men and cattle employed in agriculture;

(*b*) the preparation of land for irrigation;

(*c*) the drainage, reclamation from rivers or other waters, or protection from floods, or from erosion or other damage by water, of land used for agricultural purposes, or waste-land which is culturable;

(*d*) the reclamation, clearance, enclosure or permanent improvement of land for agricultural purposes;

(*e*) the renewal or re-construction of any of the foregoing works, or alterations therein, or additions thereto; and

(*f*) the erection of a suitable dwelling-house for the raiyat and his family, together with all necessary out-offices.

(*3*) But no work executed by the raiyat of a holding shall be deemed to be an improvement for the purposes of this Act if it substantially diminishes the value of his landlord's property.

77. (*1*) Where a raiyat holds at fixed rates or has an occupancy-right in his holding, neither the raiyat nor his landlord shall, as such, be entitled to prevent the other from making an improvement in respect of the holding, except on the ground that he is willing to make it himself.

Right to make improvements in case of holding at fixed rates and occupancy-holding.

(*2*) If both the raiyat and his landlord wish to make the same improvement, the raiyat shall have the prior right to make it, unless it affects another holding or other holdings under the same landlord.

Improvements.

78. If a question arises between the raiyat and his landlord—

Collector to decide question as to right to make improvement, &c.

(*a*) as to the right to make an improvement, or

(*b*) as to whether a particular work is an improvement,

the Collector may, on the application of either party, decide the question, and his decision shall be final.

79. (*1*) A non-occupancy-raiyat shall be entitled to construct, maintain and repair a well for the irrigation of his holding, with all works incidental thereto, and to erect a suitable dwelling-house for himself and his family, with all necessary out-offices; but shall not, except as aforesaid and as next hereinafter provided, be entitled to make any other improvement in respect of his holding without his landlord's permission.

Right to make improvements in case of non-occupancy-holding.

(*2*) A non-occupancy-raiyat who would, but for the want of his landlord's permission, be entitled to make an improvement in respect of his holding, may, if he desires that the improvement be made, deliver, or cause to be delivered, to his landlord a request in writing calling upon him to make the improvement within a reasonable time; and, if the landlord is unable or neglects to comply with that request, may make the improvement himself.

80. (*1*) A landlord may, by application to such Revenue-officer as the Local Government may appoint, register any improvement which he has lawfully made or which has been lawfully made at his expense or which he has assisted a tenant in making.

Registration of landlords' improvements.

(*2*) The application shall be in such form, shall contain such information, and shall be verified in such manner, by local inquiry or otherwise, as the Local Government from time to time by rule directs.

(*3*) The officer receiving the application may reject it if it has not been made within twelve months—

(*a*) in the case of improvements made before the commencement of this Act—from the commencement of this Act;

(*b*) in the case of improvements made after the commencement of this Act—from the date of the completion of the work.

Bengal Tenancy Act.

(Chapter IX.—Miscellaneous Provisions as to Landlords and Tenants.—Secs. 81—86.)

81. (*1*) If any landlord or tenant of a holding desires that evidence relating to any improvement made in respect thereof be recorded, he may apply to a Revenue-officer, who shall thereupon, at a time and place of which notice shall be given to the parties, record the evidence, unless he considers that there are no reasonable grounds for making the application, or it is made to appear that the subject-matter thereof is under inquiry in a Civil Court.

Application to record evidence as to improvement.

(*2*) When any matter has been recorded under this section, the record thereof shall be admissible in evidence in any subsequent proceedings between the landlord and tenant or any persons claiming under them.

82. (*1*) Every raiyat who is ejected from his holding shall be entitled to compensation for improvements which have been made in respect thereof in accordance with this Act by him, or by his predecessor in interest, and for which compensation has not already been paid.

Compensation for raiyats' improvements.

(*2*) Whenever a Court makes a decree or order for the ejectment of a raiyat, it shall determine the amount of compensation (if any) due under this section to the raiyat for improvements, and shall make the decree or order of ejectment conditional on the payment of that amount to the raiyat.

(*3*) No compensation under this section for an improvement shall be claimable where the raiyat has made the improvement in pursuance of a contract or under a lease binding him, in consideration of some substantial advantage to be obtained by him, to make the improvement without compensation, and he has obtained that advantage.

(*4*) Improvements made by a raiyat between the 2nd day of March, 1883, and the commencement of this Act shall be deemed to have been made in accordance with this Act.

(*5*) The Local Government may, from time to time, by notification in the official Gazette, make rules requiring the Court to associate with itself, for the purpose of estimating the compensation to be awarded under this section for an improvement, such number of assessors as the Local Government thinks fit, and determining the qualifications of those assessors and the mode of selecting them.

83. (*1*) In estimating the compensation to be awarded under the last foregoing section for an improvement, regard shall be had—

Principle on which compensation is to be estimated.

(*a*) to the amount by which the value, or the produce, of the holding, or the value of that produce, is increased by the improvement;

(*b*) to the condition of the improvement, and the probable duration of its effects

(*c*) to the labour and capital required for the making of such an improvement; *Improvements.*

(*d*) to any reduction or remission of rent or any other advantage given by the landlord to the raiyat in consideration of the improvement; and

(*e*) in the case of a reclamation or of the conversion of unirrigated into irrigated land, to the length of time during which the raiyat has had the benefit of the improvement at an unenhanced rent.

(*2*) When the amount of the compensation has been assessed, the Court may, if the landlord and raiyat agree, direct that, instead of being paid wholly in money, it shall be made wholly or partly in some other way.

Acquisition of land for building and other purposes.

84. A Civil Court may, on the application of the landlord of a holding, and on being satisfied that he is desirous of acquiring the holding or part thereof for some reasonable and sufficient purpose having relation to the good of the holding or of the estate in which it is comprised, including the use of the ground as building ground, or for any religious, educational or charitable purpose,

Acquisition of land for building and other purposes. *Acquisition of land for building and other purposes.*

and on being satisfied on the certificate of the Collector that the purpose is reasonable and sufficient,

authorise the acquisition thereof by the landlord upon such conditions as the Court may think fit, and require the tenant to sell his interest in the whole or such part of the holding to the landlord upon such terms as may be approved by the Court, including full compensation to the tenant.

Sub-letting.

85. (*1*) If a raiyat sub-lets otherwise than by a registered instrument, the sub-lease shall not be valid against his landlord unless made with the landlord's consent. *Sub-letting.*

Restrictions on sub-letting.

(*2*) A sub-lease by a raiyat shall not be admitted to registration if it purports to create a term exceeding nine years.

(*3*) Where a raiyat has, without the consent of his landlord, granted a sub-lease by an instrument registered before the commencement of this Act, the sub-lease shall not be valid for more than nine years from the commencement of this Act.

Surrender and abandonment.

86. (*1*) A raiyat not bound by a lease or other agreement for a fixed period may, at the end of any agricultural year, surrender his holding. *Surrender and abandonment.*

Surrender.

Surrender and abandonment.

(2) But, notwithstanding the surrender, the raiyat shall be liable to indemnify the landlord against any loss of the rent of the holding for the agricultural year next following the date of the surrender, unless he gives to his landlord, at least three months before he surrenders, notice of his intention to surrender.

(3) When a raiyat has surrendered his holding, the Court shall in the following cases for the purposes of sub-section (2) presume, until the contrary is shown, that such notice was so given, namely:—

(a) if the raiyat takes a new holding in the same village from the same landlord during the agricultural year next following the surrender;

(b) if the raiyat ceases, at least three months before the end of the agricultural year at the end of which the surrender is made, to reside in the village in which the surrendered holding is situate.

(4) The raiyat may, if he thinks fit, cause the notice to be served through the Civil Court within the jurisdiction of which the holding or any portion of it is situate.

(5) When a raiyat has surrendered his holding, the landlord may enter on the holding and either let it to another tenant or take it into cultivation himself.

(6) When a holding is subject to an incumbrance secured by a registered instrument, the surrender of the holding shall not be valid unless it is made with the consent of the landlord and the incumbrancer.

(7) Save as provided in the last foregoing subsection, nothing in this section shall affect any arrangement by which a raiyat and his landlord may arrange for a surrender of the whole or a part of the holding.

87. (1) If a raiyat voluntarily abandons his residence without notice to his landlord and without arranging for payment of his rent as it falls due, and ceases to cultivate his holding either by himself or by some other person, the landlord may, at any time after the expiration of the agricultural year in which the raiyat so abandons and ceases to cultivate, enter on the holding and let it to another tenant or take it into cultivation himself.

Abandonment.

(2) Before a landlord enters under this section, he shall file a notice in the prescribed form in the Collector's office stating that he has treated the holding as abandoned and is about to enter on it accordingly; and the Collector shall cause the notice to be published in such manner as the Local Government, by rule, directs.

(3) When a landlord enters under this section, the raiyat shall be entitled to institute a suit for recovery of possession of the land at any time not later than the expiration of two years, or, in the case of a non-occupancy-raiyat, six months, from the date of the publication of the notice; and thereupon the Court may, on being satisfied that the raiyat did not voluntarily abandon his holding, order recovery of possession on such terms, if any, with respect to compensation to persons injured and payment of arrears of rent as to the Court may seem just.

Surrender and abandonment.

(4) Where the whole or part of a holding has been sub-let by a registered instrument, the landlord shall, before entering under this section on the holding, offer the whole holding to the sub-lessee for the remainder of the term of the sub-lease at the rent paid by the raiyat who has ceased to cultivate the holding, and on condition of the sub-lessee paying up all arrears due from that raiyat. If the sub-lessee refuses or neglects within a reasonable time to accept the offer, the landlord may avoid the sub-lease and may enter on the holding and let it to another tenant or cultivate it himself as provided in sub-sections (1) and (2).

Sub-division of tenancy.

Sub-division of tenancy.

88. A division of a tenure or holding, or distribution of the rent payable in respect thereof, shall not be binding on the landlord unless it is made with his consent in writing.

Division of tenancy not binding on landlord without his consent.

Ejectment.

Ejectment.

89. No tenant shall be ejected from his tenure or holding except in execution of a decree.

No ejectment except in execution of decree.

Measurements.

Measurements.

90. (1) Subject to the provisions of this section and any contract, a landlord may, by himself, or by any person authorized by him in this behalf, enter on and measure all land comprised in his estate or tenure, other than land exempt from the payment of revenue.

Landlord's right to measure land.

(2) A landlord shall not, without the consent of the tenant, or the written permission of the Collector, be entitled to measure land more than once in ten years, except in the following cases (namely):—

(a) where the area of the tenure or holding is liable, by reason of alluvion or diluvion, to vary from year to year, and the rent payable depends on the area;

(b) where the area under cultivation is liable to vary from year to year and the rent payable depends on the area under cultivation;

(c) where the landlord is a purchaser otherwise than by voluntary transfer and not more than two years have elapsed since the date of his entry under the purchase.

Measurements.

(3) The ten years shall be computed from the date of the last measurement, whether made before or after the commencement of this Act.

91. (1) Where a landlord desires to measure any land which he is entitled to measure under the last foregoing section, the Civil Court may, on the application of the landlord, make an order requiring the tenant to attend and point out the boundaries of the land.

Power for Court to order tenant to attend and point out boundaries.

(2) If the tenant refuses or neglects to comply with the order, a map or other record of the boundaries and measurements of the land, prepared under the direction of the landlord at the time when the tenant was directed to attend, shall be presumed to be correct until the contrary is shown.

92. (1) Every measurement of land made by order of a Civil Court, or of a Revenue-officer, in any suit or proceeding between a landlord and tenant, shall be made by the acre, unless the Court or Revenue-officer directs that it be made by any other specified standard.

Standard of measurement.

(2) If the rights of the parties are regulated by any local measure other than the acre, the acre shall be converted into the local measure for the purposes of the suit or proceeding.

(3) The Local Government may, after local enquiry, make rules declaring for any local area the standard or standards of measurement locally in use in that area, and every declaration so made shall be presumed to be correct until the contrary is shown.

Managers.

Managers.

93. When any dispute exists between co-owners of an estate or tenure as to the management thereof, and in consequence there has ensued, or is likely to ensue,

Power to call upon co-owners to show cause why they should not appoint a common manager.

(a) inconvenience to the public, or

(b) injury to private rights,

the District Judge may, on the application in case (a) of the Collector, and in case (b) of any one having an interest in the estate or tenure, direct a notice to be served on all the co-owners, calling on them to show cause why they should not appoint a common manager:

Provided that a co-owner of an estate or tenure shall not be entitled to apply under this section unless he is actually in possession of the interest he claims, and, if he is a co-owner of an estate, unless his name and the extent of his interest are registered under the Land Registration Act, 1876.

VII (B.C.) of 1876.

94. If the co-owners fail to show cause as aforesaid within one month after service of a notice under the last foregoing section, the District Judge may make an order directing them to appoint a common manager, and a copy of the order shall be served on any co-owner who did not appear before it was made.

Power to order them to appoint a manager if cause is not shown.

Managers.

95. If the co-owners do not, within such period, not being less than one month after the making of an order under the last foregoing section, as the District Judge may fix in this behalf, or, where the order has been served as directed by that section, within a like period after such service, appoint a common manager and report the appointment for the information of the District Judge, the District Judge may, unless it is shown to his satisfaction that there is a prospect of a satisfactory arrangement being made within a reasonable time,—

Power to appoint manager if order is not obeyed.

(a) direct that the estate or tenure be managed by the Court of Wards in any case in which the Court of Wards consents to undertake the management thereof; or

(b) in any case appoint a manager.

96. The Local Government may nominate a person for any local area to manage all estates and tenures within that local area for which it may be necessary to appoint a manager under clause (b) of the last foregoing section; and, when any person has been so nominated, no other person shall be appointed manager under that clause by the District Judge, unless in the case of any estate the Judge thinks fit to appoint one of the co-owners themselves as manager.

Power to nominate person to act in all cases under clause (b) of last section.

97. In any case in which the Court of Wards undertakes under section 95 the management of an estate or tenure, so much of the provisions of the Court of Wards Act, 1879, as relates to the management of immoveable property shall apply to the management.

The Court of Wards Act, 1879, applicable to management by Court of Wards.

IX (B.C.) of 1879.

98. (1) A manager appointed under section 95 may, if the District Judge thinks fit, be remunerated by a fixed salary or percentage of the money collected by him as manager, or partly in one way and partly in the other, as the District Judge from time to time directs.

Provisions applicable to manager.

(2) He shall give such security for the proper discharge of his duties as the District Judge directs.

(3) He shall, subject to the control of the District Judge, have, for the purposes of management, the same powers as the co-owners jointly might but for his appointment have exercised, and the co-owners shall not exercise any such power.

Managers.

(*4*) He shall deal with and distribute the profits in accordance with the orders of the District Judge.

(*5*) He shall keep regular accounts, and allow the co-owners or any of them to inspect and take copies of those accounts.

(*6*) He shall pass his accounts at such period and in such form as the District Judge may direct.

(*7*) He may make any application which the proprietors could make under section 103.

(*8*) He shall be removable by the order of the District Judge, and not otherwise.

Power to restore management to co-owners.

99. When an estate or tenure has been placed under the management of the Court of Wards, or a manager has been appointed for the same under section 95, the District Judge may at any time direct that the management of it be restored to the co-owners, if he is satisfied that the management will be conducted by them without inconvenience to the public or injury to private rights.

Power to make rules.

100. The High Court may, from time to time, make rules defining the powers and duties of managers under the foregoing sections.

CHAPTER X.

RECORD-OF-RIGHTS AND SETTLEMENT OF RENTS.

Power to order survey and preparation of record-of-rights.

101. (*1*) The Local Government may, in any case with the previous sanction of the Governor General in Council, and may, if it thinks fit, without such sanction in any of the cases next hereinafter mentioned, make an order directing that a survey be made, and a record-of-rights be prepared, in respect of the lands in a local area by a Revenue-officer.

(*2*) The cases in which an order may be made under this section without the previous sanction of the Governor General in Council are the following (namely):—

(*a*) where the landlord or a large proportion of the landlords or of the tenants applies for such an order and deposits, or gives security for, such amount, for the payment of expenses, as the Local Government directs;

(*b*) where the preparation of such a record is calculated to settle or avert a serious dispute existing or likely to arise between the tenants and their landlords generally;

(*c*) where the local area is comprised in an estate or tenure which belongs to or is managed by the Government or the Court of Wards; and

(*d*) where a settlement of revenue is being made in respect of the local area.

(*3*) A notification in the official Gazette of an order under this section shall be conclusive evidence that the order has been duly made.

Particulars to be recorded.

102. Where an order is made under the last foregoing section, the particulars to be recorded shall be specified in the order, and may include, either without or in addition to other particulars, some or all of the following, namely:—

(*a*) the name of each tenant;

(*b*) the class to which he belongs, that is to say, whether he is a tenure-holder, raiyat holding at fixed rates, occupancy-raiyat, non-occupancy-raiyat or under-raiyat, and, if he is a tenure-holder, whether he is a permanent tenure-holder or not, and whether his rent is liable to enhancement during the continuance of his tenure;

(*c*) the situation, quantity and boundaries of the land held by him;

(*d*) the name of his landlord;

(*e*) the rent payable;

(*f*) the mode in which that rent has been fixed, whether by contract, by order of a Court, or otherwise;

(*g*) if the rent is a gradually increasing rent, the time at which, and the steps by which, it increases;

(*h*) the special conditions and incidents, if any, of the tenancy.

Power for Revenue-officer to record particulars on application of proprietor or tenure-holder.

103. On the application of a proprietor or tenure-holder, and on his depositing or giving security for the required amount for expenses, a Revenue-officer may, subject to and in accordance with rules made in this behalf by the Local Government, ascertain and record the particulars specified in the last foregoing section with respect to the estate or tenure or any part thereof.

Procedure as to recording or settling rents.

104. (*1*) When, in any proceeding under this chapter, it does not appear that the tenant is holding land in excess of or less than that for which he is paying rent, and neither the landlord nor the tenant applies for a settlement of rent, the officer shall record the rent payable by the tenant, and the land in respect of which the rent is payable.

(*2*) When it appears that a tenant is holding land in excess of, or less than, that for which he is

paying rent, or either the landlord or the tenant applies for a settlement of rent, or in any case under section 101, sub-section (*2*), clause (*d*), the officer shall settle a fair and equitable rent in respect of the land held by the tenant.

(*3*) In settling rents under this section, the officer shall presume, until the contrary is proved, that the existing rent is fair and equitable, and shall have regard to the rules laid down in this Act for the guidance of the Civil Court in increasing or reducing rents, as the case may be.

Publication of record.

105. (*1*) When the Revenue-officer has completed a record made under this chapter, he shall cause a draft thereof to be locally published in the prescribed manner and for the prescribed period, and shall receive and consider any objection which may be made to any entry therein during the period of publication.

(*2*) After the expiration of this period the Revenue-officer shall finally frame the record, and shall cause it to be locally published in the prescribed manner, and the publication shall be conclusive evidence that the record has been duly made under this chapter.

Procedure in case of dispute as to entries in record.

106. If at any time before the final publication of the record under the last foregoing section a dispute arises as to the correctness of any entry (not being an entry of a rent settled under this chapter), or as to the propriety of any omission, which the Revenue-officer proposes to make or has made therein or therefrom, the Revenue-officer shall hear and decide the dispute.

Procedure to be adopted by Revenue-officer.

107. In all proceedings for the settlement of rents under this chapter, and in all proceedings under the last foregoing section, the Revenue-officer shall, subject to rules made by the Local Government under this Act, adopt the procedure laid down in the Code of Civil Procedure for the trial of suits, and his decision in every such proceeding shall have the force of a decree.

XIV of 1882.

Appeals from decisions of Revenue-officers.

108. (*1*) The Local Government shall appoint one or more persons to be a Special Judge or Special Judges for the purpose of hearing appeals from the decisions of Revenue-officers under this chapter.

(*2*) An appeal shall lie to the Special Judge from the decision of a Revenue-officer under this chapter, and the provisions of the Code of Civil Procedure relating to appeals shall, as nearly as may be, apply to all such appeals.

XIV of 1882.

(*3*) Subject to the provisions of Chapter XLIII of the Code of Civil Procedure, an appeal shall lie to the High Court from the decision of a Special Judge in any case under section 106 as if he were a Court subordinate to the High Court within the meaning of the first section of that chapter:

Provided that, if in a second appeal the High Court alters the decision of the Special Judge in respect of any of the particulars with reference to which the rent of any tenure or holding has been settled, the Court may settle a new rent for the tenure or holding, but in so doing shall be guided by the rents of the other tenures or holdings of the same class comprised in the same record as ascertained or settled under section 104.

Undisputed entries in record to be presumptive evidence.

109. (*1*) Every record made under this chapter shall distinguish between the disputed and the undisputed entries therein.

(*2*) Every undisputed entry in the record shall be presumed to be correct until the contrary is proved.

Time at which settlement of rent is to take effect.

110. When any rent is settled under this chapter, the settlement shall take effect from the beginning of the agricultural year next after the final publication of the record.

Stay of proceedings in Civil Court during preparation of record.

111. When an order has been made under section 101,—

(*a*) a Civil Court shall not, until the final publication of the record, entertain a suit or application for the alteration of the rent or the determination of the status of any tenant in the area to which the order applies; and

(*b*) the High Court may, if it thinks fit, transfer to the Revenue-officer any proceedings pending in a Civil Court for the alteration of any such rent or for the determination of any of the matters specified or referred to in section 102.

Power to authorize a special settlement in special cases.

112. (*1*) The Local Government, with the previous sanction of the Governor General in Council, may, on being satisfied that the exercise of the powers hereinafter mentioned is necessary in the interests of public order or of the local welfare, invest a Revenue-officer acting under this chapter with the following powers or either of them, namely:—

(*a*) power to settle all rents;

(*b*) power, when settling rents, to reduce rents if in the opinion of the officer the maintenance of existing rents would on any ground, whether specified in this Act or not, be unfair or inequitable.

(*2*) The powers given under this section may be made exercisable within a specified area either generally or with reference to specified cases or classes of cases.

(*3*) When the Local Government takes any action under this section, the settlement-record prepared by the Revenue-officer shall not take effect until it has been finally confirmed by the Governor General in Council.

Bengal Tenancy Act.

(Chaper XI.—Record of Proprietors' Private Lands.—Secs. 113—120.)
(Chapter XII.—Distraint.—Sec. 121.)

113. When the rent of a tenure or holding is settled under this chapter, it shall not, except on the ground of a landlord's improvement or of a subsequent alteration in the area of the tenure or holding, be enhanced, in the case of a tenure or an occupancy-holding for fifteen years, and, in the case of a non-occupancy-holding, if the rent is settled in any case under section 112 or on the application of the landlord under section 104, for five years. The periods of fifteen and five years shall be counted from the date of the final publication of the record.

Period for which rents as settled are to remain unaltered.

114. Where an order is made under this chapter in any case except under section 101, sub-section (*2*), clause (*d*), the expenses incurred by the Government in carrying out the provisions of this chapter in any local area, or such part of those expenses as the Local Government may direct, shall be defrayed by the landlords and tenants of land in that local area, in such proportions as the Local Government, having regard to all the circumstances of each case, may determine; and the proportion of those expenses so to be defrayed by any person shall be recoverable by the Government from him as if it were an arrear of revenue due by him.

Expenses of proceedings under chapter.

115. When the particulars mentioned in section 102, clause (*b*), have been recorded under this chapter in respect of any tenancy, the presumption under section 50 shall not thereafter apply to that tenancy.

Presumption as to fixity of rent not to apply where record has been prepared.

CHAPTER XI.

RECORD OF PROPRIETORS' PRIVATE LANDS.

116. Nothing in Chapter V shall confer a right of occupancy in, and nothing in Chapter VI shall apply to, a proprietor's private lands known in Bengal as khámár, nij or nij-jot, and in Behar as zirát, nij, sír or kamat, where any such land is held under a lease for a term of years or under a lease from year to year.

Saving as to khámár land.

117. The Local Government may, from time to time, make an order directing a Revenue-officer to make a survey and record of all the lands in a specified local area which are a proprietor's private lands within the meaning of the last foregoing section.

Power for Government to order survey and record of proprietor's private lands.

118. In the case of any land alleged to be a proprietor's private land, on the application of the proprietor or of any tenant of the land, and on his depositing the required amount for expenses, a Revenue-officer may, subject to and in accordance with rules made in this behalf by the Local Government, ascertain and record whether the land is or is not a proprietor's private land.

Power for Revenue-officer to record private land on application of proprietor or tenant.

119. When a Revenue-officer proceeds under either of the two last foregoing sections, the provisions of sections 105 to 109, both inclusive, shall apply.

Procedure for recording private land.

120. (*1*) The Revenue-officer shall record as a proprietor's private land—

Rules for determination of proprietor's private land.

(*a*) land which is proved to have been cultivated as khámár, zirát, sír, nij, nij-jot or kamat by the proprietor himself with his own stock or by his own servants or by hired labour for twelve continuous years immediately before the passing of this Act, and

(*b*) cultivated land which is recognized by village usage as proprietor's khámár, zirát, sír, nij, nij-jot or kamat.

(*2*) In determining whether any other land ought to be recorded as a proprietor's private land, the officer shall have regard to local custom, and to the question whether the land was before the second day of March, 1883, specifically let as proprietor's private land, and to any other evidence that may be produced; but shall presume that land is not a proprietor's private land until the contrary is shown.

(*3*) If any question arises in a Civil Court as to whether land is or is not a proprietor's private land, the Court shall have regard to the rules laid down in this section for the guidance of Revenue-officers.

CHAPTER XII.

DISTRAINT.

121. Where an arrear of rent is due to the landlord of a raiyat or under-raiyat, and has not been due for more than a year, and no security has been accepted therefor by the landlord, the landlord may, in addition to any other remedy to which he is entitled by law, present an application to the Civil Court requesting the Court to recover the arrear by distraining, while in the possession of the cultivator,—

Cases in which an application for distraint may be made.

(*a*) any crops or other products of the earth standing or ungathered on the holding;

(*b*) any crops or other products of the earth which have been grown on the holding and have been reaped or gathered and are deposited on the holding, or on a threshing-floor or place for treading out grain, or the like, whether in the fields or within a homestead:

Bengal Tenancy Act.

(Chapter XII.—Distraint.—Secs. 122-126.)

Provided that an application shall not be made under this section—

VII (B.C.) of 1876.

(*1*) by a proprietor or manager as defined under the Land Registration Act, 1876, or a mortgagee of such a proprietor or manager, unless his name and the extent of his interest in the land in respect of which the arrear is due have been registered under the provisions of that Act; or

(*2*) for the recovery of any sum in excess of the rent payable for the holding in the preceding agricultural year, unless that sum is payable under a written contract or in consequence of a proceeding under this Act or an enactment hereby repealed; or

(*3*) in respect of the produce of any part of the holding which the tenant has sub-let with the written consent of the landlord.

122. (*1*) Every application under the last foregoing section shall specify—

Form of application.

(*a*) the holding in respect of which the arrear is claimed, and the boundaries thereof, or such other particulars as may suffice for its identification;

(*b*) the name of the tenant;

(*c*) the period in respect of which the arrear is claimed;

(*d*) the amount of the arrear, with the interest, if any, claimed thereon, and, when an amount in excess of the rent payable by the tenant in the last preceding agricultural year is claimed, the contract, or proceeding, as the case may be, under which that amount is payable;

(*e*) the nature and approximate value of the produce to be distrained;

(*f*) the place where it is to be found, or such other particulars as may suffice for its identification; and

(*g*) if it is standing or ungathered, the time at which it is likely to be cut or gathered.

(*2*) The application shall be signed and verified in the manner prescribed by the Code of Civil Procedure for the signing and verification of plaints.

V of 1882.

123. (*1*) The applicant shall, at the time of filing an application under the foregoing sections, file in Court such documentary evidence (if any) as he may consider necessary for the purposes of the application.

Procedure on receipt of application.

(*2*) The Court may, if it thinks fit, examine the applicant, and shall, with as little delay as possible, admit the application or reject it, or permit the applicant to furnish additional evidence in support of it.

(*3*) Where a Court cannot forthwith admit or reject an application under sub-section (*2*), it may, if it thinks fit, make an order prohibiting the removal of the produce specified in the application pending the execution of an order for distraining the same or the rejection of the application.

(*4*) When an order for distraining any produce is made under this section at a considerable time before the produce is likely to be cut or gathered, the Court may suspend the execution of the order for such time as it thinks fit, and may, if it thinks fit, make a further order prohibiting the removal of the produce pending the execution of the order for distraint.

124. If an application is admitted under the last foregoing section, the Court shall depute an officer to distrain the produce specified therein, or such portion of that produce as it thinks fit; and the officer shall proceed to the place where the produce is, and distrain the produce by taking charge of it himself or placing some other person in charge of it in his behalf, and publishing a notification of the distraint in accordance with rules to that effect to be made by the High Court:

Execution of order for distraint.

Provided that produce which from its nature does not admit of being stored shall not be distrained under this section at any time less than twenty days before the time when it would be fit for reaping or gathering.

125. (*1*) The distraining officer shall, at the time of making the distraint, serve on the defaulter a written demand for the arrear due, and the costs incurred in making the distraint, with an account exhibiting the grounds on which the distraint is made.

Service of demand and account.

(*2*) Where the distraining officer has reason to believe that a person other than the defaulter is the owner of the property distrained, he shall serve copies of the demand and account on that person likewise.

(*3*) The demand and account shall, if practicable, be served personally; but if a person on whom they are to be served absconds or conceals himself, or cannot otherwise be found, the officer shall affix copies of the demand and account on a conspicuous part of the outside of the house in which he usually resides.

126. (*1*) A distraint under this chapter shall not prevent any person from reaping, gathering or storing any produce, or doing any other act necessary for its due preservation.

Right to reap, &c., produce.

(*2*) If the person entitled to do so fails to do so at the proper time, the distraining officer shall cause any standing crops or ungathered products

Bengal Tenancy Act.

(Chapter XII.—Distraint.—Secs. 127—136.)

distrained to be reaped or gathered when ripe, and stored in such granaries or other places as are commonly used for the purpose, or in some other convenient place in the neighbourhood, or shall do whatever else may be necessary for the due preservation of the same.

(3) In either case the distrained property shall remain in the charge of the distraining officer, or of some other person appointed by him in this behalf.

Sale proclamation to issued unless demand is satisfied.

127. (1) Unless the demand, with all costs of the distraint, be immediately satisfied, the distraining officer shall issue a proclamation specifying the particulars of the property distrained and the demand for which it is distrained, and notifying that he will, at a place and on a day specified, not being less than three or more than seven days after the time of making the distraint, sell the distrained property by public auction:

Provided that when the crops or products distrained from their nature admit of being stored but have not yet been stored, the day of the sale shall be so fixed as to admit of their being made ready for storing before its arrival.

(2) The proclamation shall be stuck up on a conspicuous place in the village in which the land is situate for which the arrears of rent are claimed.

Place of sale.

128. The sale shall be held at the place where the distrained property is, or at the nearest place of public resort if the distraining officer is of opinion that it is likely to sell there to better advantage.

When produce may be sold standing.

129. (1) Crops or products which from their nature admit of being stored shall not be sold before they are reaped or gathered and are ready for storing.

(2) Crops or products which from their nature do not admit of being stored may be sold before they are reaped or gathered, and the purchaser shall be entitled to enter on the land by himself, or by any person appointed by him in this behalf, and do all that is necessary for the purpose of tending and reaping or gathering them.

Manner of sale.

130. The property shall be sold by public auction, in one or more lots as the officer holding the sale may think advisable; and if the demand, with the costs of distraint and sale, is satisfied by the sale of a portion of the property, the distraint shall be immediately withdrawn with respect to the remainder.

Postponement of sale.

131. If, on the property being put up for sale, a fair price (in the estimation of the officer holding the sale) is not offered for it, and if the owner of the property, or a person authorised to act in his behalf, applies to have the sale postponed till the next day, or (if a market is held at the place of sale) the next market-day, the sale shall be postponed until that day, and shall be then completed, whatever price may be offered for the property.

Payment of purchase-money.

132. The price of every lot shall be paid at the time of sale, or as soon thereafter as the officer holding the sale directs, and in default of such payment the property shall be put up again and sold.

Certificate to be given to purchaser.

133. When the purchase-money has been paid in full, the officer holding the sale shall give the purchaser a certificate describing the property purchased by him and the price paid.

Proceeds of sale how to be applied.

134. (1) From the proceeds of every sale of distrained property under this chapter, the officer holding the sale shall pay the costs of the distraint and sale, calculated on a scale of charges prescribed by rules to be made, from time to time, by the Local Government in this behalf.

(2) The remainder shall be applied to the discharge of the arrear for which the distress was made, with interest thereon up to the day of sale; and the surplus (if any) shall be paid to the person whose property has been sold.

Certain persons may not purchase.

135. Officers holding sales of property under this Act, and all persons employed by, or subordinate to, such officers, are prohibited from purchasing, either directly or indirectly, any property sold by such officers.

Procedure where demand is paid before the sale.

136. (1) If at any time after a distraint has been made under this chapter, and before the sale of the distrained property, the defaulter, or the owner of the distrained property where he is not the defaulter, deposits in the Court issuing the order of distraint, or in the hands of the distraining officer, the amount specified in the demand served under section 125, with all costs which may have been incurred after the service of the demand, the Court or officer, as the case may be, shall grant a receipt for the same and the distraint shall forthwith be withdrawn.

(2) When the distraining officer receives the deposit, he shall forthwith pay it into the Court.

(3) A receipt granted under this section to an owner of distrained property not being the defaulter shall afford a full protection to him against any subsequent claim for the arrears of rent on account of which the distraint was made.

(4) After the expiration of one month from the date of a deposit being made under this section,

Bengal Tenancy Act.

(Chapter XII.—Distraint.—Secs. 137-142.)

(Chapter XIV.—Judicial Procedure.—Secs. 143-144.)

the Court shall pay therefrom to the applicant for distraint the amount due to him, unless in the meanwhile the owner of the property distrained has instituted a suit against the applicant contesting the legality of the distraint and claiming compensation in respect of the same.

(5) A landlord shall not be deemed to have consented to his tenant's sub-letting the holding or any part thereof merely by reason of his having received an amount deposited under this section by an inferior tenant.

Amount paid by under-tenant for his lessor may be deducted from rent.

137. (1) When an inferior tenant, on his property being lawfully distrained under this chapter for the default of a superior tenant, makes any payment under the last foregoing section, he shall be entitled to deduct the amount of that payment from any rent payable by him to his immediate landlord, and that landlord, if he is not the defaulter, shall in like manner be entitled to deduct the amount so deducted from any rent payable by him to his immediate landlord, and so on until the defaulter is reached.

(2) Nothing in this section shall affect the right of an inferior tenant making a payment under the last foregoing section to institute a suit for the recovery from the defaulter of any portion of the amount paid which he has not deducted under this section.

Conflict between rights of superior and inferior landlord.

138. When land is sub-let, and any conflict arises under this chapter between the rights of a superior and of an inferior landlord who distrain the same property, the right of the superior landlord shall prevail.

Distraint of property which is under attachment.

139. When any conflict arises between an order for distraint issued under this chapter and an order issued by a Civil Court for the attachment or sale of the property which is the subject of the distraint, the order for distraint shall prevail; but, if the property is sold under that order, the surplus proceeds of the sale shall not be paid under section 134 to the owner of the property without the sanction of the Court by which the order of attachment or sale was issued.

Suit for compensation for wrongful distraint.

140. No appeal shall lie from any order passed by a Civil Court under this chapter; but any person whose property is distrained on an application made under section 121 in any case in which such an application is not permitted by that section may institute a suit against the applicant for the recovery of compensation.

Power for Local Government to authorize distraint in certain cases.

141. (1) When the Local Government is of opinion that in any local area or in any class of cases it would, by reason of the character of the cultivation or the habits of the cultivators, be impracticable for a landlord to realize his rent by an application under this chapter, to the Civil Court, it may, from time to time, by order, authorize the landlord to distrain, by himself or his agent, any produce for the distraint of which he would be entitled to apply under this chapter to the Civil Court:

Provided that every person distraining any produce under such authorization shall proceed in the manner prescribed by section 124, and shall forthwith give notice, in such form as the High Court may, by rule, prescribe, to the Civil Court having jurisdiction to entertain an application for distraining the produce, and that Court shall, with no avoidable delay, depute an officer to take charge of the produce distrained.

(2) When an officer of the Court has taken charge of any distrained produce under this section, the proceedings shall thereafter be conducted in all respects as if he had distrained it under section 124.

(3) The Local Government may at any time rescind any order made by it under this section.

Power for High Court to make rules.

142. The High Court may, from time to time, make rules consistent with this Act for regulating the procedure in all cases under this chapter.

CHAPTER XIII.

JUDICIAL PROCEDURE.

Power to modify Civil Procedure Code in its application to landlord and tenant suits.

143. (1) The High Court may, from time to time, with the approval of the Governor General in Council, make rules consistent with this Act declaring that any portions of the Code of Civil Procedure shall not apply to suits between landlord and tenant as such or to any specified classes of such suits, or shall apply to them subject to modifications specified in the rules.

(2) Subject to any rules so made, and subject also to the other provisions of this Act, the Code of Civil Procedure shall apply to all such suits. XIV of 1882

Jurisdiction in proceedings under Act.

144. (1) The cause of action in all suits between landlord and tenant as such shall, for the purposes of the Code of Civil Procedure, be deemed to have arisen within the local limits of the jurisdiction of the Civil Court which would have jurisdiction to entertain a suit for the possession of the tenure or holding in connection with which the suit is brought.

(2) When under this Act a Civil Court is authorized to make an order on the application of a landlord or a tenant, the application shall be made to the Court which would have jurisdiction to entertain a suit for the possession of the tenure or holding in connection with which the application is brought.

Bengal Tenancy Act.

(Chapter XIII.—Judicial Procedure.—Secs. 145-151.)

145. Every náib or gumáshta of a landlord empowered in this behalf by a written authority under the hand of the landlord shall, for the purposes of every such suit or application, be deemed to be the recognized agent of the landlord within the meaning of the Code of Civil Procedure, notwithstanding that the landlord may reside within the local limits of the jurisdiction of the Court in which the suit is to be instituted or is pending, or in which the application is made.

Náibs or gumáshtas to be recognized agents.

XIV of 1882.

146. The particulars referred to in section 58 of the Code of Civil Procedure shall, in the case of such suits, instead of being entered in the register of civil suits prescribed by that section, be entered in a special register to be kept by each Civil Court, in such form as the Local Government may, from time to time, prescribe in this behalf.

XIV of 1882

Special register of suits.

147. Subject to the provisions of section 373 of the Code of Civil Procedure, where a landlord has instituted a suit against a raiyat for the recovery of any rent of his holding, the landlord shall not institute another suit against him for the recovery of any rent of that holding until after three months from the date of the institution of the previous suit.

XIV of 1882.

Successive rent-suits.

148. The following rules shall apply to suits for the recovery of rent:—

Procedure in rent-suits.

(*a*) sections 121 to 127 (both inclusive), 129, 305, and 320 to 326 (both inclusive) of the Code of Civil Procedure shall not apply to any such suit:

XIV of 1882.

(*b*) the plaint shall contain, in addition to the particulars specified in section 50 of the Code of Civil Procedure, a statement of the situation, designation, extent and boundaries of the land held by the tenant; or, where the plaintiff is unable to give the extent or boundaries, in lieu thereof a description sufficient for identification:

XIV of 1882.

(*c*) the summons shall be for the final disposal of the suit, unless the Court is of opinion that the summons should be for the settlement of issues only:

(*d*) the service of the summons may, if the High Court by rule, either generally, or specially for any local area, so directs, be effected, either in addition to, or in substitution for, any other mode of service, by forwarding the summons by post in a letter addressed to the defendant and registered under Part III of the Indian Post Office Act, 1866;

XIV of 1866

when a summons is so forwarded in a letter, and it is proved that the letter was duly posted and registered, the Court may presume that the summons has been duly served:

(*e*) a written statement shall not be filed without the leave of the Court:

(*f*) the rules for recording the evidence of witnesses prescribed by section 189 of the Code of Civil Procedure shall apply, whether an appeal is allowed or not:

XIV of 1882.

(*g*) the Court may, when passing the decree, order on the oral application of the decree-holder the execution thereof, unless it is a decree for ejectment for arrears:

(*h*) notwithstanding anything contained in section 232 of the Code of Civil Procedure, an application for the execution of a decree for arrears obtained by a landlord shall not be made by an assignee of the decree unless the landlord's interest in the land has become and is vested in him.

149. (*1*) When a defendant admits that money is due from him on account of rent, but pleads that it is due not to the plaintiff but to a third person, the Court shall, except for special reasons to be recorded in writing, refuse to take cognizance of the plea unless the defendant pays into Court the amount so admitted to be due.

Payment into Court of money admitted to be due to third person.

(*2*) Where such a payment is made, the Court shall forthwith cause notice of the payment to be served on the third person.

(*3*) Unless the third person within three months from the receipt of the notice institutes a suit against the plaintiff and therein obtains an order restraining payment out of the money, it shall be paid out to the plaintiff on his application.

(*4*) Nothing in this section shall affect the right of any person to recover from the plaintiff money paid to him under sub-section (*3*).

150. When a defendant admits that money is due from him to the plaintiff on account of rent, but pleads that the amount claimed is in excess of the amount due, the Court shall, except for special reasons to be recorded in writing, refuse to take cognizance of the plea unless the defendant pays into Court the amount so admitted to be due.

Payment into Court of money admitted to be due to landlord.

151. When a defendant is liable to pay money into Court under either of the two last foregoing sections, if the Court thinks that there are sufficient reasons for so ordering, it may take cognizance of the defendant's plea on his paying into Court such reasonable portion of the money as the Court directs.

Provision as to payment of portion of money.

Bengal Tenancy Act.

(Chapter XIII.—Judicial Procedure.—Secs. 152-156.)

152. When a defendant pays money into Court under either of the said sections, the Court shall give the defendant a receipt, and the receipt so given shall operate as an acquittance in the same manner and to the same extent as if it had been given by the plaintiff or the third person, as the case may be.

Court to grant receipt.

153. An appeal shall not lie from any decree or order passed, whether in the first instance or on appeal, in any suit instituted by a landlord for the recovery of rent where—

Appeals in rent-suits.

(*a*) the decree or order is passed by a District Judge, Additional Judge or Subordinate Judge, and the amount claimed in the suit does not exceed one hundred rupees, or

(*b*) the decree or order is passed by any other judicial officer specially empowered by the Local Government to exercise final jurisdiction under this section, and the amount claimed in the suit does not exceed fifty rupees;

unless in either case the decree or order has decided a question relating to title to land or to some interest in land as between parties having conflicting claims thereto, or a question of a right to enhance or vary the rent of a tenant, or a question of the amount of rent annually payable by a tenant:

Provided that the District Judge may call for the record of any case in which a judicial officer as aforesaid has passed a decree or order to which this section applies, if it appears that the judicial officer has exercised a jurisdiction not vested in him by law, or has failed to exercise a jurisdiction so vested, or has acted in the exercise of his jurisdiction illegally or with material irregularity; and may pass such order as the District Judge thinks fit.

154. A decree for enhancement of rent under this Act, if passed in a suit instituted in the first eight months of an agricultural year, shall ordinarily take effect on the commencement of the agricultural year next following; and, if passed in a suit instituted in the last four months of the agricultural year, shall ordinarily take effect on the commencement of the agricultural year next but one following; but nothing in this section shall prevent the Court from fixing, for special reasons, a later date from which any such decree shall take effect.

Date from which decree for enhancement takes effect.

155. (*1*) A suit for the ejectment of a tenant, on the ground—

Relief against forfeitures.

(*a*) that he has used the land in a manner which renders it unfit for the purposes of the tenancy, or

(*b*) that he has broken a condition on breach of which he is, under the terms of a contract between him and the landlord, liable to ejectment,

shall not be entertained unless the landlord has served, in the prescribed manner, a notice on the tenant specifying the particular misuse or breach complained of, and, where the misuse or breach is capable of remedy, requiring the tenant to remedy the same, and, in any case, to pay reasonable compensation for the misuse or breach, and the tenant has failed to comply within a reasonable time with that request.

(*2*) A decree passed in favour of a landlord in any such suit shall declare the amount of compensation which would reasonably be payable to the plaintiff for the misuse or breach, and whether, in the opinion of the Court, the misuse or breach is capable of remedy, and shall fix a period during which it shall be open to the defendant to pay that amount to the plaintiff, and, where the misuse or breach is declared to be capable of remedy, to remedy the same.

(*3*) The Court may, from time to time, for special reasons, extend a period fixed by it under sub-section (*2*).

(*4*) If the defendant, within the period or extended period (as the case may be) fixed by the Court under this section, pays the compensation mentioned in the decree, and, where the misuse or breach is declared by the Court to be capable of remedy, remedies the misuse or breach to the satisfaction of the Court, the decree shall not be executed.

156. The following rules shall apply in the case of every raiyat ejected from a holding:—

Rights of ejected raiyats in respect of crops and land prepared for sowing.

(*a*) when the raiyat has, before the date of his ejectment, sown or planted crops in any land comprised in the holding, he shall be entitled, at the option of the landlord, either to retain possession of that land and to use it for the purpose of tending and gathering in the crops, or to receive from the landlord the value of the crops as estimated by the Court executing the decree for ejectment;

(*b*) when the raiyat has, before the date of his ejectment, prepared for sowing any land comprised in his holding, but has not sown or planted crops in that land, he shall be entitled to receive from the landlord the value of the labour and capital expended by him in so preparing the land, as estimated by the Court executing the decree for ejectment, together with reasonable interest on that value;

(*c*) but a raiyat shall not be entitled to retain possession of any land or receive any sum in respect thereof under this section where, after the commencement of pro-

Bengal Tenancy Act.

(Chapter XIV.—Sale for Arrears under Decree.—Secs. 157—162.)

ceedings by the landlord for his ejectment, he has cultivated or prepared the land contrary to local usage;

(*d*) if the landlord elects under this section to allow a raiyat to retain possession of the land, the raiyat shall pay to the landlord, for the use and occupation of the land during the period for which he is allowed to retain possession of the same, such rent as the Court executing the decree for ejectment may deem reasonable.

Power for Court to fix fair rent as alternative to ejectment.

157. When a plaintiff institutes a suit for the ejectment of a trespasser he may, if he thinks fit, claim as alternative relief that the defendant be declared liable to pay for the land in his possession a fair and equitable rent to be determined by the Court, and the Court may grant such relief accordingly.

Application to determine incidents of tenancy.

158. (*1*) The Court having jurisdiction to determine a suit for the possession of land may, on the application of either the landlord or the tenant of the land, determine all or any of the following matters, (namely) :—

(*a*) the situation, quantity and boundaries of the land;

(*b*) the name and description of the tenant thereof (if any);

(*c*) the class to which he belongs, that is to say, whether he is a tenure-holder, raiyat holding at fixed rates, occupancy-raiyat, non-occupancy-raiyat, or under-raiyat, and, if he is a tenure-holder, whether he is a permanent tenure-holder or not and whether his rent is liable to enhancement during the continuance of his tenure; and

(*d*) the rent payable by him at the time of the application.

(*2*) If, in the opinion of the Court, any of these matters cannot be satisfactorily determined without a local inquiry, the Court may direct that a local inquiry be held under Chapter XXV of the Code of Civil Procedure by such Revenue-officer as the Local Government may authorize in that behalf by rule made under section 392 of the said Code.

XIV of 1882.

(*3*) The order on any application under this section shall have the effect of, and be subject to the like appeal as, a decree.

CHAPTER XIV.

SALE FOR ARREARS UNDER DECREE.

General powers of purchaser as to avoidance of incumbrances.

159. Where a tenure or holding is sold in execution of a decree for arrears due in respect thereof, the purchaser shall take subject to the interests defined in this chapter as "protected interests", but with power to annul the interests defined in this chapter as "incumbrances":

Provided as follows:—

(*a*) a registered and notified incumbrance within the meaning of this chapter shall not be so annulled except in the case hereinafter mentioned in that behalf;

(*b*) the power to annul shall be exercisable only in manner by this chapter directed.

Protected interests.

160. The following shall be deemed to be protected interests within the meaning of this chapter:—

(*a*) any under-tenure existing from the time of the Permanent Settlement;

(*b*) any under-tenure recognized by the settlement-proceedings of any current temporary settlement as a tenure at a rent fixed for the period of that settlement;

(*c*) any lease of land whereon dwelling-houses, manufactories or other permanent buildings have been erected, or permanent gardens, plantations, tanks, canals, places of worship or burning or burying grounds have been made;

(*d*) any right of occupancy;

(*e*) the right of a non-occupancy-raiyat to hold for five years at a rent fixed under Chapter VI by a Court, or under Chapter X by a Revenue-officer;

(*f*) any right conferred on an occupancy-raiyat to hold at a rent which was a fair and reasonable rent at the time the right was conferred; and

(*g*) any right or interest which the landlord at whose instance the tenure or holding is sold, or his predecessor in title, has expressly and in writing given the tenant for the time being permission to create.

Meaning of "incumbrance" and "registered and notified incumbrance."

161. For the purposes of this chapter—

(*a*) the term "incumbrance", used with reference to a tenancy, means any lien, sub-tenancy, easement or other right or interest created by the tenant on his tenure or holding or in limitation of his own interest therein, and not being a protected interest as defined in the last foregoing section;

(*b*) the term "registered and notified incumbrance", used with reference to a tenure or holding sold or liable to sale in execution of a decree for an arrear of rent due in respect thereof, means an incumbrance created by a registered instrument of which a copy has, not less than three months before the accrual of the arrear, been served on the landlord in manner hereinafter provided.

Application for sale of tenure or holding.

162. When a decree has been passed for an arrear of rent due for a tenure or holding, and the decree-holder applies under section 235 of the Code of Civil Procedure for the attachment and sale of the tenure or holding in execution of the decree, he shall produce a statement showing the parganá, estate and village in which the land comprised in the tenure or holding is situate, the yearly rent payable for the same and the total amount recoverable under the decree.

XIV of 1882.

Bengal Tenancy Act.

(Chapter XIV.—Sale for Arrears under Decree.—Secs. 163-167.)

Order of attachment and proclamation of sale to be issued simultaneously.

163. (*1*) Notwithstanding anything contained in the Code of Civil Procedure, when the decree-holder makes the application mentioned in the last foregoing section, the Court shall, if under section 245 of the said Code it admits the application and orders execution of the decree as applied for, issue simultaneously the order of attachment and the proclamation required by section 287 of the said Code.

(*2*) The proclamation shall, in addition to stating and specifying the particulars mentioned in section 287 of the said Code, announce—

(*a*) in the case of a tenure or a holding of a raiyat holding at fixed rates, that the tenure or holding will first be put up to auction subject to the registered and notified incumbrances, and will be sold subject to those incumbrances if the sum bid is sufficient to liquidate the amount of the decree and costs, and that otherwise it will, if the decree-holder so desires, be sold on a subsequent day, of which due notice will be given, with power to annul all incumbrances; and

(*b*) in the case of an occupancy-holding, that the holding will be sold with power to annul all incumbrances.

(*3*) The proclamation shall, besides being made in the manner prescribed by section 289 of the said Code, be published by fixing up a copy thereof in a conspicuous place on the land comprised in the tenure or holding ordered to be sold, and shall also be published in such manner as the Local Government may, from time to time, direct in this behalf.

(*4*) Notwithstanding anything contained in section 290 of the said Code, the sale shall not, without the consent in writing of the judgment-debtor, take place until after the expiration of at least thirty days, calculated from the date on which the copy of the proclamation has been fixed up on the land comprised in the tenure or holding ordered to be sold.

Sale of tenure or holding subject to registered and notified incumbrances, and effect thereof.

164. (*1*) When a tenure or a holding at fixed rates has been advertised for sale under the last foregoing section, it shall be put up to auction, subject to registered and notified incumbrances; and, if the bidding reaches a sum sufficient to liquidate the amount of the decree and costs, including the costs of sale, the tenure or holding shall be sold subject to such incumbrances.

(*2*) The purchaser at a sale under this section may, in manner provided by section 167, and not otherwise, annul any incumbrance upon the tenure or holding not being a registered and notified incumbrance.

Sale of tenure or holding with power to avoid all incumbrances, and effect thereof.

165. (*1*) If the bidding for a tenure or a holding at fixed rates put up to auction under the last foregoing section does not reach a sum sufficient to liquidate the amount of the decree and costs as aforesaid, and if the decree-holder thereupon desires that the tenure or holding be sold with power to avoid all incumbrances, the officer holding the sale shall adjourn the sale and make a fresh proclamation under section 289 of the Code of Civil Procedure, announcing that the tenure or holding will be put up to auction and sold with power to avoid all incumbrances upon a future day specified therein, not less than fifteen or more than thirty days from the date of the postponement; and upon that day the tenure or holding shall be put up to auction and sold with power to avoid all incumbrances.

XIV of 1882

(*2*) The purchaser at a sale under this section may, in manner provided by section 167, and not otherwise, annul any incumbrance on the tenure or holding.

Sale of occupancy-holding with power to avoid all incumbrances, and effect thereof.

166. (*1*) When an occupancy-holding has been advertised for sale under section 163, it shall be put up to auction and sold with power to avoid all incumbrances.

(*2*) The purchaser at a sale under this section may, in manner provided by the next following section, and not otherwise, annul any incumbrance on the holding.

Procedure for annulling incumbrances under the foregoing sections.

167. (*1*) A purchaser having power to annul an incumbrance under any of the foregoing sections and desiring to annul the same, may, within one year from the date of the sale or the date on which he first has notice of the incumbrance, whichever is later, present to the Collector an application in writing, requesting him to serve on the incumbrancer a notice declaring that the incumbrance is annulled.

(*2*) Every such application must be accompanied by such fee for the service of the notice as the Board of Revenue may fix in this behalf.

(*3*) When an application for service of a notice is made to the Collector in manner prescribed by this section, he shall cause the notice to be served in compliance therewith, and the incumbrance shall be deemed to be annulled from the date on which it is so served.

(*4*) When a tenure or holding is sold in execution of a decree for arrears due in respect thereof, and there is on the tenure or holding a protected interest of the kind specified in section 160, clause (*c*), the purchaser may, if he has power under this chapter to avoid all incumbrances, sue to enhance the rent of the land which is the subject of the protected interest. On proof that the land is held at a rent which was not at the time the lease was granted a fair rent, the Court may enhance the rent to such amount as appears to be fair and equitable.

This sub-section shall not apply to land which has been held for a term exceeding twelve years at a fixed rent equal to the rent of good arable land.

Bengal Tenancy Act.

(Chapter XIV.—Sale for Arrears under Decree.—Secs. 168-174.)

168. (*1*) The Local Government may, from time to time, by notification in the official Gazette, direct that occupancy-holdings or any specified class of occupancy-holdings in any local area put up for sale in execution of decrees for rent due on them shall, before being put up with power to avoid all incumbrances, be put up subject to registered and notified incumbrances, and may by like notification rescind any such direction.

Power to direct that occupancy-holdings be dealt with under foregoing sections as tenures.

(*2*) While any such direction remains in force in respect of any local area, all occupancy-holdings, or, as the case may be, occupancy-holdings of the specified class in that local area, shall, for the purposes of sale under the foregoing sections of this chapter, be treated in all respects as if they were tenures.

169. (*1*) In disposing of the proceeds of a sale under this chapter, the following rules, instead of those prescribed by section 295 of the Code of Civil Procedure, shall be observed, that is to say:—

Rules for disposal of the sale-proceeds.

XIV of 1882.

(*a*) there shall first be paid the decree-holder the costs incurred by him in bringing the tenure or holding to sale;

(*b*) there shall, in the next place, be paid to the decree-holder the amount due to him under the decree in execution of which the sale was made;

(*c*) if there remains a balance after these sums have been paid, there shall be paid to the decree-holder therefrom any rent which may have fallen due to him in respect of the tenure or holding between the institution of the suit and the date of the sale;

(*d*) the balance (if any) remaining after the payment of the rent mentioned in clause (*c*) shall, upon the expiration of two months from the confirmation of the sale, be paid to the judgment-debtor upon his application.

(*2*) If the judgment-debtor disputes the decree-holder's right to receive any sum on account of rent under clause (*c*), the Court shall determine the dispute, and the determination shall have the force of a decree.

170. (*1*) Sections 278 to 283 (both inclusive) of the Code of Civil Procedure shall not apply to a tenure or holding attached in execution of a decree for arrears due thereon.

Tenure or holding to be released from attachment only on payment into Court of amount of decree with costs, or on confession of satisfaction by decree-holder.

XIV of 1882.

(*2*) When an order for the sale of a tenure or holding in execution of such a decree has been made, the tenure or holding shall not be released from attachment unless, before it is knocked down to the auction-purchaser, the amount of the decree, including the costs decreed, together with the costs incurred in order to the sale, is paid into Court, or the decree-holder makes an application for the release of the tenure or holding on the ground that the decree has been satisfied out of Court.

(*3*) The judgment-debtor or any person having in the tenure or holding any interest voidable on the sale may pay money into Court under this section.

171. (*1*) When any person having, in a tenure or holding advertised for sale under this chapter, an interest which would be avoidable upon the sale, pays into Court the amount requisite to prevent the sale,—

Amount paid into Court to prevent sale to be in certain cases a mortgage-debt on the tenure or holding.

(*a*) the amount so paid by him shall be deemed to be a debt bearing interest at twelve per centum per annum and secured by a mortgage of the tenure or holding to him;

(*b*) his mortgage shall take priority of every other charge on the tenure or holding other than a charge for arrear of rent; and

(*c*) he shall be entitled to possession of the tenure or holding as mortgagee of the tenant, and to retain possession of it as such until the debt, with the interest due thereon, has been discharged.

(*2*) Nothing in this section shall affect any other remedy to which any such person would be entitled.

172. When a tenure or holding is advertised for sale under this chapter in execution of a decree against a superior tenant defaulting, and an inferior tenant, whose interest would be voidable upon the sale, pays money into Court in order to prevent the sale, he may, in addition to any other remedy provided for him by law, deduct the whole or any portion of the amount so paid from any rent payable by him to his immediate landlord; and that landlord, if he is not the defaulter, may in like manner deduct the amount so deducted from any rent payable by him to his immediate landlord, and so on until the defaulter is reached.

Inferior tenant paying into Court may deduct from rent.

173. (*1*) Notwithstanding anything contained in section 294 of the Code of Civil Procedure, the holder of a decree in execution of which a tenure or holding is sold under this chapter may, without the permission of the Court, bid for or purchase the tenure or holding.

Decree-holder may bid at sale; judgment-debtor may not.

XIV of 1882.

(*2*) The judgment-debtor shall not bid for or purchase a tenure or holding so sold.

(*3*) When a judgment-debtor purchases by himself or through another person a tenure or holding so sold, the Court may, if it thinks fit, on the application of the decree-holder or any other person interested in the sale, by order set aside the sale, and the costs of the application and order, and any deficiency of price which may happen on the re-sale, and all expenses attending it, shall be paid by the judgment-debtor.

174. (*1*) Where a tenure or holding is sold for an arrear of rent due thereon, then, at any time within thirty days from the date of sale, the judgment-debtor may apply to have the sale set aside, on his depositing in Court, for payment to the decree-holder, the amount recoverable

Application by judgment-debtor to set aside sale.

Bengal Tenancy Act.

(Chapter XV.—Contract and Custom.—Secs. 175—179.)

under the decree with costs, and, for payment to the purchaser, a sum equal to five per centum of the purchase-money.

(*2*) If such deposit is made within the thirty days, the Court shall pass an order setting aside the sale, and the provisions of section 315 of the Code of Civil Procedure shall apply in the case of a sale so set aside:

XIV of 1882.

Provided that, if a judgment-debtor applies under section 311 of the Code of Civil Procedure to set aside the sale of his tenure or holding, he shall not be entitled to make an application under this section.

XIV of 1882.

(*3*). Section 313 of the Code of Civil Procedure shall not apply to any sale under this chapter.

175. Notwithstanding anything contained in Part IV of the Indian Registration Act, 1877, an instrument creating an incumbrance upon any tenure or holding which has been executed before the commencement of this Act, and is not required by section 17 of the said Registration Act to be registered, shall be accepted for registration under that Act if it is presented for that purpose to the proper officer within one year from the commencement of this Act.

Registration of certain instruments creating incumbrances.

III of 1877.

176. Every officer who has, whether before or after the passing of this Act, registered an instrument executed by a tenant of a tenure or holding and creating an incumbrance on the tenure or holding, shall, at the request of the tenant or of the person in whose favour the incumbrance is created, and on payment by him of such fee as the Local Government may fix in this behalf, notify the incumbrance to the landlord by causing a copy of the instrument to be served on him in the prescribed manner.

Notification of incumbrances to landlord.

177. Nothing contained in this chapter shall be deemed to enable a person to create an incumbrance which he could not otherwise lawfully create.

Power to create incumbrances not extended.

CHAPTER XV.

CONTRACT AND CUSTOM.

178. (*1*) Nothing in any contract between a landlord and a tenant made before or after the passing of this Act—

Restrictions on exclusion of Act by agreement.

(*a*) shall bar in perpetuity the acquisition of an occupancy-right in land, or

(*b*) shall take away an occupancy-right in existence at the date of the contract, or

(*c*) shall entitle a landlord to eject a tenant otherwise than in accordance with the provisions of this Act, or

(*d*) shall take away or limit the right of a tenant, as provided by this Act, to make improvements and claim compensation for them.

(*2*) Nothing in any contract made between a landlord and a tenant since the 15th day of July, 1880, and before the passing of this Act shall prevent a raiyat from acquiring in accordance with this Act an occupancy-right in land.

(*3*) Nothing in any contract made between a landlord and a tenant after the passing of this Act shall—

(*a*) prevent a raiyat from acquiring in accordance with this Act an occupancy-right in land;

(*b*) take away or limit the right of an occupancy-raiyat to use land as provided by section 23;

(*c*) take away the right of a raiyat to surrender his holding in accordance with section 86;

(*d*) take away the right of a raiyat to transfer or bequeath his holding in accordance with local usage;

(*e*) take away the right of an occupancy-raiyat to sub-let subject to and in accordance with the provisions of this Act;

(*f*) take away the right of a raiyat to apply for a reduction of rent under section 38 or section 52;

(*g*) take away the right of a landlord or a tenant to apply for a commutation of rent under section 40; or

(*h*) affect the provisions of section 67 relating to interest payable on arrears of rent:

Provided as follows:—

(i) nothing in this section shall affect the terms or conditions of a lease granted *bonâ fide* for the reclamation of waste land, except that, where, on or after the expiration of the term created by the lease, the lessee would under Chapter V be entitled to an occupancy-right in the land comprised in the lease, nothing in the lease shall prevent him from acquiring that right;

(ii) when a landlord has reclaimed waste land by his own servants or hired labourers, and subsequently lets the same or a part thereof to a raiyat, nothing in this Act shall affect the terms of any contract whereby a raiyat is prevented from acquiring an occupancy-right in the land or part during a period of thirty years from the date on which the land or part is first let to a raiyat;

(iii) nothing in this section shall affect the terms or conditions of any contract for the temporary cultivation of orchard land with agricultural crops.

179. Nothing in this Act shall be deemed to prevent a proprietor or a holder of a permanent tenure in a permanently-settled area from granting a permanent mukarrarí lease on any terms agreed on between him and his tenant.

Permanent mukarrarí leases.

Bengal Tenancy Act.

(Chapter XV.—Contract and Custom.—Secs. 180-183.)

(Chapter XVI.—Limitation. Chapter XVII.—Supplemental.—Secs. 184-187.)

Útbandi, chur and dearah lands.

180. (*1*) Notwithstanding anything in this Act, a raiyat—

(*a*) who in any part of the country where the custom of útbandi prevails, holds land ordinarily let under that custom and for the time being let under that custom, or

(*b*) who holds land of the kind known as chur or dearah,

shall not acquire a right of occupancy—

in case (*a*), in land ordinarily held under the custom of útbandi and for the time being held under that custom, or

in case (*b*), in the chur or dearah land,

until he has held the land in question for twelve continuous years; and, until he acquires a right of occupancy in the land, he shall be liable to pay such rent for his holding as may be agreed on between him and his landlord.

(*2*) Chapter VI shall not apply to raiyats holding land under the custom of útbandi in respect of land held by them under that custom.

(*3*) The Collector may, on the application of either the landlord or the tenant or on a reference from the Civil Court, declare that any land has ceased to be chur or dearah land within the meaning of this section, and thereupon all the provisions of this Act shall apply to the land.

Saving as to service-tenures.

181. Nothing in this Act shall affect any incident of a ghátwálí or other service-tenure, or, in particular, shall confer a right to transfer or bequeath a service-tenure which, before the passing of this Act, was not capable of being transferred or bequeathed.

Homesteads.

182. When a raiyat holds his homestead otherwise than as part of his holding as a raiyat, the incidents of his tenancy of the homestead shall be regulated by local custom or usage, and, subject to local custom or usage, by the provisions of this Act applicable to land held by a raiyat.

Saving of custom.

183. Nothing in this Act shall affect any custom, usage or customary right not inconsistent with, or not expressly or by necessary implication modified or abolished by, its provisions.

Illustrations.

(1) A usage under which a raiyat is entitled to sell his holding without the consent of his landlord is not inconsistent with, and is not expressly or by necessary implication modified or abolished by, the provisions of this Act. That usage, accordingly, wherever it may exist, will not be affected by this Act.

(2) The custom or usage that an under-raiyat should, under certain circumstances, acquire a right of occupancy is not inconsistent with, and is not expressly or by necessary implication modified or abolished by, the provisions of this Act. That custom or usage, accordingly, wherever it exists, will not be affected by this Act.

CHAPTER XVI.

LIMITATION.

Limitation in suits, appeals and applications in Schedule III.

184. (*1*) The suits, appeals and applications specified in Schedule III annexed to this Act shall be instituted and made within the time prescribed in that schedule for them respectively; and every such suit or appeal instituted, and application made, after the period of limitation so prescribed, shall be dismissed, although limitation has not been pleaded.

(*2*) Nothing in this section shall revive the right to institute any suit or appeal or make any application which would have been barred by limitation if it had been instituted or made immediately before the commencement of this Act.

Portions of the Indian Limitation Act not applicable to such suits, &c.

185. (*1*) Sections 7, 8 and 9 of the Indian Limitation Act, 1877, shall not apply to the suits and applications mentioned in the last foregoing section. XV of 1877.

(*2*) Subject to the provisions of this chapter, the provisions of the Indian Limitation Act, 1877, shall apply to all suits, appeals and applications mentioned in the last foregoing section. XV of 1877.

CHAPTER XVII.

SUPPLEMENTAL.

Penalties.

Penalties.

Penalties for illegal interference with produce.

186. (*1*) If any person, otherwise than in accordance with this Act or some other enactment for the time being in force,—

(*a*) distrains or attempts to distrain the produce of a tenant's holding, or

(*b*) resists a distraint duly made under this Act, or forcibly or clandestinely removes any property duly distrained under this Act, or

(*c*) except with the authority or consent of the tenant, prevents or attempts to prevent the reaping, gathering, storing, removing or otherwise dealing with any produce of a holding,

he shall be deemed to have committed criminal trespass within the meaning of the Indian Penal Code. XLV of 1860.

(*2*) Any person who abets within the meaning of the Indian Penal Code the doing of any act mentioned in sub-section (*1*), shall be deemed to have abetted the commission of criminal trespass within the meaning of that Code. XLV of 1860.

Agents and representatives of landlords.

Agents and representatives of landlords.

Power for landlord to act through agent.

187. (*1*) Any appearance, application or act, in, before or to any Court or authority, required or authorised by this Act to be made or done by a landlord, may, unless the Court or authority otherwise directs, be made or done also by an agent empowered in this behalf by a written authority under the hand of the landlord.

Bengal Tenancy Act.

(Chapter XVII.—Supplemental.—Secs. 188-194.)

Agents and representatives of landlords.

(*2*) Every notice required by this Act to be served on, or given to, a landlord shall, if served on, or given to, an agent empowered as aforesaid to accept service of or receive the same on behalf of the landlord, be as effectual for the purposes of this Act as if it had been served on, or given to, the landlord in person.

(*3*) Every document required by this Act to be signed or certified by a landlord, except an instrument appointing or authorizing an agent, may be signed or certified by an agent of the landlord authorized in writing in that behalf.

Joint-landlords to act collectively or by common agent.

188. Where two or more persons are joint-landlords, anything which the landlord is under this Act required or authorized to do must be done either by both or all those persons acting together, or by an agent authorized to act on behalf of both or all of them.

Rules under Act.

Rules under Act.

Power to make rules regarding procedure, powers of officers and service of notices.

189. The Local Government may, from time to time, by notification in the official Gazette, make rules consistent with this Act—

(*1*) to regulate the procedure to be followed by Revenue-officers in the discharge of any duty imposed upon them by or under this Act, and may by such rules confer upon any such officer—

(*a*) any power exercised by a Civil Court in the trial of suits;

(*b*) power to enter upon any land, and to survey, demarcate and make a map of the same, and any power exercisable by any officer under the Bengal Survey Act, 1875; and V (B.C.) of 1875.

(*c*) power to cut and thresh the crops on any land and weigh the produce, with a view to estimating the capabilities of the soil; and

(*2*) to prescribe the mode of service of notices under this Act where no mode is prescribed by this or any other Act.

Procedure for making, publication and confirmation of rules.

190. (*1*) Every authority having power to make rules under any section of this Act shall, before making the rules, publish a draft of the proposed rules for the information of persons likely to be affected thereby.

(*2*) The publication shall be made, in the case of rules made by the Local Government or High Court, in such manner as may in its opinion be sufficient for giving information to persons interested, and, in the case of rules made by any other authority, in the prescribed manner:

Provided that every such draft shall be published in the official Gazette.

(*3*) There shall be published with the draft a notice specifying a date, not earlier than the expiration of one month after the date of publication, at or after which the draft will be taken into consideration. *Rules under Act.*

(*4*) The authority shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

(*5*) The publication in the official Gazette of a rule purporting to be made under this Act shall be conclusive evidence that it has been duly made.

(*6*) All rules made under this Act may, from time to time, subject to the sanction (if any) required for making them, be amended, added to or cancelled by the authority having power to make the same.

Provisions as to temporarily-settled districts.

Provisions as to temporarily-settled districts.

Saving as to land held in a district not permanently settled.

191. Where the area comprised in a tenure is situate in an estate which has never been permanently settled, nothing in this Act shall prevent the enhancement of the rent upon the expiration of a temporary settlement of the revenue, unless the right to hold beyond the term of the settlement at a particular rate of rent has been expressly recognized in settlement-proceedings by a Revenue-authority empowered by the Government to make definitively or confirm settlements.

Power to alter rent in case of new assessment of revenue.

192. When a landlord grants a lease, or makes any other contract, purporting to entitle the tenant of land not included in an area permanently settled to hold that land free of rent or at a particular rent, and while the lease or contract is in force—

(*a*) land-revenue is for the first time made payable in respect of the land, or

(*b*) land-revenue having been previously payable in respect of it, a fresh settlement of land-revenue is made,

a Revenue-officer may, notwithstanding anything in the contract between the parties, by order, on the application of the landlord or of the tenant, fix a fair and equitable rent for the land in accordance with the provisions of this Act.

Rights of pasturage, &c.

Rights of pasturage, &c.

Rights of pasturage, forest-rights, &c.

193. The provisions of this Act applicable to suits for the recovery of arrears of rent shall, as far as may be, apply to suits for the recovery of anything payable or deliverable in respect of any rights of pasturage, forest-rights, rights over fisheries and the like.

Saving for conditions binding on landlords.

Saving for conditions binding on landlords.

Tenant not enabled by Act to violate conditions binding on landlord.

194. Where a proprietor or permanent tenure-holder holds his estate or tenure subject to the observance of any specified rule or condition, nothing in this Act shall entitle

Bengal Tenancy Act.

(Schedule I.—Repeal of Enactments.)

any person occupying land within the estate or tenure to do any act which involves a violation of that rule or condition.

Savings for special enactments.

Savings for special enactments.

Savings for special enactments.

195. Nothing in this Act shall affect—

(*a*) the powers and duties of Settlement-officers as defined by any law not expressly repealed by this Act;

(*b*) any enactment regulating the procedure for the realization of rents in estates belonging to the Government, or under the management of the Court of Wards or of the Revenue-authorities;

(*c*) any enactment relating to the avoidance of tenancies and incumbrances by a sale for arrears of the Government revenue;

(*d*) any enactment relating to the partition of revenue-paying estates;

(*e*) any enactment relating to patní tenures, in so far as it relates to those tenures; or

(*f*) any other special or local law not repealed either expressly or by necessary implication by this Act.

Construction of Act.

Construction of Act.

Act to be read subject to Acts hereafter passed by Lieutenant-Governor of Bengal in Council.

196. This Act shall be read subject to every Act passed after its commencement by the Lieutenant-Governor of Bengal in Council.

SCHEDULE I.

(See section 2.)

REPEAL OF ENACTMENTS.

Regulations of the Bengal Code.

Number and year.	Subject of Regulation.	Extent of repeal.
VIII of 1793	A Regulation for re-enacting with modifications and amendments the rules for the Decennial Settlement of the Public Revenue payable from the lands of the zamíndárs, independent taluqdárs and other actual proprietors of land in Bengal, Behar and Orissa, passed for those Provinces respectively on the 18th September, 1789, the 25th November, 1789, and the 10th February, 1790, and subsequent dates.	Sections 51, 52, 53, 54, 55, 61 and 65.
XII of 1805	A Regulation for the settlement and collection of the Public Revenue in the zila of Cuttack, including the parganas of Pattáspur, Kummadichour, and Bagrae, at present included in the zila of Midnapur.	Section 7.

SCHEDULE I—*contd.*

Number and year.	Subject of Regulation.	Extent of repeal.
V of 1812	A Regulation for amending some of the rules at present in force for the collection of the Land-revenue.	Sections 2, 3, 4, 26 and 27.
XVIII of 1812	A Regulation for explaining Section 2, Regulation V, 1812, and rescinding Sections 3 and 4, Regulation XLIV, 1793, and Sections 3 and 4, Regulation L, 1795, and enacting other rules in lieu thereof.	The preamble and sections 2 and 3.
XI of 1825	A Regulation for declaring the rules to be observed in determining claims to lands gained by alluvion or by dereliction of a river or the sea.	In clause 1 of section 4, from and including the words "nor if annexed to a subordinate tenure" to the end of the clause.

Acts of the Bengal Council.

Number and year.	Subject of Act.	Extent of repeal.
VI of 1862	An Act to amend Act X of 1859 (to amend the law relating to the recovery of rent in the Presidency of Fort William in Bengal).	The whole Act.
IV of 1867	An Act to explain and amend Act VI of 1862, passed by the Lieutenant-Governor of Bengal in Council, and to give validity to certain judgments.	The whole Act.
VIII of 1869	An Act to amend the Procedure in suits between Landlords and Tenants.	The whole Act.
VIII of 1879	An Act to define and limit the powers of Settlement-officers.	The whole Act.

Act of the Governor General in Council.

Number and year.	Subject of Act.	Extent of repeal.
X of 1859	An Act to amend the law relating to the recovery of rent in the Presidency of Fort William in Bengal.	The whole Act.

Bengal Tenancy Act.

(Schedule II.—Forms of Receipt and Account.)

SCHEDULE II.

FORMS OF RECEIPT AND ACCOUNT.

(See sections 56 and 57.)

FORM OF RECEIPT.

PARTICULARS OF THE HOLDING (TENANT'S PORTION).

1. Serial number of Receipt
2. Estate ; Village ; Thánd
3. Tenant's name , Son of
4. Particulars of the holding—
   Nukdi, Bighás ; rent Rs.
   Baouli, Bighás ; Maunds ; or Rs.
   Government Cesses { Julkur, Rs. / Bunkur, Rs. / Phulkur, Rs. } { Road Cess, Rs. / Public Works Cess, Rs. }
5. Signature of the Landlord or his Authorized Agent

FORM OF RECEIPT.

PARTICULARS OF THE HOLDING (LANDLORD'S PORTION).

1. Serial number of Receipt
2. Estate ; Village ; Thánd
3. Tenant's name , Son of
4. Particulars of the holding—
   Nukdi, Bighás ; rent Rs.
   Baouli, Bighás ; Maunds ; or Rs.
   Government Cesses { Julkur, Rs. / Bunkur, Rs. / Phulkur, Rs. } { Road Cess, Rs. / Public Works Cess, Rs. }
5. Signature of the Landlord or his Authorized Agent

Section 55 of the Bengal Tenancy Act, 1885, provides as follows:—

(1) When a tenant makes a payment on account of rent, he may declare the year or the year and instalment to which he wishes the payment to be credited, and the payment shall be credited accordingly.

(2) If he does not make any such declaration, the payment may be credited to the account of such year and instalment as the landlord thinks fit.

Bengal Tenancy Act.

(Schedule II.—Forms of Receipt and Account.)

DETAILS OF PAYMENTS (LANDLORD'S PORTION).

Date of payment, and name of person through whom paid.	Nukdi.		Baouli.		Julkur, &c.		Cesses.		
	Current on account of kist.	Arrear on account of year, kist.	Current on account of crop.	Arrear on account of year, crop.	Current on account of kist.	Arrear on account of year, kist.	Current on account of kist.	Arrear on account of year, kist.	

DETAILS OF PAYMENTS (TENANT'S PORTION).

Date of payment, and name of person through whom paid.	Nukdi.		Baouli.		Julkur, &c.		Cesses.		Signature of the landlord or his authorized agent.
	Current on account of kist.	Arrear on account of year, kist.	Current on account of crop.	Arrear on account of year, crop.	Current on account of kist.	Arrear on account of year, kist.	Current on account of kist.	Arrear on account of year, kist.	

Bengal Tenancy Act.

(Schedule II.—Forms of Receipt and Account.)

FORM OF ACCOUNT.

1. Year
2. Tenant's name
3. Particulars of holding—(area, rent, &c.)

	Bighás	Rate	Rs. A. P.
Nukdi			
Government Cesses			

	Bighás	Maunds	Rs. A. P.
Baouli			
Julkur	...	...	
Bunkur	...	...	
Phulkur	...	...	

	Maunds	Rs. A. P.
4. Demand of the year ...	...	...
5 Balance of former years (Bakaya) ...		...
		Rs. A. P.
6. Total demand (current and arrear) ...		...
7. Paid each on account of { Current demand		...
{ Arrear demand		...
	Maunds	
8. Paid in kind	...	
		Rs. A. P.
9. Balance outstanding at end of year		
10. Signature of the Landlord or his authorized Agent		

FORM OF ACCOUNT.

1. Year
2. Tenant's name
3. Particulars of holding—(area, rent, &c.)

	Bighás	Rate	Rs. A. P.
Nukdi			
Government Cesses			

	Bighás	Maunds	Rs. A. P.
Baouli			
Julkur	...	...	
Bunkur	...	...	
Phulkur	...	...	

	Maunds	Rs. A. P.
4. Demand of the year ...	...	...
5. Balance of former years (Bakaya) ...		...
		Rs. A. P.
6. Total demand (current and arrear) ...		...
7. Paid each on account of { Current demand		...
{ Arrear demand		...
	Maunds	
8. Paid in kind	...	
		Rs. A. P.
9. Balance outstanding at end of year		
10. Signature of the Landlord or his authorized Agent		

Bengal Tenancy Act.

(Schedule III.—Limitation.)

SCHEDULE III.

LIMITATION.

(See section 184.)

PART I.—*Suits.*

Description of Suit.	Period of Limitation.	Time from which period begins to run.
1. To eject any tenure-holder or raiyat on account of any breach of a condition in respect of which there is a contract expressly providing that ejectment shall be the penalty of such breach.	One year .	The date of the breach.
2. For the recovery of an arrear of rent—		
(*a*) when the arrear fell due before a deposit was made under section 61 on account of the rent of the same holding.	Six months .	The date of the service of notice of the deposit.
(*b*) in other cases .	Three years .	The last day of the Bengali year in which the arrear fell due, where that year prevails, and the last day of the month of Jeyt of the Amli or Fasli year in which the arrear fell due, where either of those years prevails.
3. To recover possession of land claimed by the plaintiff as an occupancy-raiyat.	Two years .	The date of dispossession.

PART II.—*Appeals.*

Description of Appeal.	Period of Limitation.	Time from which period begins to run.
From any decree or order under this Act, to the Court of a District Judge or Special Judge.	Thirty days .	The date of the decree or order appealed against.
From any order of a Collector under this Act, to the Commissioner.	Thirty days .	The date of the order appealed against.

PART III.—*Applications.*

Description of Application.	Period of Limitation.	Time from which period begins to run.
6. For the execution of a decree or order made under this Act, or any Act repealed by this Act, and not being a decree for a sum of money exceeding Rs. 500, exclusive of any interest which may have accrued after decree upon the sum decreed, but inclusive of the costs of executing such decree; except where the judgment-debtor has by fraud or force prevented the execution of the decree, in which case the period of limitation shall be governed by the provisions of the Indian Limitation Act, 1877.	Three year .	(1) The date of the decree or order; or (2) where there has been an appeal, the date of the final decree or order of the Appellate Court; or (3) where there has been a review of judgment, the date of the decision passed on the review.

R. J. CROSTHWAITE,

Offg. Secy. to the Govt. of India.

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PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA

LEGISLATIVE DEPARTMENT.

[First publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 29th May, 1885, and is hereby promulgated for general information:—

ACT No. IX OF 1885.

An Act to repeal part of section 6 of the Indian Tariff Act, 1882, and to amend the Excise Act, 1881, the Bengal Excise Act, 1878, and the Sea Customs Act, 1878.

WHEREAS it is expedient to repeal part of section 6 of the Indian Tariff Act, 1882, and to amend section 7 of the Excise Act, 1881, section 18 of the Bengal Excise Act, 1878, and sections 145, 149 and 207 of the Sea Customs Act, 1878, in manner hereinafter appearing; It is hereby enacted as follows:—

XI of 1882. XXII of 1881. Beng. Act VII of 1878. VIII of 1878.

XI of 1882. **1.** The part of section 6 of the Indian Tariff Act, 1882, beginning with the words "And whereas," down to and including the words "been paid," is repealed.

Repeal of part of section 6 of Act XI of 1882.

XXII of 1881. **2.** For clause (*a*) of section 7 of the Excise Act, 1881, the following clause shall be substituted:—

Amendment of section 7 of Act XXII of 1881.

"(*a*) such duty as the Local Government may from time to time fix in respect of such spirit has been paid, or."

Beng. Act VII of 1878. **3.** In section 18 of the Bengal Excise Act, 1878, for the words "at the rate leviable under any Tariff Act for the time being in force" the words "at such rate as the Local Government may from time to time fix in respect of such spirituous liquor" shall be substituted; but nothing in this section shall affect any Act passed after this Act comes into force by the Lieutenant-Governor of Bengal in Council.

Amendment of section 18 of Bengal Act VII of 1878.

4. The duty now fixed by the Local Government under section 6 of the Indian Tariff Act, 1882, as leviable on spirit manufactured in all or any of the distilleries situate in the territories under its administration, or in any part of such territories, shall, in places in which the Excise Act, 1881, or the Bengal Excise Act, 1878, is in force, be deemed to be the duty fixed by the Local Government under sections 7 and 18 of those Acts, as amended by this Act, respectively.

Saving of duties already fixed under section 6 of Act XI of 1882.

XXII of 1881. Beng. Act VII of 1878.

VIII of 1878. **5.** *(1)* In section 145 of the Sea Customs Act, 1878, after the word "shall" the words "except when provision is made by any enactment for the time being in force for its being intermediately deposited in a licensed warehouse" shall be inserted.

Amendment of sections 145 and 149 of Act VIII of 1878.

(2) In section 149 of the same Act, after the words "custom-house" the words "or to a warehouse licensed under any enactment for the time being in force" shall be inserted.

(3) In section 207 of the same Act, for the word "respectively" the words "or any like body hereafter created for any other port" shall be substituted.

Amendment of section 207 of the same Act.

D. FITZPATRICK,

Secy. to the Govt. of India.

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PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA

LEGISLATIVE DEPARTMENT.

Second publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 29th May, 1885, and is hereby promulgated for general information:—

ACT No. IX OF 1885.

An Act to repeal part of section 6 of the Indian Tariff Act, 1882, and to amend the Excise Act, 1881, the Bengal Excise Act, 1878, and the Sea Customs Act, 1878.

XI of 1882. XXII of 1881. Beng. Act VII of 1878. VIII of 1878.

WHEREAS it is expedient to repeal part of section 6 of the Indian Tariff Act, 1882, and to amend section 7 of the Excise Act, 1881, section 18 of the Bengal Excise Act, 1878, and sections 145, 149 and 207 of the Sea Customs Act, 1878, in manner hereinafter appearing; It is hereby enacted as follows:—

XI of 1882.

1. The part of section 6 of the Indian Tariff Act, 1882, beginning with the words "And whereas," down to and including the words "been paid," is repealed.

Repeal of part of section 6 of Act XI of 1882.

XXII of 1881.

2. For clause (*a*) of section 7 of the Excise Act, 1881, the following clause shall be substituted:—

Amendment of section 7 of Act XXII of 1881.

"(*a*) such duty as the Local Government may from time to time fix in respect of such spirit has been paid, or."

Beng. Act VII of 1878.

3. In section 18 of the Bengal Excise Act, 1878, for the words "at the rate leviable under any Tariff Act for the time being in force" the words "at such rate as the Local Government may from time to time fix in respect of such spirituous liquor" shall be substituted; but nothing in this section shall affect any Act passed after this Act comes into force by the Lieutenant-Governor of Bengal in Council.

Amendment of section 18 of Bengal Act VII of 1878.

XI of 1882.

4. The duty now fixed by the Local Government under section 6 of the Indian Tariff Act, 1882, as leviable on spirit manufactured in all or any of the distilleries situate in the territories under its administration, or in any part of such territories, shall, in places in which the Excise Act, 1881, or the Bengal Excise Act, 1878, is in force, be deemed to be the duty fixed by the Local Government under sections 7 and 18 of those Acts, as amended by this Act, respectively.

Saving of duties already fixed under section 6 of Act XI of 1882.

XXII of 1881. Beng. Act VII of 1878.

VIII of 1878.

5. *(1)* In section 145 of the Sea Customs Act, 1878, after the word "shall" the words "except when provision is made by any enactment for the time being in force for its being intermediately deposited in a licensed warehouse" shall be inserted.

Amendment of sections 145 and 149 of Act VIII of 1878.

(2) In section 149 of the same Act after the words "custom-house" the words "or to a warehouse licensed under any enactment for the time being in force" shall be inserted.

6. In section 207 of the same Act, for the word "respectively" the words "or any like body hereafter created for any other port" shall be substituted.

Amendment of section 207 of the same Act.

D. FITZPATRICK,
Secy. to the Govt. of India.

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PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA

LEGISLATIVE DEPARTMENT.

[Third publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 29th May, 1885, and is hereby promulgated for general information :—

ACT No. IX OF 1885.

An Act to repeal part of section 6 of the Indian Tariff Act, 1882, and to amend the Excise Act, 1881, the Bengal Excise Act, 1878, and the Sea Customs Act, 1878.

WHEREAS it is expedient to repeal part of section 6 of the Indian Tariff Act, 1882, and to amend section 7 of the Excise Act, 1881, section 18 of the Bengal Excise Act, 1878, and sections 145, 149 and 207 of the Sea Customs Act, 1878, in manner hereinafter appearing; It is hereby enacted as follows :—

XI of 1882.

Repeal of part of section 6 of Act XI of 1882.

1. The part of section 6 of the Indian Tariff Act, 1882, beginning with the words "And whereas," down to and including the words "has been paid," is repealed.

XXII of 1881.

Amendment of section 7 of Act XXII of 1881.

2. For clause (*a*) of section 7 of the Excise Act, 1881, the following clause shall be substituted :—

"(*a*) such duty as the Local Government may from time to time fix in respect of such spirit has been paid, or."

Beng. Act VII of 1878.

Amendment of section 18 of Bengal Act VII of 1878.

3. In section 18 of the Bengal Excise Act, 1878, for the words "at the rate leviable under any Tariff Act for the time being in force" the words "at such rate as the Local Government may from time to time fix in respect of such spirituous liquor" shall be substituted; but nothing in this section shall affect any Act passed after this Act comes into force by the Lieutenant-Governor of Bengal in Council.

XI of 1882. XXII of 1881. Beng. Act VII of 1878.

Saving of duties already fixed under section 6 of Act XI of 1882.

4. The duty now fixed by the Local Government under section 6 of the Indian Tariff Act, 1882, as leviable on spirit manufactured in all or any of the distilleries situate in the territories under its administration, or in any part of such territories, shall, in places in which the Excise Act, 1881, or the Bengal Excise Act, 1878, is in force, be deemed to be the duty fixed by the Local Government under sections 7 and 18 of those Acts, as amended by this Act, respectively.

VIII of 1878.

Amendment of sections 145 and 149 of Act VIII of 1878.

5. *(1)* In section 145 of the Sea Customs Act, 1878, after the word "shall" the words "except when provision is made by any enactment for the time being in force for its being intermediately deposited in a licensed warehouse" shall be inserted.

(2) In section 149 of the same Act, after the words "custom-house" the words "or to a warehouse licensed under any enactment for the time being in force" shall be inserted.

Amendment of section 207 of the same Act.

6. In section 207 of the same Act, for the word "respectively" the words "or any like body hereafter created for any other port" shall be substituted.

D. FITZPATRICK,
Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First publication.]

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 12th June, 1885, and is hereby promulgated for general information :—

ACT No. X OF 1885.

An Act to amend the Oudh Estates Act, 1869.

WHEREAS it is expedient to amend the Oudh Estates Act, 1869; It is hereby enacted as follows: — of 1869.

Amendment of definition of "registered" in section 2 of Act I of 1869.

1. Subject to the saving in section 2 of this Act, for the definition of "registered" in section 2 of the said Act there shall be deemed to have been substituted from the date of the passing of the said Act the following definition, namely :—

"Registered." "'Registered' means—

"(*a*) in the case of a will, registered according to the law for the time being in force relating to the registration of assurances, or deposited with a Registrar according to the law for the time being in force relating to the deposit of wills; and

"(*b*) in the case of any other instrument, registered according to the law for the time being in force relating to the registration of assurances."

2. Nothing in section 1 shall affect any will—

Saving of certain wills.

(*a*) declared by a judicial decision pronounced before the passing of this Act to be invalid on the ground that it was not registered in accordance with the provisions of the said Act; or

(*b*) of which the validity is at the time of the passing of this Act being questioned on that ground in a suit commenced before the twenty-third day of October, 1884.

D. FITZPATRICK,
Secy. to the Govt. of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, JUNE 20, 1885.

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

PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second publication.]

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 12th June, 1885, and is hereby promulgated for general information :—

ACT No. X OF 1885.

An Act to amend the Oudh Estates Act, 1869.

WHEREAS it is expedient to amend the Oudh Estates Act, 1869; It is hereby enacted as follows: —

Amendment of definition of "registered" in section 2 of Act I of 1869.

1. Subject to the saving in section 2 of this Act, for the definition of "registered" in section 2 of the said Act there shall be deemed to have been substituted from the date of the passing of the said Act the following definition, namely :—

"Registered."

"'Registered' means—

"(*a*) in the case of a will, registered according to the law for the time being in force relating to the registration of assurances, or deposited with a Registrar according to the law for the time being in force relating to the deposit of wills; and

"(*b*) in the case of any other instrument, registered according to the law for the time being in force relating to the registration of assurances."

Saving of certain wills.

2. Nothing in section 1 shall affect any will—

(*a*) declared by a judicial decision pronounced before the passing of this Act to be invalid on the ground that it was not registered in accordance with the provisions of the said Act; or

(*b*) of which the validity is at the time of the passing of this Act being questioned on that ground in a suit commenced before the twenty-third day of October, 1884.

D. FITZPATRICK,

Secy. to the Govt. of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, JUNE 27, 1885.

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

PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third publication.]

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 12th June, 1885, and is hereby promulgated for general information :—

ACT No. X OF 1885.

An Act to amend the Oudh Estates Act, 1869.

I of 1869.

WHEREAS it is expedient to amend the Oudh Estates Act, 1869; It is hereby enacted as follows : —

Amendment of definition of "registered" in section 2 of Act I of 1869.

1. Subject to the saving in section 2 of this Act, for the definition of "registered" in section 2 of the said Act there shall be deemed to have been substituted from the date of the passing of the said Act the following definition, namely :—

"Registered."

"'Registered' means—

"(*a*) in the case of a will, registered according to the law for the time being in force relating to the registration of assurances, or deposited with a Registrar according to the law for the time being in force relating to the deposit of wills; and

"(*b*) in the case of any other instrument, registered according to the law for the time being in force relating to the registration of assurances."

Saving of certain wills.

2. Nothing in section 1 shall affect any will—

(*a*) declared by a judicial decision pronounced before the passing of this Act to be invalid on the ground that it was not registered in accordance with the provisions of the said Act; or

(*b*) of which the validity is at the time of the passing of this Act being questioned on that ground in a suit commenced before the twenty-third day of October, 1884.

D. FITZPATRICK,
Secy. to the Govt. of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, JULY 11, 1885.

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

PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First publication.]

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 10th July, 1885, and is hereby promulgated for general information:—

ACT No. XI OF 1885.

An Act to correct an error in the Burma Municipal Act, 1884.

WHEREAS it is expedient to correct an error in the Burma Municipal Act, 1884; It is hereby enacted as follows:—

(1) In section 58 of the said Act, for the word "occupation" the word "possession" shall be substituted.

(2) The substitution made by sub-section *(1)* shall be deemed to have been made from the date on which the said Act came into force.

D. FITZPATRICK,

The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, JULY 18, 1885.

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

PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second publication.]

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 10th July, 1885, and is hereby promulgated for general information:—

ACT No. XI OF 1885.

An Act to correct an error in the Burma Municipal Act, 1884.

WHEREAS it is expedient to correct an error in the Burma Municipal Act, 1884; It is hereby enacted as follows:— [illegible] XVII of

(1) In section 58 of the said Act, for the word "occupation" the word "possession" shall be substituted.

(2) The substitution made by sub-section (1) shall be deemed to have been made from the date on which the said Act came into force.

D. FITZPATRICK,

Secy. to the Govt. of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, JULY 25, 1885.

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

PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third publication.]

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 10th July, 1885, and is hereby promulgated for general information :—

ACT No. XI OF 1885.

An Act to correct an error in the Burma Municipal Act, 1884.

WHEREAS it is expedient to correct an error in the Burma Municipal Act, 1884; It is hereby enacted as follows :— XVII of 1884.

(1) In section 58 of the said Act, for the word "occupation" the word "possession" shall be substituted.

(2) The substitution made by sub-section *(1)* shall be deemed to have been made from the date on which the said Act came into force.

D. FITZPATRICK,

Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First publication.]

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 22nd July, 1885, and is hereby promulgated for general information :—

ACT No. XII OF 1885.

An Act to amend the law relating to the carriage of passengers by sea.

18 & 19 Vic., c. 119.

WHEREAS by section 99 of an Act of the Imperial Parliament called "The Passengers Act, 1855," it is enacted that "it shall be lawful for the Governor-General of India in Council, from time to time, by any Act or Acts to be passed for that purpose, to declare that this Act or any part thereof shall apply to the carriage of passengers upon any voyage, from any ports or places within the territories of British India, to be specified in such Act or Acts, to any other places whatsoever, to be also specified in such Act or Acts;" and it is thereby also enacted that "on the passing of such Indian Act or Acts, and whilst the same shall remain in force, all such parts of this Act as shall be adopted therein shall apply to and extend to the carriage of passengers upon such voyages as in the said Indian Act or Acts shall be specified. The provisions of such Indian Act shall be enforced in all Her Majesty's possessions in like manner as the provisions of this Act may be enforced;"

And whereas certain parts of the said Act of Parliament were by Act II of 1860 *(to amend the law relating to the carriage of passengers by sea)* made applicable to the carriage of passengers upon certain specified voyages;

26 & 27 Vic., c. 51. 18 & 19 Vic., c. 119.

And whereas by an Act of the Imperial Parliament called "The Passengers Act Amendment Act, 1863," certain parts of the Passengers Act, 1855, which were so made applicable, have been amended, and it is provided that the said Acts of the Imperial Parliament shall be construed together as one Act;

18 & 19 Vic., c. 119.

And whereas it is expedient that the amendments so made in the Passengers Act, 1855, should also be made in the parts of that Act so made applicable, and it is also expedient to apply those parts so amended to the carriage of passengers upon certain voyages not specified in Act II of 1860;

It is hereby enacted as follows :—

Short title and commencement.

1. *(1)* This Act may be called the Indian Sea Passengers Act, 1885; and

(2) It shall come into force on the first day of October, 1885.

Repeal of Act II of 1860.

2. On and from the day on which this Act comes into force, Act II of 1860 *(to amend the law relating to the carriage of passengers by sea)* shall be repealed.

Certain provisions of the Statutes made applicable to specified voyages from India.

3. The provisions contained in sections 4, 5 and 6 of this Act, and the schedule hereto annexed (being parts of the Passengers Act, 1855, as amended by the Passengers Act Amendment Act, 1863), are declared applicable to the carriage of passengers upon the following voyages, namely :— 18 & 19 Vic., c. 119; 26 & 27 Vic., c. 51.

(*a*) voyages from the ports of Calcutta, Madras and Bombay to the British Colonies of Mauritius, Jamaica, British Guiana, Trinidad, St. Lucia, Grenada, St. Vincent, Natal, St. Kitts, Nevis and Fiji;

(*b*) voyages from the ports of Calcutta, Madras and Bombay to the French Colonies of Réunion, Martinique, Guadeloupe and its dependencies, and Guiana;

(*c*) voyages from the ports of Calcutta, Madras and Bombay to the Netherlands colony of Dutch Guiana;

(*d*) voyages from the ports of Calcutta, Madras and Bombay to the Danish colony of St. Croix;

(*e*) voyages under the Native Passenger Ships Act, 1876, from Calcutta, Madras, Bombay, Karáchí, Rangoon and other ports in British India to the Straits Settlements, to the protected Native States adjoining the Straits Settlements, to Australia, and to ports in the Red Sea, Gulf of Aden or Persian Gulf and on the East Coast of Africa. VIII of 1876.

Governors or Consuls may pay expenses of passengers taken off passenger-ship.

4. If the passengers or cabin-passengers upon any such voyage as is specified in the last preceding section are taken off from the ship carrying them or are picked up at sea from any boat, raft or otherwise, it shall be lawful, if the port or place to which they are conveyed is in any of Her Majesty's colonial possessions, for the Governor of such colony, or for any person authorized by him for the purpose,

or, if in any foreign country, for Her Majesty's Consular Officer at such port or place therein, to defray all or any part of the expenses thereby incurred.

Governors or Consuls may send on passengers, if the master of the ship fail to do so.

5. If any passenger or cabin-passenger of any such passenger-ship as aforesaid, without any neglect or default of his own, finds himself within any colonial or foreign port or place other than that for which the ship was originally bound, or at which he, or the Emigration Agent, or any public officer or other person on his behalf, has contracted that he should land, it shall be lawful for the Governor of the colony, or for any person authorized by him for the purpose, or for Her Majesty's Consular Officer at the foreign port or place, as the case may be, to forward the passenger or cabin-passenger to his intended destination, unless the master of the ship, within forty-eight hours of the arrival of such passenger or cabin-passenger, gives to the Governor or Consular Officer, as the case may be, a written undertaking to forward or carry on within six weeks thereafter the passenger or cabin-passenger to his original destination, and unless the master accordingly forwards or carries him on within that period.

Expenses incurred under sections 4 and 5 to be a Crown debt.

6. *(1)* All expenses incurred under the last two preceding sections, or either of them, by or by the authority of a Governor or Consular Officer, or other person as therein respectively mentioned, including the cost of maintaining the passengers and cabin-passengers until forwarded to their destination, and of all necessary bedding, provisions and stores, shall become a debt to Her Majesty and Her successors from the owner, charterer and master of the ship, and shall be recoverable from them, or from any one or more of them, at the suit and for the use of Her Majesty, in like manner as in the case of other Crown debts.

(2) A certificate in the form given in the schedule hereto annexed, or as near thereto as the circumstances of the case will admit, purporting to be under the hand of any such Governor or Consular Officer (as the case may be), stating the total amount of the expenses, shall, in any suit or other proceeding for the recovery of the debt, be received in evidence without proof of the handwriting or of the official character of the Governor or Consular Officer, and shall be deemed sufficient evidence of the amount of the expenses, and that the same were duly incurred;

nor shall it be necessary to adduce on behalf of Her Majesty any other evidence in support of the claim, but judgment shall pass for the Crown, with costs of suit, unless the defendant specially pleads and duly proves that the certificate is false or fraudulent, or specially pleads and duly proves any facts showing that the expenses were not duly incurred:

Provided, nevertheless, that in no case shall any larger sum be recovered on account of the expenses than a sum equal to twice the total amount of passage-money received or due to and recoverable by or on account of the owner, charterer or master of the passenger-ship or any of them from or on account of the whole number of passengers and cabin-passengers who may have embarked in the ship; which total amount of passage-money shall be proved by the defendant if he will have the advantage of this limitation of the debt; but if any such passengers are forwarded or conveyed to their intended destination under the provisions of the last preceding section, they shall not be entitled to the return of their passage-money, or to any compensation for loss of passage.

Insurance.

7. No policy of assurance effected in respect of any passages or of any passage or compensation money by any person by this Act made liable in the events aforesaid to provide those passages or to pay that money, or in respect of any other risk under this Act, shall be deemed invalid by reason of the nature of the risk or interest sought to be covered by the policy of assurance.

THE SCHEDULE.

Form of Governor's or Consul's Certificate of Expenditure in the case of Passengers shipwrecked, &c.

(See section 6.)

I hereby certify that acting under, and in conformity with, the provisions of the Indian Sea Passengers Act, 1885, I have defrayed the expenses incurred in rescuing, maintaining, supplying with necessary bedding, provisions and stores (*a*), and in forwarding to their destination passengers [including cabin-passengers (*b*)], who were proceeding from to in the passenger-ship which was wrecked at sea, &c. (*c*).

And I further certify, for the purposes of the sixth section of the said Indian Sea Passengers Act, 1885, that the total amount of such expenses is , and that such expenses were duly incurred by me under the said Act.

Given under my hand this day of , 18 .

{ *Governor of, &c.* (or, as the case may be) *Her Britannic Majesty's Consul at*

(*a*) *N.B.*—1. If more passengers were rescued than forwarded, or if bedding, &c., was not supplied, alter the certificate to suit the facts of the case.

(*b*) *N.B.*—2. Omit words in brackets when necessary.

(*c*) *N.B.*—3. State generally the nature of the disaster and where it occurred. But if the passengers were only left behind without any default of their own, state the fact accordingly.

D. FITZPATRICK,
Secy. to the Govt. of India.

LEGISLATIVE DEPARTMENT.

THE following Report on the Bill to amend the law relating to the carriage of passengers by sea was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 8th July, 1885:—

We, the undersigned, Members of the Select Committee to which the Bill to amend the law relating to the carriage of passengers by sea was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report.

From Officiating Secretary to Chief Commissioner, British Burma, No. 301—5M.S., dated 13th February, 1885 [Paper No. 1].
From Secretary to Government, Bengal, No. 409, dated 19th February, 1885, and enclosures [Papers No. 2].
From Chief Secretary to Government, Madras, No. 486J., dated 20th February, 1885, and enclosures [Papers No. 3].
From Under Secretary to Government, Bombay, No. 753, dated 28th February, 1885, and enclosures [Papers No. 4].
From Officiating Registrar, High Court, Calcutta, No. 1018, dated 27th March, 1885 [Papers No. 5].

2. The papers contain several suggestions both by officials and by commercial bodies which might be well worthy of consideration if the question were one as to the amendment of the English Passengers Acts, but which, having regard to the conditions under which we are now proceeding, it is beyond our power to entertain.

Acting, as we are, under the 99th section of the 18 & 19 Vic., c. 119, which is recited in the preamble to the Bill, we are restricted to applying to the voyages here in question the provisions of the English Passengers Acts as they stand; and if we were to introduce any modifications in the substance of those provisions, we should in all probability fail to secure for our Act the effect referred to at the end of the preamble, namely, that its provisions "shall be enforced in all Her Majesty's possessions in like manner as the provisions" of the English Passengers Acts.

3. Thus, we have no power to adopt the suggestion of the Bengal Chamber of Commerce that we should amend section 5 of the Bill so as to compel a Colonial Governor or Consular Officer to accept an undertaking to forward passengers offered by the owner, charterer or agent of a ship. We may observe, however, that, having regard to the definition of "master" in the Passengers Acts, and to the duties of a master of a wrecked ship, the contingency of there being no master of a wrecked ship, which this amendment was intended to meet, is one likely to be of very rare occurrence.

Moreover, as the Governor or Consular Officer is not compelled to act under the section, but has a discretion in the matter, there can be little doubt that in the case put he would accept the undertaking of the owner, charterer or agent.

4. Similarly, it would be beyond our powers, even if we thought it desirable to do so, to adopt the suggestion of the Madras Chamber that a shipowner should be relieved of the liability imposed by section 6 of the Bill in cases in which the ship is prevented from completing her voyage by the act of God or the Queen's enemies.

It appears to us, however, that the risk involved is one which should be provided against by insurance; and, in order to remove all doubt as to the possibility of so providing against it we have introduced into the Bill a section (7) similar to section 55 of the Passengers Act, 1855, expressly legalizing such insurances.

5. The Government of Bombay draw attention to the want of a provision like section 14 of the Passengers Act Amendment Act, 1863, to meet the case of passengers who may be left in British India owing to their ship being wrecked before she leaves the territorial waters, or who may be brought back to British India owing to their ship being wrecked or disabled after proceeding some short distance on her voyage. We are disposed to agree in thinking some such provision desirable, but the extraordinary powers under which we are now acting are not needed for its enactment, and we think the matter could be more conveniently dealt with in our Native Passengers and Emigration Acts, where we should be free to mould the law as we think fit to suit local requirements.

6. We have, at the suggestion of Brigadier-General Blair, the Political Resident at Aden, amended section 3 (*c*) so as to extend the Bill to voyages to ports on the East Coast of Africa and in the Gulf of Aden.

7. We have also made such amendments as were necessary to render it clear that the Bill extends, as the English Acts do, to cabin passengers.

8. The publication ordered by the Council has been made as follows:—

In English.

Gazette.	*Date.*
Gazette of India ...	... 20th and 27th December, 1884, and 3rd January, 1885.
Fort St. George Gazette ...	... 13th January, 1885.
Bombay Government Gazette ...	... 25th December, 1884, and 1st and 8th January, 1885.
Calcutta Gazette ...	... 24th and 31st December, 1884, and 7th January, 1885.
British Burma Gazette ...	... 10th, 17th and 24th January, 1885.

In the Vernaculars.

Province.	*Language.*	*Date.*
Bombay	Maráthí ...	12th February, 1885.
	Gujaráthí ...	
	Kanarese ...	
Bengal	Bengalí ...	20th and 27th January, and 3rd February, 1885.
	Hindí ...	
	Uriya ...	29th January, and 5th and 12th February, 1885.
British Burma	Burmese ...	7th, 14th and 21st February, 1885.

We do not think that the measure has been so altered as to require re-publication, and we recommend that it be passed as now amended.

C. P. ILBERT.

S. C. BAYLEY.

The 8th July, 1885.

D. FITZPATRICK,
Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First publication.]

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 22nd July, 1885, and is hereby promulgated for general information :—

ACT No. XIII OF 1885.

THE INDIAN TELEGRAPH ACT, 1885.

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The Indian Telegraph Act, 1885.
(Part I.—Preliminary.—Sections 1-3)
(Part II.—Privileges and Powers of the Government.—Sections 4-7.)

An Act to amend the law relating to Telegraphs in India.

WHEREAS it is expedient to amend the law relating to telegraphs in India; It is hereby enacted as follows:—

PART I.

PRELIMINARY.

Short title, local extent and commencement.

1. *(1)* This Act may be called the Indian Telegraph Act, 1885.

(2) It extends to the whole of British India, and, so far as regards subjects of Her Majesty, to the dominions of Princes and States in India in alliance with Her Majesty; and

(3) It shall come into force on the first day of October, 1885.

Repeal and savings. I of 1876.

2. The Indian Telegraph Act, 1876, is hereby repealed.

But all licenses granted and rules made under that Act or any Act thereby repealed, and now in force, shall, so far as they could be granted or made under this Act, be deemed to have been respectively granted and made hereunder.

Definitions.

3. In this Act, unless there is something repugnant in the subject or context,—

(1) "Telegraph" means an electric, galvanic or magnetic telegraph, and includes appliances and apparatus for transmitting or making telegraphic, telephonic or other communications by means of electricity, galvanism or magnetism:

(2) "Telegraph officer" means any person employed either permanently or temporarily in connection with a telegraph established, maintained or worked by the Government or by a person licensed under this Act:

(3) "Message" means any communication sent by telegraph, or given to a telegraph officer to be sent by telegraph or to be delivered:

(4) "Telegraph line" means a wire or wires used for the purpose of a telegraph, with any casing, coating, tube or pipe enclosing the same, and any appliances and apparatus connected therewith for the purpose of fixing or insulating the same:

(5) "Post" means a post, pole, standard, stay, strut or other above-ground contrivance for carrying, suspending or supporting a telegraph line:

(6) "Telegraph authority" means the Director General of Telegraphs, and includes any officer empowered by him to perform all or any of the functions of the telegraph authority under this Act:

(7) "Local authority" means any municipal committee, district board, body of port commissioners or other authority legally entitled to, or entrusted by the Government with, the control or management of any municipal or local fund.

PART II.

PRIVILEGES AND POWERS OF THE GOVERNMENT.

Exclusive privilege in respect of telegraphs, and power to grant licenses.

4. Within British India, the Governor-General in Council shall have the exclusive privilege of establishing, maintaining and working telegraphs:

Provided that the Governor-General in Council may grant a license, on such conditions and in consideration of such payments as he thinks fit, to any person to establish, maintain or work a telegraph within any part of British India.

Power for Government to take possession of licensed telegraphs and to order interception of messages.

5. *(1)* On the occurrence of any public emergency, or in the interest of the public safety, the Governor-General in Council or a Local Government, or any officer specially authorised in this behalf by the Governor-General in Council, may—

(a) take temporary possession of any telegraph established, maintained or worked by any person licensed under this Act; or

(b) order that any message or class of messages to or from any person or class of persons, or relating to any particular subject, brought for transmission by or transmitted or received by any telegraph, shall not be transmitted, or shall be intercepted or detained, or shall be disclosed to the Government or an officer thereof mentioned in the order.

(2) If any doubt arises as to the existence of a public emergency, or whether any act done under sub-section *(1)* was in the interest of the public safety, a certificate signed by a Secretary to the Government of India or to the Local Government shall be conclusive proof on the point.

Power to establish telegraph on land of Railway Company.

6. Any Railway Company, on being required so to do by the Governor-General in Council, shall permit the Government to establish and maintain a telegraph upon any part of the land of the Company, and shall give every reasonable facility for working the same.

Power to make rules for the conduct of telegraphs.

7. *(1)* The Governor-General in Council may, from time to time, by notification in the *Gazette of India*, make rules consistent with this Act for the conduct of all or any telegraphs established, maintained or worked by the Government or by persons licensed under this Act.

(2) Rules under this section may provide for all or any of the following, among other matters, that is to say:—

(a) the rates at which, and the other conditions and restrictions subject to which, messages shall be transmitted;

(b) the precautions to be taken for preventing the improper interception or disclosure of messages;

(c) the period for which, and the conditions subject to which, telegrams and other documents belonging to, or being in the custody of, telegraph officers shall be preserved; and

The Indian Telegraph Act, 1885.
(Part II.—Privileges and Powers of the Government.—Sections 8-9.)
(Part III.—Power to place Telegraph Lines and Posts.—Sections 10-15.)

(d) the fees to be charged for searching for telegrams or other documents in the custody of any telegraph officer.

(3) When making rules for the conduct of any telegraph established, maintained or worked by any person licensed under this Act, the Governor-General in Council may by the rules prescribe fines for any breach of the same:

Provided that the fines so prescribed shall not exceed the following limits, namely:—

(i) when the person licensed under this Act is punishable for the breach, one thousand rupees, and in the case of a continuing breach a further fine of two hundred rupees for every day after the first during the whole or any part of which the breach continues;

(ii) when a servant of the person so licensed, or any other person, is punishable for the breach, one-fourth of the amounts specified in clause (i).

Revocation of licenses.

8. The Governor-General in Council may, at any time, revoke any license granted under section 4, on the breach of any of the conditions therein contained, or in default of payment of any consideration payable thereunder.

Government not responsible for loss or damage.

9. The Secretary of State for India in Council shall not be responsible for any loss or damage which may occur in consequence of any telegraph officer failing in his duty with respect to the receipt, transmission or delivery of any message; and no such officer shall be responsible for any such loss or damage, unless he causes the same negligently, maliciously or fraudulently.

PART III.

POWER TO PLACE TELEGRAPH LINES AND POSTS.

Power for telegraph authority to place and maintain telegraph lines and posts.

10. The telegraph authority may, from time to time, place and maintain a telegraph line under, over, along or across, and posts in or upon, any immoveable property:

Provided that—

(a) the telegraph authority shall not exercise the powers conferred by this section except for the purposes of a telegraph established or maintained by the Government, or to be so established or maintained;

(b) the Government shall not acquire any right other than that of user only in the property under, over, along, across, in or upon which the telegraph authority places any telegraph line or post; and

(c) except as hereinafter provided, the telegraph authority shall not exercise those powers in respect of any property vested in or under the control or management of any local authority, without the permission of that authority; and

(d) in the exercise of the powers conferred by this section, the telegraph authority shall do as little damage as possible, and, when it has exercised those powers in respect of any property other than that referred to in clause *(c)*, shall pay full compensation to all persons interested for any damage sustained by them by reason of the exercise of those powers.

Power to enter on property in order to repair or remove telegraph lines or posts.

11. The telegraph authority may, at any time, for the purpose of examining, repairing, altering or removing any telegraph line or post, enter on the property under, over, along, across, in or upon which the line or post has been placed.

Provisions applicable to Property vested in or under the Control or Management of Local Authorities.

Power for local authority to give permission under section 10, clause (c), subject to conditions.

12. Any permission given by a local authority under section 10, clause *(c)*, may be given subject to such reasonable conditions as that authority thinks fit to impose, as to the payment of any expenses to which the authority will necessarily be put in consequence of the exercise of the powers conferred by that section, or as to the time or mode of execution of any work, or as to any other thing connected with or relative to any work undertaken by the telegraph authority under those powers.

Power for local authority to require removal or alteration of telegraph line or post.

13. When, under the foregoing provisions of this Act, a telegraph line or post has been placed by the telegraph authority under, over, along, across, in or upon any property vested in or under the control or management of a local authority, and the local authority, having regard to circumstances which have arisen since the telegraph line or post was so placed, considers it expedient that it should be removed or that its position should be altered, the local authority may require the telegraph authority to remove it or alter its position, as the case may be.

Power to alter position of gas or water pipes or drains.

14. The telegraph authority may, for the purpose of exercising the powers conferred upon it by this Act in respect of any property vested in or under the control or management of a local authority, alter the position thereunder of any pipe (not being a main) for the supply of gas or water, or of any drain (not being a main drain):

Provided that—

(a) when the telegraph authority desires to alter the position of any such pipe or drain it shall give reasonable notice of its intention to do so, specifying the time at which it will begin to do so, to the local authority, and, when the pipe or drain is not under the control of the local authority, to the person under whose control the pipe or drain is;

(b) a local authority or person receiving notice under clause *(a)* may send a person to superintend the work, and the telegraph authority shall execute the work to the reasonable satisfaction of the person so sent.

Disputes between telegraph authority and local authority.

15. *(1)* If any dispute arises between the telegraph authority and a local authority in consequence of the local authority refusing the permission referred to in section 10, clause *(c)*, or prescribing any condition under section 12, or in consequence of the telegraph authority

The Indian Telegraph Act, 1885.

(Part III.—Power to place Telegraph Lines and Posts.—Sections 16-19.)
(Part IV.—Penalties.—Sections 20-21.)

omitting to comply with a requisition made under section 13, or otherwise in respect of the exercise of the powers conferred by this Act, it shall be determined by such officer as the Local Government may appoint either generally or specially in this behalf.

(2) An appeal from the determination of the officer so appointed shall lie to the Local Government; and the order of the Local Government shall be final.

Provisions applicable to other Property.

Exercise of powers conferred by section 10, and disputes as to compensation, in case of property other than that of a local authority.

16. *(1)* If the exercise of the powers mentioned in section 10 in respect of property referred to in clause (*d*) of that section is resisted or obstructed, the District Magistrate may, in his discretion, order that the telegraph authority shall be permitted to exercise them.

(2) If, after the making of an order under sub-section (*1*), any person resists the exercise of those powers, or, having control over the property, does not give all facilities for their being exercised, he shall be deemed to have committed an offence under section 188 of the Indian Penal Code.

XLV of 1860.

(3) If any dispute arises concerning the sufficiency of the compensation to be paid under section 10, clause (*d*), it shall, on application for that purpose by either of the disputing parties to the District Judge within whose jurisdiction the property is situate, be determined by him.

(4) If any dispute arises as to the persons entitled to receive compensation, or as to the proportions in which the persons interested are entitled to share in it, the telegraph authority may pay into the Court of the District Judge such amount as he deems sufficient or, where all the disputing parties have in writing admitted the amount tendered to be sufficient or the amount has been determined under sub-section (*3*), that amount; and the District Judge, after giving notice to the parties and hearing such of them as desire to be heard, shall determine the persons entitled to receive the compensation or, as the case may be, the proportions in which the persons interested are entitled to share in it.

(5) Every determination of a dispute by a District Judge under sub-section (*3*) or sub-section (*4*) shall be final:

Provided that nothing in this sub-section shall affect the right of any person to recover by suit the whole or any part of any compensation paid by the telegraph authority, from the person who has received the same.

Removal or alteration of telegraph line or post on property other than that of a local authority.

17. *(1)* When, under the foregoing provisions of this Act, a telegraph line or post has been placed by the telegraph authority under, over, along, across, in or upon any property, not being property vested in or under the control or management of a local authority, and any person entitled to do so desires to deal with that property in such a manner as to render it necessary or convenient that the telegraph line or post should be removed to another part thereof or to a higher or lower level or altered in form, he may require the telegraph authority to remove or alter the line or post accordingly:

Provided that, if compensation has been paid under section 10, clause (*d*), he shall, when making the requisition, tender to the telegraph authority the amount requisite to defray the expense of the removal or alteration, or half of the amount paid as compensation, whichever may be the smaller sum.

(2) If the telegraph authority omits to comply with the requisition, the person making it may apply to the District Magistrate within whose jurisdiction the property is situate to order the removal or alteration.

(3) A District Magistrate receiving an application under sub-section (*2*) may, in his discretion, reject the same or make an order, absolutely or subject to conditions, for the removal of the telegraph line or post to any other part of the property or to a higher or lower level or for the alteration of its form; and the order so made shall be final.

Provisions applicable to all Property.

Removal of trees interrupting telegraphic communication.

18. *(1)* If any tree standing or lying near a telegraph line interrupts, or is likely to interrupt, telegraphic communication, a Magistrate of the first or second class may, on the application of the telegraph authority, cause the tree to be removed or dealt with in such other way as he deems fit.

(2) When disposing of an application under sub-section (*1*), the Magistrate shall, in the case of any tree in existence before the telegraph line was placed, award to the persons interested in the tree such compensation as he thinks reasonable, and the award shall be final.

Telegraph lines and posts placed before the passing of this Act.

19. Every telegraph line or post placed before the passing of this Act under, over, along, across, in or upon any property, for the purposes of a telegraph established or maintained by the Government, shall be deemed to have been placed in exercise of the powers conferred by, and after observance of all the requirements of, this Act.

PART IV.

PENALTIES.

Establishing, maintaining or working unlicensed telegraph or breaking condition of license.

20. If any person establishes, maintains or works a telegraph within British India, otherwise than as permitted by a license granted under section 4, or breaks any condition contained in such a license, he shall be punished with fine which may extend to one thousand rupees, and with a further fine which may extend to five hundred rupees for every week during which the line is maintained or worked or the breach of the condition continues.

Using such telegraphs.

21. If any person, knowing or having reason to believe that a telegraph has been established or is maintained or worked in contravention of this Act, transmits or receives any message by such telegraph, or performs any service incidental thereto, or delivers any message for transmission by such telegraph or accepts delivery of any message sent thereby, he shall be punished with fine which may extend to fifty rupees.

The Indian Telegraph Act, 1885.

(Part IV.—Penalties.—Sections 22-32.)
(Part V.—Supplemental Provision.—Section 33.)

Opposing establishment of telegraphs on railway land.

22. If a Railway Company, or an officer of a Railway Company, neglects or refuses to comply with the provisions of section 6, it or he shall be punished with fine which may extend to one thousand rupees for every day during which the neglect or refusal continues.

Intrusion into signal-room, trespass in telegraph office or obstruction.

23. If any person—

(a) without permission of competent authority, enters the signal-room of a telegraph office of the Government, or of a person licensed under this Act, or

(b) enters a fenced enclosure round such a telegraph office in contravention of any rule or notice not to do so, or

(c) refuses to quit such room or enclosure on being requested to do so by any officer or servant employed therein, or

(d) wilfully obstructs or impedes any such officer or servant in the performance of his duty,

he shall be punished with fine which may extend to five hundred rupees.

Unlawfully attempting to learn contents of messages.

24. If any person does any of the acts mentioned in section 23 with the intention of unlawfully learning the contents of any message, or of committing any offence punishable under this Act, he may (in addition to the fine with which he is punishable under section 23) be punished with imprisonment for a term which may extend to one year.

Intentionally damaging or tampering with telegraphs.

25. If any person, intending—

(a) to prevent or obstruct the transmission or delivery of any message, or

(b) to intercept or to acquaint himself with the contents of any message, or

(c) to commit mischief,

damages, removes, tampers with or touches any battery, machinery, telegraph line, post or other thing whatever, being part of or used in or about any telegraph or in the working thereof,

he shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both.

Telegraph officer or other official making away with or altering, or unlawfully intercepting or disclosing, messages, or divulging purport of signals.

26. If any telegraph officer, or any person not being a telegraph officer but having official duties connected with any office which is used as a telegraph office,—

(a) wilfully secretes, makes away with or alters any message which he has received for transmission or delivery, or

(b) wilfully, and otherwise than in obedience to an order of the Governor General in Council or of a Local Government or of an officer specially authorised by the Governor General in Council to make the order, omits to transmit, or intercepts or detains, any message or any part thereof, or otherwise than in pursuance of his official duty or in obedience to the direction of a competent Court, discloses the contents or any part of the contents of any message, to any person not entitled to receive the same, or

(c) divulges the purport of any telegraphic signal to any person not entitled to become acquainted with the same,

he shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both.

Telegraph officer fraudulently sending messages without payment.

27. If any telegraph officer transmits by telegraph any message on which the charge prescribed by the Government, or by a person licensed under this Act, as the case may be, has not been paid, intending thereby to defraud the Government or that person, he shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both.

Misconduct.

28. If any telegraph officer, or any person not being a telegraph officer but having official duties connected with any office which is used as a telegraph office, is guilty of any act of drunkenness, carelessness or other misconduct whereby the correct transmission or the delivery of any message is impeded or delayed, or if any telegraph officer loiters or delays in the transmission or delivery of any message, he shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to one hundred rupees, or with both.

Sending fabricated message.

29. If any person transmits or causes to be transmitted by telegraph a message which he knows to be false or fabricated, he shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both.

Retaining a message delivered by mistake.

30. If any person fraudulently retains, or wilfully secretes, makes away with or detains a message which ought to have been delivered to some other person, or, being required by a telegraph officer to deliver up any such message, neglects or refuses to do so, he shall be punished with imprisonment for a term which may extend to two years, or with fine, or with both.

Bribery.

31. A telegraph officer shall be deemed a public servant within the meaning of sections 161, 162, 163, 164 and 165 of the Indian Penal Code; and in the definition of "legal remuneration" contained in the said section 161, the word "Government" shall, for the purposes of this Act, be deemed to include a person licensed under this Act.

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Attempts to commit offences.

32. Whoever attempts to commit any offence punishable under this Act shall be punished with the punishment herein provided for the offence.

PART V.

SUPPLEMENTAL PROVISION.

Power to employ additional police in places where mischief to telegraphs is repeatedly committed.

33. *(1)* Whenever it appears to the Local Government that any act causing or likely to cause wrongful damage to any telegraph is repeatedly and maliciously committed in

The Indian Telegraph Act, 1885.

any place, and that the employment of an additional police-force in that place is thereby rendered necessary, the Local Government may send such additional police-force as it thinks fit to the place, and employ the same therein so long as, in the opinion of that Government, the necessity of doing so continues.

(2) The inhabitants of the place shall be charged with the cost of the additional police-force, and the District Magistrate shall, subject to the orders of the Local Government, assess the proportion in which the cost shall be paid by the inhabitants according to his judgment of their respective means.

(3) All moneys payable under sub-section (2) shall be recoverable either under the warrant of a Magistrate by distress and sale of the moveable property of the defaulter within the local limits of his jurisdiction, or by suit in any competent Court.

(4) The Local Government may, by order in writing, define the limits of any place for the purposes of this section.

D. FITZPATRICK,
Secy. to the Govt. of India.

LEGISLATIVE DEPARTMENT.

THE following Report on the Bill to facilitate the construction of Telegraphs, and to amend the Indian Telegraph Act, 1876, was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 8th July, 1885 :—

We, the undersigned, Members of the Select Committee to which the Bill to facilitate the construction of Telegraphs, and to amend the Indian Telegraph Act, 1876, was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report.

From Officiating Registrar, High Court, Calcutta, No. 2609, dated 15th September, 1884 [Paper No. 1].
From Secretary to Chief Commissioner, Coorg, No. 807—111, dated 13th September, 1884 [Paper No. 2].
From Officiating Secretary to Chief Commissioner, British Burma, No. 771-18L., dated 26th September, 1884, and enclosures [Papers No. 3].
From Officiating Secretary to Chief Commissioner, Assam, No. 1536, dated 27th September, 1884, and enclosures [Papers No. 4].
From Chief Commissioner, Ajmer-Merwára, No. 842, dated 3rd October, 1884 [Paper No. 5].
From Officiating Secretary to Government, North-Western Provinces and Oudh, No. 1057—VII-276-24, dated 7th October, 1884, and enclosures [Papers No. 6].
From Secretary for Berar to Resident, Hyderabad, No. 3596., dated 9th October, 1884 [Paper No. 7].
From Chief Secretary to Government, Madras, No. 2541, dated 6th October, 1884, and enclosures [Papers No. 8].
From Officiating Secretary to Government, Punjab, No. 911, dated 23rd October, 1884, and enclosures [Papers No. 9].
From Assistant Secretary to Chief Commissioner, Central Provinces, No. 5183—240, dated 5th November, 1884 [Paper No. 10].
From Under-Secretary to Government, Bombay, No. 7782, dated 7th November, 1884, and enclosures [Papers No. 11].
From Secretary to Government, Bengal, No. 1461T.—R., dated 23rd October, 1884, and enclosures [Papers No. 12].
Extract, paragraph III, from Proceedings of the Meerut Association, No. 13, dated 16th November, 1884 [Paper No. 13].
Telegram from Secretary to Government, North-Western Provinces and Oudh, dated 13th December, 1884 [Paper No. 14].

2. We are of opinion that it would be for the convenience of the Telegraph Department and the public that Act I of 1876 should be repealed and re-enacted with most of the modifications and additions proposed by the Bill as introduced. We have accordingly re-drawn the Bill as a consolidating measure.

3. Objection having been taken to licensees being entrusted with the powers with which it was proposed to invest them as telegraph authorities, we have defined "telegraph authority" to mean the Government Telegraph Department (section 3, clause (6)), and provided that that authority shall not exercise the power of placing telegraph lines and posts except for the purposes of a telegraph established or maintained by the Government or to be so established or maintained (section 10).

4. We have also amended the definition of "local authority" so as to make that expression include a cantonment authority and clearly exclude any commercial association however incorporated (section 3, clause (7)).

5. In declaring, in section 4, the exclusive privilege of the Government to extend to establishing, *maintaining and working* telegraphs, and in empowering the Government to grant licenses to establish, maintain *or work* telegraphs, we formulate what is, and has always been understood to be, the existing law, and at the same time avoid the necessity of using the words "lease" and "lessee" which were introduced into the Bill of last year (section 13). A lease is a license to work a line established and maintained by the Government, and a lessee is the holder of such a license.

6. By section 7, sub-section (2), clause (*b*), we propose to give the Government the power of requiring licensees to provide for the seclusion of telegraph instruments at all offices open for the receipt of public messages. Clauses (*c*) and (*d*) of the same sub-section have been suggested to us by correspondence that has been placed at our disposal by the Public Works Department of the Government of India, respecting applications from time to time made by private persons to the Telegraph Department for the preservation of telegrams.

7. Most of the objections that were taken to the Bill as introduced, chiefly by commercial [illegible] in Calcutta, will, it is believed, have been met by our proposals that the power of

placing telegraph lines and posts shall only be exercised by the Government Telegraph Department for the purposes of telegraphs established or maintained by the Government.

8. In section 11 we have, following a recent English Act, proposed to empower the telegraph authority to enter at any time on property for the purpose of examining, repairing, altering or removing any telegraph line or post that has been placed on it.

9. In section 14 we have adhered to the provisions of the English Act (26 & 27 Vic., c. 112, sections 6 and 8), though in practice the officers of the Telegraph Department will doubtless arrange for the alteration of the position of any pipe or drain being carried out by the authority having control of it.

10. In section 15 we have provided, on the suggestion of the Government of Bombay, that disputes between the telegraph authority and local authorities shall be determined by a local officer whose decision will be subject to appeal to the Local Government.

11. In section 16, sub-sections (*1*) and (*2*), we have provided for recourse being had by the telegraph authority to the District Magistrate where the exercise of the powers conferred on that authority is resisted. We have also provided in this section, sub-section (*4*), in accordance with the suggestion of the Government of Bombay, that the telegraph authority may pay compensation into Court where any dispute arises as to the persons entitled to receive it.

12. We have met the objections that were taken to section 10 of the Bill as introduced by providing in section 17 of the present Bill that a person desiring the removal or the alteration of the position of a telegraph line or post shall tender the cost of the removal or alteration in those cases only in which compensation has been paid by the telegraph authority, and that in those cases he shall not be required to tender more than half the sum that was paid to him as compensation.

13. By section 18 we have proposed to provide for the removal by order of a Magistrate of trees interrupting or likely to interrupt telegraphic communication. A somewhat similar provision in the case of trees dangerous to railways is contained in the Regulation of Railways Act, 1868 (31 & 32 Vic., c. 119, section 24).

14. By section 26 we propose to subject a person who is not a telegraph officer, but has official duties connected with an office which is used as a telegraph office, to the same penalty as that to which a telegraph officer is liable for secreting or altering telegrams or unlawfully intercepting or disclosing them. Many post offices in India are now used as telegraph offices, and we consider that postal officials should be restrained by penalty, as they are under the English Telegraph Act of 1868, from abusing such opportunities as they may have of becoming acquainted with the contents of telegraphic messsages.

15. The publication ordered by the Council has been made as follows:—

In English.

Gazette.	*Date.*
Gazette of India	23rd and 30th August, and 6th September, 1884.
Fort Saint George Gazette	9th September, 1884.
Bombay Government Gazette	28th August, and 4th and 11th September, 1884.
Calcutta Gazette	3rd, 10th and 17th September, 1884.
North-Western Provinces and Oudh Government Gazette	30th August, and 6th and 13th September, 1884.
Punjab Government Gazette	4th, 11th and 18th September, 1884.
Central Provinces Gazette	30th August, and 6th and 13th September, 1884.
British Burma Gazette	13th, 20th and 27th September, 1884.
Assam Gazette	13th September, 1884.

In the Vernaculars.

Province.	*Language.*	*Date.*
Madras	Tamil ...	18th November, 1884.
Bombay	Gujaráthí ...	13th November, 1884.
	Kanarese ...	13th November, 1884.
Bengal	Bengalí ...	4th November, 1884.
	Hindí ...	4th November, 1884.
	Uriya ...	18th November, 1884.
North-Western Provinces and Oudh ...	Urdu ...	13th [illegible]
Punjab ...	[illegible] ...	2nd and [illegible]
Burma	Burmese ...	27th September, and 4th and 11th October, 1884.

We do not think that the measure has been so altered as to require re-publication, and we recommend that it be passed as now amended.

T. C. HOPE.

C. P. ILBERT.

The 8th July, 1885.

D. FITZPATRICK,
Secy. to the Govt. of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, AUGUST 1, 1885.

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

PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second publication.]

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 22nd July, 1885, and is hereby promulgated for general information :—

ACT No. XII OF 1885.

An Act to amend the law relating to the carriage of passengers by sea.

18 & 19 Vic., c. 119.

WHEREAS by section 99 of an Act of the Imperial Parliament called "The Passengers Act, 1855," it is enacted that "it shall be lawful for the Governor-General of India in Council, from time to time, by any Act or Acts to be passed for that purpose, to declare that this Act or any part thereof shall apply to the carriage of passengers upon any voyage, from any ports or places within the territories of British India, to be specified in such Act or Acts, to any other places whatsoever, to be also specified in such Act or Acts;" and it is thereby also enacted that "on the passing of such Indian Act or Acts, and whilst the same shall remain in force, all such parts of this Act as shall be adopted therein shall apply to and extend to the carriage of passengers upon such voyages as in the said Indian Act or Acts shall be specified. The provisions of such Indian Act shall be enforced in all Her Majesty's possessions in like manner as the provisions of this Act may be enforced;"

And whereas certain parts of the said Act of Parliament were by Act II of 1860 *(to amend the law relating to the carriage of passengers by sea)* made applicable to the carriage of passengers upon certain specified voyages;

26 & 27 Vic., c. 51. 18 & 19 Vic., c. 119.

And whereas by an Act of the Imperial Parliament called "The Passengers Act Amendment Act, 1863," certain parts of the Passengers Act, 1855, which were so made applicable, have been amended, and it is provided that the said Acts of the Imperial Parliament shall be construed together as one Act;

18 & 19 Vic.,

And whereas it is expedient that the amendments so made in the Passengers Act, 1855, should also be made in the parts of that Act so made applicable, and it is also expedient to apply those parts so amended to the carriage of passengers upon certain voyages not specified in Act II of 1860;

It is hereby enacted as follows :—

Short title and commencement.

1. *(1)* This Act may be called the Indian Sea Passengers Act, 1885; and

(2) It shall come into force on the first day of October, 1885.

Repeal of Act II of 1860.

2. On and from the day on which this Act comes into force, Act II of 1860 *(to amend the law relating to the carriage of passengers by sea)* shall be repealed.

Certain provisions of the Statutes made applicable to specified voyages from India.

3. The provisions contained in sections 4, 5 and 6 of this Act, and the schedule hereto annexed (being parts of the Passengers Act, 1855, as amended by the Passengers Act Amendment Act, 1863), are declared applicable to the carriage of passengers upon the following voyages, namely :—

18 & 19 Vic., c. 119. 26 & 27 Vic., c. 51.

(*a*) voyages from the ports of Calcutta, Madras and Bombay to the British Colonies of Mauritius, Jamaica, British Guiana, Trinidad, St. Lucia, Grenada, St. Vincent, Natal, St. Kitts, Nevis and Fiji;

(*b*) voyages from the ports of Calcutta, Madras and Bombay to the French Colonies of Réunion, Martinique, Guadeloupe and its dependencies, and Guiana;

(*c*) voyages from the ports of Calcutta, Madras and Bombay to the Netherlands colony of Dutch Guiana;

(*d*) voyages from the ports of Calcutta, Madras and Bombay to the Danish colony of St. Croix;

(*e*) voyages under the Native Passenger Ships Act, 1876, from Calcutta, Madras, Bombay, Karáchí, Rangoon and other ports in British India to the Straits Settlements, to the protected Native States adjoining the Straits Settlements, to Australia, and to ports in the Red Sea, Gulf of Aden or Persian Gulf and on the East Coast of Africa.

VIII of 1876.

4. If the passengers or cabin-passengers upon any such voyage as is specified in the last preceding section are taken off from the ship carrying them or are picked up at sea from any boat, raft or otherwise, it shall be lawful, if the port or place to which they are conveyed is in any of Her Majesty's colonial possessions, for the Governor of such colony, or for any person authorized by him for the purpose, or, if in any foreign country, for Her Majesty's Consular Officer at such port or place therein, to defray all or any part of the expenses thereby incurred.

Governors or Consuls may pay expenses of passengers taken off passenger-ship.

5. If any passenger or cabin-passenger of any such passenger-ship as aforesaid, without any neglect or default of his own, finds himself within any colonial or foreign port or place other than that for which the ship was originally bound, or at which he, or the Emigration Agent, or any public officer or other person on his behalf, has contracted that he should land, it shall be lawful for the Governor of the colony, or for any person authorized by him for the purpose, or for Her Majesty's Consular Officer at the foreign port or place, as the case may be, to forward the passenger or cabin-passenger to his intended destination, unless the master of the ship, within forty-eight hours of the arrival of such passenger or cabin-passenger, gives to the Governor or Consular Officer, as the case may be, a written undertaking to forward or carry on within six weeks thereafter the passenger or cabin-passenger to his original destination, and unless the master accordingly forwards or carries him on within that period.

Governors or Consuls may send on passengers, if the master of the ship fail to do so.

6. *(1)* All expenses incurred under the last two preceding sections, or either of them, by or by the authority of a Governor or Consular Officer, or other person as therein respectively mentioned, including the cost of maintaining the passengers and cabin-passengers until forwarded to their destination, and of all necessary bedding, provisions and stores, shall become a debt to Her Majesty and Her successors from the owner, charterer and master of the ship, and shall be recoverable from them, or from any one or more of them, at the suit and for the use of Her Majesty, in like manner as in the case of other Crown debts.

Expenses incurred under sections 4 and 5 to be a Crown debt.

(2) A certificate in the form given in the schedule hereto annexed, or as near thereto as the circumstances of the case will admit, purporting to be under the hand of any such Governor or Consular Officer (as the case may be), stating the total amount of the expenses, shall, in any suit or other proceeding for the recovery of the debt, be received in evidence without proof of the handwriting or of the official character of the Governor or Consular Officer, and shall be deemed sufficient evidence of the amount of the expenses, and that the same were duly incurred;

nor shall it be necessary to adduce on behalf of Her Majesty any other evidence in support of the claim, but judgment shall pass for the Crown, with costs of suit, unless the defendant specially pleads and duly proves that the certificate is false or fraudulent, or specially pleads and duly proves any facts showing that the expenses were not duly incurred:

Provided, nevertheless, that in no case shall any larger sum be recovered on account of the expenses than a sum equal to twice the total amount of passage-money received or due to and recoverable by or on account of the owner, charterer or master of the passenger-ship or any of them from or on account of the whole number of passengers and cabin-passengers who may have embarked in the ship; which total amount of passage-money shall be proved by the defendant if he will have the advantage of this limitation of the debt; but if any such passengers are forwarded or conveyed to their intended destination under the provisions of the last preceding section, they shall not be entitled to the return of their passage-money, or to any compensation for loss of passage.

7. No policy of assurance effected in respect of any passages or of any passage or compensation money by any person by this Act made liable in the events aforesaid to provide those passages or to pay that money, or in respect of any other risk under this Act, shall be deemed invalid by reason of the nature of the risk or interest sought to be covered by the policy of assurance.

Insurance.

THE SCHEDULE.

Form of Governor's or Consul's Certificate of Expenditure in the case of Passengers shipwrecked, &c.

(See section 6.)

I hereby certify that acting under, and in conformity with, the provisions of the Indian Sea Passengers Act, 1885, I have defrayed the expenses incurred in rescuing, maintaining, supplying with necessary bedding, provisions and stores (*a*), and in forwarding to their destination passengers [including cabin-passengers (*b*)], who were proceeding from to in the passenger-ship which was wrecked at sea, &c. (*c*).

And I further certify, for the purposes of the sixth section of the said Indian Sea Passengers Act, 1885, that the total amount of such expenses is , and that such expenses were duly incurred by me under the said Act.

Given under my hand this day of 18 .

{ *Governor of, &c.* (or, as the case may be) *Her Britannic Majesty's Consul at*

(*a*) *N.B.*—1. If more passengers were rescued than forwarded, or if bedding, &c., was not supplied, alter the certificate to suit the facts of the case.

(*b*) *N.B.*—2. Omit words in brackets when necessary.

(*c*) *N.B.*—3. State generally the nature of the disaster and where it occurred. But if the passengers were only left behind without any default of their own, state the fact accordingly.

D. FITZPATRICK,

Secy. to the Govt. of India.

LEGISLATIVE DEPARTMENT.

THE following Report on the Bill to amend the law relating to the carriage of passengers by sea was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 8th July, 1885:—

We, the undersigned, Members of the Select Committee to which the Bill to amend the law relating to the carriage of passengers by sea was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report.

From Officiating Secretary to Chief Commissioner, British Burma, No. 301—5M.S., dated 13th February, 1885 [Paper No. 1].
From Secretary to Government, Bengal, No. 409, dated 19th February, 1885, and enclosures [Papers No. 2].
From Chief Secretary to Government, Madras, No. 486J., dated 20th February, 1885, and enclosures [Papers No. 3].
From Under Secretary to Government, Bombay, No. 753, dated 28th February, 1885, and enclosures [Papers No. 4].
From Officiating Registrar, High Court, Calcutta, No. 1018, dated 27th March, 1885 [Papers No. 5].

2. The papers contain several suggestions both by officials and by commercial bodies which might be well worthy of consideration if the question were one as to the amendment of the English Passengers Acts, but which, having regard to the conditions under which we are now proceeding, it is beyond our power to entertain.

Acting, as we are, under the 99th section of the 18 & 19 Vic., c. 119, which is recited in the preamble to the Bill, we are restricted to applying to the voyages here in question the provisions of the English Passengers Acts as they stand; and if we were to introduce any modifications in the substance of those provisions, we should in all probability fail to secure for our Act the effect referred to at the end of the preamble, namely, that its provisions "shall be enforced in all Her Majesty's possessions in like manner as the provisions" of the English Passengers Acts.

3. Thus, we have no power to adopt the suggestion of the Bengal Chamber of Commerce that we should amend section 5 of the Bill so as to compel a Colonial Governor or Consular Officer to accept an undertaking to forward passengers offered by the owner, charterer or agent of a ship. We may observe, however, that, having regard to the definition of "master" in the Passengers Acts, and to the duties of a master of a wrecked ship, the contingency of there being no master of a wrecked ship, which this amendment was intended to meet, is one likely to be of very rare occurrence.

Moreover, as the Governor or Consular Officer is not compelled to act under the section, but has a discretion in the matter, there can be little doubt that in the case put he would accept the undertaking of the owner, charterer or agent.

4. Similarly, it would be beyond our powers, even if we thought it desirable to do so, to adopt the suggestion of the Madras Chamber that a shipowner should be relieved of the liability imposed by section 6 of the Bill in cases in which the ship is prevented from completing her voyage by the act of God or the Queen's enemies.

It appears to us, however, that the risk involved is one which should be provided against by insurance; and, in order to remove all doubt as to the possibility of so providing against it we have introduced into the Bill a section (7) similar to section 55 of the Passengers Act, 1855, expressly legalizing such insurances.

5. The Government of Bombay draw attention to the want of a provision like section 14 of the Passengers Act Amendment Act, 1863, to meet the case of passengers who may be left in British India owing to their ship being wrecked before she leaves the territorial waters, or who may be brought back to British India owing to their ship being wrecked or disabled after proceeding some short distance on her voyage. We are disposed to agree in thinking some such provision desirable, but the extraordinary powers under which we are now acting are not needed for its enactment, and we think the matter could be more conveniently dealt with in our Native Passengers and Emigration Acts, where we should be free to mould the law as we think fit to suit local requirements.

6. We have, at the suggestion of Brigadier-General Blair, the Political Resident at Aden, amended section 3 (c) so as to extend the Bill to voyages to ports on the East Coast of Africa and in the Gulf of Aden.

7. We have also made such amendments as were necessary to render it clear that the Bill extends, as the English Acts do, to cabin passengers.

8. The publication ordered by the Council has been made as follows:—

In English.

Gazette.	*Date.*
Gazette of India ...	... 20th and 27th December, 1884, and 3rd January, 1885.
Fort St. George Gazette ...	... 13th January, 1885.
Bombay Government Gazette ...	... 25th December, 1884, and 1st and 8th January, 1885.
Calcutta Gazette ...	... 24th and 31st December, 1884, and 7th January, 1885.
British Burma Gazette ...	... 10th, 17th and 24th January, 1885.

In the Vernaculars.

Province.	*Language.*	*Date.*
Bombay	Maráthí ...	12th February, 1885.
	Gujaráthí ...	
	Kanarese ...	
Bengal	Bengalí ...	20th and 27th January, and 3rd February, 1885.
	Hindí ...	
	Uriya ...	29th January, and 5th and 12th February, 1885.
British Burma	Burmese ...	7th, 14th and 21st February, 1885.

We do not think that the measure has been so altered as to require re-publication, and we recommend that it be passed as now amended.

C. P. ILBERT.
S. C. BAYLEY.

The 8th July, 1885.

D. FITZPATRICK,
Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second publication.]

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 22nd July, 1885, and is hereby promulgated for general information :—

ACT No. XIII OF 1885.

THE INDIAN TELEGRAPH ACT, 1885.

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The Indian Telegraph Act, 1885.
(Part I.—Preliminary.—Sections 1-3)
(Part II.—Privileges and Powers of the Government.—Sections 4-7.)

An Act to amend the law relating to Telegraphs in India.

WHEREAS it is expedient to amend the law relating to telegraphs in India; It is hereby enacted as follows:—

PART I.

PRELIMINARY.

Short title, local extent and commencement.

1. *(1)* This Act may be called the Indian Telegraph Act, 1885.

(2) It extends to the whole of British India, and, so far as regards subjects of Her Majesty, to the dominions of Princes and States in India in alliance with Her Majesty; and

(3) It shall come into force on the first day of October, 1885.

Repeal and savings. I of 1876.

2. The Indian Telegraph Act, 1876, is hereby repealed.

But all licenses granted and rules made under that Act or any Act thereby repealed, and now in force, shall, so far as they could be granted or made under this Act, be deemed to have been respectively granted and made hereunder.

Definitions.

3. In this Act, unless there is something repugnant in the subject or context,—

(1) "Telegraph" means an electric, galvanic or magnetic telegraph, and includes appliances and apparatus for transmitting or making telegraphic, telephonic or other communications by means of electricity, galvanism or magnetism:

(2) "Telegraph officer" means any person employed either permanently or temporarily in connection with a telegraph established, maintained or worked by the Government or by a person licensed under this Act:

(3) "Message" means any communication sent by telegraph, or given to a telegraph officer to be sent by telegraph or to be delivered:

(4) "Telegraph line" means a wire or wires used for the purpose of a telegraph, with any casing, coating, tube or pipe enclosing the same, and any appliances and apparatus connected therewith for the purpose of fixing or insulating the same:

(5) "Post" means a post, pole, standard, stay, strut or other above-ground contrivance for carrying, suspending or supporting a telegraph line:

(6) "Telegraph authority" means the Director General of Telegraphs, and includes any officer empowered by him to perform all or any of the functions of the telegraph authority under this Act:

(7) "Local authority" means any municipal committee, district board, body of port commissioners or other authority legally entitled to, or entrusted by the Government with, the control or management of any municipal or local fund.

PART II.

PRIVILEGES AND POWERS OF THE GOVERNMENT.

Exclusive privilege in respect of telegraphs, and power to grant licenses.

4. Within British India, the Governor-General in Council shall have the exclusive privilege of establishing, maintaining and working telegraphs:

Provided that the Governor-General in Council may grant a license, on such conditions and in consideration of such payments as he thinks fit, to any person to establish, maintain or work a telegraph within any part of British India.

Power for Government to take possession of licensed telegraphs and to order interception of messages.

5. *(1)* On the occurrence of any public emergency, or in the interest of the public safety, the Governor-General in Council or a Local Government, or any officer specially authorised in this behalf by the Governor-General in Council, may—

(a) take temporary possession of any telegraph established, maintained or worked by any person licensed under this Act; or

(b) order that any message or class of messages to or from any person or class of persons, or relating to any particular subject, brought for transmission by or transmitted or received by any telegraph, shall not be transmitted, or shall be intercepted or detained, or shall be disclosed to the Government or an officer thereof mentioned in the order.

(2) If any doubt arises as to the existence of a public emergency, or whether any act done under sub-section *(1)* was in the interest of the public safety, a certificate signed by a Secretary to the Government of India or to the Local Government shall be conclusive proof on the point.

Power to establish telegraph on land of Railway Company.

6. Any Railway Company, on being required so to do by the Governor-General in Council, shall permit the Government to establish and maintain a telegraph upon any part of the land of the Company, and shall give every reasonable facility for working the same.

Power to make rules for the conduct of telegraphs.

7. *(1)* The Governor-General in Council may, from time to time, by notification in the *Gazette of India*, make rules consistent with this Act for the conduct of all or any telegraphs established, maintained or worked by the Government or by persons licensed under this Act.

(2) Rules under this section may provide for all or any of the following, among other matters, that is to say:—

(a) the rates at which, and the other conditions and restrictions subject to which, messages shall be transmitted;

(b) the precautions to be taken for preventing the improper interception or disclosure of messages;

(c) the period for which, and the conditions subject to which, telegrams and other documents belonging to, or being in the custody of, telegraph officers shall be preserved; and

(d) the fees to be charged for searching for telegrams or other documents in the custody of any telegraph officer.

(3) When making rules for the conduct of any telegraph established, maintained or worked by any person licensed under this Act, the Governor-General in Council may by the rules prescribe fines for any breach of the same:

Provided that the fines so prescribed shall not exceed the following limits, namely:—

(i) when the person licensed under this Act is punishable for the breach, one thousand rupees, and in the case of a continuing breach a further fine of two hundred rupees for every day after the first during the whole or any part of which the breach continues;

(ii) when a servant of the person so licensed, or any other person, is punishable for the breach, one-fourth of the amounts specified in clause (i).

Revocation of licenses.

8. The Governor-General in Council may, at any time, revoke any license granted under section 4, on the breach of any of the conditions therein contained, or in default of payment of any consideration payable thereunder.

Government not responsible for loss or damage.

9. The Secretary of State for India in Council shall not be responsible for any loss or damage which may occur in consequence of any telegraph officer failing in his duty with respect to the receipt, transmission or delivery of any message; and no such officer shall be responsible for any such loss or damage, unless he causes the same negligently, maliciously or fraudulently.

PART III.

POWER TO PLACE TELEGRAPH LINES AND POSTS.

Power for telegraph authority to place and maintain telegraph lines and posts.

10. The telegraph authority may, from time to time, place and maintain a telegraph line under, over, along or across, and posts in or upon, any immoveable property:

Provided that—

(a) the telegraph authority shall not exercise the powers conferred by this section except for the purposes of a telegraph established or maintained by the Government, or to be so established or maintained;

(b) the Government shall not acquire any right other than that of user only in the property under, over, along, across, in or upon which the telegraph authority places any telegraph line or post; and

(c) except as hereinafter provided, the telegraph authority shall not exercise those powers in respect of any property vested in or under the control or management of any local authority, without the permission of that authority; and

(d) in the exercise of the powers conferred by this section, the telegraph authority shall do as little damage as possible, and, when it has exercised those powers in respect of any property other than that referred to in clause *(c)*, shall pay full compensation to all persons interested for any damage sustained by them by reason of the exercise of those powers.

Power to enter on property in order to repair or remove telegraph lines or posts.

11. The telegraph authority may, at any time, for the purpose of examining, repairing, altering or removing any telegraph line or post, enter on the property under, over, along, across, in or upon which the line or post has been placed.

Provisions applicable to Property vested in or under the Control or Management of Local Authorities.

Power for local authority to give permission under section 10, clause *(c)*, subject to conditions.

12. Any permission given by a local authority under section 10, clause *(c)*, may be given subject to such reasonable conditions as that authority thinks fit to impose, as to the payment of any expenses to which the authority will necessarily be put in consequence of the exercise of the powers conferred by that section, or as to the time or mode of execution of any work, or as to any other thing connected with or relative to any work undertaken by the telegraph authority under those powers.

Power for local authority to require removal or alteration of telegraph line or post.

13. When, under the foregoing provisions of this Act, a telegraph line or post has been placed by the telegraph authority under, over, along, across, in or upon any property vested in or under the control or management of a local authority, and the local authority, having regard to circumstances which have arisen since the telegraph line or post was so placed, considers it expedient that it should be removed or that its position should be altered, the local authority may require the telegraph authority to remove it or alter its position, as the case may be.

Power to alter position of gas or water pipes or drains.

14. The telegraph authority may, for the purpose of exercising the powers conferred upon it by this Act in respect of any property vested in or under the control or management of a local authority, alter the position thereunder of any pipe (not being a main) for the supply of gas or water, or of any drain (not being a main drain):

Provided that—

(a) when the telegraph authority desires to alter the position of any such pipe or drain it shall give reasonable notice of its intention to do so, specifying the time at which it will begin to do so, to the local authority, and, when the pipe or drain is not under the control of the local authority, to the person under whose control the pipe or drain is;

(b) a local authority or person receiving notice under clause *(a)* may send a person to superintend the work, and the telegraph authority shall execute the work to the reasonable satisfaction of the person so sent.

Disputes between telegraph authority and local authority.

15. *(1)* If any dispute arises between the telegraph authority and a local authority in consequence of the local authority refusing the permission referred to in section 10, clause *(c)*, or prescribing any condition under section 12, or in consequence of the telegraph authority

The Indian Telegraph Act, 1885.
(Part III.—Power to place Telegraph Lines and Posts.—Sections 16-19.)
(Part IV.—Penalties.—Sections 20-21.)

omitting to comply with a requisition made under section 13, or otherwise in respect of the exercise of the powers conferred by this Act, it shall be determined by such officer as the Local Government may appoint either generally or specially in this behalf.

(2) An appeal from the determination of the officer so appointed shall lie to the Local Government; and the order of the Local Government shall be final.

Provisions applicable to other Property.

16. *(1)* If the exercise of the powers mentioned in section 10 in respect of property referred to in clause *(d)* of that section is resisted or obstructed, the District Magistrate may, in his discretion, order that the telegraph authority shall be permitted to exercise them.

Exercise of powers conferred by section 10, and disputes as to compensation, in case of property other than that of a local authority.

(2) If, after the making of an order under sub-section *(1)*, any person resists the exercise of those powers, or, having control over the property, does not give all facilities for their being exercised, he shall be deemed to have committed an offence under section 188 of the Indian Penal Code.

XLV of 1860.

(3) If any dispute arises concerning the sufficiency of the compensation to be paid under section 10, clause *(d)*, it shall, on application for that purpose by either of the disputing parties to the District Judge within whose jurisdiction the property is situate, be determined by him.

(4) If any dispute arises as to the persons entitled to receive compensation, or as to the proportions in which the persons interested are entitled to share in it, the telegraph authority may pay into the Court of the District Judge such amount as he deems sufficient or, where all the disputing parties have in writing admitted the amount tendered to be sufficient or the amount has been determined under sub-section *(3)*, that amount; and the District Judge, after giving notice to the parties and hearing such of them as desire to be heard, shall determine the persons entitled to receive the compensation or, as the case may be, the proportions in which the persons interested are entitled to share in it.

(5) Every determination of a dispute by a District Judge under sub-section *(3)* or sub-section *(4)* shall be final:

Provided that nothing in this sub-section shall affect the right of any person to recover by suit the whole or any part of any compensation paid by the telegraph authority, from the person who has received the same.

17. *(1)* When, under the foregoing provisions of this Act, a telegraph line or post has been placed by the telegraph authority under, over, along, across, in or upon any property, not being property vested in or under the control or management of a local authority, and any person entitled to do so desires to deal with that property in such a manner as to render it necessary or convenient that the telegraph line or post should be removed to another part thereof or to a higher or lower level or altered in form, he may require the telegraph authority to remove or alter the line or post accordingly:

Removal or alteration of telegraph line or post on property other than that of a local authority.

Provided that, if compensation has been paid under section 10, clause *(d)*, he shall, when making the requisition, tender to the telegraph authority the amount requisite to defray the expense of the removal or alteration, or half of the amount paid as compensation, whichever may be the smaller sum.

(2) If the telegraph authority omits to comply with the requisition, the person making it may apply to the District Magistrate within whose jurisdiction the property is situate to order the removal or alteration.

(3) A District Magistrate receiving an application under sub-section *(2)* may, in his discretion, reject the same or make an order, absolutely or subject to conditions, for the removal of the telegraph line or post to any other part of the property or to a higher or lower level or for the alteration of its form; and the order so made shall be final.

Provisions applicable to all Property.

18. *(1)* If any tree standing or lying near a telegraph line interrupts, or is likely to interrupt, telegraphic communication, a Magistrate of the first or second class may, on the application of the telegraph authority, cause the tree to be removed or dealt with in such other way as he deems fit.

Removal of trees interrupting telegraphic communication.

(2) When disposing of an application under sub-section *(1)*, the Magistrate shall, in the case of any tree in existence before the telegraph line was placed, award to the persons interested in the tree such compensation as he thinks reasonable, and the award shall be final.

19. Every telegraph line or post placed before the passing of this Act under, over, along, across, in or upon any property, for the purposes of a telegraph established or maintained by the Government, shall be deemed to have been placed in exercise of the powers conferred by, and after observance of all the requirements of, this Act.

Telegraph lines and posts placed before the passing of this Act.

PART IV.

PENALTIES.

20. If any person establishes, maintains or works a telegraph within British India, otherwise than as permitted by a license granted under section 4, or breaks any condition contained in such a license, he shall be punished with fine which may extend to one thousand rupees, and with a further fine which may extend to five hundred rupees for every week during which the line is maintained or worked or the breach of the condition continues.

Establishing, maintaining or working unlicensed telegraph or breaking condition of license.

21. If any person, knowing or having reason to believe that a telegraph has been established or is maintained or worked in contravention of this Act, transmits or receives any message by such telegraph, or performs any service incidental thereto, or delivers any message for transmission by such telegraph or accepts delivery of any message sent thereby, he shall be pupished with fine which may extend to fifty rupees.

Using such telegraphs.

The Indian Telegraph Act, 1885.
(Part IV.—Penalties.—Sections 22-32.)
(Part V.—Supplemental Provision.—Section 33.)

22. If a Railway Company, or an officer of a Railway Company, neglects or refuses to comply with the provisions of section 6, it or he shall be punished with fine which may extend to one thousand rupees for every day during which the neglect or refusal continues.

Opposing establishment of telegraphs on railway land.

23. If any person—

Intrusion into signal-room, trespass in telegraph office or obstruction.

(a) without permission of competent authority, enters the signal-room of a telegraph office of the Government, or of a person licensed under this Act, or

(b) enters a fenced enclosure round such a telegraph office in contravention of any rule or notice not to do so, or

(c) refuses to quit such room or enclosure on being requested to do so by any officer or servant employed therein, or

(d) wilfully obstructs or impedes any such officer or servant in the performance of his duty,

he shall be punished with fine which may extend to five hundred rupees.

24. If any person does any of the acts mentioned in section 23 with the intention of unlawfully learning the contents of any message, or of committing any offence punishable under this Act, he may (in addition to the fine with which he is punishable under section 23) be punished with imprisonment for a term which may extend to one year.

Unlawfully attempting to learn contents of messages.

25. If any person, intending—

Intentionally damaging or tampering with telegraphs.

(a) to prevent or obstruct the transmission or delivery of any message, or

(b) to intercept or to acquaint himself with the contents of any message, or

(c) to commit mischief,

damages, removes, tampers with or touches any battery, machinery, telegraph line, post or other thing whatever, being part of or used in or about any telegraph or in the working thereof,

he shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both.

26. If any telegraph officer, or any person, not being a telegraph officer but having official duties connected with any office which is used as a telegraph office,—

Telegraph officer or other official making away with or altering, or unlawfully intercepting or disclosing, messages, or divulging purport of signals.

(a) wilfully secretes, makes away with or alters any message which he has received for transmission or delivery, or

(b) wilfully, and otherwise than in obedience to an order of the Governor General in Council or of a Local Government, or of an officer specially authorised by the Governor General in Council to make the order, omits to transmit, or intercepts or detains, any message or any part thereof, or otherwise than in pursuance of his official duty or in obedience to the direction of a competent Court, discloses the contents or any part of the contents of any message, to any person not entitled to receive the same, or

(c) divulges the purport of any telegraphic signal to any person not entitled to become acquainted with the same,

he shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both.

27. If any telegraph officer transmits by telegraph any message on which the charge prescribed by the Government, or by a person licensed under this Act, as the case may be, has not been paid, intending thereby to defraud the Government or that person, he shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both.

Telegraph officer fraudulently sending messages without payment.

28. If any telegraph officer, or any person not being a telegraph officer but having official duties connected with any office which is used as a telegraph office, is guilty of any act of drunkenness, carelessness or other misconduct whereby the correct transmission or the delivery of any message is impeded or delayed, or if any telegraph officer loiters or delays in the transmission or delivery of any message, he shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to one hundred rupees, or with both.

Misconduct.

29. If any person transmits or causes to be transmitted by telegraph a message which he knows to be false or fabricated, he shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both.

Sending fabricated message.

30. If any person fraudulently retains, or wilfully secretes, makes away with or detains a message which ought to have been delivered to some other person, or, being required by a telegraph officer to deliver up any such message, neglects or refuses to do so, he shall be punished with imprisonment for a term which may extend to two years, or with fine, or with both.

Retaining a message delivered by mistake.

31. A telegraph officer shall be deemed a public servant within the meaning of sections 161, 162, 163, 164 and 165 of the Indian Penal Code; and in the definition of "legal remuneration" contained in the said section 161, the word "Government" shall, for the purposes of this Act, be deemed to include a person licensed under this Act.

Bribery.

32. Whoever attempts to commit any offence punishable under this Act shall be punished with the punishment herein provided for the offence.

Attempts to commit offences.

PART V.

SUPPLEMENTAL PROVISION.

33. *(1)* Whenever it appears to the Local Government that any act causing or likely to cause wrongful damage to any telegraph is repeatedly and maliciously committed

Power to employ additional police in places where mischief to telegraphs is repeatedly committed.

The Indian Telegraph Act, 1885.

any place, and that the employment of an additional police-force in that place is thereby rendered necessary, the Local Government may send such additional police-force as it thinks fit to the place, and employ the same therein so long as, in the opinion of that Government, the necessity of doing so continues.

(2) The inhabitants of the place shall be charged with the cost of the additional police-force, and the District Magistrate shall, subject to the orders of the Local Government, assess the proportion in which the cost shall be paid by the inhabitants according to his judgment of their respective means.

(3) All moneys payable under sub-section (2) shall be recoverable either under the warrant of a Magistrate by distress and sale of the moveable property of the defaulter within the local limits of his jurisdiction, or by suit in any competent Court.

(4) The Local Government may, by order in writing, define the limits of any place for the purposes of this section.

D. FITZPATRICK,
Secy. to the Govt. of India.

LEGISLATIVE DEPARTMENT.

THE following Report on the Bill to facilitate the construction of Telegraphs, and to amend the Indian Telegraph Act, 1876, was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 8th July, 1885 :—

We, the undersigned, Members of the Select Committee to which the Bill to facilitate the construction of Telegraphs, and to amend the Indian Telegraph Act, 1876, was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report.

From Officiating Registrar, High Court, Calcutta, No. 2609, dated 15th September, 1884 [Paper No. 1].
From Secretary to Chief Commissioner, Coorg, No. 807—111, dated 13th September, 1884 [Paper No. 2].
From Officiating Secretary to Chief Commissioner, British Burma, No. 771-18L., dated 26th September, 1884, and enclosures [Papers No. 3].
From Officiating Secretary to Chief Commissioner, Assam, No. 1536, dated 27th September, 1884, and enclosures [Papers No. 4].
From Chief Commissioner, Ajmer-Merwára, No. 842, dated 3rd October, 1884 [Paper No. 5].
From Officiating Secretary to Government, North-Western Provinces and Oudh, No. 1057—VII-276-24, dated 7th October, 1884, and enclosures [Papers No. 6].
From Secretary for Berar to Resident, Hyderabad, No. 3596., dated 9th October, 1884 [Paper No. 7].
From Chief Secretary to Government, Madras, No. 2541, dated 6th October, 1884, and enclosures [Papers No. 8].
From Officiating Secretary to Government, Punjab, No. 911, dated 23rd October, 1884, and enclosures [Papers No. 9].
From Assistant Secretary to Chief Commissioner, Central Provinces, No. 5183—240, dated 5th November, 1884 [Paper No. 10].
From Under-Secretary to Government, Bombay, No. 7782, dated 7th November, 1884, and enclosures [Papers No. 11].
From Secretary to Government, Bengal, No. 1461T.—R., dated 23rd October, 1884, and enclosures [Papers No. 12].
Extract, paragraph III, from Proceedings of the Meerut Association, No. 13, dated 16th November, 1884 [Paper No. 13].
Telegram from Secretary to Government, North-Western Provinces and Oudh, dated 13th December, 1884 [Paper No. 14].

2. We are of opinion that it would be for the convenience of the Telegraph Department and the public that Act I of 1876 should be repealed and re-enacted with most of the modifications and additions proposed by the Bill as introduced. We have accordingly re-drawn the Bill as a consolidating measure.

3. Objection having been taken to licensees being entrusted with the powers with which it was proposed to invest them as telegraph authorities, we have defined "telegraph authority" to mean the Government Telegraph Department (section 3, clause (6)), and provided that that authority shall not exercise the power of placing telegraph lines and posts except for the purposes of a telegraph established or maintained by the Government or to be so established or maintained (section 10).

4. We have also amended the definition of "local authority" so as to make that expression include a cantonment authority and clearly exclude any commercial association however incorporated (section 3, clause (7)).

5. In declaring, in section 4, the exclusive privilege of the Government to extend to establishing, *maintaining and working* telegraphs, and in empowering the Government to grant licenses to establish, maintain *or work* telegraphs, we formulate what is, and has always been understood to be, the existing law, and at the same time avoid the necessity of using the words "lease" and "lessee" which were introduced into the Bill of last year (section 13). A lease is a license to work a line established and maintained by the Government, and a lessee is the holder of such a license.

6. By section 7, sub-section (2), clause (*b*), we propose to give the Government the power of requiring licensees to provide for the seclusion of telegraph instruments at all offices open for the receipt of public messages. Clauses (*c*) and (*d*) of the same sub-section have been suggested to us by correspondence that has been placed at our disposal by the Public Works Department of the Government of India, respecting applications from time to time made by private persons to the Telegraph Department for the preservation of telegrams.

7. Most of the objections that were taken to the Bill as introduced, chiefly by commercial bodies in Calcutta, will, it is believed, have been met by our proposal that the power of

placing telegraph lines and posts shall only be exercised by the Government Telegraph Department for the purposes of telegraphs established or maintained by the Government.

8. In section 11 we have, following a recent English Act, proposed to empower the telegraph authority to enter at any time on property for the purpose of examining, repairing, altering or removing any telegraph line or post that has been placed on it.

9. In section 14 we have adhered to the provisions of the English Act (26 & 27 Vic., c. 112, sections 6 and 8), though in practice the officers of the Telegraph Department will doubtless arrange for the alteration of the position of any pipe or drain being carried out by the authority having control of it.

10. In section 15 we have provided, on the suggestion of the Government of Bombay, that disputes between the telegraph authority and local authorities shall be determined by a local officer whose decision will be subject to appeal to the Local Government.

11. In section 16, sub-sections (*1*) and (*2*), we have provided for recourse being had by the telegraph authority to the District Magistrate where the exercise of the powers conferred on that authority is resisted. We have also provided in this section, sub-section (*4*), in accordance with the suggestion of the Government of Bombay, that the telegraph authority may pay compensation into Court where any dispute arises as to the persons entitled to receive it.

12. We have met the objections that were taken to section 10 of the Bill as introduced by providing in section 17 of the present Bill that a person desiring the removal or the alteration of the position of a telegraph line or post shall tender the cost of the removal or alteration in those cases only in which compensation has been paid by the telegraph authority, and that in those cases he shall not be required to tender more than half the sum that was paid to him as compensation.

13. By section 18 we have proposed to provide for the removal by order of a Magistrate of trees interrupting or likely to interrupt telegraphic communication. A somewhat similar provision in the case of trees dangerous to railways is contained in the Regulation of Railways Act, 1868 (31 & 32 Vic., c. 119, section 24).

14. By section 26 we propose to subject a person who is not a telegraph officer, but has official duties connected with an office which is used as a telegraph office, to the same penalty as that to which a telegraph officer is liable for secreting or altering telegrams or unlawfully intercepting or disclosing them. Many post offices in India are now used as telegraph offices, and we consider that postal officials should be restrained by penalty, as they are under the English Telegraph Act of 1868, from abusing such opportunities as they may have of becoming acquainted with the contents of telegraphic messsages.

15. The publication ordered by the Council has been made as follows:—

In English.

Gazette.	*Date.*
Gazette of India	23rd and 30th August, and 6th September, 1884.
Fort Saint George Gazette	9th September, 1884.
Bombay Government Gazette	28th August, and 4th and 11th September, 1884.
Calcutta Gazette	3rd, 10th and 17th September, 1884.
North-Western Provinces and Oudh Government Gazette	30th August, and 6th and 13th September, 1884.
Punjab Government Gazette	4th, 11th and 18th September, 1884.
Central Provinces Gazette	30th August, and 6th and 13th September, 1884.
British Burma Gazette	13th, 20th and 27th September, 1884.
Assam Gazette	13th September, 1884.

In the Vernaculars.

Province.	*Language.*	*Date.*
Madras	Tamil ...	18th November, 1884.
Bombay	Gujaráthí ...	13th November, 1884.
	Kanarese ...	13th November, 1884.
Bengal	Bengalí ...	4th November, 1884.
	Hindí ...	4th November, 1884.
	Uriya ...	13th November, 1884.
North-Western Provinces and Oudh	Urdu ...	13th December, 1884, and 24th and 31st January, 1885.
Punjab	Urdu ...	22nd and 29th September, and 6th October, 1884.
Burma	Burmese ...	27th September, and 4th and 11th October, 1884.

We do not think that the measure has been so altered as to require re-publication, and we recommend that it be passed as now amended.

T. C. HOPE.

C. P. ILBERT.

The 8th July, 1885.

D. FITZPATRICK,
Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First publication.]

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 31st July, 1885, and is hereby promulgated for general information :—

ACT No. XIV OF 1885.

An Act to amend the Burma Courts Act, 1875, and section 360 of the Code of Civil Procedure.

WHEREAS it is expedient to amend the Burma Courts Act, 1875, and section 360 of the Code of Civil Procedure; It is hereby enacted as follows :—

XVII of 1875.
XIV of 1882.

Short title and commencement.

1. *(1)* This Act may be called the Burma Courts Act, 1885; and

(2) It shall come into force at once.

Power to vest in local officers insolvency jurisdiction vested in Recorder in Moulmein, Akyab and Bassein.

2. *(1)* The Chief Commissioner of British Burma may, from time to time, by order notified in the official Gazette, direct that, from a date to be therein specified, the jurisdiction vested in the Recorder within the towns of Moulmein, Akyab and Bassein by section 66 of the Burma Courts Act, 1875, shall be vested, as regards each or any of those towns, as follows :—

XVII of 1875.

(a) in the Civil Judge of Moulmein within the town of Moulmein;

(b) in the Deputy Commissioner of Akyab within the town of Akyab;

(c) in the Deputy Commissioner of Bassein within the town of Bassein.

(2) While any such order is in force, the said section 66 shall, with respect to any town to which the order applies, have effect as if it referred to the officer in whom the jurisdiction is so vested instead of to the Recorder, and all cases pending at the date of the order shall be disposed of accordingly.

(3) Provided that nothing in this section shall prevent the Recorder from entertaining and disposing of in his own Court any case, whether pending at the date of the order or subsequently instituted, which, by reason of its importance or otherwise, may, in his opinion, be more conveniently so disposed of.

(4) The Chief Commissioner may, by order notified as aforesaid, cancel any order made under subsection *(1)* as to all or any of the towns to which the order applies, but not so as to affect any proceedings pending at the date of the cancelling order.

Partial repeal of section 360 of Code of Civil Procedure.

3. The last paragraph of section 360 of the Code of Civil Procedure is hereby repealed. XIV of 1

Power to transfer cases from Court of Recorder to Court of Judicial Commissioner.

4. *(1)* The Chief Commissioner may, from time to time, transfer to the Court of the Judicial Commissioner any particular cases or particular classes of cases that may be pending in the Court of the Recorder.

(2) In the disposal of such cases the Judicial Commissioner shall administer the same law, follow the same procedure, exercise the same powers and use the same seal as would be administered, followed, exercised and used by the Recorder in like cases.

(3) Section 84 of the Burma Courts Act, 1875, shall apply to the Court of the Judicial Commissioner when disposing of such cases. XVII

(4) All decrees, orders and sentences made or passed in such cases by the Judicial Commissioner shall, for the purposes of the law relating to appeals, references and revision, be deemed to be made or passed by the Recorder.

D. FITZPATRICK,

Secy. to the Govt. of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, AUGUST 8, 1885.

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

PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third publication.]

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 22nd July, 1885, and is hereby promulgated for general information :—

ACT NO. XII OF 1885.

An Act to amend the law relating to the carriage of passengers by sea.

WHEREAS by section 99 of an Act of the Imperial Parliament called "The Passengers Act, 1855," (18 & 19 Vic., c. 119.) it is enacted that "it shall be lawful for the Governor-General of India in Council, from time to time, by any Act or Acts to be passed for that purpose, to declare that this Act or any part thereof shall apply to the carriage of passengers upon any voyage, from any ports or places within the territories of British India, to be specified in such Act or Acts, to any other places whatsoever, to be also specified in such Act or Acts;" and it is thereby also enacted that "on the passing of such Indian Act or Acts, and whilst the same shall remain in force, all such parts of this Act as shall be adopted therein shall apply to and extend to the carriage of passengers upon such voyages as in the said Indian Act or Acts shall be specified. The provisions of such Indian Act shall be enforced in all Her Majesty's possessions in like manner as the provisions of this Act may be enforced;"

And whereas certain parts of the said Act of Parliament were by Act II of 1860 *(to amend the law relating to the carriage of passengers by sea)* made applicable to the carriage of passengers upon certain specified voyages;

And whereas by an Act of the Imperial Parliament called "The Passengers Act Amendment Act, 1863," (26 & 27 Vic., c. 51.) certain parts of the Passengers Act, 1855, (18 & 19 Vic., c. 119.) which were so made applicable, have been amended, and it is provided that the said Acts of the Imperial Parliament shall be construed together as one Act;

And whereas it is expedient that the amendments so made in the Passengers Act, 1855, (18 & 19 Vic., c. 119.) should also be made in the parts of that Act so made applicable, and it is also expedient to apply those parts so amended to the carriage of passengers upon certain voyages not specified in Act II of 1860;

It is hereby enacted as follows :—

Short title and commencement.

1. *(1)* This Act may be called the Indian Sea Passengers Act, 1885; and

(2) It shall come into force on the first day of October, 1885.

Repeal of Act II of 1860.

2. On and from the day on which this Act comes into force, Act II of 1860 *(to amend the law relating to the carriage of passengers by sea)* shall be repealed.

Certain provisions of the Statutes made applicable to specified voyages from India.

3. The provisions contained in sections 4, 5 and 6 of this Act, and the schedule hereto annexed (being parts of the Passengers Act, 1855, as amended by the Passengers Act Amendment Act, 1863), are declared applicable to the carriage of passengers upon the following voyages, namely :— (18 & 19 Vic., c. 119. 26 & 27 Vic., c. 51.)

(*a*) voyages from the ports of Calcutta, Madras and Bombay to the British Colonies of Mauritius, Jamaica, British Guiana, Trinidad, St. Lucia, Grenada, St. Vincent, Natal, St. Kitts, Nevis and Fiji;

(*b*) voyages from the ports of Calcutta, Madras and Bombay to the French Colonies of Réunion, Martinique, Guadeloupe and its dependencies, and Guiana;

(*c*) voyages from the ports of Calcutta, Madras and Bombay to the Netherlands colony of Dutch Guiana;

(*d*) voyages from the ports of Calcutta, Madras and Bombay to the Danish colony of St. Croix;

(*e*) voyages under the Native Passenger Ships Act, 1876, from Calcutta, Madras, Bombay, Karáchí, Rangoon and other ports in British India to the Straits Settlements, to the protected Native States adjoining the Straits Settlements, to Australia, and to ports in the Red Sea, Gulf of Aden or Persian Gulf and on the East Coast of Africa. (VIII of 1876.)

4. If the passengers or cabin-passengers upon any such voyage as is specified in the last preceding section are taken off from the ship carrying them or are picked up at sea from any boat, raft or otherwise, it shall be lawful, if the port or place to which they are conveyed is in any of Her Majesty's colonial possessions, for the Governor of such colony, or for any person authorized by him for the purpose, or, if in any foreign country, for Her Majesty's Consular Officer at such port or place therein, to defray all or any part of the expenses thereby incurred.

Governors or Consuls may pay expenses of passengers taken off passenger-ship.

5. If any passenger or cabin-passenger of any such passenger-ship as aforesaid, without any neglect or default of his own, finds himself within any colonial or foreign port or place other than that for which the ship was originally bound, or at which he, or the Emigration Agent, or any public officer or other person on his behalf, has contracted that he should land, it shall be lawful for the Governor of the colony, or for any person authorized by him for the purpose, or for Her Majesty's Consular Officer at the foreign port or place, as the case may be, to forward the passenger or cabin-passenger to his intended destination, unless the master of the ship, within forty-eight hours of the arrival of such passenger or cabin-passenger, gives to the Governor or Consular Officer, as the case may be, a written undertaking to forward or carry on within six weeks thereafter the passenger or cabin-passenger to his original destination, and unless the master accordingly forwards or carries him on within that period.

Governors or Consuls may send on passengers, if the master of the ship fail to do so.

6. *(1)* All expenses incurred under the last two preceding sections, or either of them, by or by the authority of a Governor or Consular Officer, or other person as therein respectively mentioned, including the cost of maintaining the passengers and cabin-passengers until forwarded to their destination, and of all necessary bedding, provisions and stores, shall become a debt to Her Majesty and Her successors from the owner, charterer and master of the ship, and shall be recoverable from them, or from any one or more of them, at the suit and for the use of Her Majesty, in like manner as in the case of other Crown debts.

Expenses incurred under sections 4 and 5 to be a Crown debt.

(2) A certificate in the form given in the schedule hereto annexed, or as near thereto as the circumstances of the case will admit, purporting to be under the hand of any such Governor or Consular Officer (as the case may be), stating the total amount of the expenses, shall, in any suit or other proceeding for the recovery of the debt, be received in evidence without proof of the handwriting or of the official character of the Governor or Consular Officer, and shall be deemed sufficient evidence of the amount of the expenses, and that the same were duly incurred;

nor shall it be necessary to adduce on behalf of Her Majesty any other evidence in support of the claim, but judgment shall pass for the Crown, with costs of suit, unless the defendant specially pleads and duly proves that the certificate is false or fraudulent, or specially pleads and duly proves any facts showing that the expenses were not duly incurred:

Provided, nevertheless, that in no case shall any larger sum be recovered on account of the expenses than a sum equal to twice the total amount of passage-money received or due to and recoverable by or on account of the owner, charterer or master of the passenger-ship or any of them from or on account of the whole number of passengers and cabin-passengers who may have embarked in the ship; which total amount of passage-money shall be proved by the defendant if he will have the advantage of this limitation of the debt; but if any such passengers are forwarded or conveyed to their intended destination under the provisions of the last preceding section, they shall not be entitled to the return of their passage-money, or to any compensation for loss of passage.

7. No policy of assurance effected in respect of any passages or of any passage or compensation money by any person by this Act made liable in the events aforesaid to provide those passages or to pay that money, or in respect of any other risk under this Act, shall be deemed invalid by reason of the nature of the risk or interest sought to be covered by the policy of assurance.

Insurance.

THE SCHEDULE.

Form of Governor's or Consul's Certificate of Expenditure in the case of Passengers shipwrecked, &c.

(*See section 6.*)

I hereby certify that acting under, and in conformity with, the provisions of the Indian Sea Passengers Act, 1885, I have defrayed the expenses incurred in rescuing, maintaining, supplying with necessary bedding, provisions and stores (*a*), and in forwarding to their destination passengers [including cabin-passengers (*b*)], who were proceeding from to in the passenger-ship which was wrecked at sea, &c. (*c*).

And I further certify, for the purposes of the sixth section of the said Indian Sea Passengers Act, 1885, that the total amount of such expenses is , and that such expenses were duly incurred by me under the said Act.

Given under my hand this day of , 18 .

{ *Governor of, &c.* (or, as the case may be) *Her Britannic Majesty's Consul at*

D. FITZPATRICK,

Secy. to the Govt. of India.

(*a*) *N.B.*—1. If more passengers were rescued than forwarded, or if bedding, &c., was not supplied, alter the certificate to suit the facts of the case.

(*b*) *N.B.*—2. Omit words in brackets when necessary.

(*c*) *N.B.*—3. State generally the nature of the disaster and where it occurred. But if the passengers were only left behind without any default of their own, state the fact accordingly.

LEGISLATIVE DEPARTMENT.

THE following Report on the Bill to amend the law relating to the carriage of passengers by sea was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 8th July, 1885:—

We, the undersigned, Members of the Select Committee to which the Bill to amend the law relating to the carriage of passengers by sea was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report.

From Officiating Secretary to Chief Commissioner, British Burma, No. 304—5M.S., dated 13th February, 1885 [Paper No. 1].
From Secretary to Government, Bengal, No. 409, dated 19th February, 1885, and enclosures [Papers No. 2].
From Chief Secretary to Government, Madras, No. 486J., dated 20th February, 1885, and enclosures [Papers No. 3].
From Under Secretary to Government, Bombay, No. 753, dated 28th February, 1885, and enclosures [Papers No. 4].
From Officiating Registrar, High Court, Calcutta, No. 1018, dated 27th March, 1885 [Papers No. 5].

2. The papers contain several suggestions both by officials and by commercial bodies which might be well worthy of consideration if the question were one as to the amendment of the English Passengers Acts, but which, having regard to the conditions under which we are now proceeding, it is beyond our power to entertain.

Acting, as we are, under the 99th section of the 18 & 19 Vic., c. 119, which is recited in the preamble to the Bill, we are restricted to applying to the voyages here in question the provisions of the English Passengers Acts as they stand; and if we were to introduce any modifications in the substance of those provisions, we should in all probability fail to secure for our Act the effect referred to at the end of the preamble, namely, that its provisions "shall be enforced in all Her Majesty's possessions in like manner as the provisions" of the English Passengers Acts.

3. Thus, we have no power to adopt the suggestion of the Bengal Chamber of Commerce that we should amend section 5 of the Bill so as to compel a Colonial Governor or Consular Officer to accept an undertaking to forward passengers offered by the owner, charterer or agent of a ship. We may observe, however, that, having regard to the definition of "master" in the Passengers Acts, and to the duties of a master of a wrecked ship, the contingency of there being no master of a wrecked ship, which this amendment was intended to meet, is one likely to be of very rare occurrence.

Moreover, as the Governor or Consular Officer is not compelled to act under the section, but has a discretion in the matter, there can be little doubt that in the case put he would accept the undertaking of the owner, charterer or agent.

4. Similarly, it would be beyond our powers, even if we thought it desirable to do so, to adopt the suggestion of the Madras Chamber that a shipowner should be relieved of the liability imposed by section 6 of the Bill in cases in which the ship is prevented from completing her voyage by the act of God or the Queen's enemies.

It appears to us, however, that the risk involved is one which should be provided against by insurance; and, in order to remove all doubt as to the possibility of so providing against it we have introduced into the Bill a section (7) similar to section 55 of the Passengers Act, 1855, expressly legalizing such insurances.

5. The Government of Bombay draw attention to the want of a provision like section 14 of the Passengers Act Amendment Act, 1863, to meet the case of passengers who may be left in British India owing to their ship being wrecked before she leaves the territorial waters, or who may be brought back to British India owing to their ship being wrecked or disabled after proceeding some short distance on her voyage. We are disposed to agree in thinking some such provision desirable, but the extraordinary powers under which we are now acting are not needed for its enactment, and we think the matter could be more conveniently dealt with in our Native Passengers and Emigration Acts, where we should be free to mould the law as we think fit to suit local requirements.

6. We have, at the suggestion of Brigadier-General Blair, the Political Resident at Aden, amended section 8 (*c*) so as to extend the Bill to voyages to ports on the East Coast of Africa and in the Gulf of Aden.

7. We have also made such amendments as were necessary to render it clear that the Bill extends, as the English Acts do, to cabin passengers.

8. The publication ordered by the Council has been made as follows:—

In English.

Gazette.	*Date.*
Gazette of India ...	... 20th and 27th December, 1884, and 3rd January, 1885.
Fort St. George Gazette ...	... 13th January, 1885.
Bombay Government Gazette ...	... 25th December, 1884, and 1st and 8th January, 1885.
Calcutta Gazette ...	... 24th and 31st December, 1884, and 7th January, 1885.
British Burma Gazette ...	... 10th, 17th and 24th January, 1885.

In the Vernaculars.

Province.	*Language.*	*Date.*
Bombay ...	... Maráthí ...	} 12th February, 1885.
	Gujaráthí ...	
	Kanarese ...	
Bengal ...	... Bengalí ...	} 20th and 27th January, and 3rd February, 1885.
	Hindí ...	
	Uriya ...	29th January, and 5th and 12th February, 1885.
British Burma ...	... Burmese ...	7th, 14th and 21st February, 1885.

We do not think that the measure has been so altered as to require re-publication, and we recommend that it be passed as now amended.

C. P. ILBERT.
S. C. BAYLEY.

The 8th July, 1885.

D. FITZPATRICK,
Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third publication.]

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 22nd July, 1885, and is hereby promulgated for general information :—

ACT No. XIII OF 1885.

THE INDIAN TELEGRAPH ACT, 1885.

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18. Removal of trees interrupting telegraphic communication.
19. Telegraph lines and posts placed before the passing of this Act.

PART IV.

PENALTIES.

20. Establishing, maintaining or working unlicensed telegraph or breaking condition of license.
21. Using such telegraphs.
22. Opposing establishment of telegraphs on railway land.
23. Intrusion into signal-room, trespass in telegraph office or obstruction.
24. Unlawfully attempting to learn contents of messages.
25. Intentionally damaging or tampering with telegraphs.
26. Telegraph officer or other official making away with or altering, or unlawfully intercepting or disclosing, messages, or divulging purport of signals.
27. Telegraph officer fraudulently sending messages without payment.
28. Misconduct.
29. Sending fabricated message.
30. Retaining a message delivered by mistake.
31. Bribery.
32. Attempts to commit offences.

PART V.

SUPPLEMENTAL PROVISION.

33. Power to employ additional police in places where mischief to telegraphs is repeatedly committed.

The Indian Telegraph Act, 1885.
(Part I.—Preliminary.—Sections 1-3)
(Part II.—Privileges and Powers of the Government.—Sections 4-7.)

An Act to amend the law relating to Telegraphs in India.

WHEREAS it is expedient to amend the law relating to telegraphs in India; It is hereby enacted as follows:—

PART I.

PRELIMINARY.

Short title, local extent and commencement.

1. *(1)* This Act may be called the Indian Telegraph Act, 1885.

(2) It extends to the whole of British India, and, so far as regards subjects of Her Majesty, to the dominions of Princes and States in India in alliance with Her Majesty; and

(3) It shall come into force on the first day of October, 1885.

Repeal and savings. I of 1876.

2. The Indian Telegraph Act, 1876, is hereby repealed.

But all licenses granted and rules made under that Act or any Act thereby repealed, and now in force, shall, so far as they could be granted or made under this Act, be deemed to have been respectively granted and made hereunder.

Definitions.

3. In this Act, unless there is something repugnant in the subject or context,—

(1) "Telegraph" means an electric, galvanic or magnetic telegraph, and includes appliances and apparatus for transmitting or making telegraphic, telephonic or other communications by means of electricity, galvanism or magnetism:

(2) "Telegraph officer" means any person employed either permanently or temporarily in connection with a telegraph established, maintained or worked by the Government or by a person licensed under this Act:

(3) "Message" means any communication sent by telegraph, or given to a telegraph officer to be sent by telegraph or to be delivered:

(4) "Telegraph line" means a wire or wires used for the purpose of a telegraph, with any casing, coating, tube or pipe enclosing the same, and any appliances and apparatus connected therewith for the purpose of fixing or insulating the same:

(5) "Post" means a post, pole, standard, stay, strut or other above-ground contrivance for carrying, suspending or supporting a telegraph line:

(6) "Telegraph authority" means the Director General of Telegraphs, and includes any officer empowered by him to perform all or any of the functions of the telegraph authority under this Act:

(7) "Local authority" means any municipal committee, district board, body of port commissioners or other authority legally entitled to, or entrusted by the Government with, the control or management of any municipal or local fund.

PART II.

PRIVILEGES AND POWERS OF THE GOVERNMENT.

Exclusive privilege in respect of telegraphs, and power to grant licenses.

4. Within British India, the Governor-General in Council shall have the exclusive privilege of establishing, maintaining and working telegraphs:

Provided that the Governor-General in Council may grant a license, on such conditions and in consideration of such payments as he thinks fit, to any person to establish, maintain or work a telegraph within any part of British India:

Power for Government to take possession of licensed telegraphs and to order interception of messages.

5. *(1)* On the occurrence of any public emergency, or in the interest of the public safety, the Governor-General in Council or a Local Government, or any officer specially authorised in this behalf by the Governor-General in Council, may—

(a) take temporary possession of any telegraph established, maintained or worked by any person licensed under this Act; or

(b) order that any message or class of messages to or from any person or class of persons, or relating to any particular subject, brought for transmission by or transmitted or received by any telegraph, shall not be transmitted, or shall be intercepted or detained, or shall be disclosed to the Government or an officer thereof mentioned in the order.

(2) If any doubt arises as to the existence of a public emergency, or whether any act done under sub-section *(1)* was in the interest of the public safety, a certificate signed by a Secretary to the Government of India or to the Local Government shall be conclusive proof on the point.

Power to establish telegraph on land of Railway Company.

6. Any Railway Company, on being required so to do by the Governor-General in Council, shall permit the Government to establish and maintain a telegraph upon any part of the land of the Company, and shall give every reasonable facility for working the same.

Power to make rules for the conduct of telegraphs.

7. *(1)* The Governor-General in Council may, from time to time, by notification in the *Gazette of India*, make rules consistent with this Act for the conduct of all or any telegraphs established, maintained or worked by the Government or by persons licensed under this Act.

(2) Rules under this section may provide for all or any of the following, among other matters, that is to say:—

(a) the rates at which, and the other conditions and restrictions subject to which, messages shall be transmitted;

(b) the precautions to be taken for preventing the improper interception or disclosure of messages;

(c) the period for which, and the conditions subject to which, telegrams and other documents belonging to, or being in the custody of, telegraph officers shall be preserved; and

(d) the fees to be charged for searching for telegrams or other documents in the custody of any telegraph officer.

(3) When making rules for the conduct of any telegraph established, maintained or worked by any person licensed under this Act, the Governor-General in Council may by the rules prescribe fines for any breach of the same:

Provided that the fines so prescribed shall not exceed the following limits, namely:—

(i) when the person licensed under this Act is punishable for the breach, one thousand rupees, and in the case of a continuing breach a further fine of two hundred rupees for every day after the first during the whole or any part of which the breach continues;

(ii) when a servant of the person so licensed, or any other person, is punishable for the breach, one-fourth of the amounts specified in clause *(i)*.

Revocation of licenses.

8. The Governor-General in Council may, at any time, revoke any license granted under section 4, on the breach of any of the conditions therein contained, or in default of payment of any consideration payable thereunder.

Government not responsible for loss or damage.

9. The Secretary of State for India in Council shall not be responsible for any loss or damage which may occur in consequence of any telegraph officer failing in his duty with respect to the receipt, transmission or delivery of any message; and no such officer shall be responsible for any such loss or damage, unless he causes the same negligently, maliciously or fraudulently.

PART III.

POWER TO PLACE TELEGRAPH LINES AND POSTS.

Power for telegraph authority to place and maintain telegraph lines and posts.

10. The telegraph authority may, from time to time, place and maintain a telegraph line under, over, along or across, and posts in or upon, any immoveable property:

Provided that—

(a) the telegraph authority shall not exercise the powers conferred by this section except for the purposes of a telegraph established or maintained by the Government, or to be so established or maintained;

(b) the Government shall not acquire any right other than that of user only in the property under, over, along, across, in or upon which the telegraph authority places any telegraph line or post; and

(c) except as hereinafter provided, the telegraph authority shall not exercise those powers in respect of any property vested in or under the control or management of any local authority, without the permission of that authority; and

(d) in the exercise of the powers conferred by this section, the telegraph authority shall do as little damage as possible, and, when it has exercised those powers in respect of any property other than that referred to in clause *(c)*, shall pay full compensation to all persons interested for any damage sustained by them by reason of the exercise of those powers.

Power to enter on property in order to repair or remove telegraph lines or posts.

11. The telegraph authority may, at any time, for the purpose of examining, repairing, altering or removing any telegraph line or post, enter on the property under, over, along, across, in or upon which the line or post has been placed.

Provisions applicable to Property vested in or under the Control or Management of Local Authorities.

Power for local authority to give permission under section 10, clause (c), subject to conditions.

12. Any permission given by a local authority under section 10, clause *(c)*, may be given subject to such reasonable conditions as that authority thinks fit to impose, as to the payment of any expenses to which the authority will necessarily be put in consequence of the exercise of the powers conferred by that section, or as to the time or mode of execution of any work, or as to any other thing connected with or relative to any work undertaken by the telegraph authority under those powers.

Power for local authority to require removal or alteration of telegraph line or post.

13. When, under the foregoing provisions of this Act, a telegraph line or post has been placed by the telegraph authority under, over, along, across, in or upon any property vested in or under the control or management of a local authority, and the local authority, having regard to circumstances which have arisen since the telegraph line or post was so placed, considers it expedient that it should be removed or that its position should be altered, the local authority may require the telegraph authority to remove it or alter its position, as the case may be.

Power to alter position of gas or water pipes or drains.

14. The telegraph authority may, for the purpose of exercising the powers conferred upon it by this Act in respect of any property vested in or under the control or management of a local authority, alter the position thereunder of any pipe (not being a main) for the supply of gas or water, or of any drain (not being a main drain):

Provided that—

(a) when the telegraph authority desires to alter the position of any such pipe or drain it shall give reasonable notice of its intention to do so, specifying the time at which it will begin to do so, to the local authority, and, when the pipe or drain is not under the control of the local authority, to the person under whose control the pipe or drain is;

(b) a local authority or person receiving notice under clause *(a)* may send a person to superintend the work, and the telegraph authority shall execute the work to the reasonable satisfaction of the person so sent.

Disputes between telegraph authority and local authority.

15. *(1)* If any dispute arises between the telegraph authority and a local authority in consequence of the local authority refusing the permission referred to in section 10, clause *(c)*, or prescribing any condition under section 12, or in consequence of the telegraph authority

The Indian Telegraph Act, 1885.
(Part III.—Power to place Telegraph Lines and Posts.—Sections 16-19.)
(Part IV.—Penalties.—Sections 20-21.)

omitting to comply with a requisition made under section 13, or otherwise in respect of the exercise of the powers conferred by this Act, it shall be determined by such officer as the Local Government may appoint either generally or specially in this behalf.

(2) An appeal from the determination of the officer so appointed shall lie to the Local Government; and the order of the Local Government shall be final.

Provisions applicable to other Property.

16. *(1)* If the exercise of the powers mentioned in section 10 in respect of property referred to in clause *(d)* of that section is resisted or obstructed, the District Magistrate may, in his discretion, order that the telegraph authority shall be permitted to exercise them.

Exercise of powers conferred by section 10, and disputes as to compensation, in case of property other than that of a local authority.

(2) If, after the making of an order under sub-section *(1)*, any person resists the exercise of those powers, or, having control over the property, does not give all facilities for their being exercised, he shall be deemed to have committed an offence under section 188 of the Indian Penal Code.

XLV of 1860.

(3) If any dispute arises concerning the sufficiency of the compensation to be paid under section 10, clause *(d)*, it shall, on application for that purpose by either of the disputing parties to the District Judge within whose jurisdiction the property is situate, be determined by him.

(4) If any dispute arises as to the persons entitled to receive compensation, or as to the proportions in which the persons interested are entitled to share in it, the telegraph authority may pay into the Court of the District Judge such amount as he deems sufficient or, where all the disputing parties have in writing admitted the amount tendered to be sufficient or the amount has been determined under sub-section *(3)*, that amount; and the District Judge, after giving notice to the parties and hearing such of them as desire to be heard, shall determine the persons entitled to receive the compensation or, as the case may be, the proportions in which the persons interested are entitled to share in it.

(5) Every determination of a dispute by a District Judge under sub-section *(3)* or sub-section *(4)* shall be final:

Provided that nothing in this sub-section shall affect the right of any person to recover by suit the whole or any part of any compensation paid by the telegraph authority, from the person who has received the same.

17. *(1)* When, under the foregoing provisions of this Act, a telegraph line or post has been placed by the telegraph authority under, over, along, across, in or upon any property, not being property vested in or under the control or management of a local authority, and any person entitled to do so desires to deal with that property in such a manner as to render it necessary or convenient that the telegraph line or post should be removed to another part thereof or to a higher or lower level or altered in form, he may require the telegraph authority to remove or alter the line or post accordingly:

Removal or alteration of telegraph line or post on property other than that of a local authority.

Provided that, if compensation has been paid under section 10, clause *(d)*, he shall, when making the requisition, tender to the telegraph authority the amount requisite to defray the expense of the removal or alteration, or half of the amount paid as compensation, whichever may be the smaller sum.

(2) If the telegraph authority omits to comply with the requisition, the person making it may apply to the District Magistrate within whose jurisdiction the property is situate to order the removal or alteration.

(3) A District Magistrate receiving an application under sub-section *(2)* may, in his discretion, reject the same or make an order, absolutely or subject to conditions, for the removal of the telegraph line or post to any other part of the property or to a higher or lower level or for the alteration of its form; and the order so made shall be final.

Provisions applicable to all Property.

18. *(1)* If any tree standing or lying near a telegraph line interrupts, or is likely to interrupt, telegraphic communication, a Magistrate of the first or second class may, on the application of the telegraph authority, cause the tree to be removed or dealt with in such other way as he deems fit.

Removal of trees interrupting telegraphic communication.

(2) When disposing of an application under sub-section *(1)*, the Magistrate shall, in the case of any tree in existence before the telegraph line was placed, award to the persons interested in the tree such compensation as he thinks reasonable, and the award shall be final.

19. Every telegraph line or post placed before the passing of this Act under, over, along, across, in or upon any property, for the purposes of a telegraph established or maintained by the Government, shall be deemed to have been placed in exercise of the powers conferred by, and after observance of all the requirements of, this Act.

Telegraph lines and posts placed before the passing of this Act.

PART IV.

PENALTIES.

20. If any person establishes, maintains or works a telegraph within British India, otherwise than as permitted by a license granted under section 4, or breaks any condition contained in such a license, he shall be punished with fine which may extend to one thousand rupees, and with a further fine which may extend to five hundred rupees for every week during which the line is maintained or worked or the breach of the condition continues.

Establishing, maintaining or working unlicensed telegraph or breaking condition of license.

21. If any person, knowing or having reason to believe that a telegraph has been established or is maintained or worked in contravention of this Act, transmits or receives any message by such telegraph, or performs any service incidental thereto, or delivers any message for transmission by such telegraph or accepts delivery of any message sent thereby, he shall be punished with fine which may extend to fifty rupees.

Using such telegraphs.

The Indian Telegraph Act, 1885.
(Part IV.—Penalties.—Sections 22-32.)
(Part V.—Supplemental Provision.—Section 33.)

22. If a Railway Company, or an officer of a Railway Company, neglects or refuses to comply with the provisions of section 6, it or he shall be punished with fine which may extend to one thousand rupees for every day during which the neglect or refusal continues.

Opposing establishment of telegraphs on railway land.

23. If any person—

Intrusion into signal-room, trespass in telegraph office or obstruction.

(a) without permission of competent authority, enters the signal-room of a telegraph office of the Government, or of a person licensed under this Act, or

(b) enters a fenced enclosure round such a telegraph office in contravention of any rule or notice not to do so, or

(c) refuses to quit such room or enclosure on being requested to do so by any officer or servant employed therein, or

(d) wilfully obstructs or impedes any such officer or servant in the performance of his duty,

he shall be punished with fine which may extend to five hundred rupees.

24. If any person does any of the acts mentioned in section 23 with the intention of unlawfully learning the contents of any message, or of committing any offence punishable under this Act, he may (in addition to the fine with which he is punishable under section 23) be punished with imprisonment for a term which may extend to one year.

Unlawfully attempting to learn contents of messages.

25. If any person, intending—

Intentionally damaging or tampering with telegraphs.

(a) to prevent or obstruct the transmission or delivery of any message, or

(b) to intercept or to acquaint himself with the contents of any message, or

(c) to commit mischief,

damages, removes, tampers with or touches any battery, machinery, telegraph line, post or other thing whatever, being part of or used in or about any telegraph or in the working thereof,

he shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both.

26. If any telegraph officer, or any person, not being a telegraph officer but having official duties connected with any office which is used as a telegraph office,—

Telegraph officer or other official making away with or altering, or unlawfully intercepting or disclosing, messages, or divulging purport of signals.

(a) wilfully secretes, makes away with or alters any message which he has received for transmission or delivery, or

(b) wilfully, and otherwise than in obedience to an order of the Governor General in Council or of a Local Government, or of an officer specially authorised by the Governor General in Council to make the order, omits to transmit, or intercepts or detains, any message or any part thereof, or otherwise than in pursuance of his official duty, or in obedience to the direction of a competent Court, discloses the contents or any part of the contents of any message, to any person not entitled to receive the same, or

(c) divulges the purport of any telegraphic signal to any person not entitled to become acquainted with the same,

he shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both.

27. If any telegraph officer transmits by telegraph any message on which the charge prescribed by the Government, or by a person licensed under this Act, as the case may be, has not been paid, intending thereby to defraud the Government or that person, he shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both.

Telegraph officer fraudulently sending messages without payment.

28. If any telegraph officer, or any person not being a telegraph officer but having official duties connected with any office which is used as a telegraph office, is guilty of any act of drunkenness, carelessness or other misconduct whereby the correct transmission or the delivery of any message is impeded or delayed, or if any telegraph officer loiters or delays in the transmission or delivery of any message, he shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to one hundred rupees, or with both.

Misconduct.

29. If any person transmits or causes to be transmitted by telegraph a message which he knows to be false or fabricated, he shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both.

Sending fabricated message.

30. If any person fraudulently retains, or wilfully secretes, makes away with or detains a message which ought to have been delivered to some other person, or, being required by a telegraph officer to deliver up any such message, neglects or refuses to do so, he shall be punished with imprisonment for a term which may extend to two years, or with fine, or with both.

Retaining a message delivered by mistake.

31. A telegraph officer shall be deemed a public servant within the meaning of sections 161, 162, 163, 164 and 165 of the Indian Penal Code; and in the definition of "legal remuneration" contained in the said section 161, the word "Government" shall, for the purposes of this Act, be deemed to include a person licensed under this Act.

Bribery.

XLV of 1860.

32. Whoever attempts to commit any offence punishable under this Act shall be punished with the punishment herein provided for the offence.

Attempts to commit offences.

PART V.

SUPPLEMENTAL PROVISION.

33. *(1)* Whenever it appears to the Local Government that any act causing or likely to cause wrongful damage to any telegraph is repeatedly and maliciously committed in

Power to employ additional police in places where mischief to telegraphs is repeatedly committed.

The Indian Telegraph Act, 1885.

any place, and that the employment of an additional police-force in that place is thereby rendered necessary, the Local Government may send such additional police-force as it thinks fit to the place, and employ the same therein so long as, in the opinion of that Government, the necessity of doing so continues.

(2) The inhabitants of the place shall be charged with the cost of the additional police-force, and the District Magistrate shall, subject to the orders of the Local Government, assess the proportion in which the cost shall be paid by the inhabitants according to his judgment of their respective means.

(3) All moneys payable under sub-section *(2)* shall be recoverable either under the warrant of a Magistrate by distress and sale of the moveable property of the defaulter within the local limits of his jurisdiction, or by suit in any competent Court.

(4) The Local Government may, by order in writing, define the limits of any place for the purposes of this section.

D. FITZPATRICK,
Secy. to the Govt. of India.

LEGISLATIVE DEPARTMENT.

THE following Report on the Bill to facilitate the construction of Telegraphs, and to amend the Indian Telegraph Act, 1876, was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 8th July, 1885 :—

We, the undersigned, Members of the Select Committee to which the Bill to facilitate the construction of Telegraphs, and to amend the Indian Telegraph Act, 1876, was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report.

From Officiating Registrar, High Court, Calcutta, No. 2609, dated 15th September, 1884 [Paper No. 1].
From Secretary to Chief Commissioner, Coorg, No. 807—111, dated 13th September, 1884 [Paper No. 2].
From Officiating Secretary to Chief Commissioner, British Burma, No. 771-18L., dated 26th September, 1884, and enclosures [Papers No. 3].
From Officiating Secretary to Chief Commissioner, Assam, No. 1536, dated 27th September, 1884, and enclosures [Papers No. 4].
From Chief Commissioner, Ajmer-Merwára, No. 842, dated 3rd October, 1884 [Paper No. 5].
From Officiating Secretary to Government, North-Western Provinces and Oudh, No. 1057—VII-276-24, dated 7th October, 1884, and enclosures [Papers No. 6].
From Secretary for Berar to Resident, Hyderabad, No. 3596., dated 9th October, 1884 [Paper No. 7].
From Chief Secretary to Government, Madras, No. 2541, dated 6th October, 1884, and enclosures [Papers No. 8].
From Officiating Secretary to Government, Punjab, No. 911, dated 23rd October, 1884, and enclosures [Papers No. 9].
From Assistant Secretary to Chief Commissioner, Central Provinces, No. 5183—240, dated 5th November, 1884 [Paper No. 10].
From Under-Secretary to Government, Bombay, No. 7782, dated 7th November, 1884, and enclosures [Papers No. 11].
From Secretary to Government, Bengal, No. 1461T.—R., dated 23rd October, 1884, and enclosures [Papers No. 12].
Extract, paragraph III, from Proceedings of the Meerut Association, No. 13, dated 16th November, 1884 [Paper No. 13].
Telegram from Secretary to Government, North-Western Provinces and Oudh, dated 13th December, 1884 [Paper No. 14].

2. We are of opinion that it would be for the convenience of the Telegraph Department and the public that Act I of 1876 should be repealed and re-enacted with most of the modifications and additions proposed by the Bill as introduced. We have accordingly re-drawn the Bill as a consolidating measure.

3. Objection having been taken to licensees being entrusted with the powers with which it was proposed to invest them as telegraph authorities, we have defined "telegraph authority" to mean the Government Telegraph Department (section 3, clause (6)), and provided that that authority shall not exercise the power of placing telegraph lines and posts except for the purposes of a telegraph established or maintained by the Government or to be so established or maintained (section 10).

4. We have also amended the definition of "local authority" so as to make that expression include a cantonment authority and clearly exclude any commercial association however incorporated (section 3, clause (7)).

5. In declaring, in section 4, the exclusive privilege of the Government to extend to establishing, *maintaining and working* telegraphs, and in empowering the Government to grant licenses to establish, maintain *or work* telegraphs, we formulate what is, and has always been understood to be, the existing law, and at the same time avoid the necessity of using the words "lease" and "lessee" which were introduced into the Bill of last year (section 13). A lease is a license to work a line established and maintained by the Government, and a lessee is the holder of such a license.

6. By section 7, sub-section (2), clause (*b*), we propose to give the Government the power of requiring licensees to provide for the seclusion of telegraph instruments at all offices open for the receipt of public messages. Clauses (*c*) and (*d*) of the same sub-section have been suggested to us by correspondence that has been placed at our disposal by the Public Works Department of the Government of India, respecting applications from time to time made by private persons to the Telegraph Department for the preservation of telegrams.

7. Most of the objections that were taken to the Bill as introduced, chiefly by commercial bodies in Calcutta, will, it is believed, have been met by our proposal that the power of placing telegraph lines and posts shall only be exercised by the Government Telegraph Department for the purposes of telegraphs established or maintained by the Government.

8. In section 11 we have, following a recent English Act, proposed to empower the telegraph authority to enter at any time on property for the purpose of examining, repairing, altering or removing any telegraph line or post that has been placed on it.

9. In section 14 we have adhered to the provisions of the English Act (26 & 27 Vic., c. 112, sections 6 and 8), though in practice the officers of the Telegraph Department will doubtless arrange for the alteration of the position of any pipe or drain being carried out by the authority having control of it.

10. In section 15 we have provided, on the suggestion of the Government of Bombay, that disputes between the telegraph authority and local authorities shall be determined by a local officer whose decision will be subject to appeal to the Local Government.

11. In section 16, sub-sections (*1*) and (*2*), we have provided for recourse being had by the telegraph authority to the District Magistrate where the exercise of the powers conferred on that authority is resisted. We have also provided in this section, sub-section (*4*), in accordance with the suggestion of the Government of Bombay, that the telegraph authority may pay compensation into Court where any dispute arises as to the persons entitled to receive it.

12. We have met the objections that were taken to section 10 of the Bill as introduced by providing in section 17 of the present Bill that a person desiring the removal or the alteration of the position of a telegraph line or post shall tender the cost of the removal or alteration in those cases only in which compensation has been paid by the telegraph authority, and that in those cases he shall not be required to tender more than half the sum that was paid to him as compensation.

13. By section 18 we have proposed to provide for the removal by order of a Magistrate of trees interrupting or likely to interrupt telegraphic communication. A somewhat similar provision in the case of trees dangerous to railways is contained in the Regulation of Railways Act, 1868 (31 & 32 Vic., c. 119, section 24).

14. By section 26 we propose to subject a person who is not a telegraph officer, but has official duties connected with an office which is used as a telegraph office, to the same penalty as that to which a telegraph officer is liable for secreting or altering telegrams or unlawfully intercepting or disclosing them. Many post offices in India are now used as telegraph offices, and we consider that postal officials should be restrained by penalty, as they are under the English Telegraph Act of 1868, from abusing such opportunities as they may have of becoming acquainted with the contents of telegraphic messsages.

15. The publication ordered by the Council has been made as follows :—

In English.

Gazette.	*Date.*
Gazette of India	23rd and 30th August, and 6th September, 1884.
Fort Saint George Gazette	9th September, 1884.
Bombay Government Gazette	28th August, and 4th and 11th September, 1884.
Calcutta Gazette	3rd, 10th and 17th September, 1884.
North-Western Provinces and Oudh Government Gazette	30th August, and 6th and 13th September, 1884.
Punjab Government Gazette	4th, 11th and 18th September, 1884.
Central Provinces Gazette	30th August, and 6th and 13th September, 1884.
British Burma Gazette	13th, 20th and 27th September, 1884.
Assam Gazette	13th September, 1884.

In the Vernaculars.

Province.	*Language.*	*Date.*
Madras	Tamil ...	18th November, 1884.
Bombay	Gujaráthí ...	13th November, 1884.
	Kanarese ...	13th November, 1884.
Bengal	Bengalí ...	4th November, 1884.
	Hindí ...	4th November, 1884.
	Uriya ...	13th November, 1884.
North-Western Provinces and Oudh	Urdu ...	13th December, 1884, and 24th and 31st January, 1885.
Punjab	Urdu ...	22nd and 29th September, and 6th October, 1884.
Burma	Burmese ...	27th September, and 4th and 11th October, 1884.

We do not think that the measure has been so altered as to require re-publication, and we recommend that it be passed as now amended.

T. C. HOPE.
C. P. ILBERT.

The 8th July, 1885.

D. FITZPATRICK,
Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second publication.]

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 31st July, 1885, and is hereby promulgated for general information :—

ACT No. XIV OF 1885.

An Act to amend the Burma Courts Act, 1875, and section 360 of the Code of Civil Procedure.

WHEREAS it is expedient to amend the Burma Courts Act, 1875, and section 360 of the Code of Civil Procedure; It is hereby enacted as follows :— XVII of 1875. XIV of 1882.

Short title and commencement.

1. *(1)* This Act may be called the Burma Courts Act, 1885; and

(2) It shall come into force at once.

Power to vest in local officers insolvency jurisdiction vested in Recorder in Moulmein, Akyab and Bassein.

2. *(1)* The Chief Commissioner of British Burma may, from time to time, by order notified in the official Gazette, direct that, from a date to be therein specified, the jurisdiction vested in the Recorder within the towns of Moulmein, Akyab and Bassein by section 66 of the Burma Courts Act, 1875, shall be vested, as regards each or any of those towns, as follows :— XVII of 1875.

(a) in the Civil Judge of Moulmein within the town of Moulmein;

(b) in the Deputy Commissioner of Akyab within the town of Akyab;

(c) in the Deputy Commissioner of Bassein within the town of Bassein.

(2) While any such order is in force, the said section 66 shall, with respect to any town to which the order applies, have effect as if it referred to the officer in whom the jurisdiction is so vested instead of to the Recorder, and all cases pending at the date of the order shall be disposed of accordingly.

(3) Provided that nothing in this section shall prevent the Recorder from entertaining and disposing of in his own Court any case, whether pending at the date of the order or subsequently instituted, which, by reason of its importance or otherwise, may, in his opinion, be more conveniently so disposed of.

(4) The Chief Commissioner may, by order notified as aforesaid, cancel any order made under sub-section *(1)* as to all or any of the towns to which the order applies, but not so as to affect any proceedings pending at the date of the cancelling order.

Partial repeal of section 360 of Code of Civil Procedure.

3. The last paragraph of section 360 of the Code of Civil Procedure is hereby repealed. XIV of 1882.

Power to transfer cases from Court of Recorder to Court of Judicial Commissioner.

4. *(1)* The Chief Commissioner may, from time to time, transfer to the Court of the Judicial Commissioner any particular cases or particular classes of cases that may be pending in the Court of the Recorder.

(2) In the disposal of such cases the Judicial Commissioner shall administer the same law, follow the same procedure, exercise the same powers and use the same seal as would be administered, followed, exercised and used by the Recorder in like cases.

(3) Section 84 of the Burma Courts Act, 1875, shall apply to the Court of the Judicial Commissioner when disposing of such cases. XVII of 1875.

(4) All decrees, orders and sentences made or passed in such cases by the Judicial Commissioner shall, for the purposes of the law relating to appeals, references and revision, be deemed to be made or passed by the Recorder.

D. FITZPATRICK,

Secy. to the Govt. of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, AUGUST 15, 1885.

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

PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third publication.]

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 31st July, 1885, and is hereby promulgated for general information:—

ACT No. XIV OF 1885.

An Act to amend the Burma Courts Act, 1875, and section 360 of the Code of Civil Procedure.

WHEREAS it is expedient to amend the Burma Courts Act, 1875, and section 360 of the Code of Civil Procedure; It is hereby enacted as follows:—

XVII of 1875.
XIV of 1882.

Short title and commencement.

1. *(1)* This Act may be called the Burma Courts Act, 1885; and

(2) It shall come into force at once.

Power to vest in local officers insolvency jurisdiction vested in Recorder in Moulmein, Akyab and Bassein.

2. *(1)* The Chief Commissioner of British Burma may, from time to time, by order notified in the official Gazette, direct that, from a date to be therein specified, the jurisdiction vested in the Recorder within the towns of Moulmein, Akyab and Bassein by section 66 of the Burma Courts Act, 1875, shall be vested, as regards each or any of those towns, as follows:—

XVII of 1875.

(a) in the Civil Judge of Moulmein within the town of Moulmein;

(b) in the Deputy Commissioner of Akyab within the town of Akyab;

(c) in the Deputy Commissioner of Bassein within the town of Bassein.

(2) While any such order is in force, the said section 66 shall, with respect to any town to which the order applies, have effect as if it referred to the officer in whom the jurisdiction is so vested instead of to the Recorder, and all cases pending at the date of the order shall be disposed of accordingly.

(3) Provided that nothing in this section shall prevent the Recorder from entertaining and disposing of in his own Court any case, whether pending at the date of the order or subsequently instituted, which, by reason of its importance or otherwise, may, in his opinion, be more conveniently so disposed of.

(4) The Chief Commissioner may, by order notified as aforesaid, cancel any order made under subsection *(1)* as to all or any of the towns to which the order applies, but not so as to affect any proceedings pending at the date of the cancelling order.

Partial repeal of section 360 of Code of Civil Procedure.

3. The last paragraph of section 360 of the Code of Civil Procedure is hereby repealed. XIV of 1882.

Power to transfer cases from Court of Recorder to Court of Judicial Commissioner.

4. *(1)* The Chief Commissioner may, from time to time, transfer to the Court of the Judicial Commissioner any particular cases or particular classes of cases that may be pending in the Court of the Recorder.

(2) In the disposal of such cases the Judicial Commissioner shall administer the same law, follow the same procedure, exercise the same powers and use the same seal as would be administered, followed, exercised and used by the Recorder in like cases.

(3) Section 84 of the Burma Courts Act, 1875, shall apply to the Court of the Judicial Commissioner when disposing of such cases. XVII of 1875.

(4) All decrees, orders and sentences made or passed in such cases by the Judicial Commissioner shall, for the purposes of the law relating to appeals, references and revision, be deemed to be made or passed by the Recorder.

D. FITZPATRICK,

Secy. to the Govt. of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, OCTOBER 3, 1885.

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

PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First publication.]

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 2nd October, 1885, and is hereby promulgated for general information :—

ACT No. XV OF 1885.

An Act to amend the Local Authorities Loan Act, 1879.

WHEREAS it is expedient to amend the Local Authorities Loan Act, 1879; It is hereby enacted as follows :— XI of 1879.

Addition to section 8, Act XI of 1879.

1. After clause (*b*) of the proviso to section 8 of the said Act the following shall be added :—

"or

"(*c*) to affect the power conferred on any local authority by any such enactment to charge its funds by guaranteeing the payment of interest on money to be applied to any purpose to which the funds of the local authority can legally be applied."

D. FITZPATRICK,
Secy. to the Govt. of India.

LEGISLATIVE DEPARTMENT.

The following Report of the Select Committee on the Bill to amend the Local Authorities Loan Act, 1879, was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 23rd September, 1885 :—

WE, the undersigned, Members of the Select Committee to which the Bill to amend the Local Authorities Loan Act, 1879, was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report.

From Secretary to Chief Commissioner, British Burma, No. 303—24L., dated 18th June, 1885 [Paper No. 1].
From Secretary to Chief Commissioner, Assam, No. 972, dated 18th June, 1885 [Paper No. 2].
From Chief Commissioner, Ajmer-Merwára, No. 722, dated 3rd July, 1885 [Paper No. 3].
From Secretary to Government, North-Western Provinces and Oudh, No. 3051—X-518, dated 10th July, 1885 [Paper No. 4].
From Officiating Secretary to Government, Punjab, No. 7318., dated 17th July, 1885, and enclosures [Papers No. 5].
From Secretary for Berar to Resident, Hyderabad, No. 274G., dated 13th July, 1885 [Paper No. 6].
From Secretary to Chief Commissioner, Coorg, No. 688—89, dated 14th July, 1885 [Paper No. 7].
From Chief Secretary to Government, Madras, No. 1800, dated 10th July, 1885, and enclosures [Papers No. 8].
From Under Secretary to Government, Bombay, No. 2054, dated 18th July, 1885, and enclosures [Papers No. 9].
From Officiating Secretary to Government, Bengal, No. 1370, dated 20th July, 1885, and enclosures [Papers No. 10].
From Assistant Secretary to Chief Commissioner, Central Provinces, No. 3052—147, dated 11th August, 1885 [Paper No. 11].

2. It has been suggested that the term "raised" should be altered so as to include money devoted to any particular purpose by a person who may not have occasion to raise it, and we have accordingly substituted the words "applied to" for "raised for".

3. The only other alteration we have made in the Bill is a purely verbal one.

4. The publication ordered by the Council has been made as follows :—

In English.

Gazette.	*Date.*
Gazette of India	16th, 23rd and 30th May, 1885.
Fort St. George Gazette	2nd June, 1885.
Bombay Government Gazette ...	28th May, and 4th and 11th June, 1885.
Calcutta Gazette	27th May, and 3rd and 10th June, 1885.
North-Western Provinces and Oudh Government Gazette	23rd and 30th May, and 6th June, 1885.
Punjab Government Gazette ...	21st and 28th May, and 4th June, 1885.
Central Provinces Gazette	23rd and 30th May, and 6th June, 1885.
British Burma Gazette	6th, 13th and 20th June, 1885.
Assam Gazette	6th and 13th June, 1885.
Coorg District Gazette	1st July, 1885.

In the Vernaculars.

Province.	*Language.*	*Date.*
Bombay	Maráthí, Gujaráthí, Kanarese, Sindhí	25th June, 1885.
Bengal	Bengálí, Hindí	30th June, 1885.
	Uriya ...	9th July, 1885.
North-Western Provinces and Oudh	Urdu ...	4th, 11th and 18th July, 1885.
Punjab	Urdu ...	15th, 22nd and 29th June, 1885.
Central Provinces	Maráthí ...	11th, 18th and 25th July, 1885.
Coorg	Kanarese ...	1st July, 1885.

We do not think that the measure has been so altered as to require re-publication, and we recommend that it be passed as now amended.

T. C. HOPE.
C. P. ILBERT.
S. C. BAYLEY.

The 23rd September, 1885.

D. FITZPATRICK,
Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First publication.]

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 2nd October, 1885, and is hereby promulgated for general information :—

ACT No. XVI OF 1885.

THE CENTRAL PROVINCES CIVIL COURTS ACT, 1885.

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21. Place of sitting of Courts.
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24. Pending proceedings.
25. Appeals after Act comes into force against decrees and orders passed before.
26. Powers exerciseable from time to time.
27. Publication of certain orders.

An Act to amend the Law relating to Civil Courts in the Central Provinces.

WHEREAS it is expedient to amend the Law relating to Civil Courts in the Central Provinces; It is hereby enacted as follows :—

Preliminary.

Short title, local extent and commencement.

1. *(1)* This Act may be called the Central Provinces Civil Courts Act, 1885.

(2) It extends to the territories for the time being under the administration of the Chief Commissioner of the Central Provinces; and

(3) It shall come into force on the first day of January, 1886.

(4) Any authority conferred on the Chief Commissioner or on the Judicial Commissioner by this Act to issue orders or make rules may be exercised at any time after the passing of this Act; but an order or rule so issued or made shall not take effect until the Act comes into force.

Repeal. XIV of 1865.

2. *(1)* On and from the day on which this Act comes into force the Central Provinces Courts Act, 1865, and Act XXVII of 1867, so far as it relates to the Central Provinces, shall be repealed.

(2) Any enactment or document referring to either of the enactments hereby repealed shall be construed to refer to this Act or to the corresponding portion thereof; and all declarations made, powers conferred, limits prescribed, directions given and orders issued under either of those enactments shall, so far as may be, be deemed to have been respectively made, conferred, prescribed, given and issued under this Act.

Definitions.

3. In this Act, unless there is something repugnant in the subject or context,—

"Assistant Commissioner" includes Extra Assistant Commissioner; and

"value," used with reference to a suit, means the amount or value of the subject-matter of the suit.

Classes of Courts.

Classes of Courts.

4. Besides the Courts of Small Causes established under Act XI of 1865, and the Courts established under any other enactment for the time being in force, there shall be the following classes of Civil Courts, namely :—

(a) the Court of the Judicial Commissioner;

(b) the Court of the Commissioner;

(c) the Court of the Deputy Commissioner;

(d) the Court of the Assistant Commissioner of the first class;

(e) the Court of the Assistant Commissioner of the second class;

(f) the Court of the Assistant Commissioner of the third class;

(g) the Court of the Tahsíldár of the first class;

(h) the Court of the Tahsíldár of the second class.

Court of the Judicial Commissioner.

Court of the Judicial Commissioner.

5. The Judicial Commissioner shall be appointed by the Governor-General in Council; and his Court shall be deemed, for the purposes of all enactments for the time being in force, to be the highest Civil Court of appeal in the territories to which this Act extends.

Courts of Commissioners and Deputy Commissioners.

Courts of Commissioners and Deputy Commissioners.

6. *(1)* The local limits of the jurisdiction of the Court of the Commissioner shall be those of the division of the revenue-administration of which he is in charge.

(2) The local limits of the jurisdiction of the Court of the Deputy Commissioner shall be those of the district of the revenue-administration of which he is in charge.

Original jurisdiction of Courts of Commissioners and Deputy Commissioners in suits.

7. Except as otherwise provided by any enactment for the time being in force, the Court of the Commissioner and the Court of the Deputy Commissioner shall be competent to try original civil suits without limit as regards the value.

Court of Deputy Commissioner to be principal Civil Court of original jurisdiction.

8. Except as otherwise provided by any enactment for the time being in force, the Deputy Commissioner shall be deemed to be the District Judge of the district, and his Court to be the District Court or principal Civil Court of original jurisdiction in the district.

Other Courts.

Chief Commissioner may declare class of Court to which the Court of an Assistant Commissioner or Tahsíldár shall belong.

9. The Chief Commissioner may, by order in writing, declare, as regards any Assistant Commissioner, that his Court shall be that of an Assistant Commissioner of the first or of the second or of the third class, and, as regards any Tahsíldár, that his Court shall be that of a Tahsíldár of the first or of the second class.

Pecuniary and local limits of the jurisdiction of Courts of Assistant Commissioners and Tahsíldárs.

10. *(1)* Courts of Assistant Commissioners and Tahsíldárs shall be competent to try original civil suits of which the value does not exceed that specified against each Court in the following table :—

Courts.	Value.
Court of the Assistant Commissioner of the first class	Five thousand rupees.
Court of the Assistant Commissioner of the second class	One thousand rupees.
Court of the Assistant Commissioner of the third class	Five hundred rupees.
Court of the Tahsíldár of the first class	Three hundred rupees.
Court of the Tahsíldár of the second class	One hundred rupees.

Provided that the Chief Commissioner may, by order in writing, limit the classes of original civil suits which the Courts of Tahsíldárs of the first or of the second class shall be competent to try.

(2) The local limits of the jurisdiction of the Courts mentioned in this section shall be such as the Chief Commissioner may, by order in writing, define.

Náib-tahsíldárs.

Conferment of jurisdiction in certain suits on Náib-tahsíldárs.

11. The Chief Commissioner may, by order in writing, invest, within such local limits as he thinks fit, any Náib-tahsíldár with jurisdiction to try suits of the nature cognizable in a Court of Small Causes established under Act XI of 1865, up to such value, not exceeding fifty rupees, as he thinks fit.

Judicial Assistants to Commissioners, Civil Judges and Munsifs.

Power to invest certain persons, under the names of Judicial Assistant to Commissioner, Civil Judge and Munsif, with certain powers.

12. *(1)* The Chief Commissioner may, by order in writing, invest any person—

(a) with all or any of the powers of the Court of the Commissioner under this Act;

(b) with all or any of the powers of the Court of the Deputy Commissioner under this Act; or

(c) with all or any of the powers of the Court of a Tahsíldár of the first or of the second class under this Act;

and declare that the powers with which any person is so invested shall be exercised within any specified local area, and with respect to any particular class, or particular classes, of cases, or with respect to cases generally.

(2) Persons invested with powers under sub-section *(1)* shall be designated as follows :—

if invested under clause *(a)*—Judicial Assistant to the Commissioner;

if invested under clause *(b)*—Civil Judge;

if invested under clause *(c)*—Munsif.

(3) The Courts of such persons shall, for all purposes connected with the exercise of the said powers, be deemed to be, respectively, Courts of Commissioners, Courts of Deputy Commissioners and Courts of Tahsíldárs.

(4) The Chief Commissioner may, by order in writing, direct how business shall be distributed between the Commissioner and the Judicial Assistant to the Commissioner, and between the Deputy Commissioner and the Civil Judge.

Small Cause Court Jurisdiction.

Power to confer Small Cause Court jurisdiction.

13. The Chief Commissioner may, by order in writing, confer, within such local limits as he thinks fit, upon any Court of an Assistant Commissioner of the first or of the second class the jurisdiction of a Judge of a Court of Small Causes under Act XI of 1865 for the trial of suits cognizable by such Courts up to such value as he thinks fit, not exceeding, if the Court is that of an Assistant Commissioner of the first class, five hundred rupees, or, if the Court is that of an Assistant Commissioner of the second class, one hundred rupees.

Administrative Control.

Superintendence and control of subordinate Courts by Courts of Judicial Commissioner, Commissioner and Deputy Commissioner.

14. *(1)* The general superintendence and control over all other Civil Courts shall be vested in, and all such Courts shall be subordinate to, the Court of the Judicial Commissioner.

(2) Subject to the general superintendence and control of the Court of the Judicial Commissioner, the control of all other Civil Courts in a division shall be vested in, and all such Courts shall be subordinate to, the Court of the Commissioner.

(3) Subject as aforesaid and to the control of Court of the Commissioner, the control of all other Civil Courts in a district shall be vested in, and all such Courts shall be subordinate to, the Court of the Deputy Commissioner :

Provided that the Chief Commissioner, by order in writing, may direct that any Judicial Assistant to the Commissioner or Civil Judge shall not be subject to the control of, or subordinate to, the Court of the Commissioner or the Court of the Deputy Commissioner, as the case may be, and may further direct that such officer shall be subject to the control of, and subordinate to, such other Court as the Chief Commissioner thinks fit.

Power of Court of Commissioner to transfer business. XIV of 1882.

15. *(1)* The Court of the Commissioner may exercise, as regards the Courts under its control, the same powers of withdrawal, trial and transfer as are conferred by section 25 of the Code of Civil Procedure on a District Court.

(2) The Court trying any suit withdrawn under this section from a Court of Small Causes shall, for the purposes of the suit, be deemed to be a Court of Small Causes.

Power to distribute business. XIV of 1882.

16. Notwithstanding anything contained in the Code of Civil Procedure, the Court of the Commissioner and the Court of the Deputy Commissioner may, by order in writing, direct that any civil business cognizable by it and the Courts under its control shall be distributed among those Courts in such manner as it thinks fit :

Provided that no direction given under this section shall empower any Court to exercise any powers or deal with any business beyond the limits of its proper jurisdiction.

Appellate Jurisdiction.

Appeals to whom to lie.

17. *(1)* Appeals from decrees passed in original civil suits by Courts subordinate to the Court of the Deputy Commissioner shall, when such appeals are allowed by law and the value of the suit does not exceed one thousand rupees, lie to that Court.

(2) Appeals from decrees passed in original civil suits of value exceeding one thousand rupees by the Court of an Assistant Commissioner of the first class, or by a Civil Judge who is subordinate to the Court of the Deputy Commissioner, and from decrees passed in original civil suits of any value by the Court of a Deputy Commissioner, or by a Civil Judge who is not subordinate to that Court, or by a Judicial Assistant to the Commissioner who is subordinate to the Court of the Commissioner, shall, when such appeals are allowed by law, lie to the Court of the Commissioner.

(3) Appeals from decrees passed in original civil suits by the Court of the Commissioner or by a Judicial Assistant to the Commissioner who is not subordinate to the Court of the Commissioner, and from appellate decrees passed by Civil Courts subordinate to the Court of the Judicial Commissioner, shall, when such appeals are allowed by law, lie to the Court of the Judicial Commissioner.

Period of limitation for appeals.

18. *(1)* The period of limitation for an appeal to the Court of the Commissioners shall be sixty days.

(2) In the computation of that period and in all other respects the limitation of appeals shall be governed by the provisions of the Indian Limitation Act, 1877.

The Central Provinces Civil Courts Act, 1885.—Sections 19-25.

Rules.

Power to make rules.

19. *(1)* The Judicial Commissioner may make rules consistent with this Act and any other enactment for the time being in force—

(a) declaring what persons shall be permitted to practise as petition-writers in Civil Courts, and regulating the conduct of persons so practising;

(b) prescribing forms for seals to be used by those Courts;

(c) regulating the procedure in cases where any person is entitled to inspect a record of any Civil Court or obtain a copy of the same, and prescribing the fees payable by such persons for searches and copies;

(d) conferring and imposing on the ministerial officers of Civil Courts such powers and duties of a non-judicial or quasi-judicial nature as he thinks fit, and regulating the mode in which powers and duties so conferred and imposed shall be exercised and performed;

(e) prescribing forms for such books, entries, statistics and accounts as he thinks necessary to be kept, made or compiled in those Courts or submitted to any authority;

(f) providing for the inspection of those Courts, and the supervision of the working thereof; and

(g) regulating all such matters as he may think fit, with a view to promoting the efficiency of the judicial and ministerial officers of those Courts and maintaining proper discipline among those officers.

(2) A rule made under this section shall not take effect until it has been sanctioned by the Chief Commissioner and published in the official Gazette.

(3) Whoever breaks any rule made under clause *(a)* shall be punished with fine which may extend to fifty rupees.

(4) Rules made under clause *(g)* may provide, among other matters, for fines, to an amount not exceeding one month's salary, being imposed on ministerial officers for misconduct or neglect in the performance of their duties, and for the recovery of fines so imposed by deduction of the amount thereof from any salary that may be or become due to the officers fined.

Supplemental Provisions.

Books and accounts, and statements and returns, to be kept and furnished by Judicial Commissioner.

20. *(1)* The Judicial Commissioner shall keep such registers, books and accounts as may be necessary for the transaction of the business of his Court, and shall submit to the Chief Commissioner such of those registers, books and accounts, and such statements of the work done in his Court, as may be required by the Chief Commissioner.

(2) The Judicial Commissioner shall also comply, in such form and manner as the Chief Commissioner may deem proper, with such requisitions as may be made by the Chief Commissioner for records of, or papers belonging to, the Court of the Judicial Commissioner or any Civil Court subordinate thereto, or for certified copies of, or extracts from, such records or papers, or for returns, statements or reports.

Place of sitting of Courts.

21. *(1)* The Chief Commissioner may, by order in writing, fix the place or places at which any Civil Court shall be held.

(2) The place or places so fixed may be beyond the local limits of the jurisdiction of the Court.

(3) Except as may be otherwise provided by any order under this section, a Civil Court may be held at any place within the local limits of its jurisdiction.

Mode of conferring powers.

22. The Chief Commissioner may, when he is empowered by this Act to confer any powers, confer them on any person specially by name or by virtue of his office.

Vacations.

23. *(1)* Subject to the approval of the Chief Commissioner, the Judicial Commissioner shall prepare a list of days to be observed in each year as holidays in his Court and the Civil Courts subordinate thereto.

(2) The list shall be published in the official Gazette.

Pending proceedings.

24. *(1)* All cases or proceedings pending in the Court of the Judicial Commissioner on the day when this Act comes into force shall be disposed of as if this Act had not been passed.

(2) All cases or proceedings pending in any Civil Court subordinate to the Court of the Judicial Commissioner on that day shall be disposed of as if this Act had not been passed:

Provided that the Judicial Commissioner may direct that any such cases or proceedings shall be transferred for disposal to any Court established under this Act which would have had jurisdiction if it had been in existence when the cases or proceedings were instituted.

(3) In the case of an appeal pending on the said day, the following shall, for the purposes of sub-section *(2)*, be deemed to be the Court which would have had jurisdiction as aforesaid, namely:—

(a) when the value of the suit does not exceed one thousand rupees and the decree or order has been passed by a Court of a class lower than that of the Deputy Commissioner—the Court of the Deputy Commissioner;

(b) in other cases when the decree or order has been passed by a Court of a class lower than that of the Commissioner—the Court of the Commissioner.

Appeals after Act comes into force against decrees and orders passed before.

25. Appeals from decrees and orders passed by Civil Courts and not appealed against before the date on which this Act comes into force shall lie and be disposed of as if this Act had not been passed and not otherwise:

Provided that the Courts to which such appeals shall lie shall be as follows:—

(a) when the appeal would before the said date have lain to the Court of the Judicial Commissioner—that Court;

The Central Provinces Civil Courts Act, 1885.—Sections 26-27.

(b) when the appeal is from a decree or order passed by a Court of a class lower than that of the Deputy Commissioner in an original civil suit of which the value does not exceed one thousand rupees—the Court of the Deputy Commissioner;

(c) in other cases when the decree or order has been passed by a Court of a class lower than that of the Commissioner—the Court of the Commissioner.

Powers exercisable from time to time.

26. All powers conferred by this Act may be exercised from time to time as occasion requires.

Publication of certain orders.

27. All orders required by this Act to be issued by the Chief Commissioner in writing shall be published in the official Gazette.

D. FITZPATRICK,
Secy. to the Govt. of India.

LEGISLATIVE DEPARTMENT.

The following Report of the Select Committee on the Bill to amend the Law relating to Civil Courts in the Central Provinces was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 23rd September, 1885:—

From Officiating Secretary to Chief Commissioner, Central Provinces, No. 3492—174, dated 10th September, 1885, and enclosure [Papers No. 1].

WE, the undersigned, Members of the Select Committee to which the Bill to amend the Law relating to Civil Courts in the Central Provinces was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report.

2. The Bill as introduced has been approved by the Chief Commissioner, and does not, in our opinion, call for any modification.

3. The publication ordered by the Council has been made as follows:—

In English.

Gazette.	*Date.*
Gazette of India ...	1st, 8th and 15th August, 1885.
Central Provinces Gazette ...	8th, 15th and 22nd August, 1885.

In the Vernaculars.

Province.	*Language.*	*Date.*
Central Provinces ...	Maráthí ...	29th August, and 5th and 12th September, 1885.
	Hindí ...	5th, 12th and 19th September, 1885.

4. We recommend that the Bill be passed.

C. P. ILBERT.
S. C. BAYLEY.
W. W. HUNTER.

The 23rd September, 1885.

D. FITZPATRICK,
Secy. to the Govt. of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, OCTOBER 10, 1885.

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

PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second publication.]

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 2nd October, 1885, and is hereby promulgated for general information :—

ACT No. XV OF 1885.

An Act to amend the Local Authorities Loan Act, 1879.

WHEREAS it is expedient to amend the Local Authorities Loan Act, 1879; It is hereby enacted as follows :— XI of 1879.

Addition to section 8, Act XI of 1879.

1. After clause (*b*) of the proviso to section 8 of the said Act the following shall be added :—

"or

"(*c*) to affect the power conferred on any local authority by any such enactment to charge its funds by guaranteeing the payment of interest on money to be applied to any purpose to which the funds of the local authority can legally be applied."

D. FITZPATRICK,
Secy. to the Govt. of India.

LEGISLATIVE DEPARTMENT.

The following Report of the Select Committee on the Bill to amend the Local Authorities Loan Act, 1879, was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 23rd September, 1885 :—

WE, the undersigned, Members of the Select Committee to which the Bill to amend the Local Authorities Loan Act, 1879, was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report.

From Secretary to Chief Commissioner, British Burma, No. 303—24L., dated 13th June, 1885 [Paper No. 1].
From Secretary to Chief Commissioner, Assam, No. 972, dated 18th June, 1885 [Paper No. 2].
From Chief Commissioner, Ajmer-Merwára, No. 722, dated 3rd July, 1885 [Paper No. 3].
From Secretary to Government, North-Western Provinces and Oudh, No. 3051—X-518, dated 10th July, 1885 [Paper No. 4].
From Officiating Secretary to Government, Punjab, No. 731S., dated 17th July, 1885, and enclosures [Papers No. 5].
From Secretary for Berar to Resident, Hyderabad, No. 274G., dated 13th July, 1885 [Paper No. 6].
From Secretary to Chief Commissioner, Coorg, No. 688—89, dated 14th July, 1885 [Paper No. 7].
From Chief Secretary to Government, Madras, No. 1800, dated 10th July, 1885, and enclosures [Papers No. 8].
From Under Secretary to Government, Bombay, No. 2054, dated 18th July, 1885, and enclosures [Papers No. 9].
From Officiating Secretary to Government, Bengal, No. 1370, dated 20th July, 1885, and enclosures [Papers No. 10].
From Assistant Secretary to Chief Commissioner, Central Provinces, No. 3052—147, dated 11th August, 1885 [Paper No. 11].

2. It has been suggested that the term "raised" should be altered so as to include money devoted to any particular purpose by a person who may not have occasion to raise it, and we have accordingly substituted the words "applied to" for "raised for".

3. The only other alteration we have made in the Bill is a purely verbal one.

4. The publication ordered by the Council has been made as follows :—

In English.

Gazette.	*Date.*
Gazette of India	16th, 23rd and 30th May, 1885.
Fort St. George Gazette	2nd June, 1885.
Bombay Government Gazette ...	28th May, and 4th and 11th June, 1885.
Calcutta Gazette	27th May, and 3rd and 10th June, 1885.
North-Western Provinces and Oudh Government Gazette	23rd and 30th May, and 6th June, 1885.
Punjab Government Gazette ...	21st and 28th May, and 4th June, 1885.
Central Provinces Gazette	23rd and 30th May, and 6th June, 1885.
British Burma Gazette	6th, 13th and 20th June, 1885.
Assam Gazette	6th and 13th June, 1885.
Coorg District Gazette	1st July, 1885.

In the Vernaculars.

Province.	*Language.*	*Date.*
Bombay	Maráthí, Gujaráthí, Kanarese, Sindhí	25th June, 1885.
Bengal	Bengálí, Hindí	30th June, 1885.
	Uriya ...	9th July, 1885.
North-Western Provinces and Oudh	Urdu ...	4th, 11th and 18th July, 1885.
Punjab	Urdu ...	15th, 22nd and 29th June, 1885.
Central Provinces	Maráthí ...	11th, 18th and 25th July, 1885.
Coorg	Kanarese ...	1st July, 1885.

We do not think that the measure has been so altered as to require re-publication, and we recommend that it be passed as now amended.

T. C. HOPE.
C. P. ILBERT.
S. C. BAYLEY.

The 23rd September, 1885.

D. FITZPATRICK,
Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second publication.]

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 2nd October, 1885, and is hereby promulgated for general information :—

ACT No. XVI OF 1885.

THE CENTRAL PROVINCES CIVIL COURTS ACT, 1885.

CONTENTS.

SECTIONS.

Preliminary.

1. Short title, local extent and commencement.
2. Repeal.
3. Definitions.

Classes of Courts.

4. Classes of Courts.

Court of the Judicial Commissioner.

5. Court of the Judicial Commissioner.

Courts of Commissioners and Deputy Commissioners.

6. Courts of Commissioners and Deputy Commissioners.
7. Original jurisdiction of Courts of Commissioners and Deputy Commissioners in suits.
8. Court of Deputy Commissioner to be principal Civil Court of original jurisdiction.

Other Courts.

9. Chief Commissioner may declare class to which the Court of an Assistant Commissioner or Tahsíldár shall belong.
10. Pecuniary and local limits of the jurisdiction of Courts of Assistant Commissioners and Tahsíldárs.

Náib-tahsíldárs.

11. Conferment of jurisdiction in certain suits on Náib-tahsíldárs.

SECTIONS.

Judicial Assistants to Commissioners, Civil Judges and Munsifs.

12. Power to invest certain persons, under the names of Judicial Assistant to Commissioner, Civil Judge and Munsif, with certain powers.

Small Cause Court Jurisdiction.

13. Power to confer Small Cause Court jurisdiction.

Administrative Control.

14. Superintendence and control of subordinate Courts by Courts of Judicial Commissioner, Commissioner and Deputy Commissioner.
15. Power of Court of Commissioner to transfer business.
16. Power to distribute business.

Appellate Jurisdiction.

17. Appeals to whom to lie.
18. Period of limitation for appeals.

Rules.

19. Power to make rules.

Supplemental Provisions.

20. Books and accounts, and statements and returns, to be kept and furnished by Judicial Commissioner.
21. Place of sitting of Courts.
22. Mode of conferring powers.
23. Vacations.
24. Pending proceedings.
25. Appeals after Act comes into force against decrees and orders passed before.
26. Powers exerciseable from time to time.
27. Publication of certain orders.

An Act to amend the Law relating to Civil Courts in the Central Provinces.

WHEREAS it is expedient to amend the Law relating to Civil Courts in the Central Provinces; It is hereby enacted as follows :—

Preliminary.

Short title, local extent and commencement.

1. *(1)* This Act may be called the Central Provinces Civil Courts Act, 1885.

(2) It extends to the territories for the time being under the administration of the Chief Commissioner of the Central Provinces; and

The Central Provinces Civil Courts Act, 1885.—Sections 2-11.

(3) It shall come into force on the first day of January, 1886.

(4) Any authority conferred on the Chief Commissioner or on the Judicial Commissioner by this Act to issue orders or make rules may be exercised at any time after the passing of this Act; but an order or rule so issued or made shall not take effect until the Act comes into force.

Repeal.

2. *(1)* On and from the day on which this Act comes into force the Central Provinces Courts Act, 1865, and Act XXVII of 1867, so far as it relates to the Central Provinces, shall be repealed.

XIV of 1865.

(2) Any enactment or document referring to either of the enactments hereby repealed shall be construed to refer to this Act or to the corresponding portion thereof; and all declarations made, powers conferred, limits prescribed, directions given and orders issued under either of those enactments shall, so far as may be, be deemed to have been respectively made, conferred, prescribed, given and issued under this Act.

Definitions.

3. In this Act, unless there is something repugnant in the subject or context,—

"Assistant Commissioner" includes Extra Assistant Commissioner; and

"value," used with reference to a suit, means the amount or value of the subject-matter of the suit.

Classes of Courts.

Classes of Courts.

4. Besides the Courts of Small Causes established under Act XI of 1865, and the Courts established under any other enactment for the time being in force, there shall be the following classes of Civil Courts, namely:—

(a) the Court of the Judicial Commissioner;

(b) the Court of the Commissioner;

(c) the Court of the Deputy Commissioner;

(d) the Court of the Assistant Commissioner of the first class;

(e) the Court of the Assistant Commissioner of the second class;

(f) the Court of the Assistant Commissioner of the third class;

(g) the Court of the Tahsíldár of the first class;

(h) the Court of the Tahsíldár of the second class.

Court of the Judicial Commissioner.

Court of the Judicial Commissioner.

5. The Judicial Commissioner shall be appointed by the Governor-General in Council; and his Court shall be deemed, for the purposes of all enactments for the time being in force, to be the highest Civil Court of appeal in the territories to which this Act extends.

Courts of Commissioners and Deputy Commissioners.

Courts of Commissioners and Deputy Commissioners.

6. *(1)* The local limits of the jurisdiction of the Court of the Commissioner shall be those of the division of the revenue-administration of which he is in charge.

(2) The local limits of the jurisdiction of the Court of the Deputy Commissioner shall be those of the district of the revenue-administration of which he is in charge.

Original jurisdiction of Courts of Commissioners and Deputy Commissioners in suits.

7. Except as otherwise provided by any enactment for the time being in force, the Court of the Commissioner and the Court of the Deputy Commissioner shall be competent to try original civil suits without limit as regards the value.

Court of Deputy Commissioner to be principal Civil Court of original jurisdiction.

8. Except as otherwise provided by any enactment for the time being in force, the Deputy Commissioner shall be deemed to be the District Judge of the district, and his Court to be the District Court or principal Civil Court of original jurisdiction in the district.

Other Courts.

Chief Commissioner may declare class to which the Court of an Assistant Commissioner or Tahsíldár shall belong.

9. The Chief Commissioner may, by order in writing, declare, as regards any Assistant Commissioner, that his Court shall be that of an Assistant Commissioner of the first or of the second or of the third class, and, as regards any Tahsíldár, that his Court shall be that of a Tahsíldár of the first or of the second class.

Pecuniary and local limits of the jurisdiction of Courts of Assistant Commissioners and Tahsíldárs.

10. *(1)* Courts of Assistant Commissioners and Tahsíldárs shall be competent to try original civil suits of which the value does not exceed that specified against each Court in the following table:—

Courts.	Value.
Court of the Assistant Commissioner of the first class	Five thousand rupees.
Court of the Assistant Commissioner of the second class	One thousand rupees.
Court of the Assistant Commissioner of the third class	Five hundred rupees.
Court of the Tahsíldár of the first class	Three hundred rupees.
Court of the Tahsíldár of the second class	One hundred rupees.

Provided that the Chief Commissioner may, by order in writing, limit the classes of original civil suits which the Courts of Tahsíldárs of the first or of the second class shall be competent to try.

(2) The local limits of the jurisdiction of the Courts mentioned in this section shall be such as the Chief Commissioner may, by order in writing, define.

Náib-tahsíldárs.

Conferment of jurisdiction in certain suits on Náib-tahsíldárs.

11. The Chief Commissioner may, by order in writing, invest, within such local limits as he thinks fit, any Náib-tahsíldár with jurisdiction to try suits of the nature cognizable in a Court of Small Causes established under Act XI of 1865, up to such value, not exceeding fifty rupees, as he thinks fit.

The Central Provinces Civil Courts Act, 1885.—Sections 12-18.

Judicial Assistants to Commissioners, Civil Judges and Munsifs.

Power to invest certain persons, under the names of Judicial Assistant to Commissioner, Civil Judge and Munsif, with certain powers.

12. *(1)* The Chief Commissioner may, by order in writing, invest any person—

(a) with all or any of the powers of the Court of the Commissioner under this Act;

(b) with all or any of the powers of the Court of the Deputy Commissioner under this Act; or

(c) with all or any of the powers of the Court of a Tahsíldár of the first or of the second class under this Act;

and declare that the powers with which any person is so invested shall be exercised within any specified local area, and with respect to any particular class, or particular classes, of cases, or with respect to cases generally.

(2) Persons invested with powers under sub-section *(1)* shall be designated as follows:—

if invested under clause (*a*)—Judicial Assistant to the Commissioner;

if invested under clause (*b*)—Civil Judge;

if invested under clause (*c*)—Munsif.

(3) The Courts of such persons shall, for all purposes connected with the exercise of the said powers, be deemed to be, respectively, Courts of Commissioners, Courts of Deputy Commissioners and Courts of Tahsíldárs.

(4) The Chief Commissioner may, by order in writing, direct how business shall be distributed between the Commissioner and the Judicial Assistant to the Commissioner, and between the Deputy Commissioner and the Civil Judge.

Small Cause Court Jurisdiction.

Power to confer Small Cause Court jurisdiction.

13. The Chief Commissioner may, by order in writing, confer, within such local limits as he thinks fit, upon any Court of an Assistant Commissioner of the first or of the second class the jurisdiction of a Judge of a Court of Small Causes under Act XI of 1865 for the trial of suits cognizable by such Courts up to such value as he thinks fit, not exceeding, if the Court is that of an Assistant Commissioner of the first class, five hundred rupees, or, if the Court is that of an Assistant Commissioner of the second class, one hundred rupees.

Administrative Control.

Superintendence and control of subordinate Courts by Courts of Judicial Commissioner, Commissioner and Deputy Commissioner.

14. *(1)* The general superintendence and control over all other Civil Courts shall be vested in, and all such Courts shall be subordinate to, the Court of the Judicial Commissioner.

(2) Subject to the general superintendence and control of the Court of the Judicial Commissioner, the control of all other Civil Courts in a division shall be vested in, and all such Courts shall be subordinate to, the Court of the Commissioner.

(3) Subject as aforesaid and to the control of Court of the Commissioner, the control of all other Civil Courts in a district shall be vested in, and all such Courts shall be subordinate to, the Court of the Deputy Commissioner:

Provided that the Chief Commissioner, by order in writing, may direct that any Judicial Assistant to the Commissioner or Civil Judge shall not be subject to the control of, or subordinate to, the Court of the Commissioner or the Court of the Deputy Commissioner, as the case may be, and may further direct that such officer shall be subject to the control of, and subordinate to, such other Court as the Chief Commissioner thinks fit.

Power of Court of Commissioner to transfer business.

15. *(1)* The Court of the Commissioner may exercise, as regards the Courts under its control, the same powers of withdrawal, trial and transfer as are conferred by section 25 of the Code of Civil Procedure on a District Court. XIV of 1882.

(2) The Court trying any suit withdrawn under this section from a Court of Small Causes shall, for the purposes of the suit, be deemed to be a Court of Small Causes.

Power to distribute business.

16. Notwithstanding anything contained in the Code of Civil Procedure, the Court of the Commissioner and the Court of the Deputy Commissioner may, by order in writing, direct that any civil business cognizable by it and the Courts under its control shall be distributed among those Courts in such manner as it thinks fit: XIV of 1882.

Provided that no direction given under this section shall empower any Court to exercise any powers or deal with any business beyond the limits of its proper jurisdiction.

Appellate Jurisdiction.

Appeals to whom to lie.

17. *(1)* Appeals from decrees passed in original civil suits by Courts subordinate to the Court of the Deputy Commissioner shall, when such appeals are allowed by law and the value of the suit does not exceed one thousand rupees, lie to that Court.

(2) Appeals from decrees passed in original civil suits of value exceeding one thousand rupees by the Court of an Assistant Commissioner of the first class, or by a Civil Judge who is subordinate to the Court of the Deputy Commissioner, and from decrees passed in original civil suits of any value by the Court of a Deputy Commissioner, or by a Civil Judge who is not subordinate to that Court, or by a Judicial Assistant to the Commissioner who is subordinate to the Court of the Commissioner, shall, when such appeals are allowed by law, lie to the Court of the Commissioner.

(3) Appeals from decrees passed in original civil suits by the Court of the Commissioner or by a Judicial Assistant to the Commissioner who is not subordinate to the Court of the Commissioner, and from appellate decrees passed by Civil Courts subordinate to the Court of the Judicial Commissioner, shall, when such appeals are allowed by law, lie to the Court of the Judicial Commissioner.

Period of limitation for appeals.

18. *(1)* The period of limitation for an appeal to the Court of the Commissioners shall be sixty days.

(2) In the computation of that period and in all other respects the limitation of appeals shall be governed by the provisions of the Indian Limitation Act, 1877. XIV of 1877.

Rules.

19. *(1)* The Judicial Commissioner may make rules consistent with this Act and any other enactment for the time being in force—

Power to make rules.

(a) declaring what persons shall be permitted to practise as petition-writers in Civil Courts, and regulating the conduct of persons so practising;

(b) prescribing forms for seals to be used by those Courts;

(c) regulating the procedure in cases where any person is entitled to inspect a record of any Civil Court or obtain a copy of the same, and prescribing the fees payable by such persons for searches and copies;

(d) conferring and imposing on the ministerial officers of Civil Courts such powers and duties of a non-judicial or quasi-judicial nature as he thinks fit, and regulating the mode in which powers and duties so conferred and imposed shall be exercised and performed;

(e) prescribing forms for such books, entries, statistics and accounts as he thinks necessary to be kept, made or compiled in those Courts or submitted to any authority;

(f) providing for the inspection of those Courts, and the supervision of the working thereof; and

(g) regulating all such matters as he may think fit, with a view to promoting the efficiency of the judicial and ministerial officers of those Courts and maintaining proper discipline among those officers.

(2) A rule made under this section shall not take effect until it has been sanctioned by the Chief Commissioner and published in the official Gazette.

(3) Whoever breaks any rule made under clause (*a*) shall be punished with fine which may extend to fifty rupees.

(4) Rules made under clause *(g)* may provide, among other matters, for fines, to an amount not exceeding one month's salary, being imposed on ministerial officers for misconduct or neglect in the performance of their duties, and for the recovery of fines so imposed by deduction of the amount thereof from any salary that may be or become due to the officers fined.

Supplemental Provisions.

20. *(1)* The Judicial Commissioner shall keep such registers, books and accounts as may be necessary for the transaction of the business of his Court, and shall submit to the Chief Commissioner such of those registers, books and accounts, and such statements of the work done in his Court, as may be required by the Chief Commissioner.

Books and accounts, and statements and returns, to be kept and furnished by Judicial Commissioner.

(2) The Judicial Commissioner shall also comply, in such form and manner as the Chief Commissioner may deem proper, with such requisitions as may be made by the Chief Commissioner for records of, or papers belonging to, the Court of the Judicial Commissioner or any Civil Court subordinate thereto, or for certified copies of, or extracts from, such records or papers, or for returns, statements or reports.

21. *(1)* The Chief Commissioner may, by order in writing, fix the place or places at which any Civil Court shall be held.

Place of sitting of Courts.

(2) The place or places so fixed may be beyond the local limits of the jurisdiction of the Court.

(3) Except as may be otherwise provided by any order under this section, a Civil Court may be held at any place within the local limits of its jurisdiction.

22. The Chief Commissioner may, when he is empowered by this Act to confer any powers, confer them on any person specially by name or by virtue of his office.

Mode of conferring powers.

23. *(1)* Subject to the approval of the Chief Commissioner, the Judicial Commissioner shall prepare a list of days to be observed in each year as holidays in his Court and the Civil Courts subordinate thereto.

Vacations.

(2) The list shall be published in the official Gazette.

24. *(1)* All cases or proceedings pending in the Court of the Judicial Commissioner on the day when this Act comes into force shall be disposed of as if this Act had not been passed.

Pending proceedings.

(2) All cases or proceedings pending in any Civil Court subordinate to the Court of the Judicial Commissioner on that day shall be disposed of as if this Act had not been passed:

Provided that the Judicial Commissioner may direct that any such cases or proceedings shall be transferred for disposal to any Court established under this Act which would have had jurisdiction if it had been in existence when the cases or proceedings were instituted.

(3) In the case of an appeal pending on the said day, the following shall, for the purposes of sub-section *(2)*, be deemed to be the Court which would have had jurisdiction as aforesaid, namely:—

(*a*) when the value of the suit does not exceed one thousand rupees and the decree or order has been passed by a Court of a class lower than that of the Deputy Commissioner—the Court of the Deputy Commissioner;

(*b*) in other cases when the decree or order has been passed by a Court of a class lower than that of the Commissioner—the Court of the Commissioner.

25. Appeals from decrees and orders passed by Civil Courts and not appealed against before the date on which this Act comes into force shall lie and be disposed of as if this Act had not been passed and not otherwise:

Appeals after Act comes into force against decrees and orders passed before.

Provided that the Courts to which such appeals shall lie shall be as follows:—

(*a*) when the appeal would before the said date have lain to the Court of the Judicial Commissioner—that Court;

(*b*) when the appeal is from a decree or order passed by a Court of a class lower than that of the Deputy Commissioner in an original civil suit of which the value does not exceed one thousand rupees—the Court of the Deputy Commissioner;

(*c*) in other cases when the decree or order has been passed by a Court of a class lower than that of the Commissioner—the Court of the Commissioner.

26. All powers conferred by this Act may be exercised from time to time as occasion requires.

Powers exerciseable from time to time.

27. All orders required by this Act to be issued by the Chief Commissioner in writing shall be published in the official Gazette.

Publication of certain orders.

D. FITZPATRICK,
Secy. to the Govt. of India.

LEGISLATIVE DEPARTMENT.

The following Report of the Select Committee on the Bill to amend the Law relating to Civil Courts in the Central Provinces was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 23rd September, 1885:—

WE, the undersigned, Members of the Select Committee to which the Bill to amend the Law relating to Civil Courts in the Central Provinces was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report.

From Officiating Secretary to Chief Commissioner, Central Provinces, No. 3492—174, dated 10th September, 1885, and enclosure [Papers No. 1].

2. The Bill as introduced has been approved by the Chief Commissioner, and does not, in our opinion, call for any modification.

3. The publication ordered by the Council has been made as follows:—

In English.

Gazette.		*Date.*
Gazette of India	... ...	1st, 8th and 15th August, 1885.
Central Provinces Gazette	... ...	8th, 15th and 22nd August, 1885.

In the Vernaculars.

Province.	*Language.*	*Date.*
Central Provinces ...	Maráthí ...	29th August, and 5th and 12th September, 1885.
	Hindí ...	5th, 12th and 19th September, 1885.

4. We recommend that the Bill be passed.

C. P. ILBERT.
S. C. BAYLEY.
W. W. HUNTER.

The 23rd September, 1885.

D. FITZPATRICK,
Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First publication.]

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 9th October, 1885, and is hereby promulgated for general information:—

ACT NO. XVII OF 1885.

THE CENTRAL PROVINCES GOVERNMENT WARDS ACT, 1885.

CONTENTS.

SECTIONS.

1. Short title, extent and commencement.
2. Repeal.
3. Definitions.
4. Deputy Commissioner to be Court of Wards.
5. Landholders to be under jurisdiction of Court of Wards.
6. Superintendence by Court of Wards of property of disqualified landholder.
7. Cases in which landholders to be deemed disqualified.
8. Superintendence by Court of Wards of person of disqualified landholder.
9. Superintendence where disqualified landholder owns land within jurisdiction of two Courts of Wards.
10. Superintendence of Court of Wards not challengeable on ground that ward is not a landholder or minor.
11. Appointment, &c., of managers by Court of Wards.
12. Liabilities, &c., of managers and other servants of Court of Wards.
13. Power for Court of Wards to appoint guardians of certain Government wards.
14. General powers of Court of Wards.
15. Custody, education and residence of certain Government wards.
16. Allowance for Government ward and his family.
17. Duties of Court of Wards or manager.
18. Powers of Court of Wards as to property of Government wards.

SECTIONS.

19. Manager or Court of Wards to be next friend or guardian in suits by or against Government ward.
20. Payment of costs.
21. Processes against Government ward to be served on next friend or guardian.
22. Authority of Court of Wards required in case of suits brought on behalf of Government wards.
23. Disabilities of a Government ward.
24. Consent of Chief Commissioner necessary to adoptions by Government wards.
25. Procedure when succession to Government ward's property is disputed.
26. Withdrawal of superintendence of Court of Wards.
27. Appeals.
28. Control of Chief Commissioner.
29. Exercise of discretion not to be questioned in Civil Court.
30. Power for Chief Commissioner to make rules.

An Act to make better provision for the Superintendence of Government Wards in the Central Provinces.

WHEREAS it is expedient to make better provision for the superintendence of Government wards in the Central Provinces; It is hereby enacted as follows:—

Short title, extent and commencement.

1. *(1)* This Act may be called the Central Provinces Government Wards Act, 1885.

(2) It extends to the territories for the time being administered by the Chief Commissioner of the Central Provinces; and

(3) It shall come into force at once.

Repeal.

2. Bengal Regulations LII of 1803 *(for establishing a Court of Wards in the Provinces ceded by the Nawáb Vizier to the Honourable the English East India Company)* and VI of 1822 *(to establish a Court of Wards for Benares, and to define and explain certain of the rules regarding the powers and jurisdiction of the several Courts of Wards)*, and section 14 of Act XL of 1858 *(for making better provision for the care of the persons and property of Minors in the Presidency of Fort William in Bengal)* shall, so far as they are in force in the whole or any part of the territories to which this Act extends, be repealed.

Definitions.

3. In this Act, unless there is something repugnant in the subject or context,—

(1) "Government ward" means any person of whose property, or of whose person and property, the Court of Wards may, for the time being, have the superintendence under this Act:

XVIII of 1881. *(2)* "Landholder" means a málguzár as defined in the Central Provinces Land-revenue Act, 1881, and the zamíndár of any zamíndári specified in Part VI of the first schedule of the XIV of 1874. Scheduled Districts Act, 1874, and includes a muáfidár, jagírdár, ubáridár or other assignee of land-revenue, and any person not hereinbefore specified who is interested in land and belongs to a class of which the Chief Commissioner, with the previous sanction of the Governor General in Council, has declared the members to be landholders for the purposes of this Act: and

(3) "Land" includes the rights of a landholder in respect of the land of which he is the málguzár or zamíndár or the muáfidár, jagírdár, ubaridár or other assignee of land-revenue, or in which he is interested.

Deputy Commissioner to be Court of Wards.

4. The Deputy Commissioner shall be the Court of Wards for the limits of his district.

Landholders to be under jurisdiction of Court of Wards.

5. Every landholder shall be under the jurisdiction of the Court of Wards.

Superintendence by Court of Wards of property of disqualified landholder.

6. The Court of Wards may, with the previous sanction of the Chief Commissioner, assume the superintendence of the property of any landholder owning land within the local limits of its jurisdiction who is disqualified to manage his own property.

Cases in which landholders to be deemed disqualified.

7. *(1)* The following persons shall, for the purposes of the last foregoing section, be deemed to be disqualified to manage their own property, namely:—

(a) minors who have not guardians appointed for their property by will;

(b) persons adjudged by a competent Civil Court to be of unsound mind and incapable of managing their affairs; and

(c) persons declared by the Chief Commissioner to be incapable of managing their own property—

(i) owing to any physical defect or infirmity,

(ii) owing to their having been convicted of a non-bailable offence, and being unfitted by vice or bad character,

(iii) owing to their being females, or

(iv) on their own application.

(2) Every declaration made by the Chief Commissioner under clause *(c)* of this section shall be final, and shall not be questioned in any Civil Court.

Superintendence by Court of Wards of person of disqualified landholder.

8. When the Court of Wards assumes the superintendence of the property of a minor who has not a guardian appointed for his person by will, or of a person who has been adjudged by a competent Civil Court to be of unsound mind and incapable of managing his affairs, it may, with the previous sanction of the Chief Commissioner, assume the superintendence of his person also:

Provided that nothing in this section shall authorize the Court of Wards to assume the superintendence of the person of a female who is married to a man of full age and is in his custody.

Superintendence where disqualified landholder owns land within jurisdiction of two Courts of Wards.

9. Where a landholder owns land within the local limits of the jurisdiction of two or more Courts of Wards, such one only of the Courts as the Chief Commissioner may in this behalf determine shall assume the superintendence of the property, or of the person and property, of the landholder.

Superintendence of Court of Wards not challengeable on ground that ward is not a landholder or minor.

10. When the Court of Wards has, with the sanction of the Chief Commissioner, assumed the superintendence of the property of any person, or of his person and property, its authority shall not be contested in any Civil Court on the ground that he was not or is not a landholder or was not or is not a minor.

Appointment, &c., of managers by Court of Wards.

11. Subject to the rules made under this Act, the Court of Wards may appoint, suspend and remove a manager of the property of any Government ward under its superintendence, and may delegate to the manager all or any of its functions in relation to any property under this Act.

Liabilities, &c., of managers and other servants of Court of Wards.

12. *(1)* Every manager appointed by the Court of Wards shall—

(a) give such security as the Court thinks fit duly to account for what he receives in respect of the rents and profits of the property under his management;

(b) be entitled to such allowance as the Court thinks fit for his care and pains in the execution of his duties; and

(c) be responsible for any loss occasioned to the property under his management by his wilful default or gross negligence.

(2) Every manager or other servant of the Court of Wards shall be deemed a "public servant" within the meaning of sections 161, 162, 163, 164 and 165 of the Indian Penal Code; and XLV of 1860. in the definition of "legal remuneration" contained in the said section 161, the word "Government" shall, for the purposes of this sub-section, be deemed to include the Court of Wards.

Power for Court of Wards to appoint guardians of certain Government wards.

13. The Court of Wards may appoint guardians for the care of the persons of Government wards whose persons are, for the time being, under its superintendence, and may control and remove guardians whom it has appointed.

General powers of Court of Wards.

14. Subject to the provisions of this Act and of the rules made under this Act, the Court of Wards—

(a) may, of itself or through the manager (if any) appointed by it under this Act, do all such things requisite for the proper care and management of any property, of which it assumes the superintendence under this Act, as the owner of the property, if not disqualified, might do for its care and management; and

(b) may, of itself or through the guardian (if any) appointed by it under this Act, do in respect of the person of any Government ward, whose person is, for the time being, under its superintendence, all such things as may lawfully be done by a guardian.

Custody, education and residence of certain Government wards.

15. The Court of Wards may pass such orders as to it seems fit in respect of the custody and residence of any Government ward whose person is, for the time being, under its superintendence, and, when he is a minor, in respect of his education.

Allowance for Government ward and his family.

16. The Court of Wards may, from time to time, determine what sums shall be allowed in respect of the expenses of any Government ward and of his family and dependents.

Duties of Court of Wards or manager.

17. The Court of Wards, or the manager (if any) appointed by it under this Act, shall manage the property of every Government ward under its superintendence or under his management diligently and faithfully for the benefit of the Government ward, and shall in every respect act to the best of its or his judgment for the Government ward's interest as if the property were its or his own.

Powers of Court of Wards as to property of Government wards.

18. The Court of Wards may let the whole or any part of the property of any Government ward under its superintendence, and may, with the previous sanction of the Chief Commissioner, mortgage, sell or exchange the whole or any part of such property, and may do all such other acts as it may judge to be best for the benefit of the property and the advantage of the Government ward.

Manager or Court of Wards to be next friend or guardian in suits by or against Government ward.

19. In every suit brought by or against a Government ward the manager of the ward's property, or, if there is no manager, the Court of Wards having the superintendence of the ward's property, shall be named as next friend or guardian for the suit, as the case may be.

Payment of costs.

20. If, in any suit brought by or against a Government ward, any Civil Court decrees any costs against the ward's next friend or guardian for the suit, the Court of Wards shall cause the costs to be paid out of any property of the Government ward which may, for the time being, be in its hands.

Processes against Government ward to be served on next friend or guardian.

21. Every process which may be issued out of any Civil Court against any Government ward shall be served on the ward's next friend or guardian for the suit.

Authority of Court of Wards required in case of suits brought on behalf of Government wards.

22. No suit shall be brought on behalf of any Government ward unless it is authorized by some order of the Court of Wards:

Provided as follows:—

(1) a manager may authorize a plaint to be filed in order to prevent a suit from being barred by the law of limitation, but the suit shall not afterwards be proceeded with except under the sanction of the Court of Wards;

(2) a suit for arrears of rent may be brought on behalf of a Government ward if authorized by an order of the manager of the property on which the rent is due.

Disabilities of a Government ward.

23. *(1)* A Government ward shall be incompetent to transfer or create any charge on, or interest in, his property or any part thereof, or to enter into any contract which may involve him in pecuniary liability.

(2) Nothing in this section shall be deemed to affect the capacity of a Government ward to enter into a contract of marriage:

Provided that he shall not incur, in connection therewith, any pecuniary liability, except such as, having regard to the personal law to which he is subject and to his rank and circumstances, the Court of Wards may, in writing, declare to be reasonable.

Consent of Chief Commissioner necessary to adoptions by Government wards.

24. No adoption by any Government ward, and no written or verbal permission to adopt given by any Government ward, shall be valid without the consent of the Chief Commissioner obtained either previously or subsequently to the adoption, or to the giving of the permission, on application made to him through the Court of Wards.

Procedure when succession to Government ward's property is disputed.

25. Whenever, on the death of any Government ward, the succession to his property or any part thereof is disputed, the Court of Wards may either direct that the property or part thereof be made over to any person claiming the property, or may retain the superintendence of the property until one of the claimants has established his claim to the same in a competent Civil Court.

Withdrawal of superintendence of Court of Wards.

26. *(1)* The Court of Wards may, with the sanction of the Chief Commissioner, at any time withdraw its superintendence from the person or property, or both, of a Government ward, and shall withdraw its superintendence as soon as—

(a) in the case of a person disqualified under clause *(a)* of section 7, he attains his majority;

(b) in the case of a person disqualified under clause *(b)* of that section, he ceases to be of unsound mind and incapable of managing his affairs; and

(c) in the case of a person disqualified under sub-clause (i) of clause *(c)* of that section, his physical defect or infirmity is removed or ceases.

(2) When any question arises whether the superintendence of the Court of Wards should be withdrawn from any person or property, or both, under clause *(a)*, or from any property under clause *(c)*, of this section, the decision of the Chief Commissioner thereon shall be final and shall not be questioned in any Civil Court.

The Central Provinces Government Wards Act, 1885.—Sections 27-30.

Appeals.

27. An appeal shall lie from every order of the Court of Wards under this Act to the Commissioner of the division, and from every order of the Commissioner to the Chief Commissioner.

Control of Chief Commissioner.

28. All orders or proceedings of the Court of Wards and of the Commissioner of the division under this Act shall be subject to the supervision and control of the Chief Commissioner; and the Chief Commissioner may, if he thinks fit, revise, modify or reverse any such order or proceeding, whether an appeal is presented against any such order or proceeding or not.

Exercise of discretion not to be questioned in Civil Court.

29. The exercise of any discretion conferred on a Court of Wards, a Commissioner of a division or the Chief Commissioner by this Act shall not be called in question in any Civil Court.

Power for Chief Commissioner to make rules.

30. *(1)* The Chief Commissioner may, from time to time, make rules consistent with this Act to—

(a) prescribe the matters to which regard should be had in appointing or removing guardians and managers, and in fixing their remuneration;

(b) regulate the amount of security to be given by managers;

(c) limit the functions which the Court of Wards may delegate to a manager;

(d) prescribe the cases in which proposals or arrangements connected with the administration of the properties of Government wards shall be reported for the sanction of the Chief Commissioner or for that of the Commissioner of the division;

(e) prescribe the accounts and other returns which, and the periods and form at and in which, they shall be rendered by managers to the Court of Wards and by the Court of Wards to the Commissioner of the division;

(f) regulate the custody of securities and title-deeds belonging to the estate or property of a Government ward;

(g) regulate the procedure in inquiries by the Court of Wards and in appeals from orders of the Court of Wards or the Commissioner of the division respectively under this Act;

(h) confer upon the Court of Wards for the purposes of this Act any of the powers exercised by a Civil Court in the trial of suits;

(i) prescribe the mode in which powers delegated to managers are to be notified for the information of persons concerned; and

(j) generally prescribe the manner in which the powers and duties of the Court of Wards under this Act shall be exercised and performed.

(2) All rules made under this section shall be published in the local official Gazette, and shall thereupon have the force of law.

D. FITZPATRICK,
Secy. to the Govt. of India.

LEGISLATIVE DEPARTMENT.

The following Report of the Select Committee on the Bill to make better provision for the Superintendence of Government Wards in the Central Provinces was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 2nd October, 1885:—

From Officiating Secretary to Chief Commissioner, Central Provinces, No. 3544-107, dated 11th September 1885, and enclosures [Papers No. 1].

We, the undersigned, Members of the Select Committee to which the Bill to make better provision for the Superintendence of Government Wards in the Central Provinces was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report.

2. The Chief Commissioner considers the Bill to be well fitted to meet the objects aimed at. The Judicial Commissioner also approves the Bill, but offers some criticisms on the definition of "landholder" in section 3, and as to the position of a testamentary guardian under certain portions of the Act.

3. As regards the definition of "landholder," it appears to us that cases may occur in which it would be convenient to apply the Act to persons who, though interested in land, are not málguzárs or scheduled zamíndárs or assignees of revenue. We have, therefore, provided in the definition for the application of the Act to such persons with the previous sanction of the Governor-General in Council.

4. The position of a testamentary guardian was not declared with sufficient clearness in the Bill. We consider that when power to appoint a guardian by will exists and has been exercised, the Court of Wards should not have authority to displace the guardian or, unless he is removed by a Civil Court, to assume the superintendence of either property or person which has been entrusted to his care. We have amended the Bill accordingly.

5. There was likewise a want of clearness in the Bill as to the powers of the Court of Wards as regards the superintendence of the person of a married female ward. We have now added a proviso to section 8 enacting that nothing in that section "shall authorise the Court of Wards to assume the superintendence of the person of a female who is married to a man of full age and is in his custody," and we have omitted the proviso to section 13, which has now become superfluous.

6. At the instance of the Chief Commissioner, we have provided in effect in section 12, sub-section (2), that managers and other servants of the Court of Wards who are guilty of receiving bribes shall be punishable under the Indian Penal Code as though they were "public servants" within the meaning of that Code.

7. The publication ordered by the Council has been made as follows:—

In English.

Gazette.	*Date.*
Gazette of India ...	... 30th May, and 6th and 13th June, 1885.
Central Provinces Gazette	... 6th, 13th and 20th June, 1885.

In the Vernaculars.

Province.	*Language.*	*Date.*
Central Provinces ...	Maráthí ... Hindí ...	1st, 8th and 15th August, 1885.

8. We do not think the measure has been so altered as to require republication, and we commend that it be passed as now amended.

C. P. ILBERT.
S. C. BAYLEY.
W. W. HUNTER.

The 2nd October, 1885.

D. FITZPATRICK,
Secy. to the Govt. of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, OCTOBER 17, 1885.

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

PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third publication.]

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 2nd October, 1885, and is hereby promulgated for general information :—

ACT No. XV OF 1885.

An Act to amend the Local Authorities Loan Act, 1879.

WHEREAS it is expedient to amend the Local Authorities Loan Act, 1879; It is hereby enacted as follows :— XI of 1879.

Addition to section 8, Act XI of 1879.

1. After clause (*b*) of the proviso to section 8 of the said Act the following shall be added :—

"or

"(*c*) to affect the power conferred on any local authority by any such enactment to charge its funds by guaranteeing the payment of interest on money to be applied to any purpose to which the funds of the local authority can legally be applied."

D. FITZPATRICK,
Secy. to the Govt. of India.

LEGISLATIVE DEPARTMENT.

The following Report of the Select Committee on the Bill to amend the Local Authorities Loan Act, 1879, was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 23rd September, 1885 :—

WE, the undersigned, Members of the Select Committee to which the Bill to amend the Local Authorities Loan Act, 1879, was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report.

From Secretary to Chief Commissioner, British Burma, No. 303—24L., dated 13th June, 1885 [Paper No. 1].
From Secretary to Chief Commissioner, Assam, No. 972, dated 18th June, 1885 [Paper No. 2].
From Chief Commissioner, Ajmer-Merwára, No. 722, dated 3rd July, 1885 [Paper No. 3].
From Secretary to Government, North-Western Provinces and Oudh, No. 3051—X-518, dated 10th July, 1885 [Paper No. 4].
From Officiating Secretary to Government, Punjab, No. 731S., dated 17th July, 1885, and enclosures [Papers No. 5].
From Secretary for Berar to Resident, Hyderabad, No. 274G., dated 13th July, 1885 [Paper No. 6].
From Secretary to Chief Commissioner, Coorg, No. 688—89, dated 14th July, 1885 [Paper No. 7].
From Chief Secretary to Government, Madras, No. 1800, dated 10th July, 1885, and enclosures [Papers No. 8].
From Under Secretary to Government, Bombay, No. 2054, dated 18th July, 1885, and enclosures [Papers No. 9].
From Officiating Secretary to Government, Bengal, No. 1370, dated 20th July, 1885, and enclosures [Papers No. 10].
From Assistant Secretary to Chief Commissioner, Central Provinces, No. 3052—147, dated 11th August, 1885 [Paper No. 11].

2. It has been suggested that the term "raised" should be altered so as to include money devoted to any particular purpose by a person who may not have occasion to raise it, and we have accordingly substituted the words "applied to" for "raised for".

3. The only other alteration we have made in the Bill is a purely verbal one.

4. The publication ordered by the Council has been made as follows :—

In English.

Gazette.	*Date.*
Gazette of India	16th, 23rd and 30th May, 1885.
Fort St. George Gazette	2nd June, 1885.
Bombay Government Gazette ...	28th May, and 4th and 11th June, 1885.
Calcutta Gazette	27th May, and 3rd and 10th June, 1885.
North-Western Provinces and Oudh Government Gazette	23rd and 30th May, and 6th June, 1885.
Punjab Government Gazette ...	21st and 28th May, and 4th June, 1885.
Central Provinces Gazette	23rd and 30th May, and 6th June, 1885.
British Burma Gazette	6th, 13th and 20th June, 1885.
Assam Gazette	6th and 13th June, 1885.
Coorg District Gazette	1st July, 1885.

In the Vernaculars.

Province.	*Language.*	*Date.*
Bombay	Maráthí, Gujaráthí, Kanareso, Sindhí	25th June, 1885.
Bengal	Bengálí, Hindí	30th June, 1885.
	Uriya ...	9th July, 1885.
North-Western Provinces and Oudh	Urdu ...	4th, 11th and 18th July, 1885.
Punjab	Urdu ...	15th, 22nd and 29th June, 1885.
Central Provinces	Maráthí ...	11th, 18th and 25th July, 1885.
Coorg	Kanareso ...	1st July, 1885.

We do not think that the measure has been so altered as to require re-publication, and we recommend that it be passed as now amended.

T. C. HOPE.
C. P. ILBERT.
S. C. BAYLEY.

The 23rd September, 1885.

D. FITZPATRICK,
Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third publication.]

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 2nd October, 1885, and is hereby promulgated for general information :—

ACT No. XVI OF 1885.

THE CENTRAL PROVINCES CIVIL COURTS ACT, 1885.

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4. Classes of Courts.

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6. Courts of Commissioners and Deputy Commissioners.
7. Original jurisdiction of Courts of Commissioners and Deputy Commissioners in suits.
8. Court of Deputy Commissioner to be principal Civil Court of original jurisdiction.

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9. Chief Commissioner may declare class to which the Court of an Assistant Commissioner or Tahsíldár shall belong.
10. Pecuniary and local limits of the jurisdiction of Courts of Assistant Commissioners and Tahsíldárs.

Náib-tahsíldárs.

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SECTIONS.

Judicial Assistants to Commissioners, Civil Judges and Munsifs.

12. Power to invest certain persons, under the names of Judicial Assistant to Commissioner, Civil Judge and Munsif, with certain powers.

Small Cause Court Jurisdiction.

13. Power to confer Small Cause Court jurisdiction.

Administrative Control.

14. Superintendence and control of subordinate Courts by Courts of Judicial Commissioner, Commissioner and Deputy Commissioner.
15. Power of Court of Commissioner to transfer business.
16. Power to distribute business.

Appellate Jurisdiction.

17. Appeals to whom to lie.
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20. Books and accounts, and statements and returns, to be kept and furnished by Judicial Commissioner.
21. Place of sitting of Courts.
22. Mode of conferring powers.
23. Vacations.
24. Pending proceedings.
25. Appeals after Act comes into force against decrees and orders passed before.
26. Powers exerciseable from time to time.
27. Publication of certain orders.

An Act to amend the Law relating to Civil Courts in the Central Provinces.

WHEREAS it is expedient to amend the Law relating to Civil Courts in the Central Provinces; It is hereby enacted as follows :—

Preliminary.

Short title, local extent and commencement.

1. *(1)* This Act may be called the Central Provinces Civil Courts Act, 1885.

(2) It extends to the territories for the time being under the administration of the Chief Commissioner of the Central Provinces; and

(3) It shall come into force on the first day of January, 1886.

(4) Any authority conferred on the Chief Commissioner or on the Judicial Commissioner by this Act to issue orders or make rules may be exercised at any time after the passing of this Act; but an order or rule so issued or made shall not take effect until the Act comes into force.

Repeal.

XIV of 1865.

2. *(1)* On and from the day on which this Act comes into force the Central Provinces Courts Act, 1865, and Act XXVII of 1867, so far as it relates to the Central Provinces, shall be repealed.

(2) Any enactment or document referring to either of the enactments hereby repealed shall be construed to refer to this Act or to the corresponding portion thereof; and all declarations made, powers conferred, limits prescribed, directions given and orders issued under either of those enactments shall, so far as may be, be deemed to have been respectively made, conferred, prescribed, given and issued under this Act.

Definitions.

3. In this Act, unless there is something repugnant in the subject or context,—

"Assistant Commissioner" includes Extra Assistant Commissioner; and

"value," used with reference to a suit, means the amount or value of the subject-matter of the suit.

Classes of Courts.

Classes of Courts.

4. Besides the Courts of Small Causes established under Act XI of 1865, and the Courts established under any other enactment for the time being in force, there shall be the following classes of Civil Courts, namely:—

(a) the Court of the Judicial Commissioner;

(b) the Court of the Commissioner;

(c) the Court of the Deputy Commissioner;

(d) the Court of the Assistant Commissioner of the first class;

(e) the Court of the Assistant Commissioner of the second class;

(f) the Court of the Assistant Commissioner of the third class;

(g) the Court of the Tahsíldár of the first class;

(h) the Court of the Tahsíldár of the second class.

Court of the Judicial Commissioner.

Court of the Judicial Commissioner.

5. The Judicial Commissioner shall be appointed by the Governor-General in Council; and his Court shall be deemed, for the purposes of all enactments for the time being in force, to be the highest Civil Court of appeal in the territories to which this Act extends.

Courts of Commissioners and Deputy Commissioners.

Courts of Commissioners and Deputy Commissioners.

6. *(1)* The local limits of the jurisdiction of the Court of the Commissioner shall be those of the division of the revenue-administration of which he is in charge.

(2) The local limits of the jurisdiction of the Court of the Deputy Commissioner shall be those of the district of the revenue-administration of which he is in charge.

Original jurisdiction of Courts of Commissioners and Deputy Commissioners in suits.

7. Except as otherwise provided by any enactment for the time being in force, the Court of the Commissioner and the Court of the Deputy Commissioner shall be competent to try original civil suits without limit as regards the value.

Court of Deputy Commissioner to be principal Civil Court of original jurisdiction.

8. Except as otherwise provided by any enactment for the time being in force, the Deputy Commissioner shall be deemed to be the District Judge of the district, and his Court to be the District Court or principal Civil Court of original jurisdiction in the district.

Other Courts.

Chief Commissioner may declare class to which the Court of an Assistant Commissioner or Tahsíldár shall belong.

9. The Chief Commissioner may, by order in writing, declare, as regards any Assistant Commissioner, that his Court shall be that of an Assistant Commissioner of the first or of the second or of the third class, and, as regards any Tahsíldár, that his Court shall be that of a Tahsíldár of the first or of the second class.

Pecuniary and local limits of the jurisdiction of Courts of Assistant Commissioners and Tahsíldárs.

10. *(1)* Courts of Assistant Commissioners and Tahsíldárs shall be competent to try original civil suits of which the value does not exceed that specified against each Court in the following table:—

Courts.	Value.
Court of the Assistant Commissioner of the first class	Five thousand rupees.
Court of the Assistant Commissioner of the second class	One thousand rupees.
Court of the Assistant Commissioner of the third class	Five hundred rupees.
Court of the Tahsíldár of the first class	Three hundred rupees.
Court of the Tahsíldár of the second class	One hundred rupees.

Provided that the Chief Commissioner may, by order in writing, limit the classes of original civil suits which the Courts of Tahsíldárs of the first or of the second class shall be competent to try.

(2) The local limits of the jurisdiction of the Courts mentioned in this section shall be such as the Chief Commissioner may, by order in writing, define.

Náib-tahsíldárs.

Conferment of jurisdiction in certain suits on Náib-tahsíldárs.

11. The Chief Commissioner may, by order in writing, invest, within such local limits as he thinks fit, any Náib-tahsíldár with jurisdiction to try suits of the nature cognizable in a Court of Small Causes established under Act XI of 1865, up to such value, not exceeding fifty rupees, as he thinks fit.

Judicial Assistants to Commissioners, Civil Judges and Munsifs.

Power to invest certain persons, under the names of Judicial Assistant to Commissioner, Civil Judge and Munsif, with certain powers.

12. *(1)* The Chief Commissioner may, by order in writing, invest any person—

(a) with all or any of the powers of the Court of the Commissioner under this Act;

(b) with all or any of the powers of the Court of the Deputy Commissioner under this Act; or

(c) with all or any of the powers of the Court of a Tahsíldár of the first or of the second class under this Act;

and declare that the powers with which any person is so invested shall be exercised within any specified local area, and with respect to any particular class, or particular classes, of cases, or with respect to cases generally.

(2) Persons invested with powers under sub-section *(1)* shall be designated as follows:—

if invested under clause (*a*)—Judicial Assistant to the Commissioner;

if invested under clause (*b*)—Civil Judge;

if invested under clause (*c*)—Munsif.

(3) The Courts of such persons shall, for all purposes connected with the exercise of the said powers, be deemed to be, respectively, Courts of Commissioners, Courts of Deputy Commissioners and Courts of Tahsíldárs.

(4) The Chief Commissioner may, by order in writing, direct how business shall be distributed between the Commissioner and the Judicial Assistant to the Commissioner, and between the Deputy Commissioner and the Civil Judge.

Small Cause Court Jurisdiction.

Power to confer Small Cause Court jurisdiction.

13. The Chief Commissioner may, by order in writing, confer, within such local limits as he thinks fit, upon any Court of an Assistant Commissioner of the first or of the second class the jurisdiction of a Judge of a Court of Small Causes under Act XI of 1865 for the trial of suits cognizable by such Courts up to such value as he thinks fit, not exceeding, if the Court is that of an Assistant Commissioner of the first class, five hundred rupees, or, if the Court is that of an Assistant Commissioner of the second class, one hundred rupees.

Administrative Control.

Superintendence and control of subordinate Courts by Courts of Judicial Commissioner, Commissioner, and Deputy Commissioner.

14. *(1)* The general superintendence and control over all other Civil Courts shall be vested in, and all such Courts shall be subordinate to, the Court of the Judicial Commissioner.

(2) Subject to the general superintendence and control of the Court of the Judicial Commissioner, the control of all other Civil Courts in a division shall be vested in, and all such Courts shall be subordinate to, the Court of the Commissioner.

(3) Subject as aforesaid and to the control of the Court of the Commissioner, the control of all other Civil Courts in a district shall be vested in, and all such Courts shall be subordinate to, the Court of the Deputy Commissioner:

Provided that the Chief Commissioner, by order in writing, may direct that any Judicial Assistant to the Commissioner or Civil Judge shall not be subject to the control of, or subordinate to, the Court of the Commissioner or the Court of the Deputy Commissioner, as the case may be, and may further direct that such officer shall be subject to the control of, and subordinate to, such other Court as the Chief Commissioner thinks fit.

Power of Court of Commissioner to transfer business.

15. *(1)* The Court of the Commissioner may exercise, as regards the Courts under its control, the same powers of withdrawal, trial and transfer as are conferred by section 25 of the Code of Civil Procedure on a District Court. XIV of 1882.

(2) The Court trying any suit withdrawn under this section from a Court of Small Causes shall, for the purposes of the suit, be deemed to be a Court of Small Causes.

Power to distribute business.

16. Notwithstanding anything contained in the Code of Civil Procedure, the Court of the Commissioner and the Court of the Deputy Commissioner may, by order in writing, direct that any civil business cognizable by it and the Courts under its control shall be distributed among those Courts in such manner as it thinks fit: XIV of 1882.

Provided that no direction given under this section shall empower any Court to exercise any powers or deal with any business beyond the limits of its proper jurisdiction.

Appellate Jurisdiction.

Appeals to whom to lie.

17. *(1)* Appeals from decrees passed in original civil suits by Courts subordinate to the Court of the Deputy Commissioner shall, when such appeals are allowed by law and the value of the suit does not exceed one thousand rupees, lie to that Court.

(2) Appeals from decrees passed in original civil suits of value exceeding one thousand rupees by the Court of an Assistant Commissioner of the first class, or by a Civil Judge who is subordinate to the Court of the Deputy Commissioner, and from decrees passed in original civil suits of any value by the Court of a Deputy Commissioner, or by a Civil Judge who is not subordinate to that Court, or by a Judicial Assistant to the Commissioner who is subordinate to the Court of the Commissioner, shall, when such appeals are allowed by law, lie to the Court of the Commissioner.

(3) Appeals from decrees passed in original civil suits by the Court of the Commissioner or by a Judicial Assistant to the Commissioner who is not subordinate to the Court of the Commissioner, and from appellate decrees passed by Civil Courts subordinate to the Court of the Judicial Commissioner, shall, when such appeals are allowed by law, lie to the Court of the Judicial Commissioner.

Period of limitation for appeals.

18. *(1)* The period of limitation for an appeal to the Court of the Commissioners shall be sixty days.

(2) In the computation of that period and in all other respects, the limitation of appeals shall be governed by the provisions of the Indian Limitation Act, 1877.

The Central Provinces Civil Courts Act, 1885.—Sections 19-25.

Rules.

19. *(1)* The Judicial Commissioner may make rules consistent with this Act and any other enactment for the time being in force—

Power to make rules.

(a) declaring what persons shall be permitted to practise as petition-writers in Civil Courts, and regulating the conduct of persons so practising;

(b) prescribing forms for seals to be used by those Courts;

(c) regulating the procedure in cases where any person is entitled to inspect a record of any Civil Court or obtain a copy of the same, and prescribing the fees payable by such persons for searches and copies;

(d) conferring and imposing on the ministerial officers of Civil Courts such powers and duties of a non-judicial or quasi-judicial nature as he thinks fit, and regulating the mode in which powers and duties so conferred and imposed shall be exercised and performed;

(e) prescribing forms for such books, entries, statistics and accounts as he thinks necessary to be kept, made or compiled in those Courts or submitted to any authority;

(f) providing for the inspection of those Courts, and the supervision of the working thereof; and

(g) regulating all such matters as he may think fit, with a view to promoting the efficiency of the judicial and ministerial officers of those Courts and maintaining proper discipline among those officers.

(2) A rule made under this section shall not take effect until it has been sanctioned by the Chief Commissioner and published in the official Gazette.

(3) Whoever breaks any rule made under clause *(a)* shall be punished with fine which may extend to fifty rupees.

(4) Rules made under clause *(g)* may provide, among other matters, for fines, to an amount not exceeding one month's salary, being imposed on ministerial officers for misconduct or neglect in the performance of their duties, and for the recovery of fines so imposed by deduction of the amount thereof from any salary that may be or become due to the officers fined.

Supplemental Provisions.

20. *(1)* The Judicial Commissioner shall keep such registers, books and accounts as may be necessary for the transaction of the business of his Court, and shall submit to the Chief Commissioner such of those registers, books and accounts, and such statements of the work done in his Court, as may be required by the Chief Commissioner.

Books and accounts, and statements and returns, to be kept and furnished by Judicial Commissioner.

(2) The Judicial Commissioner shall also comply, in such form and manner as the Chief Commissioner may deem proper, with such requisitions as may be made by the Chief Commissioner for records of, or papers belonging to, the Court of the Judicial Commissioner or any Civil Court subordinate thereto, or for certified copies of, or extracts from, such records or papers, or for returns, statements or reports.

21. *(1)* The Chief Commissioner may, by order in writing, fix the place or places at which any Civil Court shall be held.

Place of sitting of Courts.

(2) The place or places so fixed may be beyond the local limits of the jurisdiction of the Court.

(3) Except as may be otherwise provided by any order under this section, a Civil Court may be held at any place within the local limits of its jurisdiction.

22. The Chief Commissioner may, when he is empowered by this Act to confer any powers, confer them on any person specially by name or by virtue of his office.

Mode of conferring powers.

23. *(1)* Subject to the approval of the Chief Commissioner, the Judicial Commissioner shall prepare a list of days to be observed in each year as holidays in his Court and the Civil Courts subordinate thereto.

Vacations.

(2) The list shall be published in the official Gazette.

24. *(1)* All cases or proceedings pending in the Court of the Judicial Commissioner on the day when this Act comes into force shall be disposed of as if this Act had not been passed.

Pending proceedings.

(2) All cases or proceedings pending in any Civil Court subordinate to the Court of the Judicial Commissioner on that day shall be disposed of as if this Act had not been passed:

Provided that the Judicial Commissioner may direct that any such cases or proceedings shall be transferred for disposal to any Court established under this Act, which would have had jurisdiction if it had been in existence when the cases or proceedings were instituted.

(3) In the case of an appeal pending on the said day, the following shall, for the purposes of sub-section *(2)*, be deemed to be the Court which would have had jurisdiction as aforesaid, namely:—

(a) when the value of the suit does not exceed one thousand rupees and the decree or order has been passed by a Court of a class lower than that of the Deputy Commissioner—the Court of the Deputy Commissioner;

(b) in other cases when the decree or order has been passed by a Court of a class lower than that of the Commissioner—the Court of the Commissioner.

25. Appeals from decrees and orders passed by Civil Courts and not appealed against before the date on which this Act comes into force shall lie and be disposed of as if this Act had not been passed and not otherwise:

Appeals after Act comes into force against decrees and orders passed before.

Provided that the Courts to which such appeals shall lie shall be as follows:—

(a) when the appeal would before the said date have lain to the Court of the Judicial Commissioner—that Court;

The Central Provinces Civil Courts Act, 1885.—Sections 26-27.

(b) when the appeal is from a decree or order passed by a Court of a class lower than that of the Deputy Commissioner in an original civil suit of which the value does not exceed one thousand rupees—the Court of the Deputy Commissioner;

(c) in other cases when the decree or order has been passed by a Court of a class lower than that of the Commissioner—the Court of the Commissioner.

26. All powers conferred by this Act may be exercised from time to time as occasion requires.

Powers exerciseable from time to time.

27. All orders required by this Act to be issued by the Chief Commissioner in writing shall be published in the official Gazette.

Publication of certain orders.

D. FITZPATRICK,
Secy. to the Govt. of India.

LEGISLATIVE DEPARTMENT.

The following Report of the Select Committee on the Bill to amend the Law relating to Civil Courts in the Central Provinces was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 23rd September, 1885:—

WE, the undersigned, Members of the Select Committee to which the Bill to amend the Law relating to Civil Courts in the Central Provinces was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report.

From Officiating Secretary to Chief Commissioner, Central Provinces, No. 3492—174, dated 10th September, 1885, and enclosure [Papers No. 1].

2. The Bill as introduced has been approved by the Chief Commissioner, and does not, in our opinion, call for any modification.

3. The publication ordered by the Council has been made as follows:—

In English.

Gazette.		*Date.*
Gazette of India	...	... 1st, 8th and 15th August, 1885.
Central Provinces Gazette	...	... 8th, 15th and 22nd August, 1885.

In the Vernaculars.

Province.	*Language.*		*Date.*
Central Provinces	Maráthí	...	29th August, and 5th and 12th September, 1885.
	Hindí	...	5th, 12th and 19th September, 1885.

4. We recommend that the Bill be passed.

C. P. ILBERT.
S. C. BAYLEY.
W. W. HUNTER.

The 23rd September, 1885.

D. FITZPATRICK,
Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second publication.]

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 9th October, 1885, and is hereby promulgated for general information:—

ACT NO. XVII OF 1885.

THE CENTRAL PROVINCES GOVERNMENT WARDS ACT, 1885.

CONTENTS.

SECTIONS.

1. Short title, extent and commencement.
2. Repeal.
3. Definitions.
4. Deputy Commissioner to be Court of Wards.
5. Landholders to be under jurisdiction of Court of Wards.
6. Superintendence by Court of Wards of property of disqualified landholder.
7. Cases in which landholders to be deemed disqualified.
8. Superintendence by Court of Wards of person of disqualified landholder.
9. Superintendence where disqualified landholder owns land within jurisdiction of two Courts of Wards.
10. Superintendence of Court of Wards not challengeable on ground that ward is not a landholder or minor.
11. Appointment, &c., of managers by Court of Wards.
12. Liabilities, &c., of managers and other servants of Court of Wards.
13. Power for Court of Wards to appoint guardians of certain Government wards.
14. General powers of Court of Wards.
15. Custody, education and residence of certain Government wards.
16. Allowance for Government ward and his family.
17. Duties of Court of Wards or manager.
18. Powers of Court of Wards as to property of Government wards.

SECTIONS.

19. Manager or Court of Wards to be next friend or guardian in suits by or against Government ward.
20. Payment of costs.
21. Processes against Government ward to be served on next friend or guardian.
22. Authority of Court of Wards required in case of suits brought on behalf of Government wards.
23. Disabilities of a Government ward.
24. Consent of Chief Commissioner necessary to adoptions by Government wards.
25. Procedure when succession to Government ward's property is disputed.
26. Withdrawal of superintendence of Court of Wards.
27. Appeals.
28. Control of Chief Commissioner.
29. Exercise of discretion not to be questioned in Civil Court.
30. Power for Chief Commissioner to make rules.

An Act to make better provision for the Superintendence of Government Wards in the Central Provinces.

WHEREAS it is expedient to make better provision for the superintendence of Government wards in the Central Provinces; It is hereby enacted as follows:—

Short title, extent and commencement.

1. *(1)* This Act may be called the Central Provinces Government Wards Act, 1885.

(2) It extends to the territories for the time being administered by the Chief Commissioner of the Central Provinces; and

(3) It shall come into force at once.

Repeal.

2. Bengal Regulations LII of 1803 *(for establishing a Court of Wards in the Provinces ceded by the Nawáb Vizier to the Honourable the English East India Company)* and VI of 1822 *(to establish a Court of Wards for Benares, and to define and explain certain of the rules regarding the powers and jurisdiction of the several Courts of Wards)*, and section 14 of Act XL of 1858 *(for making better provision for the care of the persons and property of Minors in the Presidency of Fort William in Bengal)* shall, so far as they are in force in the whole or any part of the territories to which this Act extends, be repealed.

Definitions.

3. In this Act, unless there is something repugnant in the subject or context,—

(1) "Government ward" means any person of whose property, or of whose person and property, the Court of Wards may, for the time being, have the superintendence under this Act:

(2) "Landholder" means a málguzár as defined in the Central Provinces Land-revenue Act, 1881, and the zamíndár of any zamíndári specified in Part VI of the first schedule of the Scheduled Districts Act, 1874, and includes a muáfidár, jagírdár, ubáridár or other assignee of land-revenue, and any person not hereinbefore specified who is interested in land and belongs to a class of which the Chief Commissioner, with the previous sanction of the Governor General in Council, has declared the members to be landholders for the purposes of this Act: and

XVIII of 1881.

XIV of 1874.

(3) "Land" includes the rights of a landholder in respect of the land of which he is the málguzár or zamíndár or the muáfidár, jagírdár, ubaridár or other assignee of land-revenue, or in which he is interested.

Deputy Commissioner to be Court of Wards.

4. The Deputy Commissioner shall be the Court of Wards for the limits of his district.

Landholders to be under jurisdiction of Court of Wards.

5. Every landholder shall be under the jurisdiction of the Court of Wards.

Superintendence by Court of Wards of property of disqualified landholder.

6. The Court of Wards may, with the previous sanction of the Chief Commissioner, assume the superintendence of the property of any landholder owning land within the local limits of its jurisdiction who is disqualified to manage his own property.

Cases in which landholders to be deemed disqualified.

7. *(1)* The following persons shall, for the purposes of the last foregoing section, be deemed to be disqualified to manage their own property, namely:—

(a) minors who have not guardians appointed for their property by will;

(b) persons adjudged by a competent Civil Court to be of unsound mind and incapable of managing their affairs; and

(c) persons declared by the Chief Commissioner to be incapable of managing their own property—

(i) owing to any physical defect or infirmity,

(ii) owing to their having been convicted of a non-bailable offence, and being unfitted by vice or bad character,

(iii) owing to their being females, or

(iv) on their own application.

(2) Every declaration made by the Chief Commissioner under clause *(c)* of this section shall be final, and shall not be questioned in any Civil Court.

Superintendence by Court of Wards of person of disqualified landholder.

8. When the Court of Wards assumes the superintendence of the property of a minor who has not a guardian appointed for his person by will, or of a person who has been adjudged by a competent Civil Court to be of unsound mind and incapable of managing his affairs, it may, with the previous sanction of the Chief Commissioner, assume the superintendence of his person also:

Provided that nothing in this section shall authorize the Court of Wards to assume the superintendence of the person of a female who is married to a man of full age and is in his custody.

Superintendence where disqualified landholder owns land within jurisdiction of two Courts of Wards.

9. Where a landholder owns land within the local limits of the jurisdiction of two or more Courts of Wards, such one only of the Courts as the Chief Commissioner may in this behalf determine shall assume the superintendence of the property, or of the person and property, of the landholder.

Superintendence of Court of Wards not challengeable on ground that ward is not a landholder or minor.

10. When the Court of Wards has, with the sanction of the Chief Commissioner, assumed the superintendence of the property of any person, or of his person and property, its authority shall not be contested in any Civil Court on the ground that he was not or is not a landholder or was not or is not a minor.

Appointment, &c., of managers by Court of Wards.

11. Subject to the rules made under this Act, the Court of Wards may appoint, suspend and remove a manager of the property of any Government ward under its superintendence, and may delegate to the manager all or any of its functions in relation to any property under this Act.

Liabilities, &c., of managers and other servants of Court of Wards.

12. *(1)* Every manager appointed by the Court of Wards shall—

(a) give such security as the Court thinks fit duly to account for what he receives in respect of the rents and profits of the property under his management;

(b) be entitled to such allowance as the Court thinks fit for his care and pains in the execution of his duties; and

(c) be responsible for any loss occasioned to the property under his management by his wilful default or gross negligence.

(2) Every manager or other servant of the Court of Wards shall be deemed a "public servant" within the meaning of sections 161, 162, 163, 164 and 165 of the Indian Penal Code; and in the definition of "legal remuneration" contained in the said section 161, the word "Government" shall, for the purposes of this sub-section, be deemed to include the Court of Wards.

XLV of 1860.

Power for Court of Wards to appoint guardians of certain Government wards.

13. The Court of Wards may appoint guardians for the care of the persons of Government wards whose persons are, for the time being, under its superintendence, and may control and remove guardians whom it has appointed.

General powers of Court of Wards.

14. Subject to the provisions of this Act and of the rules made under this Act, the Court of Wards—

(a) may, of itself or through the manager (if any) appointed by it under this Act, do all such things requisite for the proper care and management of any property, of which it assumes the superintendence under this Act, as the owner of the property, if not disqualified, might do for its care and management; and

(b) may, of itself or through the guardian (if any) appointed by it under this Act, do in respect of the person of any Government ward, whose person is, for the time being, under its superintendence, all such things as may lawfully be done by a guardian.

Custody, education and residence of certain Government wards.

15. The Court of Wards may pass such orders as to it seems fit in respect of the custody and residence of any Government ward whose person is, for the time being, under its superintendence, and, when he is a minor, in respect of his education.

Allowance for Government ward and his family.

16. The Court of Wards may, from time to time, determine what sums shall be allowed in respect of the expenses of any Government ward and of his family and dependents.

Duties of Court of Wards or manager.

17. The Court of Wards, or the manager (if any) appointed by it under this Act, shall manage the property of every Government ward under its superintendence or under his management diligently and faithfully for the benefit of the Government ward, and shall in every respect act to the best of its or his judgment for the Government ward's interest as if the property were its or his own.

Powers of Court of Wards as to property of Government wards.

18. The Court of Wards may let the whole or any part of the property of any Government ward under its superintendence, and may, with the previous sanction of the Chief Commissioner, mortgage, sell or exchange the whole or any part of such property, and may do all such other acts as it may judge to be best for the benefit of the property and the advantage of the Government ward.

Manager or Court of Wards to be next friend or guardian in suits by or against Government ward.

19. In every suit brought by or against a Government ward the manager of the ward's property, or, if there is no manager, the Court of Wards having the superintendence of the ward's property, shall be named as next friend or guardian for the suit, as the case may be.

Payment of costs.

20. If, in any suit brought by or against a Government ward, any Civil Court decrees any costs against the ward's next friend or guardian for the suit, the Court of Wards shall cause the costs to be paid out of any property of the Government ward which may, for the time being, be in its hands.

Processes against Government ward to be served on next friend or guardian.

21. Every process which may be issued out of any Civil Court against any Government ward shall be served on the ward's next friend or guardian for the suit.

Authority of Court of Wards required in case of suits brought on behalf of Government wards.

22. No suit shall be brought on behalf of any Government ward unless it is authorized by some order of the Court of Wards:

Provided as follows:—

(1) a manager may authorize a plaint to be filed in order to prevent a suit from being barred by the law of limitation, but the suit shall not afterwards be proceeded with except under the sanction of the Court of Wards;

(2) a suit for arrears of rent may be brought on behalf of a Government ward if authorized by an order of the manager of the property on which the rent is due.

Disabilities of a Government ward.

23. *(1)* A Government ward shall be incompetent to transfer or create any charge on, or interest in, his property or any part thereof, or to enter into any contract which may involve him in pecuniary liability.

(2) Nothing in this section shall be deemed to affect the capacity of a Government ward to enter into a contract of marriage:

Provided that he shall not incur, in connection therewith, any pecuniary liability, except such as, having regard to the personal law to which he is subject and to his rank and circumstances, the Court of Wards may, in writing, declare to be reasonable.

Consent of Chief Commissioner necessary to adoptions by Government wards.

24. No adoption by any Government ward, and no written or verbal permission to adopt given by any Government ward, shall be valid without the consent of the Chief Commissioner obtained either previously or subsequently to the adoption, or to the giving of the permission, on application made to him through the Court of Wards.

Procedure when succession to Government ward's property is disputed.

25. Whenever, on the death of any Government ward, the succession to his property or any part thereof is disputed, the Court of Wards may either direct that the property or part thereof be made over to any person claiming the property, or may retain the superintendence of the property until one of the claimants has established his claim to the same in a competent Civil Court.

Withdrawal of superintendence of Court of Wards.

26. *(1)* The Court of Wards may, with the sanction of the Chief Commissioner, at any time withdraw its superintendence from the person or property, or both, of a Government ward, and shall withdraw its superintendence as soon as—

(a) in the case of a person disqualified under clause *(a)* of section 7, he attains his majority;

(b) in the case of a person disqualified under clause *(b)* of that section, he ceases to be of unsound mind and incapable of managing his affairs; and

(c) in the case of a person disqualified under sub-clause (i) of clause *(c)* of that section, his physical defect or infirmity is removed or ceases.

(2) When any question arises whether the superintendence of the Court of Wards should be withdrawn from any person or property, or both, under clause *(a)*, or from any property under clause *(c)*, of this section, the decision of the Chief Commissioner thereon shall be final and shall not be questioned in any Civil Court.

The Central Provinces Government Wards Act, 1885.—Sections 27-30.

27. An appeal shall lie from every order of the Court of Wards under this Act to the Commissioner of the division, and from every order of the Commissioner to the Chief Commissioner.

Appeals.

28. All orders or proceedings of the Court of Wards and of the Commissioner of the division under this Act shall be subject to the supervision and control of the Chief Commissioner; and the Chief Commissioner may, if he thinks fit, revise, modify or reverse any such order or proceeding, whether an appeal is presented against any such order or proceeding or not.

Control of Chief Commissioner.

29. The exercise of any discretion conferred on a Court of Wards, a Commissioner of a division or the Chief Commissioner by this Act shall not be called in question in any Civil Court.

Exercise of discretion not to be questioned in Civil Court.

30. *(1)* The Chief Commissioner may, from time to time, make rules consistent with this Act to—

Power for Chief Commissioner to make rules.

(a) prescribe the matters to which regard should be had in appointing or removing guardians and managers, and in fixing their remuneration;

(b) regulate the amount of security to be given by managers;

(c) limit the functions which the Court of Wards may delegate to a manager;

(d) prescribe the cases in which proposals or arrangements connected with the administration of the properties of Government wards shall be reported for the sanction of the Chief Commissioner or for that of the Commissioner of the division;

(e) prescribe the accounts and other returns which, and the periods and form at and in which, they shall be rendered by managers to the Court of Wards and by the Court of Wards to the Commissioner of the division;

(f) regulate the custody of securities and title-deeds belonging to the estate or property of a Government ward;

(g) regulate the procedure in inquiries by the Court of Wards and in appeals from orders of the Court of Wards or the Commissioner of the division respectively under this Act;

(h) confer upon the Court of Wards for the purposes of this Act any of the powers exercised by a Civil Court in the trial of suits;

(i) prescribe the mode in which powers delegated to managers are to be notified for the information of persons concerned; and

(j) generally prescribe the manner in which the powers and duties of the Court of Wards under this Act shall be exercised and performed.

(2) All rules made under this section shall be published in the local official Gazette, and shall thereupon have the force of law.

D. FITZPATRICK.
Secy. to the Govt. of India.

LEGISLATIVE DEPARTMENT.

The following Report of the Select Committee on the Bill to make better provision for the Superintendence of Government Wards in the Central Provinces was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 2nd October, 1885:—

We, the undersigned, Members of the Select Committee to which the Bill to make better provision for the Superintendence of Government Wards in the Central Provinces was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report.

From Officiating Secretary to Chief Commissioner, Central Provinces, No. 3544-107, dated 14th September 1885, and enclosures [Papers No. 1].

2. The Chief Commissioner considers the Bill to be well fitted to meet the objects aimed at. The Judicial Commissioner also approves the Bill, but offers some criticisms on the definition of "landholder" in section 3, and as to the position of a testamentary guardian under certain portions of the Act.

3. As regards the definition of "landholder," it appears to us that cases may occur in which it would be convenient to apply the Act to persons who, though interested in land, are not málguzárs or scheduled zamíndárs or assignees of revenue. We have, therefore, provided in the definition for the application of the Act to such persons with the previous sanction of the Governor-General in Council.

4. The position of a testamentary guardian was not declared with sufficient clearness in the Bill. We consider that when power to appoint a guardian by will exists and has been exercised, the Court of Wards should not have authority to displace the guardian or, unless he is removed by a Civil Court, to assume the superintendence of either property or person which has been entrusted to his care. We have amended the Bill accordingly.

5. There was likewise a want of clearness in the Bill as to the powers of the Court of Wards as regards the superintendence of the person of a married female ward. We have now added a proviso to section 8 enacting that nothing in that section "shall authorise the Court of Wards to assume the superintendence of the person of a female who is married to a man of full age and is in his custody," and we have omitted the proviso to section 13, which has now become superfluous.

6. At the instance of the Chief Commissioner, we have provided in effect in section 12, sub-section (2), that managers and other servants of the Court of Wards who are guilty of receiving bribes shall be punishable under the Indian Penal Code as though they were "public servants" within the meaning of that Code.

7. The publication ordered by the Council has been made as follows:—

In English.

Gazette.	*Date.*
Gazette of India ...	... 30th May, and 6th and 13th June, 1885.
Central Provinces Gazette	... 6th, 13th and 20th June, 1885.

In the Vernaculars.

Province.	*Language.*	*Date.*
Central Provinces ...	Maráthí ... / Hindí ...	1st, 8th and 15th August, 1885.

8. We do not think the measure has been so altered as to require republication, and we recommend that it be passed as now amended.

C. P. ILBERT.
S. C. BAYLEY.
W. W. HUNTER.

The 2nd October, 1885.

D. FITZPATRICK,
Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First publication.]

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 16th October, 1885, and is hereby promulgated for general information :—

ACT No. XVIII OF 1885.

THE LAND ACQUISITION (MINES) ACT, 1885.

CONTENTS.

SECTIONS.

1. Short title, commencement and local extent.
2. Saving for mineral rights of the Government.
3. Declaration that mines are not needed.
4. Notice to be given before working mines lying under land.
5. Power to prevent or restrict working.
6. Mode of determining persons interested and amount of compensation.
7. If Local Government does not offer to pay compensation, mines may be worked in a proper manner.
8. Mining communications.
9. Local Government to pay compensation for injury done to mines.
10. And also for injury arising from any airway or other work.
11. Power to officer of Local Government to enter and inspect the working of mines.
12. Penalty for refusal to allow inspection.
13. If mines worked contrary to provisions of this Act, Local Government may require means to be adopted for safety of land acquired.
14. Construction of Act when land acquired has been transferred to a local authority or Company.
15. Pending cases.
16. Definition of local authority and Company.
17. This Act to be read with Land Acquisition Act, 1870.

An Act to provide for cases in which Mines or Minerals are situate under land which it is desired to acquire under the Land Acquisition Act, 1870.

WHEREAS it is expedient to provide for cases in which mines or minerals are situate under land which it is desired to acquire under the Land Acquisition Act, 1870; It is hereby enacted as follows :— X of 1870.

1. *(1)* This Act may be called the Land Acquisition (Mines) Act, 1885; and

Short title, commencement and local extent.

(2) It shall come into force at once.

(3) It extends in the first instance to the territories administered by the Governor of Madras in Council and the Lieutenant-Governor of Bengal, but any other Local Government may, from time to time, by notification in the official Gazette, extend this Act to the whole or any specified part of the territories under its administration.

2. Except as expressly provided by this Act, nothing in this Act shall affect the right of the Government to any mines or minerals.

Saving for mineral rights of the Government.

3. *(1)* When the Local Government makes a declaration under section 6 of the Land Acquisition Act, 1870, that land is needed for a public purpose or for a Company, it may, if it thinks fit, insert in the declaration a statement that the mines of coal, iron-stone, slate or other minerals lying under the land or any particular portion of the land, except only such parts of the mines or minerals as it may be necessary to dig or carry away or use in the construction of the work for the purpose of which the land is being acquired, are not needed. X of 1870.

Declaration that mines are not needed.

(2) When a statement as aforesaid has not been inserted in the declaration made in respect of any land under section 6 of the Land Acquisition Act, 1870, and the Collector is of opinion that the provisions of this Act ought to be applied to the land, he may abstain from tendering compensation under section 11 of the said Land Acquisition Act in respect of the mines, and may— X of 1870.

(a) when he makes an award under section 14 of that Act, insert such a statement in his award;

(b) when he makes a reference to the Court under section 15 of that Act, insert such a statement in his reference; or

(c) when he takes possession of the land under section 17 of that Act, publish such a statement in such manner as the Governor-General in Council may, from time to time, prescribe.

(3) If any such statement is inserted in the declaration, award or reference, or published as aforesaid, the mines of coal, iron-stone, slate or other minerals under the land or portion of the land specified in the statement, except as aforesaid, shall not vest in the Government when the land so vests under the said Act.

The Land Acquisition (Mines) Act, 1885.—(Sections 4-10.)

4. If the person for the time being immediately entitled to work or get any mines or minerals lying under any land so acquired is desirous of working or getting the same, he shall give the Local Government notice in writing of his intention so to do sixty days before the commencement of working.

Notice to be given before working mines lying under land.

5. *(1)* At any time or times after the receipt of a notice under the last foregoing section, and whether before or after the expiration of the said period of sixty days, the Local Government may cause the mines or minerals to be inspected by a person appointed by it for the purpose; and

Power to prevent or restrict working.

(2) If it appears to the Local Government that the working or getting of the mines or minerals, or any part thereof, is likely to cause damage to the surface of the land or any works thereon, the Local Government may publish, in such manner as the Governor General in Council may, from time to time, direct, a declaration of its willingness either—

(a) to pay compensation for the mines or minerals still unworked or ungotten, or that part thereof, to all persons having an interest in the same; or

(b) to pay compensation to all such persons in consideration of those mines or minerals, or that part thereof, being worked or gotten in such manner and subject to such restrictions as the Local Government may in its declaration specify.

(3) If the declaration mentioned in case *(a)* is made, then those mines or minerals, or that part thereof, shall not thereafter be worked or gotten by any person.

(4) If the declaration mentioned in case *(b)* is made, then those mines or minerals, or that part thereof, shall not thereafter be worked or gotten by any person save in the manner and subject to the restrictions specified by the Local Government.

6. When the working or getting of any mines or minerals has been prevented or restricted under section 5, the persons interested in those mines or minerals and the amounts of compensation payable to them respectively shall, subject to all necessary modifications, be ascertained in the manner provided by the Land Acquisition Act, 1870, for ascertaining the persons interested in the land to be acquired under that Act, and the amounts of compensation payable to them, respectively.

Mode of determining persons interested and amount of compensation.

X of 1870.

7. *(1)* If before the expiration of the said sixty days the Local Government does not publish a declaration as provided in section 5, the owner, lessee or occupier of the mines may, unless and until such a declaration is subsequently made, work the mines or any part thereof in a manner proper and necessary for the beneficial working thereof, and according to the usual manner of working such mines in the local area where the same are situate.

If Local Government does not offer to pay compensation, mines may be worked in a proper manner.

(2) If any damage or obstruction is caused to the surface of the land or any works thereon by improper working of the mines, the owner, lessee or occupier of the mines shall at once, at his own expense, repair the damage or remove the obstruction, as the case may require.

(3) If the repair or removal is not at once effected, or, if the Local Government so thinks fit, without waiting for the same to be effected by the owner, lessee or occupier, the Local Government may execute the same and recover from the owner, lessee or occupier the expense occasioned thereby.

8. If the working of any mines is prevented or restricted under section 5, the respective owners, lessees and occupiers of the mines, if their mines extend so as to lie on both sides of the mines the working of which is prevented or restricted, may cut and make such and so many airways, headways, gateways or water-levels through the mines, measures or strata, the working whereof is prevented or restricted, as may be requisite to enable them to ventilate, drain and work their said mines; but no such airway, headway, gateway or water-level shall be of greater dimensions or section than may be prescribed by the Governor General in Council in this behalf, and, where no dimensions are so prescribed, not greater than eight feet wide and eight feet high, nor shall the same be cut or made upon any part of the surface or works, or so as to injure the same, or to interfere with the use thereof.

Mining communications.

9. The Local Government shall, from time to time, pay to the owner, lessee or occupier of any such mines extending so as to lie on both sides of the mines, the working of which is prevented or restricted, all such additional expenses and losses as may be incurred by him by reason of the severance of the lands lying over those mines or of the continuous working of those mines being interrupted as aforesaid, or by reason of the same being worked in such manner and under such restrictions as not to prejudice or injure the surface or works, and for any minerals not acquired by the Local Government which cannot be obtained by reason of the action taken under the foregoing sections; and if any dispute or question arises between the Local Government and the owner, lessee or occupier as aforesaid, touching the amount of those losses or expenses, the same shall be settled as nearly as may be in the manner provided for the settlement of questions touching the amount of compensation payable under the Land Acquisition Act, 1870.

Local Government to pay compensation for injury done to mines.

X of 1870.

10. If any loss or damage is sustained by the owner or occupier of the lands lying over any such mines, the working whereof has been so prevented or restricted as aforesaid (and not being the owner, lessee or occupier of those mines), by reason of the making of any such airway or other works as aforesaid, which or any like work it would not have been necessary to make but for the working of the mines having been so prevented or restricted as aforesaid, the Local Government shall pay full compensation to that owner or occupier of the surface lands for the loss or damage so sustained by him.

And also for injury arising from any airway or other work.

The Land Acquisition (Mines) Act, 1885.—(Sections 11-17.)

11. For better ascertaining whether any mines lying under land acquired in accordance with the provisions of this Act are being worked, or have been worked, or are likely to be worked so as to damage the land or the works thereon, an officer appointed for this purpose by the Local Government may, after giving twenty-four hours' notice in writing, enter into and return from any such mines or the works connected therewith; and for that purpose the officer so appointed may make use of any apparatus or machinery belonging to the owner, lessee or occupier of the mines, and use all necessary means for discovering the distance from any part of the land acquired to the parts of the mines which have been, are being, or are about to be worked.

Power to officer of Local Government to enter and inspect the working of mines.

12. If any owner, lessee or occupier of any such mines or works refuses to allow any officer appointed by the Local Government for that purpose to enter into and inspect any such mines or works in manner aforesaid, he shall be punished with fine which may extend to two hundred rupees.

Penalty for refusal to allow inspection.

13. If it appears that any such mines have been worked contrary to the provisions of this Act, the Local Government may, if it thinks fit, give notice to the owner, lessee or occupier thereof to construct such works and to adopt such means as may be necessary or proper for making safe the land acquired, and the works thereon, and preventing injury thereto; and, if after such notice such owner, lessee or occupier does not proceed to construct the works necessary for making safe the land acquired and the works thereon, the Local Government may itself construct the works and recover the expense thereof from the owner, lessee or occupier.

If mines worked contrary to provisions of this Act, Local Government may require means to be adopted for safety of land acquired.

14. When a statement under section 3 has been made regarding any land, and the land has been acquired by the Government, and has been transferred to or has vested by operation of law in a local authority or Company, then sections 4 to 13, both inclusive, shall be read as if for the words "the Local Government" wherever they occur in those sections the words "the local authority or Company, as the case may be, which has acquired the land" were substituted.

Construction of Act when land acquired has been transferred to a local authority or Company.

15. *(1)* This Act shall apply to any land for the acquisition whereof proceedings under the Land Acquisition Act, 1870, are pending at the time when this Act comes into force, unless before that time the Collector has made, in respect of the land, an award under section 14 or a reference to the Court under section 15 of that Act, or has taken possession of the land under section 17 of the same.

Pending cases.

X of 1870.

(2) When the Collector has before the said time made an award or reference in respect of any such land or taken possession thereof as aforesaid, and all the persons interested in the land, or entitled under the Land Acquisition Act, 1870, to act for persons so interested, who have attended or may attend in the course of the proceedings under sections 11 to 15, both inclusive, of the Land Acquisition Act, 1870, consent in writing to the application of this Act to the land, the Collector may by an order in writing direct that it shall apply, and thereupon it shall be deemed to have applied from the commencement of the proceedings; and the Collector shall be deemed, as the case may be, to have inserted in his award or reference, or to have published in the prescribed manner, when he took possession, the statement mentioned in section 3 of this Act.

X of 1870.

X of 1870.

16. In this Act—

Definition of local authority and Company.

(*a*) "local authority" means any municipal committee, district board, body of port commissioners or other authority legally entitled to, or entrusted by the Government with, the control or management of any municipal or local fund; and

(*b*) "Company" means a Company registered under any of the enactments relating to Companies from time to time in force in British India, or formed in pursuance of an Act of Parliament or by Royal Charter or Letters Patent.

17. This Act shall, for the purposes of all enactments for the time being in force, be read with and taken as part of the Land Acquisition Act, 1870.

This Act to be read with Land Acquisition Act, 1870.

X of 1870.

D. FITZPATRICK,
Secy. to the Govt. of India.

LEGISLATIVE DEPARTMENT.

The following Report of the Select Committee on the Bill to provide for cases in which Mines or Minerals are situate under land which it is desired to acquire under the Land Acquisition Act, 1870, was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 23rd September, 1885:—

WE, the undersigned, Members of the Select Committee to which the Bill to provide for cases in which Mines or Minerals are situate under land which it is desired to acquire under the Land Acquisition Act, 1870, was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report.

From Messrs. Macneill & Co., Managing Agents, Equitable Coal Company, Limited, dated 24th April, 1885, and enclosure [Papers No. 1].
From Officiating Secretary to Chief Commissioner, Assam, No. 649, dated 24th April, 1885 [Paper No. 2].
From Secretary to Chief Commissioner, Coorg, No. 206—25, dated 4th May, 1885 [Paper No. 3].
From Chief Commissioner, Ajmer-Merwára, No. 479, dated 7th May, 1885, and enclosure [Papers No. 4].
From Officiating Secretary to Chief Commissioner, British Burma, No. 708-91R., dated 29th April, 1885 [Paper No 5].
From Secretary for Berar to Resident, Hyderabad, No. 161 G., dated 9th May, 1885 [Paper No. 6].
From Registrar, High Court, Calcutta, No. 1524, dated 15th May, 1885 [Paper No. 7].
From Chief Secretary to Government, Madras, No. 1251, dated 9th May, 1885, and enclosures [Papers No. 8].
From Under Secretary to Government, Bombay, No. 4381, dated 30th May, 1885, and enclosures [Papers No. 9].
From Secretary to Government, Bengal, No. 481 T.—R., dated 28th May, 1885, and enclosures [Papers No. 10].
From Officiating Junior Secretary to Government, Punjab, No. 544, dated 4th June, 1885, and enclosures [Papers No. 11].
From Bábú Gurdhar Das, Honorary Magistrate, Etáwah, dated 8th May, 1885 [Paper No. 12].
From Chief Secretary to Government, North-Western Provinces and Oudh, No. 1150—I.-776, dated 30th June, 1885, and enclosures [Papers No. 13].
From Assistant Secretary to Chief Commissioner, Central Provinces, No. 2655—77, dated 11th July, 1885 [Paper No. 14].

2. Some of the Local Governments have objected to the Bill being applied to the provinces under their administration on the ground that, having regard to the manner in which the right to minerals is regulated in those provinces, it is unnecessary there, and that, if unnecessary, it would only prove an encumbrance and complication in the acquisition of lands. To meet these objections we have made the measure applicable by its own vigour only to the territories under the administration of the Governor of Madras in Council and the Lieutenant-Governor of Bengal, but have empowered the remaining Local Governments to extend it to the whole or any part of the territories administered by them if they think fit.

3. An apprehension has been expressed in some of the opinions received that the Bill might by implication affect the rights which the Crown has to all minerals throughout a very large portion of this country. Such an apprehension is, we believe, unfounded, but by way of greater precaution and to prevent misapprehension we have inserted a section (2) saving the rights of the Crown.

4. Section 3 of the Bill as introduced required the Government to determine, before it issued its declaration under section 6 of the Land Acquisition Act, whether the land should be acquired simply under that Act, that is to say, including the minerals, or whether the special provisions of this Bill should be put in force with a view to excluding the minerals from the acquisition.

It has been represented that it is not for the interest of any of those concerned that an irrevocable determination should necessarily be come to on so important a point at a stage of the proceedings when the circumstances of the case would in all probability be imperfectly known. The Government, it will be observed on reference to the Land Acquisition Act, has a discretion to withdraw from a proposed acquisition of land up to a considerably later stage, and it seems but reasonable that it should have a discretion to exclude the minerals from the acquisition at any time up to the same stage if it turns out that their acquisition is not essential to the undertaking, and that either the owners are unwilling to part with them or the Government or the local authority or Company concerned is unwilling to pay their full value. We have accordingly (in section 3) empowered the Collector, who in such a matter would, of course, act under the control of the Government, to exclude the minerals from the acquisition at any time up to the stage of the proceedings at which the land vests, and it is no longer in the discretion of the Government to recede from the transaction.

5. It has been urged that the notice of thirty days to be given to the Government, under section 3 of the Bill as introduced, by a mine-owner desiring to work his mines is too short having regard to the delays in communication in this country. We think the objection is reasonable, and we have accordingly (in section 4 of the amended Bill) extended the period to sixty days.

6. It has been held by the House of Lords in an important case (*Dixon* v. *The Caledonian Railway Co.*, 5 App. Ca. 820) that when a mine-owner gives notice under section 78 of the Railways Clauses Act, 1845, of his intention to work minerals, the Railway Company is not, for the purpose of giving its counter-notice to stop or control the working, limited to the thirty days for which the mine-owner's notice runs, that the period of thirty days is merely prescribed as a period until the expiration of which the mine-owner is debarred from working, and that the Company can at any time give its counter-notice, though of course if given at any time after the thirty days had expired and the workings had been commenced it would have no effect except as regards the further progress of the workings. The opposite view, as was pointed out by their Lordships, would involve somewhat serious consequences, and it is obviously necessary that there should be no mistake as to the effect of the Bill in this respect. It would doubtless have been sufficient, so far as regards the ultimate result, if we followed the exact wording of the English Act, on the main lines of which we are proceeding throughout. The highest Courts in this country would, as a matter of course, follow the decision of the House of Lords, but it is to be apprehended that inferior authorities might in many cases be ignorant of that decision, and might mistake the effect of the wording of the English Act, which it must be admitted is by no means clear. We have therefore thought it safer to amend the sections concerned in such a manner that they will in a clear and unmistakeable way express the effect of the English Act as construed by the House of Lords.

7. Another important English decision which points to an amendment of the Bill is that in *Smith* v. *Great Western Railway Co.* (2 Ch. D. 235), and in appeal before the House of Lords, 3 App. Ca. 165). We may have, under a Bill of this sort, a state of things to deal with, of which that case affords an illustration, where one person holding under a terminable lease has an immediate right to work the minerals, and another person is entitled to the reversion on the expiration of the lease and perhaps to a rent or royalty during its continuance. The lease may or may not be of such a length as to admit of all the minerals being worked out during its continuance, and it may or may not be liable to be put an end to by forfeiture or otherwise before the expiration of its term. The provisions of the English Act, which deal specially with the subject now before us, and which have been incorporated in this Bill, were found inadequate to provide for the exigencies of such a state of things as that referred to. They probably contemplate a settlement only with the person immediately entitled to work the mines, and, in order to provide for the case of a reversioner or other person interested, it was found necessary to call in the aid of a general provision of the law which would be out of place in a Bill like this.

It appears to us that the simplest mode of dealing with the various interests that may co-exist in the mines is to require, in accordance with the scheme of the Land Acquisition Act, that they should all, whether present or future, be considered and compensated for simultaneously, whenever the owner of the surface has occasion to exercise his power of stopping or controlling the working.

We have accordingly provided in effect that where the person immediately entitled to work the mines intimates to the owner of the surface his intention to work them, and the latter after that determines to stop or control the working, the settlement of compensation must extend to all persons interested in the mines, and the stoppage or control will be binding in perpetuity on all alike.

8. We have introduced three new sections (8, 9 and 10), corresponding to sections 80, 81 and 82 of the Railways Clauses Act, 1845. We question whether the object of these sections would not have been otherwise attained through the medium of the Land Acquisition Act, the provisions of which were made applicable by section 6 of the Bill as introduced; but as importance appeared to be attached to them in the memorial of the Coal Companies, we have thought it better to remove all doubt by including them. They will doubtless overlap section 6 of the Bill, but no practical harm will result from this.

9. An objection has been taken in some quarters to section 11 of the Bill as introduced (now section 14), which in effect gives to certain Companies the powers conferred on the Local Government by some of the foregoing provisions of the Bill. It appears to be overlooked that the section in question can apply only to Companies established for such purposes and occupying such a position from a public point of view as would warrant the Government in acquiring land on their behalf. In particular it is provided, by sections 48 and 49 of the Land Acquisition Act, that land shall not be acquired for a Company under that Act unless it is needed for a work likely to prove useful to the public, and the Company enters into an agreement with the Government settling, among other matters, the time within which and the conditions on which the work shall be executed and maintained and the terms on which the public shall be entitled to use it.

10. We may further observe that there appears from some of the papers considered by us to be a certain amount of misapprehension as to the nature of the powers referred to.

If the Local Government or the Company exercising the powers of the Local Government neglects to come to terms with the mine-owner on his giving notice of his intention to work, it does so at the risk of its property. If, considering that the mine-owner is working improperly, it takes steps under section 7 (new numbering) to remedy the mischief with a view to charging the mine-owner with the cost, it does so at the risk of losing its money and of incurring serious legal consequences if the Court before which the case may ultimately come takes a different view of the matter. Similarly, if it considers that the mines are being worked contrary to the provisions of the Act and proceeds to take steps under section 13 (new numbering), it still acts at its own risk, for it is by no means certain that it will appear to the Court that the mines were being so worked.

Thus the powers in question are very far from being so formidable as has been supposed, and we may add that they are framed as closely as possible on the lines of those conferred by

Parliament on Railway Companies in England, the substance of which seems generally to have met with approval.

11. We have placed "local authorities" on a footing similar to that of Companies, as in many recent Acts the provisions of the Land Acquisition Act have been made applicable for the purpose of acquiring land for such authorities.

12. We are informed that there are certain land acquisition cases pending at this moment in Bengal, which have already proceeded beyond the stage at which the provisions of this measure would in its ordinary course be applicable to them, but in which it may nevertheless be thought desirable to have the benefit of it. To meet this, we have inserted a clause (15 (2)) which will admit of the Bill being applied in such cases if those concerned unanimously desire that it should.

13. The publication ordered by the Council has been made as follows :—

In English.

Gazette.	*Date.*
Gazette of India	28th February, and 7th and 14th March, 1885.
Fort Saint George Gazette	17th March, 1885.
Bombay Government Gazette	12th March, 1885.
Calcutta Gazette	11th March, 1885.
North-Western Provinces and Oudh Government Gazette	14th, 21st and 28th March, 1885.
Punjab Government Gazette	26th March, and 2nd and 9th April, 1885.
Central Provinces Gazette	14th and 21st March, and 4th April, 1885.
British Burma Gazette	28th March, and 4th and 11th April, 1885.
Assam Gazette	4th, 11th and 18th April, 1885.
Coorg District Gazette	1st May, 1885.

In the Vernaculars.

Province.	*Language.*	*Date.*
Bombay	Maráthí ... } Gujaráthí ... }	30th April, 1885.
	Kanarese ...	11th May, 1885.
	Sindhí ...	23rd April, 1885.
Bengal	Bengalí ...	17th March, 1885.
	Hindí ...	31st March, 1885.
	Uriya ...	26th March, 1885.
North-Western Provinces and Oudh	Urdu ...	11th, 18th and 25th April, 1885.
Punjab	Urdu ...	27th April, and 4th and 11th May, 1885.
Central Provinces	Maráthí ...	9th, 16th and 23rd May, 1885.
	Hindí ...	25th April, and 2nd and 9th May, 1885.
British Burma	Burmese ...	2nd, 9th and 16th May, 1885.
Assam	Bengalí ...	4th April, 1885.

14. We do not think that the measure has been so altered as to require re-publication, and we recommend that it be passed as now amended.

T. C. HOPE.
C. P. ILBERT.
S. C. BAYLEY.

The 23rd September, 1885.

D. FITZPATRICK,
Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor-General on the 16th October, 1885, and is hereby promulgated for general information :—

ACT NO. XIX OF 1885.

An Act to amend the law relating to Government Securities.

WHEREAS it is expedient to amend the law relating to Government securities in manner hereinafter appearing; It is hereby enacted as follows :—

Short title and commencement.

1. *(1)* This Act may be called the Indian Securities Act, 1885; and

(2) It shall come into force at once.

Definitions.

2. In this Act—

The expression "Government security" includes promissory notes, debentures, stock certificates, and all other securities issued by the Government of India or by any Local Government in respect of any loan issued under notification in the official Gazette, whether before or after the passing of this Act, but does not include a stock note or a currency note: and

"prescribed" means prescribed by rules made from time to time by the Governor General in Council in this behalf.

IX of 1872.

Right of survivors of joint payees of Government securities.

3. *(1)* Notwithstanding anything contained in the Indian Contract Act, section 45, when a Government security issued before the first day of April, 1886, is payable to two or more persons jointly and any of them dies, the security shall be payable to the survivor or survivors of those persons.

(2) Nothing herein contained shall affect any claim which the representative of the deceased person may have against the survivor or survivors in respect of the security jointly payable to them and the deceased.

(3) This section shall apply whether the death of the person to whom the security was jointly payable occurred or occurs before or after this Act comes into force.

Issue of renewed securities.

4. A person claiming to be entitled to a Government security as payable to him under an endorsement may, on satisfying the prescribed officer of the justice of his claim and paying the prescribed fee and delivering the security duly receipted to the prescribed officer, obtain from the officer a renewed security issued payable to himself.

Issue of duplicate securities.

5. *(1)* When a Government security is alleged to have been wholly or partly lost or destroyed, and a person claims to be the person to whom but for such loss or destruction it would be payable, he may, on application to the prescribed officer, and on producing proof to his satisfaction of the loss or destruction and of the justice of the claim, obtain from him an order for—

(a) the payment of interest in respect of the security said to be lost or destroyed pending the issue of a duplicate security; and

(b) the issue of a duplicate security payable to the applicant.

(2) An order shall not be passed under sub-section *(1)* until after the issue of the prescribed notification of the loss or destruction and after the expiration of the prescribed period, nor until the applicant has given the prescribed indemnity against the claims of all persons deriving title under the security lost or destroyed.

(3) A list of the securities in respect of which an order is passed under sub-section *(1)* shall be published in the *Gazette of India* at such times as the Governor General in Council may, from time to time, direct.

Period after which Government is released from liability in respect of original security.

6. When a renewed security has been issued under section 4, or a duplicate security has been issued under section 5, the Government shall be discharged of all liability in respect of the original security of which such renewed or duplicate security has been issued—

(a) in the case of a renewed security, after the lapse of six years from the date of the issue of the renewed security;

(b) in the case of a duplicate security, after the lapse of six years from the date of the publication under section 5, sub-section *(3)*, of the list in which the security is first mentioned, or from the date of the last payment of interest on the original security, whichever date is latest.

Power of Governor General in Council to make rules.

7. The Governor General in Council may, from time to time, make rules to prescribe—

(a) the fees to be paid for applications under sections 4 and 5;

(b) the form in which securities delivered for renewal are to be receipted;

(c) the officer who is to exercise all or any of the powers and perform all or any of the duties prescribed by sections 4 and 5;

(d) the proof which is to be produced by persons applying for duplicate securities;

(e) the form and mode of publication of the notification mentioned in section 5, and the period after which interest may be paid or a duplicate security may be issued under that section;

(f) the nature and amount of the indemnity to be given by a person applying under section 5 for the payment of interest or the issue of a duplicate security; and

(g) generally all matters connected with the grant of renewed and duplicate securities.

Publication of drafts and rules.

8. *(1)* The Governor General in Council shall, before making rules under the last foregoing section, publish a draft of the proposed rules in such manner as may, in his opinion, be sufficient for the information of the public.

(2) There shall be published with the draft a notice specifying a date at or after which the draft will be taken into consideration.

(3) The Governor General in Council shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

(4) Every rule made under the last foregoing section shall be published in the *Gazette of India*, and the publication in the *Gazette of India* of a rule purporting to be made under that section shall be conclusive evidence that it has been duly made.

D. FITZPATRICK,
Secy. to the Govt. of India.

LEGISLATIVE DEPARTMENT.

The following Report of the Select Committee on the Bill to amend the law relating to Government Securities was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 8th October, 1885:—

WE, the undersigned, Members of the Select Committee to which the Bill to amend the law relating to Government Securities was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report.

From Officiating Secretary to Chief Commissioner, British Burma, No. 92—17L., dated 7th May, 1885, and enclosure [Papers No. 1].
From Officiating Secretary to Chief Commissioner, Assam, No. 746, dated 11th May, 1885, and enclosure [Papers No. 2].
From Secretary for Berar to Resident, Hyderabad, No. 178G., dated 18th May, 1885 [Paper No. 3].
From Bábá Gardhar Dás, Honorary Magistrate, Etáwah, dated 18th May, 1885 [Paper No. 4].
From Chief Commissioner, Ajmer-Merwára, No. 615, dated 17th June, 1885 [Paper No. 5].
From Chief Secretary to Government, Madras, No. 1455, dated 3rd June, 1885, and enclosures [Papers No 6].
From Secretary to Government, North-Western Provinces and Oudh, No. 2793—X-395, dated 26th June, 1885 [Paper No. 7].
From Registrar, High Court, Calcutta, No. 1898, dated 24th June, 1885 [Paper No. 8].
From Secretary to Chief Commissioner, Coorg, No. 522—58, dated 23rd June, 1885 [Paper No. 9].
From Officiating Secretary to Government, Bengal, No. 1304T.F., dated 26th June, 1885, and enclosures [Papers No. 10].
From Officiating Secretary to Government, Punjab, No. 5208., dated 1st July, 1885, and enclosures [Papers No. 11].
Telegram from Chief Commissioner, Central Provinces, dated 1st July, 1885 [Paper No. 12].
From Under Secretary to Government, Bombay, No. 1869, dated 27th June, 1885, and enclosure [Papers No. 13].
From Secretary to Government of India, Legislative Department, to Solicitor to Government of India, No. 1379, dated 28th August, 1885; from Solicitor to Government of India, No. 1163, dated 17th September, 1885, and enclosure [Papers No. 14].

2. The only substantive alteration we have made in the Bill is in section 3, which, in cases in which one of a number of joint-holders of a Government security dies, applies what we may term the rule of survivorship as opposed to the rule of representation laid down by section 45 of the Indian Contract Act. The reasons which led to the insertion of this provision are fully set forth in the Statement of Objects and Reasons: but we find that a considerable difference of opinion exists regarding it.

3. On the one hand, it is urged, among others, by so high an authority as the Advocate General of Bengal, that this provision should be generalized and extended to other classes of obligations besides those arising on Government securities.

On the other hand, it is argued in several of the papers that the rule of survivorship as applied to instruments of the description in question is one that does not fit in with the habits and ideas of certain classes of the Native population, and might, if extended to those classes as an absolutely binding rule, open a door to the perpetration of frauds.

The question thus raised is of considerable importance and difficulty. We do not think that we should be justified in entering fully upon it here in the absence of those members of the Council most competent to advise on legal and commercial matters, and we accordingly propose, with a view to avoiding it as far as possible, to confine the section to Government securities already issued, or which may be issued before the 1st of April next.

4. As regards securities already issued, the law must be settled without any further delay, the delay which has taken place in obtaining opinions on the Bill having already led to considerable public inconvenience. Moreover, as it is impracticable to make any distinctions among those securities, one and the same rule must be laid down for all, and it is clear that that rule must be the rule of survivorship. The rule of survivorship has hitherto been applied to them, as well after the passing of the Contract Act as before, subject at most to rare exceptions or qualifications. It is the rule that is most suitable to the great majority of those who hold those securities, and if in exceptional cases it should be found to be less suitable it must be remembered that those securities have been issued under a system which contemplated its application.

5. On the other hand, there is no necessity to settle the question at this moment as regards securities to be issued for all time to come, especially as a simple mode of providing, without the aid of the legislature, for securities to be hereafter issued has been proposed.

It has been suggested that it could be so arranged in the Loan Department of the Government that it should be in the option of persons, in whose favour securities are first issued or to whom they are subsequently transferred by endorsement, either to take them simply in their several names, that is to say, in favour, *e.g.*, of "A, B & C," without qualification, in which case the rule of the Contract Act would apply, or to take them under words giving a right of survivorship, as, *e.g.*, in favour of "A, B & C, and the survivor or survivors of them," in which case we are advised the rule of the Contract Act would be excluded and the rule of survivorship would apply. This, it has been argued, would be likely to afford a more satisfactory solution of the difficulty as regards securities to be hereafter issued than any enactment establishing either the rule of survivorship or that of representation in a hard-and-fast manner, as it would leave it open to all concerned to adopt for themselves the rule best adapted to their requirements.

It is urged, on the other hand, that the requirements of the new system would be likely for some time to be overlooked, and that considerable hardship and inconvenience would thus result, but this danger might perhaps be averted by some device such as that of a warning enfaced on the security in such a way as to attract attention.

We do not, however, recommend that any determination should be arrived at on this matter until it has undergone the fullest discussion. It will doubtless be settled during the course of the Calcutta Session, and we think that we are acting most in accord with the balance of convenience, and so as to occasion the least amount of disturbance in existing relations, by recommending that as regards securities issued meantime, *i.e.*, say up to the 1st of April next, the law should be placed on the same footing as for securities already issued, that is to say, that the rule of survivorship should apply.

6. The remaining changes which we have made in the Bill, being confined to matters of form or drafting, do not call for special notice. We may, however, mention that we have introduced words in the definition of "Government security" to make it clear that the Bill does not apply to stock notes or currency notes—classes of securities to which, as they are otherwise provided for, it was never intended to apply.

7. The publication ordered by the Council has been made as follows:—

In English.

Gazette.	*Date.*
Gazette of India	14th, 21st and 28th March, 1885.
Fort St. George Gazette	8th April, 1885.
Bombay Government Gazette ...	26th March, and 2nd and 9th April, 1885.
Calcutta Gazette	25th March, and 1st and 8th April, 1885.
North-Western Provinces and Oudh Government Gazette	28th March, and 4th and 11th April, 1885.
Punjab Government Gazette	9th, 16th and 23rd April, 1885.
Central Provinces Gazette	28th March, and 4th and 11th April, 1885.
British Burma Gazette	11th, 18th and 25th April, 1885.
Assam Gazette	11th, 18th and 25th April, 1885.
Coorg District Gazette	1st May, 1885.

In the Vernaculars.

Province.	*Language.*	*Date.*
Madras	Telugu	12th May, 1885.
	Kanarese	26th June, 1885.
	Tamil	9th June, 1885.
	Malayalam	16th June, 1885.
	Hindustání	16th June, 1885.
Bombay	Guzaráthí	23rd April, 1885.
	Maráthí	30th June, 1885.
	Kanarese	7th May, 1885.
	Sindhí	30th April, 1885.
Bengal	Bengálí	21st April, 1885.
	Hindí	21st and 28th April, and 5th May, 1885.
	Uriya	7th May, 1885.
North-Western Provinces and Oudh	Urdu	2nd, 9th and 16th May, 1885.
Punjab	Urdu	18th and 25th May, and 1st June, 1885.
Central Provinces	Maráthí	9th, 16th and 23rd May, 1885.
	Hindí	6th, 13th and 20th June, 1885.
Assam	Bengálí	2nd May, 1885.

8. We do not think that the measure has been so altered as to require re-publication, and we recommend that it be passed as now amended.

A. COLVIN.
C. P. ILBERT.

The 8th October, 1885.

D. FITZPATRICK,
Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First publication.]

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 16th October, 1885, and is hereby promulgated for general information :—

ACT NO. XX OF 1885.

An Act to postpone for a limited time the operation of certain provisions of the Bengal Tenancy Act, 1885.

WHEREAS it is provided by the Bengal Tenancy
VIII of 1885. Act, 1885, that that Act shall come into force on such date as the Local Government, with the previous sanction of the Governor-General in Council, may, by notification in the local official Gazette, appoint in this behalf;

And whereas, in exercise of the power thus conferred, the Local Government, with the previous sanction of the Governor-General in Council, has, by a notification in the local official Gazette, appointed the first day of November, 1885, as the date on which the said Act is to come into force;

And whereas it is convenient that certain portions of the said Act relating to deposits of rent and distraint should not come into force until a later date;

It is hereby enacted as follows :—

Postponement of operation of deposit and distraint provisions.

1. Notwithstanding anything contained in the said notification—

(a) the provisions of sections 61 to 64, both inclusive, and of Chapter XII, of the said Act, except such of those provisions as confer powers to make rules, shall come into force on such date, not later than the first day of February, 1886, as the Local Government, after the passing of this Act, may, by notification in the local official Gazette, appoint in this behalf, or, if no date is so appointed, on the first day of February, 1886, and not before;

(b) until those provisions come into force, the enactments specified in Schedule I annexed to the said Act shall, in so far as they relate to deposits of rent and distraint, continue in force, and all references to those provisions in other portions of the said Act shall, so far as may be, be read as if they were made to the corresponding provisions of the said enactments.

D. FITZPATRICK,
Secy. to the Govt. of India

STATEMENT OF OBJECTS AND REASONS.

THE Lieutenant-Governor of Bengal has, for reasons which have been approved of by the Government of India and in exercise of the power conferred by the Bengal Tenancy Act, directed that that Act shall come into force on the 1st of November next. A reference to section 190 of the Act will show that an interval of at least a month must elapse between the date on which the Act comes into force and the date on which rules made under it can be brought into force. There is no reason to believe that any practical inconvenience will result from this, except possibly as regards the matters of deposits of rent by tenants and distraint; but it is apprehended that inconvenience might be felt in regard to these matters if the provisions of the Act relating to them were for any time in force without the rules by which it is intended that they should be supplemented, and the Lieutenant-Governor has suggested, as the simplest mode of obviating this, that the date on which the provisions of the Act relating to deposits and distraint are to come into force should be postponed for a month or two, and that the existing law relating to these subjects should meantime be retained in force.

The Governor-General in Council, being anxious to minimize the inconvenience incidental to the transition from the old law to the new, has approved of this proposal, and the present Bill has been prepared to give effect to it.

S. C. BAYLEY,

The 14th October, 1885.

D. FITZPATRICK,
Secy. to the Govt. of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, OCTOBER 24, 1885.

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

PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third publication]

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 9th October, 1885, and is hereby promulgated for general information :—

ACT NO. XVII OF 1885.

THE CENTRAL PROVINCES GOVERNMENT WARDS ACT, 1885.

CONTENTS.

SECTIONS.

1. Short title, extent and commencement.
2. Repeal.
3. Definitions.
4. Deputy Commissioner to be Court of Wards.
5. Landholders to be under jurisdiction of Court of Wards.
6. Superintendence by Court of Wards of property of disqualified landholder.
7. Cases in which landholders to be deemed disqualified.
8. Superintendence by Court of Wards of person of disqualified landholder.
9. Superintendence where disqualified landholder owns land within jurisdiction of two Courts of Wards.
10. Superintendence of Court of Wards not challengeable on ground that ward is not a landholder or minor.
11. Appointment, &c., of managers by Court of Wards.
12. Liabilities, &c., of managers and other servants of Court of Wards.
13. Power for Court of Wards to appoint guardians of certain Government wards.
14. General powers of Court of Wards.
15. Custody, education and residence of certain Government wards.
16. Allowance for Government ward and his family.
17. Duties of Court of Wards or manager.
18. Powers of Court of Wards as to property of Government wards.

SECTIONS.

19. Manager or Court of Wards to be next friend or guardian in suits by or against Government ward.
20. Payment of costs.
21. Processes against Government ward to be served on next friend or guardian.
22. Authority of Court of Wards required in case of suits brought on behalf of Government wards.
23. Disabilities of a Government ward.
24. Consent of Chief Commissioner necessary to adoptions by Government wards.
25. Procedure when succession to Government ward's property is disputed.
26. Withdrawal of superintendence of Court of Wards.
27. Appeals.
28. Control of Chief Commissioner.
29. Exercise of discretion not to be questioned in Civil Court.
30. Power for Chief Commissioner to make rules.

An Act to make better provision for the Superintendence of Government Wards in the Central Provinces.

WHEREAS it is expedient to make better provision for the superintendence of Government wards in the Central Provinces; It is hereby enacted as follows :—

Short title, extent and commencement.

1. *(1)* This Act may be called the Central Provinces Government Wards Act, 1885.

(2) It extends to the territories for the time being administered by the Chief Commissioner of the Central Provinces; and

(3) It shall come into force at once.

Repeal.

2. Bengal Regulations LII of 1803 *(for establishing a Court of Wards in the Provinces ceded by the Nawáb Vizier to the Honourable the English East India Company)* and VI of 1822 *(to establish a Court of Wards for Benares, and to define and explain certain of the rules regarding the powers and jurisdiction of the several Courts of Wards)*, and section 14 of Act XL of 1858 *(for making better provision for the care of the persons and property of Minors in the Presidency of Fort William in Bengal)* shall, so far as they are in force in the whole or any part of the territories to which this Act extends, be repealed.

Definitions.

3. In this Act, unless there is something repugnant in the subject or context,—

(1) "Government ward" means any person of whose property, or of whose person and property, the Court of Wards may, for the time being, have the superintendence under this Act:

(2) "Landholder" means a málguzár as defined in the Central Provinces Land-revenue Act, 1881, and the zamíndár of any zamíndári specified in Part VI of the first schedule of the Scheduled Districts Act, 1874, and includes a muáfidár, jagírdár, ubáridár or other assignee of land-revenue, and any person not hereinbefore specified who is interested in land and belongs to a class of which the Chief Commissioner, with the previous sanction of the Governor General in Council, has declared the members to be landholders for the purposes of this Act: and

XVIII of 1881.

XIV of 1874.

(3) "Land" includes the rights of a landholder in respect of the land of which he is the málguzár or zamíndár or the muáfidár, jagírdár, ubaridár or other assignee of land-revenue, or in which he is interested.

Deputy Commissioner to be Court of Wards.

4. The Deputy Commissioner shall be the Court of Wards for the limits of his district.

Landholders to be under jurisdiction of Court of Wards.

5. Every landholder shall be under the jurisdiction of the Court of Wards.

Superintendence by Court of Wards of property of disqualified landholder.

6. The Court of Wards may, with the previous sanction of the Chief Commissioner, assume the superintendence of the property of any landholder owning land within the local limits of its jurisdiction who is disqualified to manage his own property.

Cases in which landholders to be deemed disqualified.

7. *(1)* The following persons shall, for the purposes of the last foregoing section, be deemed to be disqualified to manage their own property, namely:—

(a) minors who have not guardians appointed for their property by will;

(b) persons adjudged by a competent Civil Court to be of unsound mind and incapable of managing their affairs; and

(c) persons declared by the Chief Commissioner to be incapable of managing their own property—

(i) owing to any physical defect or infirmity,

(ii) owing to their having been convicted of a non-bailable offence, and being unfitted by vice or bad character,

(iii) owing to their being females, or

(iv) on their own application.

(2) Every declaration made by the Chief Commissioner under clause *(c)* of this section shall be final, and shall not be questioned in any Civil Court.

Superintendence by Court of Wards of person of disqualified landholder.

8. When the Court of Wards assumes the superintendence of the property of a minor who has not a guardian appointed for his person by will, or of a person who has been adjudged by a competent Civil Court to be of unsound mind and incapable of managing his affairs, it may, with the previous sanction of the Chief Commissioner, assume the superintendence of the person also:

Provided that nothing in this section shall authorize the Court of Wards to assume the superintendence of the person of a female who is married to a man of full age and is in his custody.

Superintendence where disqualified landholder owns land within jurisdiction of two Courts of Wards.

9. Where a landholder owns land within the local limits of the jurisdiction of two or more Courts of Wards, such one only of the Courts as the Chief Commissioner may in this behalf determine shall assume the superintendence of the property, or of the person and property, of the landholder.

Superintendence of Court of Wards not challengeable on ground that ward is not a landholder or minor.

10. When the Court of Wards has, with the sanction of the Chief Commissioner, assumed the superintendence of the property of any person, or of his person and property, its authority shall not be contested in any Civil Court on the ground that he was not or is not a landholder or was not or is not a minor.

Appointment, &c., of managers by Court of Wards.

11. Subject to the rules made under this Act, the Court of Wards may appoint, suspend and remove a manager of the property of any Government ward under its superintendence, and may delegate to the manager all or any of its functions in relation to any property under this Act.

Liabilities, &c., of managers and other servants of Court of Wards.

12. *(1)* Every manager appointed by the Court of Wards shall—

(a) give such security as the Court thinks fit duly to account for what he receives in respect of the rents and profits of the property under his management;

(b) be entitled to such allowance as the Court thinks fit for his care and pains in the execution of his duties; and

(c) be responsible for any loss occasioned to the property under his management by his wilful default or gross negligence.

(2) Every manager or other servant of the Court of Wards shall be deemed a "public servant" within the meaning of sections 161, 162, 163, 164 and 165 of the Indian Penal Code; and in the definition of "legal remuneration" contained in the said section 161, the word "Government" shall, for the purposes of this sub-section, be deemed to include the Court of Wards.

XLV of 1860.

Power for Court of Wards to appoint guardians of certain Government wards.

13. The Court of Wards may appoint guardians for the care of the persons of Government wards whose persons are, for the time being, under its superintendence, and may control and remove guardians whom it has appointed.

General powers of Court of Wards.

14. Subject to the provisions of this Act and of the rules made under this Act, the Court of Wards—

(a) may, of itself or through the manager (if any) appointed by it under this Act, do all such things requisite for the proper care and management of any property, of which it assumes the superintendence under this Act, as the owner of the property, if not disqualified, might do for its care and management; and

(b) may, of itself or through the guardian (if any) appointed by it under this Act, do in respect of the person of any Government ward, whose person is, for the time being, under its superintendence, all such things as may lawfully be done by a guardian.

Custody, education and residence of certain Government wards.

15. The Court of Wards may pass such orders as to it seems fit in respect of the custody and residence of any Government ward whose person is, for the time being, under its superintendence, and, when he is a minor, in respect of his education.

Allowance for Government ward and his family.

16. The Court of Wards may, from time to time, determine what sums shall be allowed in respect of the expenses of any Government ward and of his family and dependents.

Duties of Court of Wards or manager.

17. The Court of Wards, or the manager (if any) appointed by it under this Act, shall manage the property of every Government ward under its superintendence or under his management diligently and faithfully for the benefit of the Government ward, and shall in every respect act to the best of its or his judgment for the Government ward's interest as if the property were its or his own.

Powers of Court of Wards as to property of Government wards.

18. The Court of Wards may let the whole or any part of the property of any Government ward under its superintendence, and may, with the previous sanction of the Chief Commissioner, mortgage, sell or exchange the whole or any part of such property, and may do all such other acts as it may judge to be best for the benefit of the property and the advantage of the Government ward.

Manager or Court of Wards to be next friend or guardian in suits by or against Government ward.

19. In every suit brought by or against a Government ward the manager of the ward's property, or, if there is no manager, the Court of Wards having the superintendence of the ward's property, shall be named as next friend or guardian for the suit, as the case may be.

Payment of costs.

20. If, in any suit brought by or against a Government ward, any Civil Court decrees any costs against the ward's next friend or guardian for the suit, the Court of Wards shall cause the costs to be paid out of any property of the Government ward which may, for the time being, be in its hands.

Processes against Government ward to be served on next friend or guardian.

21. Every process which may be issued out of any Civil Court against any Government ward shall be served on the ward's next friend or guardian for the suit.

Authority of Court of Wards required in case of suits brought on behalf of Government wards.

22. No suit shall be brought on behalf of any Government ward unless it is authorized by some order of the Court of Wards:

Provided as follows:—

(1) a manager may authorize a plaint to be filed in order to prevent a suit from being barred by the law of limitation, but the suit shall not afterwards be proceeded with except under the sanction of the Court of Wards;

(2) a suit for arrears of rent may be brought on behalf of a Government ward if authorized by an order of the manager of the property on which the rent is due.

Disabilities of a Government ward.

23. *(1)* A Government ward shall be incompetent to transfer or create any charge on, or interest in, his property or any part thereof, or to enter into any contract which may involve him in pecuniary liability.

(2) Nothing in this section shall be deemed to affect the capacity of a Government ward to enter into a contract of marriage:

Provided that he shall not incur, in connection therewith, any pecuniary liability, except such as, having regard to the personal law to which he is subject and to his rank and circumstances, the Court of Wards may, in writing, declare to be reasonable.

Consent of Chief Commissioner necessary to adoptions by Government wards.

24. No adoption by any Government ward, and no written or verbal permission to adopt given by any Government ward, shall be valid without the consent of the Chief Commissioner obtained either previously or subsequently to the adoption, or to the giving of the permission, on application made to him through the Court of Wards.

Procedure when succession to Government ward's property is disputed.

25. Whenever, on the death of any Government ward, the succession to his property or any part thereof is disputed, the Court of Wards may either direct that the property or part thereof be made over to any person claiming the property, or may retain the superintendence of the property until one of the claimants has established his claim to the same in a competent Civil Court.

Withdrawal of superintendence of Court of Wards.

26. *(1)* The Court of Wards may, with the sanction of the Chief Commissioner, at any time withdraw its superintendence from the person or property, or both, of a Government ward, and shall withdraw its superintendence as soon as—

(a) in the case of a person disqualified under clause *(a)* of section 7, he attains his majority;

(b) in the case of a person disqualified under clause *(b)* of that section, he ceases to be of unsound mind and incapable of managing his affairs; and

(c) in the case of a person disqualified under sub-clause (i) of clause *(c)* of that section, his physical defect or infirmity is removed or ceases.

(2) When any question arises whether the superintendence of the Court of Wards should be withdrawn from any person or property, or both, under clause *(a)*, or from any property under clause *(c)*, of this section, the decision of the Chief Commissioner thereon shall be final and shall not be questioned in any Civil Court.

The Central Provinces Government Wards Act, 1885.—Sections 27-30.

27. An appeal shall lie from every order of the Court of Wards under this Act to the Commissioner of the division, and from every order of the Commissioner to the Chief Commissioner.

Appeals.

28. All orders or proceedings of the Court of Wards and of the Commissioner of the division under this Act shall be subject to the supervision and control of the Chief Commissioner; and the Chief Commissioner may, if he thinks fit, revise, modify or reverse any such order or proceeding, whether an appeal is presented against any such order or proceeding or not.

Control of Chief Commissioner.

29. The exercise of any discretion conferred on a Court of Wards, a Commissioner of a division or the Chief Commissioner by this Act shall not be called in question in any Civil Court.

Exercise of discretion not to be questioned in Civil Court.

30. *(1)* The Chief Commissioner may, from time to time, make rules consistent with this Act to—

Power for Chief Commissioner to make rules.

(a) prescribe the matters to which regard should be had in appointing or removing guardians and managers, and in fixing their remuneration;

(b) regulate the amount of security to be given by managers;

(c) limit the functions which the Court of Wards may delegate to a manager;

(d) prescribe the cases in which proposals or arrangements connected with the administration of the properties of Government wards shall be reported for the sanction of the Chief Commissioner or for that of the Commissioner of the division;

(e) prescribe the accounts and other returns which, and the periods and form at and in which, they shall be rendered by managers to the Court of Wards and by the Court of Wards to the Commissioner of the division;

(f) regulate the custody of securities and title-deeds belonging to the estate or property of a Government ward;

(g) regulate the procedure in inquiries by the Court of Wards and in appeals from orders of the Court of Wards or the Commissioner of the division respectively under this Act;

(h) confer upon the Court of Wards for the purposes of this Act any of the powers exercised by a Civil Court in the trial of suits;

(i) prescribe the mode in which powers delegated to managers are to be notified for the information of persons concerned; and

(j) generally prescribe the manner in which the powers and duties of the Court of Wards under this Act shall be exercised and performed.

(2) All rules made under this section shall be published in the local official Gazette, and shall thereupon have the force of law.

D. FITZPATRICK,
Secy. to the Govt. of India.

LEGISLATIVE DEPARTMENT.

The following Report of the Select Committee on the Bill to make better provision for the Superintendence of Government Wards in the Central Provinces was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 2nd October, 1885 :—

We, the undersigned, Members of the Select Committee to which the Bill to make better provision for the Superintendence of Government Wards in the Central Provinces was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report.

From Officiating Secretary to Chief Commissioner, Central Provinces, No. 3544—107, dated 14th September 1885, and enclosures [Papers No. 1].

2. The Chief Commissioner considers the Bill to be well fitted to meet the objects aimed at. The Judicial Commissioner also approves the Bill, but offers some criticisms on the definition of "landholder" in section 3, and as to the position of a testamentary guardian under certain portions of the Act.

3. As regards the definition of "landholder," it appears to us that cases may occur in which it would be convenient to apply the Act to persons who, though interested in land, are not málguzárs or scheduled zamíndárs or assignees of revenue. We have, therefore, provided in the definition for the application of the Act to such persons with the previous sanction of the Governor-General in Council.

4. The position of a testamentary guardian was not declared with sufficient clearness in the Bill. We consider that when power to appoint a guardian by will exists and has been exercised, the Court of Wards should not have authority to displace the guardian or, unless he is removed by a Civil Court, to assume the superintendence of either property or person which has been entrusted to his care. We have amended the Bill accordingly.

5. There was likewise a want of clearness in the Bill as to the powers of the Court of Wards as regards the superintendence of the person of a married female ward. We have now added a proviso to section 8 enacting that nothing in that section "shall authorise the Court of Wards to assume the superintendence of the person of a female who is married to a man of full age and is in his custody," and we have omitted the proviso to section 13, which has now become superfluous.

6. At the instance of the Chief Commissioner, we have provided in effect in section 12, sub-section (2), that managers and other servants of the Court of Wards who are guilty of receiving bribes shall be punishable under the Indian Penal Code as though they were "public servants" within the meaning of that Code.

7. The publication ordered by the Council has been made as follows :—

In English.

Gazette.	*Date.*
Gazette of India ...	... 30th May, and 6th and 13th June, 1885.
Central Provinces Gazette	... 6th, 13th and 20th June, 1885.

In the Vernaculars.

Province.	*Language.*	*Date.*
Central Provinces ...	Maráthí ... Hindí ...	1st, 8th and 15th August, 1885.

8. We do not think the measure has been so altered as to require republication, and we recommend that it be passed as now amended.

C. P. ILBERT.
S. C. BAYLEY.
W. W. HUNTER.

The 2nd October, 1885.

D. FITZPATRICK,
Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second publication.]

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 16th October, 1885, and is hereby promulgated for general information:—

ACT No. XVIII OF 1885.

THE LAND ACQUISITION (MINES) ACT, 1885.

CONTENTS.

SECTIONS.

1. Short title, commencement and local extent.
2. Saving for mineral rights of the Government.
3. Declaration that mines are not needed.
4. Notice to be given before working mines lying under land.
5. Power to prevent or restrict working.
6. Mode of determining persons interested and amount of compensation.
7. If Local Government does not offer to pay compensation, mines may be worked in a proper manner.
8. Mining communications.
9. Local Government to pay compensation for injury done to mines.
10. And also for injury arising from any airway or other work.
11. Power to officer of Local Government to enter and inspect the working of mines.
12. Penalty for refusal to allow inspection.
13. If mines worked contrary to provisions of this Act, Local Government may require means to be adopted for safety of land acquired.
14. Construction of Act when land acquired has been transferred to a local authority or Company.
15. Pending cases.
16. Definition of local authority and Company.
17. This Act to be read with Land Acquisition Act, 1870.

An Act to provide for cases in which Mines or Minerals are situate under land which it is desired to acquire under the Land Acquisition Act, 1870.

WHEREAS it is expedient to provide for cases in which mines or minerals are situate under land which it is desired to acquire under the Land Acquisition Act, 1870; It is hereby enacted as follows:— X of 1870.

1. *(1)* This Act may be called the Land Acquisition (Mines) Act, 1885; and

Short title, commencement and local extent.

(2) It shall come into force at once.

(3) It extends in the first instance to the territories administered by the Governor of Madras in Council and the Lieutenant-Governor of Bengal, but any other Local Government may, from time to time, by notification in the official Gazette, extend this Act to the whole or any specified part of the territories under its administration.

2. Except as expressly provided by this Act, nothing in this Act shall affect the right of the Government to any mines or minerals.

Saving for mineral rights of the Government.

3. *(1)* When the Local Government makes a declaration under section 6 of the Land Acquisition Act, 1870, that land is needed for a public purpose or for a Company, it may, if it thinks fit, insert in the declaration a statement that the mines of coal, iron-stone, slate or other minerals lying under the land or any particular portion of the land, except only such parts of the mines or minerals as it may be necessary to dig or carry away or use in the construction of the work for the purpose of which the land is being acquired, are not needed. X of 1870.

Declaration that mines are not needed.

(2) When a statement as aforesaid has not been inserted in the declaration made in respect of any land under section 6 of the Land Acquisition Act, 1870, and the Collector is of opinion that the provisions of this Act ought to be applied to the land, he may abstain from tendering compensation under section 11 of the said Land Acquisition Act in respect of the mines, and may— X of 1870.

(a) when he makes an award under section 14 of that Act, insert such a statement in his award;

(b) when he makes a reference to the Court under section 15 of that Act, insert such a statement in his reference; or

(c) when he takes possession of the land under section 17 of that Act, publish such a statement in such manner as the Governor-General in Council may, from time to time, prescribe.

(3) If any such statement is inserted in the declaration, award or reference, or published as aforesaid, the mines of coal, iron-stone, slate or other minerals under the land or portion of the land specified in the statement, except as aforesaid, shall not vest in the Government when the land so vests under the said Act.

The Land Acquisition (Mines) Act, 1885.—(Sections 4-10.)

Notice to be given before working mines lying under land.

4. If the person for the time being immediately entitled to work or get any mines or minerals lying under any land so acquired is desirous of working or getting the same, he shall give the Local Government notice in writing of his intention so to do sixty days before the commencement of working.

Power to prevent or restrict working.

5. *(1)* At any time or times after the receipt of a notice under the last foregoing section, and whether before or after the expiration of the said period of sixty days, the Local Government may cause the mines or minerals to be inspected by a person appointed by it for the purpose; and

(2) If it appears to the Local Government that the working or getting of the mines or minerals, or any part thereof, is likely to cause damage to the surface of the land or any works thereon, the Local Government may publish, in such manner as the Governor General in Council may, from time to time, direct, a declaration of its willingness either—

(a) to pay compensation for the mines or minerals still unworked or ungotten, or that part thereof, to all persons having an interest in the same; or

(b) to pay compensation to all such persons in consideration of those mines or minerals, or that part thereof, being worked or gotten in such manner and subject to such restrictions as the Local Government may in its declaration specify.

(3) If the declaration mentioned in case *(a)* is made, then those mines or minerals, or that part thereof, shall not thereafter be worked or gotten by any person.

(4) If the declaration mentioned in case *(b)* is made, then those mines or minerals, or that part thereof, shall not thereafter be worked or gotten by any person save in the manner and subject to the restrictions specified by the Local Government.

Mode of determining persons interested and amount of compensation.

6. When the working or getting of any mines or minerals has been prevented or restricted under section 5, the persons interested in those mines or minerals and the amounts of compensation payable to them respectively shall, subject to all necessary modifications, be ascertained in the manner provided by the Land Acquisition Act, 1870, for ascertaining the persons interested in the land to be acquired under that Act, and the amounts of compensation payable to them, respectively.

If Local Government does not offer to pay compensation, mines may be worked in a proper manner.

7. *(1)* If before the expiration of the said sixty days the Local Government does not publish a declaration as provided in section 5, the owner, lessee or occupier of the mines may, unless and until such a declaration is subsequently made, work the mines or any part thereof in a manner proper and necessary for the beneficial working thereof, and according to the usual manner of working such mines in the local area where the same are situate.

(2) If any damage or obstruction is caused to the surface of the land or any works thereon by improper working of the mines, the owner, lessee or occupier of the mines shall at once, at his own expense, repair the damage or remove the obstruction, as the case may require.

(3) If the repair or removal is not at once effected, or, if the Local Government so thinks fit, without waiting for the same to be effected by the owner, lessee or occupier, the Local Government may execute the same and recover from the owner, lessee or occupier the expense occasioned thereby.

Mining communications.

8. If the working of any mines is prevented or restricted under section 5, the respective owners, lessees and occupiers of the mines, if their mines extend so as to lie on both sides of the mines the working of which is prevented or restricted, may cut and make such and so many airways, headways, gateways or water-levels through the mines, measures or strata, the working whereof is prevented or restricted, as may be requisite to enable them to ventilate, drain and work their said mines; but no such airway, headway, gateway or water-level shall be of greater dimensions or section than may be prescribed by the Governor General in Council in this behalf, and, where no dimensions are so prescribed, not greater than eight feet wide and eight feet high, nor shall the same be cut or made upon any part of the surface or works, or so as to injure the same, or to interfere with the use thereof.

Local Government to pay compensation for injury done to mines.

9. The Local Government shall, from time to time, pay to the owner, lessee or occupier of any such mines extending so as to lie on both sides of the mines, the working of which is prevented or restricted, all such additional expenses and losses as may be incurred by him by reason of the severance of the lands lying over those mines or of the continuous working of those mines being interrupted as aforesaid, or by reason of the same being worked in such manner and under such restrictions as not to prejudice or injure the surface or works, and for any minerals not acquired by the Local Government which cannot be obtained by reason of the action taken under the foregoing sections; and if any dispute or question arises between the Local Government and the owner, lessee or occupier as aforesaid, touching the amount of those losses or expenses, the same shall be settled as nearly as may be in the manner provided for the settlement of questions touching the amount of compensation payable under the Land Acquisition Act, 1870.

And also for injury arising from any airway or other work.

10. If any loss or damage is sustained by the owner or occupier of the lands lying over any such mines, the working whereof has been so prevented or restricted as aforesaid (and not being the owner, lessee or occupier of those mines), by reason of the making of any such airway or other works as aforesaid, which or any like work it would not have been necessary to make but for the working of the mines having been so prevented or restricted as aforesaid, the Local Government shall pay full compensation to that owner or occupier of the surface lands for the loss or damage so sustained by him.

The Land Acquisition (Mines) Act, 1885.—(Sections 11-17.)

Power to officer of Local Government to enter and inspect the working of mines.

11. For better ascertaining whether any mines lying under land acquired in accordance with the provisions of this Act are being worked, or have been worked, or are likely to be worked so as to damage the land or the works thereon, an officer appointed for this purpose by the Local Government may, after giving twenty-four hours' notice in writing, enter into and return from any such mines or the works connected therewith; and for that purpose the officer so appointed may make use of any apparatus or machinery belonging to the owner, lessee or occupier of the mines, and use all necessary means for discovering the distance from any part of the land acquired to the parts of the mines which have been, are being, or are about to be worked.

Penalty for refusal to allow inspection.

12. If any owner, lessee or occupier of any such mines or works refuses to allow any officer appointed by the Local Government for that purpose to enter into and inspect any such mines or works in manner aforesaid, he shall be punished with fine which may extend to two hundred rupees.

If mines worked contrary to provisions of this Act, Local Government may require works to be adopted for safety of land acquired.

13. If it appears that any such mines have been worked contrary to the provisions of this Act, the Local Government may, if it thinks fit, give notice to the owner, lessee or occupier thereof to construct such works and to adopt such means as may be necessary or proper for making safe the land acquired, and the works thereon, and

[redacted]

Construction of Act when land acquired has been transferred to a local authority or Company.

14. When a statement under section 8 has been made regarding any land, and the land has been acquired by the Government, and has been transferred to or has vested in a local authority or Company, sections 4 to 18, both inclusive, shall be read as if for the words "the Local Government" wherever they occur in those sections the words "the local authority or Company, as the case may be, which has acquired the land" were substituted.

Pending cases.

15. *(1)* This Act shall apply to any land for the acquisition whereof proceedings under the Land Acquisition Act, 1870, are pending at the time when this Act comes into force, unless before that time the Collector has made, in respect of the land, an award under section 14 or a reference to the Court under section 15 of that Act, or has taken possession of the land under section 17 of the same.

(2) When the Collector has before the said time made an award or reference in respect of any such land or taken possession thereof as aforesaid, and all the persons interested in the land, or entitled under the Land Acquisition Act, 1870, to act for persons so interested, who have attended or may attend in the course of the proceedings under sections 11 to 15, both inclusive, of the Land Acquisition Act, 1870, consent in writing to the application of this Act to the land, the Collector may by an order in writing direct that it shall apply, and thereupon it shall be deemed to have applied from the commencement of the proceedings; and the Collector shall be deemed, as the case may be, to have inserted in his award or reference, or to have published in the prescribed manner, when he took possession, the statement mentioned in section 8 of this Act.

Definition of local authority and Company.

16. In this Act—

(*a*) "local authority" means any municipal committee, district board, body of port commissioners or other authority legally

[redacted]

(*b*) "Company" means a Company registered under any of the enactments relating to Companies from time to time in force in British India, or formed in pursuance of an Act of Parliament or by Royal Charter or Letters Patent.

This Act to be read with Land Acquisition Act, 1870.

17. This Act shall, for the purposes of all enactments for the time being in force, be read with and taken as part of the Land Acquisition Act, 1870.

D. FITZPATRICK,
Secy. to the Govt. of India.

The Land Acquisition (Mines) Act, 1885.—(Sections 11-17.)

Power to officer of Local Government to enter and inspect the working of mines.

11. For better ascertaining whether any mines lying under land acquired in accordance with the provisions of this Act are being worked, or have been worked, or are likely to be worked so as to damage the land or the works thereon, an officer appointed for this purpose by the Local Government may, after giving twenty-four hours' notice in writing, enter into and return from any such mines or the works connected therewith; and for that purpose the officer so appointed may make use of any apparatus or machinery belonging to the owner, lessee or occupier of the mines, and use all necessary means for discovering the distance from any part of the land acquired to the parts of the mines which have been, are being, or are about to be worked.

Penalty for refusal to allow inspection.

12. If any owner, lessee or occupier of any such mines or works refuses to allow any officer appointed by the Local Government for that purpose to enter into and inspect any such mines or works in manner aforesaid, he shall be punished with fine which may extend to two hundred rupees.

If mines worked contrary to provisions of this Act, Local Government may require means to be adopted for safety of land acquired.

13. If it appears that any such mines have been worked contrary to the provisions of this Act, the Local Government may, if it thinks fit, give notice to the owner, lessee or occupier thereof to construct such works and to adopt such means as may be necessary or proper for making safe the land acquired, and the works thereon, and preventing injury thereto; and, if after such notice, any such owner, lessee or occupier does not forthwith proceed to construct the works necessary for making safe the land acquired and the works thereon, the Local Government may itself construct the works and recover the expense thereof from the owner, lessee or occupier.

Construction of Act when land acquired has been transferred to a local authority or Company.

14. When a statement under section 3 has been made regarding any land, and the land has been acquired by the Government, and has been transferred to or has vested by operation of law in a local authority or Company, then sections 4 to 13, both inclusive, shall be read as if for the words "the Local Government" wherever they occur in those sections the words "the local authority or Company, as the case may be, which has acquired the land" were substituted.

Pending cases.

15. *(1)* This Act shall apply to any land for the acquisition whereof proceedings under the Land Acquisition Act, 1870, are pending at the time when this Act comes into force, unless before that time the Collector has made, in respect of the land, an award under section 11 or a reference to the Court under section 15 of that Act, or has taken possession of the land under section 17 of the same. X of 1870.

(2) When the Collector has before the said time made an award or reference in respect of any such land or taken possession thereof as aforesaid, and all the persons interested in the land, or entitled under the Land Acquisition Act, 1870, to act for persons so interested, who have attended or may attend in the course of the proceedings under sections 11 to 15, both inclusive, of the Land Acquisition Act, 1870, consent in writing to the application of this Act to the land, the Collector may by an order in writing direct that it shall apply, and thereupon it shall be deemed to have applied from the commencement of the proceedings; and the Collector shall be deemed, as the case may be, to have inserted in his award or reference, or to have published in the prescribed manner, when he took possession, the statement mentioned in section 3 of this Act. X of 1870. X of 1870.

Definition of local authority and Company.

16. In this Act—

(*a*) "local authority" means any municipal committee, district board, body of port commissioners or other authority legally entitled to, or entrusted by the Government with, the control or management of any municipal or local fund; and

(*b*) "Company" means a Company registered under any of the enactments relating to Companies from time to time in force in British India, or formed in pursuance of an Act of Parliament or by Royal Charter or Letters Patent.

This Act to be read with Land Acquisition Act, 1870.

17. This Act shall, for the purposes of all enactments for the time being in force, be read with and taken as part of the Land Acquisition Act, 1870. X of 1870.

D. FITZPATRICK,
Secy. to the Govt. of India.

LEGISLATIVE DEPARTMENT.

The following Report of the Select Committee on the Bill to provide for cases in which Mines or Minerals are situate under land which it is desired to acquire under the Land Acquisition Act, 1870, was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 23rd September, 1885:—

WE, the undersigned, Members of the Select Committee to which the Bill to provide for cases in which Mines or Minerals are situate under land which it is desired to acquire under the Land Acquisition Act, 1870, was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report.

From Messrs. Macneill & Co., Managing Agents, Equitable Coal Company, Limited, dated 21th April, 1885, and enclosure [Papers No. 1].
From Officiating Secretary to Chief Commissioner, Assam, No. 649, dated 21th April, 1885 [Paper No. 2].
From Secretary to Chief Commissioner, Coorg, No. 206—25, dated 4th May, 1885 [Paper No. 3].
From Chief Commissioner, Ajmer-Merwára, No. 479, dated 7th May, 1885, and enclosure [Papers No. 4].
From Officiating Secretary to Chief Commissioner, British Burma, No. 708-91R., dated 29th April, 1885 [Paper No 5].
From Secretary for Berar to Resident, Hyderabad, No. 161 G., dated 9th May, 1885 [Paper No. 6].
From Registrar, High Court, Calcutta, No. 1524, dated 15th May, 1885 [Paper No. 7].
From Chief Secretary to Government, Madras, No. 1251, dated 9th May, 1885, and enclosures [Papers No. 8].
From Under Secretary to Government, Bombay, No. 4381, dated 30th May, 1885, and enclosures [Papers No. 9].
From Secretary to Government, Bengal, No. 481 T.—R., dated 28th May, 1885, and enclosures [Papers No. 10].
From Officiating Junior Secretary to Government, Punjab, No. 514, dated 4th June, 1885, and enclosures [Papers No. 11].
From Bábá Gurdhar Das, Honorary Magistrate, Etáwah, dated 8th May, 1885 [Paper No. 12].
From Chief Secretary to Government, North-Western Provinces and Oudh, No. 1150—I.-776, dated 30th June, 1885, and enclosures [Papers No. 13].
From Assistant Secretary to Chief Commissioner, Central Provinces, No. 2655—77, dated 11th July, 1885 [Paper No. 14].

2. Some of the Local Governments have objected to the Bill being applied to the provinces under their administration on the ground that, having regard to the manner in which the right to minerals is regulated in those provinces, it is unnecessary there, and that, if unnecessary, it would only prove an encumbrance and complication in the acquisition of lands. To meet these objections we have made the measure applicable by its own vigour only to the territories under the administration of the Governor of Madras in Council and the Lieutenant-Governor of Bengal, but have empowered the remaining Local Governments to extend it to the whole or any part of the territories administered by them if they think fit.

3. An apprehension has been expressed in some of the opinions received that the Bill might by implication affect the rights which the Crown has to all minerals throughout a very large portion of this country. Such an apprehension is, we believe, unfounded, but by way of greater precaution and to prevent misapprehension we have inserted a section (2) saving the rights of the Crown.

4. Section 2 of the Bill as introduced required the Government to determine, before it issued its declaration under section 6 of the Land Acquisition Act, whether the land should be acquired simply under that Act, that is to say, including the minerals, or whether the special provisions of this Bill should be put in force with a view to excluding the minerals from the acquisition.

It has been represented that it is not for the interest of any of those concerned that an irrevocable determination should necessarily be come to on so important a point at a stage of the proceedings when the circumstances of the case would in all probability be imperfectly known. The Government, it will be observed on reference to the Land Acquisition Act, has a discretion to withdraw from a proposed acquisition of land up to a considerably later stage, and it seems but reasonable that it should have a discretion to exclude the minerals from the acquisition at any time up to the same stage if it turns out that their acquisition is not essential to the undertaking, and that either the owners are unwilling to part with them or the Government or the local authority or Company concerned is unwilling to pay their full value. We have accordingly (in section 3) empowered the Collector, who in such a matter would, of course, act under the control of the Government, to exclude the minerals from the acquisition at any time up to the stage of the proceedings at which the land vests, and it is no longer in the discretion of the Government to recede from the transaction.

5. It has been urged that the notice of thirty days to be given to the Government, under section 8 of the Bill as introduced, by a mine-owner desiring to work his mines is too short having regard to the delays in communication in this country. We think the objection is reasonable, and we have accordingly (in section 4 of the amended Bill) extended the period to sixty days.

6. It has been held by the House of Lords in an important case (*Dixon* v. *The Caledonian Railway Co.*, 5 App. Ca. 820) that when a mine-owner gives notice under section 78 of the Railways Clauses Act, 1845, of his intention to work minerals, the Railway Company is not, for the purpose of giving its counter-notice to stop or control the working, limited to the thirty days for which the mine-owner's notice runs, that the period of thirty days is merely prescribed as a period until the expiration of which the mine-owner is debarred from working, and that the Company can at any time give its counter-notice, though of course if given at any time after the thirty days had expired and the workings had been commenced it would have no effect except as regards the further progress of the workings. The opposite view, as was pointed out by their Lordships, would involve somewhat serious consequences, and it is obviously necessary that there should be no mistake as to the effect of the Bill in this respect. It would doubtless have been sufficient, so far as regards the ultimate result, if we followed the exact wording of the English Act, on the main lines of which we are proceeding throughout. The highest Courts in this country would, as a matter of course, follow the decision of the House of Lords, but it is to be apprehended that inferior authorities might in many cases be ignorant of that decision, and might mistake the effect of the wording of the English Act, which it must be admitted is by no means clear. We have therefore thought it safer to amend the sections concerned in such a manner that they will in a clear and unmistakeable way express the effect of the English Act as construed by the House of Lords.

7. Another important English decision which points to an amendment of the Bill is that in *Smith* v. *Great Western Railway Co.* (2 Ch. D. 235), and in appeal before the House of Lords, 3 App. Ca. 165). We may have, under a Bill of this sort, a state of things to deal with, of which that case affords an illustration, where one person holding under a terminable lease has an immediate right to work the minerals, and another person is entitled to the reversion on the expiration of the lease and perhaps to a rent or royalty during its continuance. The lease may or may not be of such a length as to admit of all the minerals being worked out during its continuance, and it may or may not be liable to be put an end to by forfeiture or otherwise before the expiration of its term. The provisions of the English Act, which deal specially with the subject now before us, and which have been incorporated in this Bill, were found inadequate to provide for the exigencies of such a state of things as that referred to. They probably contemplate a settlement only with the person immediately entitled to work the mines, and, in order to provide for the case of a reversioner or other person interested, it was found necessary to call in the aid of a general provision of the law which would be out of place in a Bill like this.

It appears to us that the simplest mode of dealing with the various interests that may co-exist in the mines is to require, in accordance with the scheme of the Land Acquisition Act, that they should all, whether present or future, be considered and compensated for simultaneously, whenever the owner of the surface has occasion to exercise his power of stopping or controlling the working.

We have accordingly provided in effect that where the person immediately entitled to work the mines intimates to the owner of the surface his intention to work them, and the latter after that determines to stop or control the working, the settlement of compensation must extend to all persons interested in the mines, and the stoppage or control will be binding in perpetuity on all alike.

8. We have introduced three new sections (8, 9 and 10), corresponding to sections 80, 81 and 82 of the Railways Clauses Act, 1845. We question whether the object of these sections would not have been otherwise attained through the medium of the Land Acquisition Act, the provisions of which were made applicable by section 6 of the Bill as introduced; but as importance appeared to be attached to them in the memorial of the Coal Companies, we have thought it better to remove all doubt by including them. They will doubtless overlap section 6 of the Bill, but no practical harm will result from this.

9. An objection has been taken in some quarters to section 11 of the Bill as introduced (now section 11), which in effect gives to certain Companies the powers conferred on the Local Government by some of the foregoing provisions of the Bill. It appears to be overlooked that the section in question can apply only to Companies established for such purposes and occupying such a position from a public point of view as would warrant the Government in acquiring land on their behalf. In particular it is provided, by sections 48 and 49 of the Land Acquisition Act, that land shall not be acquired for a Company under that Act unless it is needed for a work likely to prove useful to the public, and the Company enters into an agreement with the Government settling, among other matters, the time within which and the conditions on which the work shall be executed and maintained and the terms on which the public shall be entitled to use it.

10. We may further observe that there appears from some of the papers considered by us to be a certain amount of misapprehension as to the nature of the powers referred to.

If the Local Government or the Company exercising the powers of the Local Government neglects to come to terms with the mine-owner on his giving notice of his intention to work, it does so at the risk of its property. If, considering that the mine-owner is working improperly, it takes steps under section 7 (new numbering) to remedy the mischief with a view to charging the mine-owner with the cost, it does so at the risk of losing its money and of incurring serious legal consequences if the Court before which the case may ultimately come takes a different view of the matter. Similarly, if it considers that the mines are being worked contrary to the provisions of the Act and proceeds to take steps under section 13 (new numbering), it still acts at its own risk, for it is by no means certain that it will appear to the Court that the mines were being so worked.

Thus the powers in question are very far from being so formidable as has been supposed, and we may add that they are framed as closely as possible on the lines of those conferred by

Parliament on Railway Companies in England, the substance of which seems generally to have met with approval.

11. We have placed "local authorities" on a footing similar to that of Companies, as in many recent Acts the provisions of the Land Acquisition Act have been made applicable for the purpose of acquiring land for such authorities.

12. We are informed that there are certain land acquisition cases pending at this moment in Bengal, which have already proceeded beyond the stage at which the provisions of this measure would in its ordinary course be applicable to them, but in which it may nevertheless be thought desirable to have the benefit of it. To meet this, we have inserted a clause (15 (2)) which will admit of the Bill being applied in such cases if those concerned unanimously desire that it should.

13. The publication ordered by the Council has been made as follows:—

In English.

Gazette.	*Date.*
Gazette of India	28th February, and 7th and 14th March, 1885.
Fort Saint George Gazette	17th March, 1885.
Bombay Government Gazette	12th March, 1885.
Calcutta Gazette	11th March, 1885.
North-Western Provinces and Oudh Government Gazette	14th, 21st and 28th March, 1885.
Punjab Government Gazette	26th March, and 2nd and 9th April, 1885.
Central Provinces Gazette	14th and 21st March, and 4th April, 1885.
British Burma Gazette	28th March, and 4th and 11th April, 1885.
Assam Gazette	4th, 11th and 18th April, 1885.
Coorg District Gazette	1st May, 1885.

In the Vernaculars.

Province.	*Language.*	*Date.*
Bombay	Maráthí ...	30th April, 1885.
	Gujaráthí ...	
	Kanarese ...	11th May, 1885.
	Sindhí ...	23rd April, 1885.
Bengal	Bengalí ...	17th March, 1885.
	Hindí ...	31st March, 1885.
	Uriya ...	26th March, 1885.
North-Western Provinces and Oudh	Urdu ...	11th, 18th and 25th April, 1885.
Punjab	Urdu ...	27th April, and 4th and 11th May, 1885.
Central Provinces	Maráthí ...	9th, 16th and 23rd May, 1885.
	Hindí ...	25th April, and 2nd and 9th May, 1885.
British Burma	Burmese ...	2nd, 9th and 16th May, 1885.
Assam	Bengalí ...	4th April, 1885.

14. We do not think that the measure has been so altered as to require re-publication, and we recommend that it be passed as now amended.

T. C. HOPE,
C. P. ILBERT.
S. C. [illegible]Y.

The 23rd September, 1885.

D. FITZPATRICK,
Secy. to the Govt. of India.

X of 1872.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor-General on the 16th October, 1885, and is hereby promulgated for general information:—

ACT No. XIX OF 1885.

An Act to amend the law relating to Government Securities.

WHEREAS it is expedient to amend the law relating to Government securities in manner hereinafter appearing; It is hereby enacted as follows:—

Short title and commencement.

1. *(1)* This Act may be called the Indian Securities Act, 1885; and

(2) It shall come into force at once.

Definitions.

2. In this Act—

The expression "Government security" includes promissory notes, debentures, stock certificates, and all other securities issued by the Government of India or by any Local Government in respect of any loan issued under notification in the official Gazette, whether before or after the passing of this Act, but does not include a stock note or a currency note: and

"prescribed" means prescribed by rules made from time to time by the Governor General in Council in that behalf.

Right of survivors of joint payees of Government securities.

3. *(1)* Notwithstanding anything contained in the Indian Contract Act, section 45, when a Government security issued before the first day of April 1886, is payable to two or more persons jointly and any of them dies, the security shall be payable to the survivor or survivors of those persons.

(2) Nothing herein contained shall affect any claim which the representative of the deceased person may have against the survivor or survivors in respect of the security jointly payable to them and the deceased.

(3) This section shall apply whether the death of the person to whom the security was jointly payable occurred or occurs before or after this Act comes into force.

Issue of renewed securities.

4. A person claiming to be entitled to a Government security as payable to him under an endorsement may, on satisfying the prescribed officer of the justice of his claim and paying the prescribed fee and delivering the security duly receipted to the prescribed officer, obtain from the officer a renewed security issued payable to himself.

Issue of duplicate securities.

5. *(1)* When a Government security is alleged to have been wholly or partly lost or destroyed, and a person claims to be the person to whom but for such loss or destruction it would be payable, he may, on application to the prescribed officer, and on producing proof to his satisfaction of the loss or destruction and of the justice of the claim, obtain from him an order for—

(a) the payment of interest in respect of the security said to be lost or destroyed pending the issue of a duplicate security; and

(b) the issue of a duplicate security payable to the applicant.

(2) An order shall not be passed under sub-section *(1)* until after the issue of the prescribed notification of the loss or destruction and after the expiration of the prescribed period, nor until the applicant has given the prescribed indemnity against the claims of all persons deriving title under the security lost or destroyed.

(3) A list of the securities in respect of which an order is passed under sub-section *(1)* shall be published in the *Gazette of India* at such times as the Governor General in Council may, from time to time, direct.

Period after which Government is released from liability in respect of original security.

6. When a renewed security has been issued under section 4, or a duplicate security has been issued under section 5, the Government shall be discharged of all liability in respect of the original security of which such renewed or duplicate security has been issued—

(a) in the case of a renewed security, after the lapse of six years from the date of the issue of the renewed security;

(b) in the case of a duplicate security, after the lapse of six years from the date of the publication under section 5, sub-section *(3)*, of the list in which the security is first mentioned, or from the date of the last payment of interest on the original security, whichever date is latest.

Power of Governor-General in Council to make rules.

7. The Governor General in Council may, from time to time, make rules to prescribe—

(a) the fees to be paid for applications under sections 4 and 5;

(b) the form in which securities delivered for renewal are to be receipted;

(c) the officer who is to exercise all or any of the powers and perform all or any of the duties prescribed by sections 4 and 5;

(d) the proof which is to be produced by persons applying for duplicate securities;

(e) the form and mode of publication of the notification mentioned in section 5, and the period after which interest may be paid or a duplicate security may be issued under that section;

(f) the nature and amount of the indemnity to be given by a person applying under section 5 for the payment of interest or the issue of a duplicate security; and

(g) generally all matters connected with the grant of renewed and duplicate securities.

Publication of drafts and rules.

8. *(1)* The Governor General in Council shall, before making rules under the last foregoing section, publish a draft of the proposed rules in such manner as may, in his opinion, be sufficient for the information of the public.

(2) There shall be published with the draft a notice specifying a date at or after which the draft will be taken into consideration.

(3) The Governor General in Council shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

(4) Every rule made under the last foregoing section shall be published in the *Gazette of India*, and the publication in the *Gazette of India* of a rule purporting to be made under that section shall be conclusive evidence that it has been duly made.

D. FITZPATRICK,
Secy. to the Govt. of India.

LEGISLATIVE DEPARTMENT.

The following Report of the Select Committee on the Bill to amend the law relating to Government Securities was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 8th October, 1885:—

WE, the undersigned, Members of the Select Committee to which the Bill to amend the law relating to Government Securities was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report.

From Officiating Secretary to Chief Commissioner, British Burma, No. 92—17L., dated 7th May, 1885, and enclosure [Papers No. 1].
From Officiating Secretary to Chief Commissioner, Assam, No. 746, dated 11th May, 1885, and enclosure [Papers No. 2].
From Secretary for Berar to Resident, Hyderabad, No. 178G., dated 18th May, 1885 [Paper No. 3].
From Bábú Gurdhar Dás, Honorary Magistrate, Etáwah, dated 18th May, 1885 [Paper No. 4].
From Chief Commissioner, Ajmer-Merwára, No. 615, dated 17th June, 1885 [Paper No. 5].
From Chief Secretary to Government, Madras, No. 1455, dated 3rd June, 1885, and enclosures [Papers No. 6].
From Secretary to Government, North-Western Provinces and Oudh, No. 2798—X-395, dated 26th June, 1885 [Paper No. 7].
From Registrar, High Court, Calcutta, No. 1898, dated 24th June, 1885 [Paper No. 8].
From Secretary to Chief Commissioner, Coorg, No. 522—58, dated 23rd June, 1885 [Paper No. 9].
From Officiating Secretary to Government, Bengal, No. 1304T.F., dated 26th June, 1885, and enclosures [Papers No. 10].
From Officiating Secretary to Government, Punjab, No. 520S., dated 1st July, 1885, and enclosures [Papers No. 11].
Telegram from Chief Commissioner, Central Provinces, dated 1st July, 1885 [Paper No. 12].
From Under Secretary to Government, Bombay, No. 1869, dated 27th June, 1885, and enclosure [Papers No. 13].
From Secretary to Government of India, Legislative Department, to Solicitor to Government of India, No. 1379, dated 28th August, 1885; from Solicitor to Government of India, No. 1163, dated 17th September, 1885, and enclosure [Papers No. 14].

2. The only substantive alteration we have made in the Bill is in section 8, which, in cases in which one of a number of joint-holders of a Government security dies, applies what we may term the rule of survivorship as opposed to the rule of representation laid down by section 45 of the Indian Contract Act. The reasons which led to the insertion of this provision are fully set forth in the Statement of Objects and Reasons: but we find that a considerable difference of opinion exists regarding it.

3. On the one hand, it is urged, among others, by so high an authority as the Advocate General of Bengal, that this provision should be generalized and extended to other classes of obligations besides those arising on Government securities.

On the other hand, it is argued in several of the papers that the rule of survivorship as applied to instruments of the description in question is one that does not fit in with the habits and ideas of certain classes of the Native population, and might, if extended to those classes as an absolutely binding rule, open a door to the perpetration of frauds.

The question thus raised is of considerable importance and difficulty. We do not think that we should be justified in entering fully upon it here in the absence of those members of the Council most competent to advise on legal and commercial matters, and we accordingly propose, with a view to avoiding it as far as possible, to confine the section to Government securities already issued, or which may be issued before the 1st of April next.

4. As regards securities already issued, the law must be settled without any further delay, the delay which has taken place in obtaining opinions on the Bill having already led to considerable public inconvenience. Moreover, as it is impracticable to make any distinctions among those securities, one and the same rule must be laid down for all, and it is clear that that rule must be the rule of survivorship. The rule of survivorship has hitherto been applied to them, as well after the passing of the Contract Act as before, subject at most to rare exceptions or qualifications. It is the rule that is most suitable to the great majority of those who hold those securities, and if in exceptional cases it should be found to be less suitable it must be remembered that those securities have been issued under a system which contemplated its application.

5. On the other hand, there is no necessity to settle the question at this moment as regards securities to be issued for all time to come, especially as a simple mode of providing, without the aid of the legislature, for securities to be hereafter issued has been proposed.

It has been suggested that it could be so arranged in the Loan Department of the Government that it should be in the option of persons, in whose favour securities are first issued or to whom they are subsequently transferred by endorsement, either to take them simply in their several names, that is to say, in favour, *e.g.*, of "A, B & C," without qualification, in which case the rule of the Contract Act would apply, or to take them under words giving a right of survivorship, as, *e.g.*, in favour of "A, B & C, and the survivor or survivors of them," in which case we are advised the rule of the Contract Act would be excluded and the rule of survivorship would apply. This, it has been argued, would be likely to afford a more satisfactory solution of the difficulty as regards securities to be hereafter issued than any enactment establishing either the rule of survivorship or that of representation in a hard-and-fast manner, as it would leave it open to all concerned to adopt for themselves the rule best adapted to their requirements.

It is urged, on the other hand, that the requirements of the new system would be likely for some time to be overlooked, and that considerable hardship and inconvenience would thus result, but this danger might perhaps be averted by some device such as that of a warning enfaced on the security in such a way as to attract attention.

We do not, however, recommend that any determination should be arrived at on this matter until it has undergone the fullest discussion. It will doubtless be settled during the course of the Calcutta Session, and we think that we are acting most in accord with the balance of convenience, and so as to occasion the least amount of disturbance in existing relations, by recommending that as regards securities issued meantime, *i.e.*, say up to the 1st of April next, the law should be placed on the same footing as for securities already issued, that is to say, that the rule of survivorship should apply.

6. The remaining changes which we have made in the Bill, being confined to matters of form or drafting, do not call for special notice. We may, however, mention that we have introduced words in the definition of "Government security" to make it clear that the Bill does not apply to stock notes or currency notes—classes of securities to which, as they are otherwise provided for, it was never intended to apply.

7. The publication ordered by the Council has been made as follows:—

In English.

Gazette.	*Date.*
Gazette of India	14th, 21st and 28th March, 1885.
Fort St. George Gazette	8th April, 1885.
Bombay Government Gazette ...	26th March, and 2nd and 9th April, 1885.
Calcutta Gazette	25th March, and 1st and 8th April, 1885.
North-Western Provinces and Oudh Government Gazette	28th March, and 4th and 11th April, 1885.
Punjab Government Gazette	9th, 16th and 23rd April, 1885.
Central Provinces Gazette	28th March, and 4th and 11th April, 1885.
British Burma Gazette	11th, 18th and 25th April, 1885.
Assam Gazette	11th, 18th and 25th April, 1885.
Coorg District Gazette	1st May, 1885.

In the Vernaculars.

Province.	*Language.*	*Date.*
Madras	Telugu ...	12th May, 1885.
	Kanarese ...	26th June, 1885.
	Tamil ...	9th June, 1885.
	Malayalam ...	16th June, 1885.
	Hindustání ...	16th June, 1885.
Bombay	Guzaráthí ...	23rd April, 1885.
	Maráthí ...	30th June, 1885.
	Kanarese ...	7th May, 1885.
	Sindhí ...	30th April, 1885.
Bengal ...	Bengálí ...	21st April, 1885.
	Hindí ...	21st and 28th April, and 5th May, 1885.
	Uriya ...	7th May, 1885.
North-Western Provinces and Oudh	Urdu ...	2nd, 9th and 16th May, 1885.
Punjab	Urdu ...	18th and 25th May, and 1st June, 1885.
Central Provinces	Maráthí ...	9th, 16th and 23rd May, 1885.
	Hindí ...	6th, 13th and 20th June, 1885.
Assam	Bengálí ...	2nd May, 1885.

8. We do not think that the measure has been so altered as to require re-publication, and we recommend that it be passed as now amended.

A. COLVIN.
C. P. ILBERT.

The 8th October, 1885.

D. FITZPATRICK,
Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second publication.]

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 16th October, 1885, and is hereby promulgated for general information :—

ACT NO. XX OF 1885.

An Act to postpone for a limited time the operation of certain provisions of the Bengal Tenancy Act, 1885.

WHEREAS it is provided by the Bengal Tenancy Act, 1885, that that Act shall come into force on such date as the Local Government, with the previous sanction of the Governor-General in Council, may, by notification in the local official Gazette, appoint in this behalf ; VIII of 1885.

And whereas, in exercise of the power thus conferred, the Local Government, with the previous sanction of the Governor-General in Council, has, by a notification in the local official Gazette, appointed the first day of November, 1885, as the date on which the said Act is to come into force ;

And whereas it is convenient that certain portions of the said Act relating to deposits of rent and distraint should not come into force until a later date ;

It is hereby enacted as follows :—

Postponement of operation of deposit and distraint provisions.

1. Notwithstanding anything contained in the said notification—

(a) the provisions of sections 61 to 64, both inclusive, and of Chapter XII, of the said Act, except such of those provisions as confer powers to make rules, shall come into force on such date, not later than the first day of February, 1886, as the Local Government, after the passing of this Act, may, by notification in the local official Gazette, appoint in this behalf, or, if no date is so appointed, on the first day of February, 1886, and not before ;

(b) until those provisions come into force, the enactments specified in Schedule I annexed to the said Act shall, in so far as they relate to deposits of rent and distraint, continue in force, and all references to those provisions in other portions of the said Act shall, so far as may be, be read as if they were made to the corresponding provisions of the said enactments.

D. FITZPATRICK,
Secy. to the Govt. of India.

STATEMENT OF OBJECTS AND REASONS.

THE Lieutenant-Governor of Bengal has, for reasons which have been approved of by the Government of India and in exercise of the power conferred by the Bengal Tenancy Act, directed that that Act shall come into force on the 1st of November next. A reference to section 190 of the Act will show that an interval of at least a month must elapse between the date on which the Act comes into force and the date on which rules made under it can be brought into force. There is no reason to believe that any practical inconvenience will result from this, except possibly as regards the matters of deposits of rent by tenants and distraint ; but it is apprehended that inconvenience might be felt in regard to these matters if the provisions of the Act relating to them were for any time in force without the rules by which it is intended that they should be supplemented, and the Lieutenant-Governor has suggested, as the simplest mode of obviating this, that the date on which the provisions of the Act relating to deposits and distraint are to come into force should be postponed for a month or two, and that the existing law relating to these subjects should meantime be retained in force.

The Governor-General in Council, being anxious to minimize the inconvenience incidental to the transition from the old law to the new, has approved of this proposal, and the present Bill has been prepared to give effect to it.

S. C. [illegible]

The 14th October, 1885.

D. FITZPATRICK,
Secy. to the Govt. of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, OCTOBER 31, 1885.

☞ Separate paging is given to this Part in order that it may be fi ed as a separate compilation.

PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third publication.]

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 16th October, 1885, and is hereby promulgated for general information:—

ACT No. XVIII OF 1885.

THE LAND ACQUISITION (MINES) ACT, 1885.

CONTENTS.

SECTIONS.

1. Short title, commencement and local extent.
2. Saving for mineral rights of the Government.
3. Declaration that mines are not needed.
4. Notice to be given before working mines lying under land.
5. Power to prevent or restrict working.
6. Mode of determining persons interested and amount of compensation.
7. If Local Government does not offer to pay compensation, mines may be worked in a proper manner.
8. Mining communications.
9. Local Government to pay compensation for injury done to mines.
10. And also for injury arising from any airway or other work.
11. Power to officer of Local Government to enter and inspect the working of mines.
12. [illegible] refusal to allow inspection.
13. [illegible] worked contrary to provisions of this [illegible] Local Government may require means to be adopted for safety of land acquired.
14. Construction of Act when land acquired has been transferred to a local authority or Company.
15. Pending [illegible].
16. Definition of local authority and Company.
17. This Act to be read with Land Acquisition Act, 1870.

An Act to provide for cases in which Mines or Minerals are situate under land which it is desired to acquire under the Land Acquisition Act, 1870.

WHEREAS it is expedient to provide for cases in which mines or minerals are situate under land which it is desired to acquire under the Land Acquisition Act, 1870; It is hereby enacted as follows:— X of 1870.

1. *(1)* This Act may be called the Land Acquisition (Mines) Act, 1885; and

Short title, commencement and local extent.

(2) It shall come into force at once.

(3) It extends in the first instance to the territories administered by the Governor of Madras in Council and the Lieutenant-Governor of Bengal, but any other Local Government may, from time to time, by notification in the official Gazette, extend this Act to the whole or any specified part of the territories under its administration.

2. Except as expressly provided by this Act, nothing in this Act shall affect the right of the Government to any mines or minerals.

Saving for mineral rights of the Government.

3. *(1)* When the Local Government makes a declaration under section 6 of the Land Acquisition Act, 1870, that land is needed for a public purpose or for a Company, it may, if it thinks fit, insert in the declaration a statement that the mines of coal, iron-stone, slate or other minerals lying under the land or any particular portion of the land, except only such parts of the mines or minerals as it may be necessary to dig or carry away or use in the construction of the work for the purpose of which the land is being acquired, are not needed. X of 1870.

Declaration that mines are not needed.

(2) When a statement as aforesaid has not been inserted in the declaration made in respect of any land under section 6 of the Land Acquisition Act, 1870, and the Collector is of opinion that the provisions of this Act ought to be applied to the land, he may abstain from tendering compensation under section 11 of the said Land Acquisition Act in respect of the mines, and may—

(a) when he makes an award under section 11 of that Act, insert such a statement in his award;

(b) when he makes a reference to the Court under section 15 of that Act, insert such a statement in his refefence; or

The Land Acquisition (Mines) Act, 1885.—(Sections 4-10.)

(c) when he takes possession of the land under section 17 of that Act, publish such a statement in such manner as the Governor-General in Council may, from time to time, prescribe.

(3) If any such statement is inserted in the declaration, award or reference, or published as aforesaid, the mines of coal, iron-stone, slate or other minerals under the land or portion of the land specified in the statement, except as aforesaid, shall not vest in the Government when the land so vests under the said Act.

Notice to be given before working mines lying under land.

4. If the person for the time being immediately entitled to work or get any mines or minerals lying under any land so acquired is desirous of working or getting the same, he shall give the Local Government notice in writing of his intention so to do sixty days before the commencement of working.

Power to prevent or restrict working.

5. *(1)* At any time or times after the receipt of a notice under the last foregoing section, and whether before or after the expiration of the said period of sixty days, the Local Government may cause the mines or minerals to be inspected by a person appointed by it for the purpose; and

(2) If it appears to the Local Government that the working or getting of the mines or minerals, or any part thereof, is likely to cause damage to the surface of the land or any works thereon, the Local Government may publish, in such manner as the Governor General in Council may, from time to time, direct, a declaration of its willingness either—

(a) to pay compensation for the mines or minerals still unworked or ungotten, or that part thereof, to all persons having an interest in the same; or

(b) to pay compensation to all such persons in consideration of those mines or minerals, or that part thereof, being worked or gotten in such manner and subject to such restrictions as the Local Government may in its declaration specify.

(3) If the declaration mentioned in case *(a)* is made, then those mines or minerals, or that part thereof, shall not thereafter be worked or gotten by any person.

(4) If the declaration mentioned in case *(b)* is made, then those mines or minerals, or that part thereof, shall not thereafter be worked or gotten by any person save in the manner and subject to the restrictions specified by the Local Government.

Mode of determining persons interested and amount of compensation.

6. When the working or getting of any mines or minerals has been prevented or restricted under section 5, the persons interested in those mines or minerals and the amounts of compensation payable to them respectively shall, subject to all necessary modifications, be ascertained in the manner provided by the Land Acquisition Act, 1870, for ascertaining the persons interested in the land to be acquired under that Act, and the amounts of compensation payable to them, respectively.

X of 1870.

If Local Government does not offer to pay compensation, mines may be worked in a proper manner.

7. *(1)* If before the expiration of the said sixty days the Local Government does not publish a declaration as provided in section 5, the owner, lessee or occupier of the mines may, unless and until such a declaration is subsequently made, work the mines or any part thereof in a manner proper and necessary for the beneficial working thereof, and according to the usual manner of working such mines in the local area where the same are situate.

(2) If any damage or obstruction is caused to the surface of the land or any works thereon by improper working of the mines, the owner, lessee or occupier of the mines shall at once, at his own expense, repair the damage or remove the obstruction, as the case may require.

(3) If the repair or removal is not at once effected, or, if the Local Government so thinks fit, without waiting for the same to be effected by the owner, lessee or occupier, the Local Government may execute the same and recover from the owner, lessee or occupier the expense occasioned thereby.

Mining communications.

8. If the working of any mines is prevented or restricted under section 5, the respective owners, lessees and occupiers of the mines, if their mines extend so as to lie on both sides of the mines the working of which is prevented or restricted, may cut and make such and so many airways, headways, gateways or water-levels through the mines, measures or strata, the working whereof is prevented or restricted, as may be requisite to enable them to ventilate, drain and work their said mines; but no such airway, headway, gateway or water-level shall be of greater dimensions or section than may be prescribed by the Governor General in Council in this behalf, and, where no dimensions are so prescribed, not greater than eight feet wide and eight feet high, nor shall the same be cut or made upon any part of the surface or works, or so as to injure the same, or to interfere with the use thereof.

Local Government to pay compensation for injury done to mines.

9. The Local Government shall, from time to time, pay to the owner, lessee or occupier of any such mines extending so as to lie on both sides of the mines, the working of which is prevented or restricted, all such additional expenses and losses as may be incurred by him by reason of the severance of the lands lying over those mines or of the continuous working of those mines being interrupted as aforesaid, or by reason of the same being worked in such manner and under such restrictions as not to prejudice or injure the surface or works, and for any minerals not acquired by the Local Government which cannot be obtained by reason of the action taken under the foregoing sections; and if any dispute or question arises between the Local Government and the owner, lessee or occupier as aforesaid, touching the amount of those losses or expenses, the same shall be settled as nearly as may be in the manner provided for the settlement of questions touching the amount of compensation payable under the Land Acquisition Act, 1870.

X of 1870.

And also for injury arising from any airway or other work.

10. If any loss or damage is sustained by the owner or occupier of the lands lying over any such mines, the working whereof has been so prevented or restricted as aforesaid (and not being the owner, lessee or occupier of those mines), by reason of the making of any such airway or other works as aforesaid, which or any like work it would not have been necessary to make but for the working of the mines having been so prevented or restricted as aforesaid, the Local Government shall pay full compensation to that owner or occupier of the surface lands for the loss or damage so sustained by him.

The Land Acquisition (Mines) Act, 1885.—(Sections 11-17.)

Power to officer of Local Government to enter and inspect the working of mines.

11. For better ascertaining whether any mines lying under land acquired in accordance with the provisions of this Act are being worked, or have been worked, or are likely to be worked so as to damage the land or the works thereon, an officer appointed for this purpose by the Local Government may, after giving twenty-four hours' notice in writing, enter into and return from any such mines or the works connected therewith; and for that purpose the officer so appointed may make use of any apparatus or machinery belonging to the owner, lessee or occupier of the mines, and use all necessary means for discovering the distance from any part of the land acquired to the parts of the mines which have been, are being, or are about to be worked.

Penalty for refusal to allow inspection.

12. If any owner, lessee or occupier of any such mines or works refuses to allow any officer appointed by the Local Government for that purpose to enter into and inspect any such mines or works in manner aforesaid, he shall be punished with fine which may extend to two hundred rupees.

If mines worked contrary to provisions of this Act, Local Government may require means to be adopted for safety of land acquired.

13. If it appears that any such mines have been worked contrary to the provisions of this Act, the Local Government may, if it thinks fit, give notice to the owner, lessee or occupier thereof to construct such works and to adopt such means as may be necessary or proper for making safe the land acquired, and the works thereon, and preventing injury thereto; and, if after such notice, any such owner, lessee or occupier does not forthwith proceed to construct the works necessary for making safe the land acquired and the works thereon, the Local Government may itself construct the works and recover the expense thereof from the owner, lessee or occupier.

Construction of Act when land acquired has been transferred to a local authority or Company.

14. When a statement under section 3 has been made regarding any land, and the land has been acquired by the Government, and has been transferred to or has vested by operation of law in a local authority or Company, then sections 4 to 13, both inclusive, shall be read as if for the words "the Local Government" wherever they occur in those sections the words "the local authority or Company, as the case may be, which has acquired the land" were substituted.

Pending cases.

15. *(1)* This Act shall apply to any land for the acquisition whereof proceedings under the Land Acquisition Act, 1870, are pending at the time when this Act comes into force, unless before that time the Collector has made, in respect of the land, an award under section 14 or a reference to the Court under section 15 of that Act, or has taken possession of the land under section 17 of the same. X of 1870.

(2) When the Collector has before the said time made an award or reference in respect of any such land or taken possession thereof as aforesaid, and all the persons interested in the land, or entitled under the Land Acquisition Act, 1870, to act for persons so interested, who have attended or may attend in the course of the proceedings under sections 11 to 15, both inclusive, of the Land Acquisition Act, 1870, consent in writing to the application of this Act to the land, the Collector may by an order in writing direct that it shall apply, and thereupon it shall be deemed to have applied from the commencement of the proceedings; and the Collector shall be deemed, as the case may be, to have inserted in his award or reference, or to have published in the prescribed manner, when he took possession, the statement mentioned in section 3 of this Act. X of 1870. X of 1870.

Definition of local authority and Company.

16. In this Act—

(*a*) "local authority" means any municipal committee, district board, body of port commissioners or other authority legally entitled to, or entrusted by the Government with, the control or management of any municipal or local fund; and

(*b*) "Company" means a Company registered under any of the enactments relating to Companies from time to time in force in British India, or formed in pursuance of an Act of Parliament or by Royal Charter or Letters Patent.

This Act to be read with Land Acquisition Act, 1870.

17. This Act shall, for the purposes of all enactments for the time being in force, be read with and taken as part of the Land Acquisition Act, 1870. X of 1870.

D. FITZPATRICK,
Secy. to the Govt. of India.

LEGISLATIVE DEPARTMENT.

The following Report of the Select Committee on the Bill to provide for cases in which Mines or Minerals are situate under land which it is desired to acquire under the Land Acquisition Act, 1870, was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 23rd September, 1885:—

WE, the undersigned, Members of the Select Committee to which the Bill to provide for cases in which Mines or Minerals are situate under land which it is desired to acquire under the Land Acquisition Act, 1870, was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report.

From Messrs. Macneill & Co., Managing Agents, Equitable Coal Company, Limited, dated 24th April, 1885, and enclosure [Papers No. 1].
From Officiating Secretary to Chief Commissioner, Assam, No. 649, dated 24th April, 1885 [Paper No. 2].
From Secretary to Chief Commissioner, Coorg, No. 206—25, dated 4th May, 1885 [Paper No. 3].
From Chief Commissioner, Ajmer-Merwára, No. 479, dated 7th May, 1885, and enclosure [Papers No. 4].
From Officiating Secretary to Chief Commissioner, British Burma, No. 708-94R., dated 29th April, 1885 [Paper No 5].
From Secretary for Berar to Resident, Hyderabad, No. 161 G., dated 9th May, 1885 [Paper No. 6].
From Registrar, High Court, Calcutta, No. 1524, dated 15th May, 1885 [Paper No. 7].
From Chief Secretary to Government, Madras, No. 1251, dated 9th May, 1885, and enclosures [Papers No. 8].
From Under Secretary to Government, Bombay, No. 4381, dated 30th May, 1885, and enclosures [Papers No. 9].
From Secretary to Government, Bengal, No. 481 T.—R., dated 28th May, 1885, and enclosures [Papers No. 10].
From Officiating Junior Secretary to Government, Punjab, No. 544, dated 4th June, 1885, and enclosures [Papers No. 11].
From Bábú Gurdhar Das, Honorary Magistrate, Etáwah, dated 8th May, 1885 [Paper No. 12].
From Chief Secretary to Government, North-Western Provinces and Oudh, No. 1150—I.-776, dated 30th June, 1885, and enclosures [Papers No. 18].
From Assistant Secretary to Chief Commissioner, Central Provinces, No. 2655—77, dated 11th July, 1885 [Paper No 14].

2. Some of the Local Governments have objected to the Bill being applied to the provinces under their administration on the ground that, having regard to the manner in which the right to minerals is regulated in those provinces, it is unnecessary there, and that, if unnecessary, it would only prove an encumbrance and complication in the acquisition of lands. To meet these objections we have made the measure applicable by its own vigour only to the territories under the administration of the Governor of Madras in Council and the Lieutenant-Governor of Bengal, but have empowered the remaining local Governments to extend it to the whole or any part of the territories administered by them if they think fit.

3. An apprehension has been expressed in some of the opinions received that the Bill might by implication affect the rights which the Crown has to all minerals throughout a very large portion of this country. Such an apprehension is, we believe, unfounded, but by way of greater precaution and to prevent misapprehension we have inserted a section (2) saving the rights of the Crown.

4. Section 2 of the Bill as introduced required the Government to determine, before it makes the declaration under section 6 of the Land Acquisition Act, whether the land should be acquired simply under that Act, that is to say, including the minerals, or whether the special provisions of this Bill should be put in force with a view to excluding the minerals from the acquisition.

It has been represented that it is not for the interest of any of those concerned that an irrevocable determination should necessarily be come to on so important a point at a stage of the proceedings when the circumstances of the case would in all probability be imperfectly known. The Government, it will be observed on reference to the Land Acquisition Act, has a discretion to withdraw from a proposed acquisition of land up to a considerably later stage, and it seems but reasonable that it should have a discretion to exclude the minerals from the acquisition at any time up to the same stage if it turns out that their acquisition is not essential to the undertaking, and that either the owners are unwilling to part with them or the Government or the local authority or Company concerned is unwilling to pay their full value. We have accordingly (in section 3) empowered the Collector, who in such a matter would, of course, act under the control of the Government, to exclude the minerals from the acquisition at any time up to the stage of the proceedings at which the land vests, and it is no longer in the discretion of the Government to recede from the transaction.

5. It has been urged that the notice of thirty days to be given to the Government, under section 3 of the Bill as introduced, by a mine-owner desiring to work his mines is too short having regard to the delays in communication in this country. We think the objection is reasonable, and we have accordingly (in section 4 of the amended Bill) extended the period to sixty days.

6. It has been held by the House of Lords in an important case (*Dixon* v. *The Caledonian Railway Co.*, 5 App. Ca. 820) that when a mine-owner gives notice under section 78 of the Railways Clauses Act, 1845, of his intention to work minerals, the Railway Company is not, for the purpose of giving its counter-notice to stop or control the working, limited to the thirty days for which the mine-owner's notice runs, that the period of thirty days is merely prescribed as a period until the expiration of which the mine-owner is debarred from

working, and that the Company can at any time give its counter-notice, though of course if given at any time after the thirty days had expired and the workings had been commenced it would have no effect except as regards the further progress of the workings. The opposite view, as was pointed out by their Lordships, would involve somewhat serious consequences, and it is obviously necessary that there should be no mistake as to the effect of the Bill in this respect. It would doubtless have been sufficient, so far as regards the ultimate result, if we followed the exact wording of the English Act, on the main lines of which we are proceeding throughout. The highest Courts in this country would, as a matter of course, follow the decision of the House of Lords, but it is to be apprehended that inferior authorities might in many cases be ignorant of that decision, and might mistake the effect of the wording of the English Act, which it must be admitted is by no means clear. We have therefore thought it safer to amend the sections concerned in such a manner that they will in a clear and unmistakeable way express the effect of the English Act as construed by the House of Lords.

7. Another important English decision which points to an amendment of the Bill is that in *Smith* v. *Great Western Railway Co.* (2 Ch. D. 2351, and in appeal before the House of Lords, 3 App. Ca. 165). We may have, under a Bill of this sort, a state of things to deal with, of which that case affords an illustration, where one person holding under a terminable lease has an immediate right to work the minerals, and another person is entitled to the reversion on the expiration of the lease and perhaps to a rent or royalty during its continuance. The lease may or may not be of such a length as to admit of all the minerals being worked out during its continuance, and it may or may not be liable to be put an end to by forfeiture or otherwise before the expiration of its term. The provisions of the English Act, which deal specially with the subject now before us, and which have been incorporated in this Bill, were found inadequate to provide for the exigencies of such a state of things as that referred to. They probably contemplate a settlement only with the person immediately entitled to work the mines, and, in order to provide for the case of a reversioner or other person interested, it was found necessary to call in the aid of a general provision of the law which would be out of place in a Bill like this.

It appears to us that the simplest mode of dealing with the various interests that may co-exist in the mines is to require, in accordance with the scheme of the Land Acquisition Act, that they should all, whether present or future, be considered and compensated for simultaneously, whenever the owner of the surface has occasion to exercise his power of stopping or controlling the working.

We have accordingly provided in effect that where the person immediately entitled to work the mines intimates to the owner of the surface his intention to work them, and the latter after that determines to stop or control the working, the settlement of compensation must extend to all persons interested in the mines, and the stoppage or control will be binding in perpetuity on all alike.

8. We have introduced three new sections (8, 9 and 10), corresponding to sections 80, 81 and 82 of the Railways Clauses Act, 1845. We question whether the object of these sections would not have been otherwise attained through the medium of the Land Acquisition Act, the provisions of which were made applicable by section 6 of the Bill as introduced; but as importance appeared to be attached to them in the memorial of the Coal Companies, we have thought it better to remove all doubt by including them. They will doubtless overlap section 6 of the Bill, but no practical harm will result from this.

9. An objection has been taken in some quarters to section 11 of the Bill as introduced (now section 14), which in effect gives to certain Companies the powers conferred on the Local Government by some of the foregoing provisions of the Bill. It appears to be overlooked that the section in question can apply only to Companies established for such purposes and occupying such a position from a public point of view as would warrant the Government in acquiring land on their behalf. In particular it is provided, by sections 48 and 49 of the Land Acquisition Act, that land shall not be acquired for a Company under that Act unless it is needed for a work likely to prove useful to the public, and the Company enters into an agreement with the Government settling, among other matters, the time within which and the conditions on which the work shall be executed and maintained and the terms on which the public shall be entitled to use it.

10. We may further observe that there appears from some of the papers considered by us to be a certain amount of misapprehension as to the nature of the powers referred to.

If the Local Government or the Company exercising the powers of the Local Government neglects to come to terms with the mine-owner on his giving notice of his intention to work, it does so at the risk of its property. If, considering that the mine-owner is working improperly, it takes steps under section 7 (new numbering) to remedy the mischief with a view to charging the mine-owner with the cost, it does so at the risk of losing its money and of incurring serious legal consequences if the Court before which the case may ultimately come takes a different view of the matter. Similarly, if it considers that the mines are being worked contrary to the provisions of the Act and proceeds to take steps under section 13 (new numbering), it still acts at its own risk, for it is by no means certain that it will appear to the Court that the mines were being so worked.

Thus the powers in question are very far from being so formidable as has been supposed, and we may add that they are framed as closely as possible on the lines of those conferred by

Parliament on Railway Companies in England, the substance of which seems generally to have met with approval.

11. We have placed "local authorities" on a footing similar to that of Companies, as in many recent Acts the provisions of the Land Acquisition Act have been made applicable for the purpose of acquiring land for such authorities.

12. We are informed that there are certain land acquisition cases pending at this moment in Bengal, which have already proceeded beyond the stage at which the provisions of this measure would in its ordinary course be applicable to them, but in which it may nevertheless be thought desirable to have the benefit of it. To meet this, we have inserted a clause (15 (2)) which will admit of the Bill being applied in such cases if those concerned unanimously desire that it should.

13. The publication ordered by the Council has been made as follows :—

In English.

Gazette.	*Date.*
Gazette of India	28th February, and 7th and 14th March, 1885.
Fort Saint George Gazette	17th March, 1885.
Bombay Government Gazette	12th March, 1885.
Calcutta Gazette	11th March, 1885.
North-Western Provinces and Oudh Government Gazette	14th, 21st and 28th March, 1885.
Punjab Government Gazette	26th March, and 2nd and 9th April, 1885.
Central Provinces Gazette	14th and 21st March, and 4th April, 1885.
British Burma Gazette	28th March, and 4th and 11th April, 1885.
Assam Gazette	4th, 11th and 18th April, 1885.
Coorg District Gazette	1st May, 1885.

In the Vernaculars.

Province.	*Language.*	*Date.*
Bombay	Maráthí ... } Gujaráthí ... }	30th April, 1885.
	Kanarese ...	11th May, 1885.
	Sindhí ...	23rd April, 1885.
Bengal	Bengalí ...	17th March, 1885.
	Hindí ...	31st March, 1885.
	Uriya ...	26th March, 1885.
North-Western Provinces and Oudh	Urdu ...	11th, 18th and 25th April, 1885.
Punjab	Urdu ...	27th April, and 4th and 11th May, 1885.
Central Provinces	Maráthí ...	9th, 16th and 23rd May, 1885.
	Hindí ...	25th April, and 2nd and 9th May, 1885.
British Burma	Burmese ...	2nd, 9th and 16th May, 1885.
Assam	Bengalí ...	4th April, 1885.

14. We do not think that the measure has been so altered as to require re-publication, and we recommend that it be passed as now amended.

T. C. HOPE.
C. P. ILBERT.
S. C. BAYLEY.

The 23rd September, 1885.

D. FITZPATRICK,
Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor-General on the 16th October, 1885, and is hereby promulgated for general information :—

ACT No. XIX OF 1885.

An Act to amend the law relating to Government Securities.

WHEREAS it is expedient to amend the law relating to Government securities in manner hereinafter appearing; It is hereby enacted as follows :—

Short title and commencement.

1. *(1)* This Act may be called the Indian Securities Act, 1885; and

(2) It shall come into force at once.

Definitions.

2. In this Act—

The expression "Government security" includes promissory notes, debentures, stock certificates, and all other securities issued by the Government of India or by any Local Government in respect of any loan issued under notification in the official Gazette, whether before or after the passing of this Act, but does not include a stock note or a currency note: and

"prescribed" means prescribed by rules made from time to time by the Governor General in Council in this behalf.

IX of 1872.

Right of survivors of joint payees of Government securities.

3. *(1)* Notwithstanding anything contained in the Indian Contract Act, section 45, when a Government security issued before the first day of April, 1886, is payable to two or more persons jointly and any of them dies, the security shall be payable to the survivor or survivors of those persons.

(2) Nothing herein contained shall affect any claim which the representative of the deceased person may have against the survivor or survivors in respect of the security jointly payable to them and the deceased.

(3) This section shall apply whether the death of the person to whom the security was jointly payable occurred or occurs before or after this Act comes into force.

Issue of renewed securities.

4. A person claiming to be entitled to a Government security as payable to him under an endorsement may, on satisfying the prescribed officer of the justice of his claim and paying the prescribed fee and delivering the security duly receipted to the prescribed officer, obtain from the officer a renewed security issued payable to himself.

Issue of duplicate securities.

5. *(1)* When a Government security is alleged to have been wholly or partly lost or destroyed, and a person claims to be the person to whom but for such loss or destruction it would be payable, he may, on application to the prescribed officer, and on producing proof to his satisfaction of the loss or destruction and of the justice of the claim, obtain from him an order for—

(a) the payment of interest in respect of the security said to be lost or destroyed pending the issue of a duplicate security; and

(b) the issue of a duplicate security payable to the applicant.

(2) An order shall not be passed under sub-section *(1)* until after the issue of the prescribed notification of the loss or destruction and after the expiration of the prescribed period, nor until the applicant has given the prescribed indemnity against the claims of all persons deriving title under the security lost or destroyed.

(3) A list of the securities in respect of which an order is passed under sub-section *(1)* shall be published in the *Gazette of India* at such times as the Governor General in Council may, from time to time, direct.

Period after which Government is released from liability in respect of original security.

6. When a renewed security has been issued under section 4, or a duplicate security has been issued under section 5, the Government shall be discharged of all liability in respect of the original security of which such renewed or duplicate security has been issued—

(a) in the case of a renewed security, after the lapse of six years from the date of the issue of the renewed security;

(b) in the case of a duplicate security, after the lapse of six years from the date of the publication under section 5, sub-section *(3)*, of the list in which the security is first mentioned, or from the date of the last payment of interest on the original security, whichever date is latest.

Power of Governor-General in Council to make rules.

7. The Governor General in Council may, from time to time, make rules to prescribe—

(a) the fees to be paid for applications under sections 4 and 5;

(b) the form in which securities delivered for renewal are to be receipted;

(c) the officer who is to exercise all or any of the powers and perform all or any of the duties prescribed by sections 4 and 5;

(d) the proof which is to be produced by persons applying for duplicate securities;

(e) the form and mode of publication of the notification mentioned in section 5, and the period after which interest may be paid or a duplicate security may be issued under that section;

(f) the nature and amount of the indemnity to be given by a person applying under section 5 for the payment of interest or the issue of a duplicate security; and

(g) generally all matters connected with the grant of renewed and duplicate securities.

Publication of drafts and rules.

8. *(1)* The Governor General in Council shall, before making rules under the last foregoing section, publish a draft of the proposed rules in such manner as may, in his opinion, be sufficient for the information of the public.

(2) There shall be published with the draft a notice specifying a date at or after which the draft will be taken into consideration.

(3) The Governor General in Council shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

(4) Every rule made under the last foregoing section shall be published in the *Gazette of India*, and the publication in the *Gazette of India* of a rule purporting to be made under that section shall be conclusive evidence that it has been duly made.

D. FITZPATRICK,
Secy. to the Govt. of India.

LEGISLATIVE DEPARTMENT.

The following Report of the Select Committee on the Bill to amend the law relating to Government Securities was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 8th October, 1885:—

WE, the undersigned, Members of the Select Committee to which the Bill to amend the law relating to Government Securities was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report.

From Officiating Secretary to Chief Commissioner, British Burma, No. 22—17 L., dated 7th May, 1885, and enclosure [Papers No. 1].
From Officiating Secretary to Chief Commissioner, Assam, No. 746, dated 11th May, 1885, and enclosure [Papers No. 2].
From Secretary for Berar to Resident, Hyderabad, No. 178G., dated 18th May, 1885 [Paper No. 3].
From Bábú Gurdhar Dás, Honorary Magistrate, Etáwah, dated 18th May, 1885 [Paper No. 4].
From Chief Commissioner, Ajmer-Merwára, No. 645, dated 17th June, 1885 [Paper No. 5].
From Chief Secretary to Government, Madras, No. 1455, dated 3rd June, 1885, and enclosures [Papers No 6].
From Secretary to Government, North-Western Provinces and Oudh, No. 2793—X-395, dated 26th June, 1885 [Paper No. 7].
From Registrar, High Court, Calcutta, No. 1898, dated 24th June, 1885 [Paper No. 8].
From Secretary to Chief Commissioner, Coorg, No. 522—58, dated 23rd June, 1885 [Paper No. 9].
From Officiating Secretary to Government, Bengal, No. 1304T.F., dated 26th June, 1885, and enclosures [Papers No. 10].
From Officiating Secretary to Government, Punjab, No. 520S., dated 1st July, 1885, and enclosures [Papers No. 11].
Telegram from Chief Commissioner, Central Provinces, dated 1st July, 1885 [Paper No. 12].
From Under Secretary to Government, Bombay, No. 1869, dated 27th June, 1885, and enclosure [Papers No. 13].
From Secretary to Government of India, Legislative Department, to Solicitor to Government of India, No. 1379, dated 28th August, 1885; from Solicitor to Government of India, No. 1163, dated 17th September, 1885, and enclosure [Papers No. 14].

2. The only substantive alteration we have made in the Bill is in section 3, which, in cases in which one of a number of joint-holders of a Government security dies, applies what we may term the rule of survivorship as opposed to the rule of representation laid down by section 45 of the Indian Contract Act. The reasons which led to the insertion of this provision are fully set forth in the Statement of Objects and Reasons: but we find that a considerable difference of opinion exists regarding it.

3. On the one hand, it is urged, among others, by so high an authority as the Advocate General of Bengal, that this provision should be generalized and extended to other classes of obligations besides those arising on Government securities.

On the other hand, it is argued in several of the papers that the rule of survivorship as applied to instruments of the description in question is one that does not fit in with the habits and ideas of certain classes of the Native population, and might, if extended to those classes as an absolutely binding rule, open a door to the perpetration of frauds.

The question thus raised is of considerable importance and difficulty. We do not think that we should be justified in entering fully upon it here in the absence of those members of the Council most competent to advise on legal and commercial matters, and we accordingly propose, with a view to avoiding it as far as possible, to confine the section to Government securities already issued, or which may be issued before the 1st of April next.

4. As regards securities already issued, the law must be settled without any further delay, the delay which has taken place in obtaining opinions on the Bill having already led to considerable public inconvenience. Moreover, as it is impracticable to make any distinctions among those securities, one and the same rule must be laid down for all, and it is clear that that rule must be the rule of survivorship. The rule of survivorship has hitherto been applied to them, as well after the passing of the Contract Act as before, subject at most to rare exceptions or qualifications. It is the rule that is most suitable to the great majority of those who hold those securities, and if in exceptional cases it should be found to be less suitable it must be remembered that those securities have been issued under a system which contemplated its application.

5. On the other hand, there is no necessity to settle the question at this moment as regards securities to be issued for all time to come, especially as a simple mode of providing, without the aid of the legislature, for securities to be hereafter issued has been proposed.

It has been suggested that it could be so arranged in the Loan Department of the Government that it should be in the option of persons, in whose favour securities are first issued or to whom they are subsequently transferred by endorsement, either to take them simply in their several names, that is to say, in favour, *e.g.*, of "A, B & C," without qualification, in which case the rule of the Contract Act would apply, or to take them under words giving a right of survivorship, as, *e.g.*, in favour of "A, B & C, and the survivor or survivors of them," in which case we are advised the rule of the Contract Act would be excluded and the rule of survivorship would apply. This, it has been argued, would be likely to afford a more satisfactory solution of the difficulty as regards securities to be hereafter issued than any enactment establishing either the rule of survivorship or that of representation in a hard-and-fast manner, as it would leave it open to all concerned to adopt for themselves the rule best adapted to their requirements.

It is urged, on the other hand, that the requirements of the new system would be likely for some time to be overlooked, and that considerable hardship and inconvenience would thus result, but this danger might perhaps be averted by some device such as that of a warning enfaced on the security in such a way as to attract attention.

We do not, however, recommend that any determination should be arrived at on this matter until it has undergone the fullest discussion. It will doubtless be settled during the course of the Calcutta Session, and we think that we are acting most in accord with the balance of convenience, and so as to occasion the least amount of disturbance in existing relations, by recommending that as regards securities issued meantime, *i.e.*, say up to the 1st of April next, the law should be placed on the same footing as for securities already issued, that is to say, that the rule of survivorship should apply.

6. The remaining changes which we have made in the Bill, being confined to matters of form or drafting, do not call for special notice. We may, however, mention that we have introduced words in the definition of "Government security" to make it clear that the Bill does not apply to stock notes or currency notes—classes of securities to which, as they are otherwise provided for, it was never intended to apply.

7. The publication ordered by the Council has been made as follows:—

In English.

Gazette.	*Date.*
Gazette of India	14th, 21st and 28th March, 1885.
Fort St. George Gazette	8th April, 1885.
Bombay Government Gazette ...	26th March, and 2nd and 9th April, 1885.
Calcutta Gazette	25th March, and 1st and 8th April, 1885.
North-Western Provinces and Oudh Government Gazette	28th March, and 4th and 11th April, 1885.
Punjab Government Gazette	9th, 16th and 23rd April, 1885.
Central Provinces Gazette	28th March, and 4th and 11th April, 1885.
British Burma Gazette	11th, 18th and 25th April, 1885.
Assam Gazette	11th, 18th and 25th April, 1885.
Coorg District Gazette	1st May, 1885.

In the Vernaculars.

Province.	*Language.*	*Date.*
Madras	Telugu ...	12th May, 1885.
	Kanarese ...	26th June, 1885.
	Tamil ...	9th June, 1885.
	Malayalam ...	16th June, 1885.
	Hindustáni ...	16th June, 1885.
Bombay	Guzaráthí ...	23rd April, 1885.
	Maráthí ...	30th June, 1885.
	Kanarese ...	7th May, 1885.
	Sindhí ...	30th April, 1885.
Bengal	Bengálí ...	21st April, 1885.
	Hindí ...	21st and 28th April, and 5th May, 1885.
	Uriya ...	7th May, 1885.
North-Western Provinces and Oudh	Urdu ...	2nd, 9th and 16th May, 1885.
Punjab	Urdu ...	18th and 25th May, and 1st June, 1885.
Central Provinces	Maráthí ...	9th, 16th and 23rd May, 1885.
	Hindí ...	6th, 13th and 20th June, 1885.
Assam	Bengálí ...	2nd May, 1885.

8. We do not think that the measure has been so altered as to require re-publication, and we recommend that it be passed as now amended.

A. COLVIN.
C. P. ILBERT.

The 8th October, 1885.

D. FITZPATRICK,
Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third publication.]

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 16th October, 1885, and is hereby promulgated for general information :—

ACT No. XX OF 1885.

An Act to postpone for a limited time the operation of certain provisions of the Bengal Tenancy Act, 1885.

WHEREAS it is provided by the Bengal Tenancy Act, 1885, that that Act shall come into force on such date as the Local Government, with the previous sanction of the Governor-General in Council, may, by notification in the local official Gazette, appoint in this behalf; 11 of 1885.

And whereas, in exercise of the power thus conferred, the Local Government, with the previous sanction of the Governor-General in Council, has, by a notification in the local official Gazette, appointed the first day of November, 1885, as the date on which the said Act is to come into force;

And whereas it is convenient that certain portions of the said Act relating to deposits of rent and distraint should not come into force until a later date;

It is hereby enacted as follows :—

Postponement of operation of deposit and distraint provisions.

1. Notwithstanding anything contained in the said notification—

(a) the provisions of sections 61 to 64, both inclusive, and of Chapter XII, of the said Act, except such of those provisions as confer powers to make rules, shall come into force on such date, not later than the first day of February, 1886, as the Local Government, after the passing of this Act, may, by notification in the local official Gazette, appoint in this behalf, or, if no date is so appointed, on the first day of February, 1886, and not before;

(b) until those provisions come into force, the enactments specified in Schedule I annexed to the said Act shall, in so far as they relate to deposits of rent and distraint, continue in force, and all references to those provisions in other portions of the said Act shall, so far as may be, be read as if they were made to the corresponding provisions of the said enactments.

D. FITZPATRICK,
Secy. to the Govt. of India.

STATEMENT OF OBJECTS AND REASONS.

THE Lieutenant-Governor of Bengal has, for reasons which have been approved of by the Government of India and in exercise of the power conferred by the Bengal Tenancy Act, directed that that Act shall come into force on the 1st of November next. A reference to section 190 of the Act will show that an interval of at least a month must elapse between the date on which the Act comes into force and the date on which rules made under it can be brought into force. There is no reason to believe that any practical inconvenience will result from this, except possibly as regards the matters of deposits of rent by tenants and distraint; but it is apprehended that inconvenience might be felt in regard to these matters if the provisions of the Act relating to them were for any time in force without the rules by which it is intended that they should be supplemented, and the Lieutenant-Governor has suggested, as the simplest mode of obviating this, that the date on which the provisions of the Act relating to deposits and distraint are to come into force should be postponed for a month or two, and that the existing law relating to these subjects should meantime be retained in force.

The Governor-General in Council, being anxious to minimize the inconvenience incidental to the transition from the old law to the new, has approved of this proposal, and the present Bill has been prepared to give effect to it.

S. C. BAYLEY,

The 14th October, 1885.

D. FITZPATRICK,
Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First publication.]

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 26th October, 1885, and is hereby promulgated for general information :—

ACT No. XXI OF 1885.

An Act to amend the Madras Civil Courts Act, 1873.

WHEREAS it is expedient to amend the Madras Civil Courts Act, 1873; It is hereby enacted as follows :— III of 1873.

1. *(1)* This Act may be called the Madras Civil Courts Act, 1885; and

Short title and commencement.

(2) It shall come into force at once.

2. To section 5 of the Madras Civil Courts Act, 1873, the following shall be added, namely :— III of 1873.

Addition to section 5 of Act III of 1873.

"The places fixed for any Court under this section shall be deemed to be within the local jurisdiction of that Court."

3. To section 11 of the same Act the following shall be added, namely :—

Addition to section 11 of the same Act.

"If the High Court assigns the same local jurisdiction to two or more District Munsifs, it shall declare which of them shall be deemed the Principal District Munsif, and the other, or others, shall be called Additional District Munsifs, and shall take cognizance only of such suits and applications as may, by special or general order in this behalf, be directed by the District Judge."

4. *(a)* In section 22 of the same Act, before the words "be final", and

Amendment of sections 22 and 23 of the same Act.

(b) in section 23 of the same Act as amended by Act XIX of 1877, before the words "suspended or removed",

the words "subject to the control of the High Court" shall be inserted.

Amendment of section 28 of the same Act.

5. In section 28 of the same Act—

(a) before the words "Subordinate Judge", in both places where they occur, the words "District or" shall be inserted;

(b) after the words "rupees fifty" the words "or on the recommendation of the High Court up to any amount not exceeding rupees two hundred" shall be inserted.

D. FITZPATRICK,
Secy. to the Govt. of India.

LEGISLATIVE DEPARTMENT.

The following Report of the Select Committee on the Bill to amend the Madras Civil Courts Act, 1873, was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 15th October, 1885 :—

WE, the undersigned, Members of the Select Committee to which the Bill to amend the Madras Civil Courts Act, 1873, was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report.

From Mr. T. R. Seshiah, First Grade Pleader, Dindigul, dated 28th June, 1885 [Paper No. 1].
From Chief Secretary to Government, Madras, No. 2200, dated 24th August, 1885, and enclosures [Papers No. 2].
From Rája of Parpanangádi, dated 4th August, 1885 [Paper No. 3].
From Chief Secretary to Government, Madras, No. 2204, dated 24th August, 1885, and enclosures [Papers 4].
From Chief Secretary to Government, Madras, No. 2373, dated 5th September, 1885, and enclosure [Papers No. 5].
From Chief Secretary to Government, Madras, No 2427, dated 14th September, 1885, and enclosures [Papers No. 6].

2. The changes which we have made in the Bill have, with certain variations in drafting, been made in accordance with the recommendation of the Madras High Court and the Governor of Madras in Council.

They are as follows:—

(a) a new section (2) has been inserted to remove a difficulty which has been felt about arranging, as is sometimes convenient, that a Court should sit at a place beyond the local limits of its jurisdiction;

(b) section 3 of the amended Bill (corresponding to section 2 of the Bill as introduced) has been modified so as to meet more effectually the difficulties, as now explained, which arise when more than one District Munsif is appointed to the same local area;

(c) a new section (4) has been inserted giving the High Court a control over the suspension and removal of ministerial officers of subordinate Courts;

(d) the limit of value up to which Small Cause Court powers can be conferred on a District Munsif has been (section 5) reduced from Rs. 500 to Rs. 200, and it has further been provided that such powers, when the value exceeds Rs. 50 (the present limit), can be conferred only on the recommendation of the High Court.

3. The publication ordered by the Council has been made as follows:—

In English.

Gazette.	*Date.*
Gazette of India ...	... 30th May, and 16th and 13th June, 1885.
Fort Saint George Gazette	... 16th June, 1885.

In the Vernaculars.

Province.	*Language.*	*Date.*
Madras ...	Telugu ... }	31st July, 1885.
	Malayalam ... }	
	Tamil ...	7th August, 1885.
	Kanarese ... }	14th August, 1885.
	Hindustani ... }	

We do not think that the measure has been so altered as to require re-publication, and we recommend that it be passed as now amended.

C. P. ILBERT.
S. C. BAYLEY.
A. COLVIN.

The 15th October, 1885.

D. FITZPATRICK,
Secy. to the Govt. of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, NOVEMBER 7, 1885.

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

PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second publication.]

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 26th October, 1885, and is hereby promulgated for general information :—

ACT No. XXI OF 1885.

An Act to amend the Madras Civil Courts Act, 1873.

WHEREAS it is expedient to amend the Madras III of 1873. Civil Courts Act, 1873; It is hereby enacted as follows :—

Short title and commencement.

1. *(1)* This Act may be called the Madras Civil Courts Act, 1885; and

(2) It shall come into force at once.

Addition to section 5 of Act III of 1873.

2. To section 5 of the Madras Civil Courts III of 1873. Act, 1873, the following shall be added, namely :—

"The places fixed for any Court under this section shall be deemed to be within the local jurisdiction of that Court."

Addition to section 11 of the same Act.

3. To section 11 of the same Act the following shall be added, namely :—

"If the High Court assigns the same local jurisdiction to two or more District Munsifs, it shall declare which of them shall be deemed the Principal District Munsif, and the other, or others, shall be called Additional District Munsifs, and shall take cognizance only of such suits and applications as may, by special or general order in this behalf, be directed by the District Judge."

Amendment of sections 22 and 23 of the same Act.

4. *(a)* In section 22 of the same Act, before the words "be final", and

(b) in section 23 of the same Act as amended by Act XIX of 1877, before the words "be suspended or removed",

the words "subject to the control of the High Court" shall be inserted.

Amendment of section 28 of the same Act.

5. In section 28 of the same Act—

(a) before the words "Subordinate Judge", in both places where they occur, the words "District or" shall be inserted;

(b) after the words "rupees fifty" the words "or on the recommendation of the High Court up to any amount not exceeding rupees two hundred" shall be inserted.

D. FITZPATRICK,
Secy. to the Govt. of India.

LEGISLATIVE DEPARTMENT.

The following Report of the Select Committee on the Bill to amend the Madras Civil Courts Act, 1873, was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 15th October, 1885 :—

WE, the undersigned, Members of the Select Committee to which the Bill to amend the Madras Civil Courts Act, 1873, was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report.

From Mr. T. R. Seshiah, First Grade Pleader, Dindigul, dated 28th June, 1885 [Paper No. 1].
From Chief Secretary to Government, Madras, No. 2200, dated 24th August, 1885, and enclosures [Papers No. 2].
From Rájá of Parpanangádí, dated 4th August, 1885 [Paper No. 3].
From Chief Secretary to Government, Madras, No. 2204, dated 24th August, 1885, and enclosures [Papers 4].
From Chief Secretary to Government, Madras, No. 2373, dated 5th September, 1885, and enclosure [Papers No. 5].
From Chief Secretary to Government, Madras, No 2427, dated 14th September, 1885, and enclosures [Papers No. 6].

2. The changes which we have made in the Bill have, with certain variations in drafting, been made in accordance with the recommendation of the Madras High Court and the Governor of Madras in Council.

They are as follows :—

(a) a new section (2) has been inserted to remove a difficulty which has been felt about arranging, as is sometimes convenient, that a Court should sit at a place beyond the local limits of its jurisdiction ;

(b) section 3 of the amended Bill (corresponding to section 2 of the Bill as introduced) has been modified so as to meet more effectually the difficulties, as now explained, which arise when more than one District Munsif is appointed to the same local area ;

(c) a new section (4) has been inserted giving the High Court a control over the suspension and removal of ministerial officers of subordinate Courts ;

(d) the limit of value up to which Small Cause Court powers can be conferred on a District Munsif has been (section 5) reduced from Rs. 500 to Rs. 200, and it has further been provided that such powers, when the value exceeds Rs. 50 (the present limit), can be conferred only on the recommendation of the High Court.

3. The publication ordered by the Council has been made as follows :—

In English.

Gazette.	*Date.*
Gazette of India ...	... 30th May, and 16th and 13th June, 1885.
Fort Saint George Gazette	... 16th June, 1885.

In the Vernaculars.

Province.	*Language.*	*Date.*
Madras ...	Telugu ... }	31st July, 1885.
	Malayalam ... }	
	Tamil ...	7th August, 1885.
	Kanarese ... }	14th August, 1885.
	Hindustani ... }	

We do not think that the measure has been so altered as to require re-publication, and we recommend that it be passed as now amended.

C. P. ILBERT.
S. C. BAYLEY.
A. COLVIN.

The 15th October, 1885.

D. FITZPATRICK,
Secy. to the Govt. of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, NOVEMBER 14, 1885.

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

PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LAGISLATIVE DEPARTMENT.

[Third publication.]

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 26th October, 1885, and is hereby promulgated for general information :—

ACT NO. XXI OF 1885.

An Act to amend the Madras Civil Courts Act, 1873.

WHEREAS it is expedient to amend the Madras Civil Courts Act, 1873 ; It is hereby enacted as follows :— of 1873.

Short title and commencement.

1. (*1*) This Act may be called the Madras Civil Courts Act, 1885 ; and

(*2*) It shall come into force at once.

Addition to section 5 of Act III of 1873.

2. To section 5 of the Madras Civil Courts Act, 1873, the following shall be added, namely :— of 1873.

"The places fixed for any Court under this section shall be deemed to be within the local jurisdiction of that Court."

Addition to section 11 of the same Act.

3. To section 11 of the same Act the following shall be added, namely :—

"If the High Court assigns the same local jurisdiction to two or more District Munsifs, it shall declare which of them shall be deemed the Principal District Munsif, and the other, or others, shall be called Additional District Munsifs, and shall take cognizance only of such suits and applications as may, by special or general order in this behalf, be directed by the District Judge."

Amendment of sections 22 and 23 of the same Act.

4. (*a*) In section 22 of the same Act, before the words "be final", and

(*b*) in section 23 of the same Act as amended by Act XIX of 1877, before the words "be suspended or removed",

the words "subject to the control of the High Court" shall be inserted.

Amendment of section 28 of the same Act.

5. In section 28 of the same Act—

(*a*) before the words "Subordinate Judge", in both places where they occur, the words "District or" shall be inserted ;

(*b*) after the words "rupees fifty" the words "or on the recommendation of the High Court up to any amount not exceeding rupees two hundred" shall be inserted.

D. FITZPATRICK,
Secy. to the Govt. of India.

LEGISLATIVE DEPARTMENT.

The following Report of the Select Committee on the Bill to amend the Madras Civil Courts Act, 1873, was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 15th October, 1885 :—

WE, the undersigned, Members of the Select Committee to which the Bill to amend the Madras Civil Courts Act, 1873, was referred, have considered the Bill and the papers noted in the margin and have now the honour to submit this our Report.

From Mr. T. R. Seshiah, First Grade Pleader, Dindigul, dated 28th June, 1885 [Paper No. 1].
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From Chief Secretary to Government, Madras, No. 2373, dated 5th September, 1885, and enclosure [Papers No. 5].
From Chief Secretary to Government, Madras, No. 2427, dated 14th September, 1885, and enclosures [Papers No. 6].

2. The changes which we have made in the Bill have, with certain variations in drafting, been made in accordance with the recommendation of the Madras High Court and the Governor of Madras in Council.

They are as follows:—

(*a*) a new section (2) has been inserted to remove a difficulty which has been felt about arranging, as is sometimes convenient, that a Court should sit at a place beyond the local limits of its jurisdiction;

(*b*) section 3 of the amended Bill (corresponding to section 2 of the Bill as introduced) has been modified so as to meet more effectually the difficulties, as now explained, which arise when more than one District Munsif is appointed to the same local area;

(*c*) a new section (4) has been inserted giving the High Court a control over the suspension and removal of ministerial officers of subordinate Courts;

(*d*) the limit of value up to which Small Cause Court powers can be conferred on a District Munsif has been (section 5) reduced from Rs. 500 to Rs. 200, and it has further been provided that such powers, when the value exceeds Rs. 50 (the present limit), can be conferred only on the recommendation of the High Court.

3. The publication ordered by the Council has been made as follows:—

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Gazette.	*Date.*
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Province.	*Language.*	*Date.*
Madras	Telugu	31st July 1885
	Malayalam	
	Tamil	7th August, 1885.
	Kanarese	14th August, 1885.
	Hindustani	

We do not think that the measure has been so altered as to require republication, and we recommend that it be passed as now amended.

C. P. ILBERT.
S. C. BAYLEY.
A. COLVIN.

The 15th October, 1885.

D. FITZPATRICK,
Secy. to the Govt. of India.

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