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G.O., No. 17, 22nd March 1898.

MARCH.

Madras Tenancy Bill.

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Ag. Secretary to Government.

To the Revenue Department.
" Hon'ble Mr. H. T. Ross.
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Bill to be introduced into the Council of the Governor of Fort St. George for making Laws and Regulations.

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No. 3 of 1898.

THE MADRAS TENANCY BILL, 1898.

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SCHEDULE I.—FORM OF RECEIPT.

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A Bill to amend the Law relating to Landlord and Tenant in the Presidency of Madras.

Preamble. WHEREAS it is expedient to amend and declare the law regulating the relations between landlords and their tenants in the Presidency of Madras; It is enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title. 1. This Act may be called the Madras Tenancy Act, 189 :

Commencement. it shall come into force on the first day of July 189 :

Local extent. and it shall extend to the whole of the Presidency of Madras outside the limits of the Presidency Town, except the district of Malabar and the portion of the Nilgiri district known as the South-East Wynaad. But the Local Government may by notification declare that, from a date to be specified in such notification, all or any of the provisions of this Act shall be extended to all or any of such excepted areas or any portion thereof.

Repeal. 2. Madras Acts VIII of 1865 and II of 1871 and section 7 of Madras Act III of 1890 are hereby repealed.

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

(1) "Estate" means

(*a*) any permanently-settled estate, whether a zemíndárí, jághír, mittah or pálaiyam;

(*b*) any portion of such permanently-settled estate which has been separately registered in the office of the Collector;

(*c*) any unsettled pálaiyam or jághír;

(*d*) any inam or shrotriem village or group of villages of which the grant was made or confirmed, or has been recognised, by the British Government;

(*e*) any portion, consisting of one or more villages, of any of the estates specified above in clauses (*a*), (*b*) and (*c*) which is held on a permanent under-tenure.

(2) "Village" means any local area situated in, or constituting, an estate, which is designated as a village in the Revenue accounts and for which the Revenue accounts are separately maintained by one or more curnams, or which is now recognised by the Local Government as a village or may hereafter be declared by the Local Government, for the purposes of this Act, to be a village.

(3) "Proprietor" means a person owning an estate and, in respect of an estate specified in clause (*e*) of sub-section (1) of this section, the holder thereof; and includes also assignees, lessees, mortgagees with possession and purchasers of the interest of, and farmers of rents from, any such person, provided such interest or farm extends to at least a whole village. It also includes managers of estates of disqualified owners, and public officers in possession of estates as stake-holders or holding land in attachment for arrears of revenue or under the orders of a Civil Court.

Explanation.—Where there is a dispute as to ownership of an estate, or as to who, among joint-owners of an estate, is entitled to proceed as proprietor under this Act, the proprietor shall, for the purposes of this Act, be the person in whose name the estate is for the time being registered in the office of the Collector of the district wherein the estate is situated; and where an estate is so registered in the names of two or more persons as joint-owners thereof, the proprietor shall, for the purposes of this Act be the person who is recognised by the other joint-owners as the managing owner of the estate or who, in case of dispute, is recognised and registered by the Collector as senior joint-owner.

(4) "Ryot" means a person who has acquired a right to hold land as a tenant immediately under a proprietor, for the purpose of agriculture, horticulture or grazing; and includes also the successor in interest of a person who has 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 agriculture, horticulture or grazing.

Provided that no tenant shall be deemed to be a 'ryot' by reason only of his having the right to bring under cultivation the land appurtenant to his dwelling-house or attached thereto for use therewith as a garden or pleasure-ground or for the pasturage of animals kept for private use.

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

(6) "Landlord" means a person immediately under whom a tenant holds.

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

In chapters VI and VII, sections 111, 113, 126 to 128 both inclusive, and schedule I of this Act, 'rent' includes also (*a*) money payable on account of the use and enjoyment of trees held independently of land: (*b*) money payable on account of the use and enjoyment of water supplied for cultivation of land, where the charge for such water has not been consolidated with the rent for the land: (*c*) any cesses, fees or charges payable along with the rent of land or trees according to law or usage having the force of law: and (*d*) money recoverable in respect of land, trees or water, under any other enactment for the time being in force as if it was rent.

Explanation.—The payments to be made by a farmer of rents to a proprietor are not 'rent.'

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

(9) "Signed" includes stamped, when the name of the person signing is affixed by a stamp.

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

(11) "Revenue year" means the year ending on the 30th June.

CHAPTER II.

CLASSES OF TENANTS.

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

Classes of tenants.

(*a*) Occupancy ryots, that is to say, ryots having a right of occupancy in the land held by them as ryots:

(*b*) Non-occupancy ryots, that is to say, ryots not having such a right of occupancy:

(*c*) Under-tenants, that is to say, tenants holding whether immediately or mediately under ryots, or under landlords other than proprietors.

CHAPTER III.

OCCUPANCY RYOTS.

General.

5. Occupancy right in land may be created at any time by written agreement between proprietor and ryot.

Occupancy right by agreement.

6. Every ryot, who immediately before the commencement of this Act has, by the operation of any enactment, by custom, contract or otherwise, a right of occupancy in land in any village shall, when this Act comes into force, be deemed to have that right of occupancy under this Act.

Continuance of existing occupancy rights.

7. Every ryot shall be presumed to have occupancy right in all land held by him as a ryot, until the contrary is admitted or proved.

Presumption of existence of occupancy right.

8. (1) Every person who, for a period of twelve years, whether wholly or partly before or wholly or partly after the commencement of this Act, has continuously held as a ryot land situate in any village, whether under lease or otherwise, shall be deemed, on the expiration of that period, to have a right of occupancy in all land for the time being held by him as a ryot in that village.

Occupancy right how acquired.

(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.

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

(4) Land held by two or more persons jointly as ryots shall be deemed, for the purposes of this section, to have been held as a ryot by each such person.

(5) If, in any proceeding under this Act, it is proved or admitted that a person holds any land as a ryot, it shall, as between him and the proprietor under whom he holds the land, be presumed for the purposes of this section, until the contrary is admitted or proved, that he has for twelve years continuously held land in the same village as a ryot.

Incidents of Occupancy Right.

9. An occupancy ryot may use the land in his holding in any manner which does not materially impair the value of the land or render it unfit for the purposes of the tenancy; but he shall not be entitled to cut down trees in contravention of any local custom.

Rights in respect of use of land.

10. An occupancy ryot shall pay rent for his holding at fair and equitable rates.

Obligation to pay fair rent.

11. An occupancy ryot shall not be ejected from his holding, except in execution of a decree for ejectment passed on the ground—

Protection from ejectment 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 the proprietor, liable to be ejected.

12. All rights of occupancy shall be transferable by sale, gift or otherwise.

Occupancy right transferable.

13. (1) When the entire interests of proprietor and occupancy ryot in a 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.

Effect of acquisition of occupancy right by proprietor.

(2) If the occupancy right in land is transferred to a person jointly interested in the land as proprietor, 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.

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 by subsequently holding the land in ijárá or farm.

14. If a ryot 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 immovable property.

Devolution of occupancy right on death.

Enhancement of Rent.

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

Presumption as to fair rent.

16. The rent of an occupancy ryot shall not be enhanced except as provided by this Act.

Restriction on enhancement.

17. Where an occupancy ryot holds at a money-rent not fixed in perpetuity, the proprietor may, subject to the provisions of this Act, institute a suit before the Collector to enhance the rent on one or more of the following grounds, namely:—

Enhancement of rent by suit.

(*a*) that there has been a rise in the average local prices of staple food-crops in the taluk or zemíndárí division since the existing rent was fixed:

(*b*) that the productive powers of the land held by the ryot have been increased by an improvement effected by, or at the expense of, the proprietor since the existing rent was fixed:

(*c*) that the productive powers of the land held by the ryot have been increased, since the existing rent was fixed, by any work of irrigation or other improvement executed at the expense of Government, and the proprietor has been required to pay an additional revenue or rate to Government in consequence thereof:

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

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

Provided that no enhancement of rent on the ground stated in clause (*a*) of this section shall be claimable in any estate within the districts of Salem, Madura or Tinnevelly.

18. Where an enhancement is claimed under section 17, clause (*a*)—

Rules as to enhancement on ground of rise in prices.

(*a*) the Collector 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;

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

(*d*) the average prices by which the Collector shall be guided shall be those published under the authority of the Local Government, unless and until they are proved to be incorrect;

(*e*) the decennial periods taken for the comparison of average prices shall be periods of ten years excluding all years which the Local Government may notify

to be, or to have been, famine years in respect of any local area;

(*f*) the Local Government shall make rules for determining what are to be termed staple food-crops in any local area, and for the guidance of officers preparing price lists under this section.

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

19. (1) Where an enhancement is claimed under section 17, clause (*b*)—

(*a*) the Collector shall not grant an enhancement unless the improvement has been completed and registered in accordance with this Act:

(*b*) in determining the amount of enhancement the Collector 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 preparation and cultivation required for utilising 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 ryot or his successor in interest, be subject to reconsideration in the event of the improvement not producing or ceasing to produce the estimated effect.

Rules as to enhancement on ground of improvement by Government.

20. Where an enhancement is claimed under section 17, clause (*c*), the Collector shall have regard to—

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

(ii) the cost of the preparation and cultivation required for utilising the improvement; and

(iii) the additional payment which the landlord is required to make to Government on account of the improvement.

Provided that the enhancement imposed on the ryot shall not exceed the sum which the proprietor has to pay to Government on account of the improvement made by it.

Rules as to enhancement on account of fluvial action.

21. Where an enhancement is claimed under section 17, clause (*d*)—

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

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

Enhancement to be fair and equitable.

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

Power to order progressive enhancement.

23. If the Collector passing a decree for enhancement considers that the immediate enforcement of the decree in its full extent will be attended with hardship to the tenant, he may 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 decreed has been reached.

Limitation of right to bring successive enhancement suits.

24. (1) A suit instituted for the enhancement of the rent of a holding 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, or, if within the said period of fifteen years, the rent has been commuted under section 27, or a decree has been passed under this Act enhancing the rent on the ground aforesaid 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.

Reduction of Rent.

Reduction of rent by suit.

25. (1) An occupancy ryot holding at a money-rent not fixed in perpetuity may institute a suit before the Collector for the reduction of his rent on the following grounds but not otherwise, namely:—

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

(*b*) on the ground, in the case of irrigated land, that the irrigation work on which it is dependent has completely failed; or

(*c*) on the ground that there has been a fall, not due to a temporary cause, in the average local prices of staple food crops in the taluk or zemíndárí division since the existing rent was fixed; or

(*d*) on the ground that the rent has been unduly raised after 1st May 1871 and before the commencement of this Act.

Provided that no reduction of rent on the ground stated in clause (*c*) of this sub-section shall be claimable in any estate within the districts of Salem, Madura or Tinnevelly.

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

Limitation of right to bring successive reduction suits.

26. (1) A suit instituted for the reduction of rent on the ground of a fall in prices shall not be entertained if, within fifteen years next preceding its institution, the rent has been reduced by contract, or a decree has been passed under this Act reducing the rent on the ground aforesaid or dismissing the suit on its merits.

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

Commutation of Rent.

Rules for commutation of rent payable in kind.

27. (1) Where an occupancy ryot 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 these ways and partly in another, either the ryot or the proprietor may apply to the Collector to have the rent commuted to a money-rent.

(2) If the application is opposed, the Collector shall consider whether, in 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 reason for the refusal.

(3) If the application is not opposed, or if it is opposed and the objection is disallowed, the Collector shall determine the sum to be paid as money-rent, and shall order that the ryot shall, in lieu of paying the rent in kind or otherwise as aforesaid, pay the sum so determined.

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

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

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

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

(5) The order determining the sum to be paid as money-rent shall be made in writing and shall state the grounds on which it is made and the time from which it is to take effect.

Alteration of Rent with Area.

Alteration of rent in respect of alteration in area.

28. Every occupancy ryot 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 holding of land which having previously belonged to the 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 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 holding by alluvion or otherwise, and that an addition has not been made to the rent in respect of the addition to such area.

29. Every proprietor may, by himself or by any person authorized by him in this behalf, at any time enter on and measure any land comprised in his estate, for the purposes of the last preceding section; but no alteration of rent under the said section shall be allowed except under the order of the Collector upon application made to him for that purpose by the proprietor or the occupancy ryot concerned.

Proprietor's right to measure land.

30. (1) Upon such application and upon notice to the opposite party, the Collector shall, after causing such measurements to be made as he thinks fit, and after hearing such evidence as the parties may adduce, determine the area for which rent has previously been paid and the amount, if any, to be added to or deducted from the rent.

Alteration of rent with area how determined.

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

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

(*b*) whether the ryot 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 proprietor;

(*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 application.

(3) In determining the amount to be added to the rent, the Collector shall have regard to the rates payable by occupancy ryots for lands of a similar description and with similar advantages in the vicinity, 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 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 holding.

31. No Civil Court shall entertain any suit or issue any injunction regarding a Collector's proceedings under this chapter, but from every decree or order passed by a Collector under this chapter, if the Collector is not the District Collector, an appeal shall lie to the District Collector, whose decision shall be final. If the Collector is the District Collector, his decree or order shall be final.

Right of appeal.

Provided that—

(*a*) If, before or during the hearing of a suit or application under this chapter or of an appeal against a decree or order passed under this chapter, or if, in the execution of any such decree, any question of law or usage having the force of law, or of the construction of a document which construction may affect the merits, arises, and the officer trying the suit or appeal or executing the decree entertains reasonable doubt on such question, he may, either of his own motion or on the application of any of the parties, draw up a statement of the facts of the case and the point on which doubt is entertained and refer such statement for the decision of the Board of Revenue and shall stay further proceedings until the said decision is communicated to him:

(*b*) The Board of Revenue shall, if any of the parties so request, hear him or his agent and shall decide the point referred and transmit a copy of its judgment to the officer by whom the reference was made, and the said officer shall, on receipt thereof, proceed to dispose of the case in conformity with the decision of the said Board, and the correctness of the decision of the said Board shall not be contested in any appeal made under this section.

CHAPTER IV.

NON-OCCUPANCY RYOTS.

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

Initial rent of non-occupancy ryot.

33. The rent of a non-occupancy ryot shall not be enhanced except by registered agreement or by agreement under section 36.

Conditions of enhancement.

34. A non-occupancy ryot shall, subject to the provisions of this Act, be liable to ejectment from his holding on one or more of the following grounds, but not otherwise (namely):—

Grounds on which non-occupancy ryot 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 his holding 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 the proprietor, liable to be ejected;

(*c*) when he has been admitted to occupation of the land under a registered lease, on the ground that his original lease has expired; or when he has not been in occupation of the land for seven years, on the ground that his last lease has expired;

(*d*) on the ground that he has refused to agree to an enhancement of rent;

(*e*) on the ground that he has refused to agree to pay a fair and equitable rent determined under section 36, or that the term for which he is entitled to hold at such a rent has expired.

35. A suit for ejectment on the ground of the expiration of the term of a lease shall not be instituted against a non-occupancy ryot unless notice to quit has been served on the ryot 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.

36. (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 ryot unless the proprietor has tendered to the ryot an agreement to pay the enhanced rent for a fresh term, and the ryot 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 proprietor desiring to tender an agreement to a ryot under this section may file it in the office of the Collector or such other officer as the Local Government appoints in this behalf, for service on the ryot. The Collector or officer shall forthwith cause it to be served on the ryot in the manner prescribed for service of notice under section 65 and when it has been so served, it shall, for the purposes of this section, be deemed to have been tendered.

(3) If a ryot 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 revenue year next following.

(4) When an agreement has been executed and filed by a ryot under sub-section (3), the Collector 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 proprietor in the manner prescribed for service of notice under section 65.

(5) If the ryot 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 ryot refuses to execute an agreement tendered to him under this section, the proprietor may thereupon institute a suit before the Collector to eject him, and the Collector shall determine what rent is fair and equitable for the holding.

(7) If the ryot agrees to pay the rent so determined, he shall be entitled to remain in occupation of his holding at that rent for such further term from the date of the agreement as is requisite to make up a total continuous holding of twelve years, but on the expiration of that term he shall be liable to ejectment. Provided that such further term shall not exceed five years.

(8) If the ryot does not agree to pay the rent so determined, he shall be forthwith ejected.

37. No right of a non-occupancy ryot in his holding shall be transferable by sale, gift or otherwise.

Non-occupancy rights not transferable.

CHAPTER V.

UNDER-TENANTS.

38. Subject to the provisions of sections 130 to 133, an under-tenant shall not be liable to be ejected by his landlord except—

Restriction on ejectment of under-tenants.

(*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 revenue year next following the year in which a notice to quit is served upon him by his landlord.

CHAPTER VI.

GENERAL PROVISIONS AS TO RENT.

Rates of Rent.

Rule for deciding disputes as to rates of rent.

39. In the decision of suits between landlords and their tenants involving disputes regarding rates of rent, all contracts to pay rent, not inconsistent with the provisions of this Act, shall be enforced.

Presumption as to amount of rent and conditions of holding.

40. If a question arises as to the amount of a tenant's rent or the conditions under which he holds in any revenue 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 revenue year.

Arrears of Rent.

What deemed an arrear of rent.

41. (1) When rent shall remain unpaid at the time when, according to any agreement or, in the absence of agreement, according to the custom of the country, it ought to have been paid, the amount remaining unpaid shall be deemed an arrear of rent.

(2) If in times of distress a landlord desires to postpone demand on his tenants he may do so from time to time by a general declaration to be published in each village in such manner as may be prescribed by rules to be framed from time to time by the Local Government in this behalf; and a declaration so published shall operate from time to time as an agreement as to the time of payment within the meaning of sub-section (1).

Interest on arrears.

42. An arrear of rent shall bear simple interest at the rate of twelve and one-half per centum per annum from the date on which the arrear fell due until the arrear is liquidated.

Explanation.—This interest may be calculated at two pies per rupee per mensem, fractions of a month and of a rupee being disregarded in the calculation.

Receipts.

Right of tenant to receipt for rent.

43. (1) Every tenant who makes a payment on account of rent to his landlord shall be entitled to obtain forthwith a written receipt for the amount paid by him signed by the landlord or by the landlord's authorised agent.

(2) The landlord or his agent 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 I of 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.

Penalty for withholding receipt.

44. If a landlord, without reasonable cause, refuses or neglects to deliver to a tenant a receipt containing the particulars prescribed by section 43 for any rent paid by the tenant, the tenant may, within three months from the date of payment, institute a suit before the Collector to recover from the landlord a penalty not exceeding double the amount or value of that rent as the Collector thinks fit.

Persons to whom, and how, rents may be paid.

45. The headman of each village shall be presumed to be the authorized agent of the landlord for the purpose of receiving rents and granting receipts under sections 43 and 44, unless the landlord has duly appointed for such purpose as his authorized agent some other person resident in the village or within three miles of it; provided that the tenants may pay their rents to the landlord by postal money-orders under rules which the Local Government may from time to time prescribe.

Deposit of Rent.

Application to deposit rent.

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

(*a*) when a tenant tenders money on account of money-rent which has become due 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 money-rent which has become due 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 money-rent which has become due is payable to two or more persons jointly, and the tenant is unable to obtain the joint receipt of the said persons 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 money-rent which has become due;

the tenant may present to the Collector or such other officer of the Department of Land Revenue as the Local Government may order, an application in writing for permission to deposit in the office of the said Collector or other officer the full amount of the money which he alleges to be then due.

(2) The application shall contain a statement of the grounds on which it is made; and 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 persons 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 name of the person to whom the rent was last paid and of the person or persons now claiming it.

(3) The application 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 may, from time to time, fix.

Receipt for deposit in Revenue office to be a valid acquittance.

47. (1) If it appears to the Collector, or other officer to whom an application is made under the last foregoing section, that the applicant is entitled under that section to deposit the rent, he shall receive the rent and shall give a receipt for it under his official seal.

(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 persons 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.

48. (1) The Collector or other officer receiving the deposit shall forthwith cause to be affixed in a conspicuous place at his office a notification of the receipt thereof, containing a statement of all material particulars.

(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 Collector or other officer shall forthwith—

in cases (*a*) and (*b*) of section 46, 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 served, free of charge, on the persons referred to in case (*c*) of sub-section (2) of the said section and to be posted 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, the Collector or other officer has reason to believe, claims or is entitled to the deposit.

Payment or refund of deposit.

49. (1) The Collector or other officer may pay the amount of the deposit to any person appearing to him to be entitled to the same, or may, if he thinks fit, retain the amount pending the decision of a competent 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 competent Court to the contrary, be repaid to the depositor upon his application and on his returning the receipt given by the Collector or other officer 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 Collector or other officer 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.

Produce Rents.

Order for appraising or dividing produce.

50. (1) Where rent is taken by appraisement or division of 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,

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.

51. (1) Where 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 these 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 any 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 or both fails or fail 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 after making such inquiry (if any) as he may think necessary, he 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 crops.

52. (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.

(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.

CHAPTER VII.

RECOVERY OF RENT.

Puttahs and Muchilikas.

Obligation of proprietor to tender puttah to occupancy ryot.

53. No proprietor shall have power to proceed against an occupancy ryot for the recovery of rent, under this Act or otherwise, unless and until he shall have exchanged a puttah and muchilika with such ryot or tendered him such a puttah as he was bound to accept.

Provided that when proceedings are taken by a proprietor on a puttah which is not entirely but is substantially correct, such proceedings shall be valid to the extent that such puttah is correct.

Provided also that no proceedings with respect to a puttah which contains any stipulation in restraint of cultivation or of harvesting or for termination of the tenancy at any specified time shall be valid.

Puttah how to be tendered.

54. The tender of a puttah may be made directly to the ryot or by filing the same in the office of the Collector or such other officer of the Department of Land Revenue as the Local Government may order; and, if so filed, the Collector or such officer shall cause the puttah to be served on the ryot, at the cost of the proprietor, in the manner prescribed for the service of notice under section 65.

Puttahs and muchilikas to be signed.

55. Puttahs and muchilikas shall be signed by the respective parties or by persons duly authorized in that behalf.

Contents of puttah and muchilika.

56. The puttah shall contain the names of the parties; the local description and extent of the land; the rate or amount and nature of the rent, according as it may be payable in money, in kind or by a share of the produce, separately specifying any fees or charges payable with it according to law or usage having the force of law; the period or periods at which such rent, fees or charges are to be paid; the date of the instrument and all special terms by which it is intended that the parties shall be bound. The muchilika may, at the option of the proprietor, be a counterpart of the puttah or a simple engagement to hold according to its terms.

Period for which puttahs and muchilikas may be exchanged.

57. Puttahs and muchilikas may be exchanged for periods of one year or more, but the tender of puttah shall always take place within twelve months after the commencement of the period to which the puttah relates; provided that no proprietor shall be bound to tender, and no occupancy ryot to accept, a puttah for a period of more than one revenue year.

Suit to obtain puttah.

58. When any proprietor shall, for three months after demand, have refused to grant such a puttah as his tenant, being an occupancy ryot, was entitled to receive, it shall be lawful for the tenant to sue for such a puttah before the Collector. The Collector shall decide the terms of the puttah to be granted, and if it be not granted as directed within the time specified, the decree shall be of the same force and effect as if a puttah and muchilika had been exchanged.

Suit to enforce acceptance of puttah.

59. When an occupancy ryot shall for one month have refused to accept the puttah tendered to him and to give a muchilika in exchange, the proprietor may sue before the Collector to enforce acceptance of such puttah.

Procedure in adjudication of suit to enforce acceptance of puttah.

60. In adjudicating suits under the preceding section, the Collector shall first inquire whether the party sued was bound to accept a puttah, and, unless this be proved, the suit shall be dismissed. Should the plaintiff establish the above point, the Collector shall inquire whether the puttah tendered is a proper one. If it is found to be so, the Collector shall order the defendant to accept the puttah and to execute a muchilika in accordance with it. If the Collector is of opinion that the puttah tendered is not a proper one, he shall decide what the terms of the puttah should be, and shall then order the defendant to accept such puttah and to execute a muchilika in accordance with it. In default of the tenant so doing, the decree shall be of the same force and effect as if a puttah and muchilika had been exchanged.

Duration of puttahs and muchilikas exchanged or decreed.

61. Save as respects lands duly relinquished or newly taken up by the tenant, for which the parties may exchange a supplementary puttah and muchilika, the terms of puttahs

and muchilikas exchanged or decreed between proprietors and their occupancy ryots shall remain in force until the beginning of the revenue year for which fresh puttahs and muchilikas are exchanged or decreed.

Written Agreements.

62. Landlords may proceed under this Act for the recovery of rent from their tenants other than occupancy ryots if they have taken written agreements from such tenants specifying the rent to be paid, but not otherwise.

Obligation of landlord to take written agreement from non-occupancy tenant.

Distraint and Sale of Moveable Property.

63. When an arrear of rent is due for any period not exceeding a year and no security has been accepted therefor, the landlord may, in addition to any other remedy to which he is entitled by law, distrain the moveable property of the defaulting tenant or the crops, or the ungathered produce of the land or trees held by him, while in his possession.

Cases in which landlord may distrain.

Provided that when a suit has been filed under section 58, the rent shall be taken to become due from the date of the Collector's decree, or if that is appealed against, from the date of the last decree of the Appellate Courts.

Provided also that no distraint shall be made under this section in respect of the crops or ungathered produce of any part of the holding which the tenant has sublet with the written consent of the landlord.

Provided also that ploughs and implements of husbandry, the cattle actually trained to the plough and seed-grain shall not be distrained for arrears so long as other property may be forthcoming equal to the discharge of such arrear.

64. The distraint shall be effected on the personal responsibility of the landlord, by the landlord serving on the tenant a written notice signed by the landlord or by his authorized agent setting forth—

Distraint how to be effected.

(1) the amount of the arrear due, with interest, if any;

(2) the holding in respect of which it is due;

(3) the period in respect of which it is due;

(4) the nature and approximate value of the property distrained;

and by the landlord or his authorized agent taking charge of the property or placing some person in charge of it on the landlord's behalf.

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

65. The notice of distraint prescribed by section 64 shall be served by delivering a copy to the defaulter or to some adult male member of his family at his usual place of abode in the neighbourhood of the land to which the distraint refers, or to his authorized agent, or, when such service cannot be effected, by affixing a copy of the notice to the outer door or wall of his last-known residence within the district, or on some conspicuous part of the land to which it refers.

Notice of distraint how to be served and published.

A copy of the notice of distraint shall be fixed up in some conspicuous place in the village in which the land is situate in respect of which the arrear has accrued, and another copy shall be forwarded to the Collector by the landlord within forty-eight hours of its service on the defaulting tenant.

66. Persons authorized to distrain may apply to the nearest Police station for such assistance as may be necessary to prevent any breach of the peace, and the authority to whom such application is made shall depute one or more Police officers to be present at the time of such distraint for such purpose.

Distrainer may procure Police assistance.

67. The distraint shall not be excessive; that is to say, the value of the property distrained shall be as nearly as possible proportionate to the amount of the arrears due.

Distraint to be proportionate to arrear.

68. Distraint shall be made after sunrise and before sunset and not otherwise.

Time of distraint.

69. It shall be lawful for the distrainer to force open any stable, cow-house, granary, godown, out-house, or other building, and he may also enter any dwelling-house the outer door of which may be open, and may break open the door of any room in such

What places distrainer may force open.

dwelling-house for the purpose of attaching property belonging to a defaulter and lodged therein; provided always that it shall not be lawful for such distrainer to break open or enter any apartment in such dwelling-house appropriated for the zenana or residence of women, except as hereinafter provided.

70. When a distrainer may have reason to suppose that the property of a defaulter is lodged within a dwelling-house, the outer door of which may be shut, or within any apartments appropriated to women, which, by the usage of the country, are considered private, such distrainer shall represent the same to the officer in charge of the nearest Police station. On such representation the officer in charge of the said station shall send a Police officer to the spot, in the presence of whom the distrainer may force open the outer door of such dwelling-house, in like manner as he may break open the door of any room within the house except the zenana. The distrainer may also, in the presence of the Police officer, after due notice given for the removal of women within the zenana, and after furnishing means for their removal in a suitable manner (if they be women of rank, who, according to the customs of the country, cannot appear in public), enter the zenana apartments for the purpose of distraining the defaulter's property, if any, deposited therein. If any such property be found, it shall immediately be removed from such apartments in order that they may be left free for the return of the former occupants.

Power to force open doors, and to enter zenana, in presence of a Police officer.

71. The distrainer shall not work the bullocks or cattle or make use of the property distrained. He shall provide necessary food for cattle or live-stock, and the cost of doing so shall be a charge against the owner and shall be recoverable as a cost of the distraint.

Distrained cattle or goods not to be used.

72. (1) A distraint under this chapter shall not prevent the defaulter or any person claiming through him from doing all acts necessary for the preservation and maturing of the crops or other produce distrained, or from reaping, gathering or storing the same.

Right to reap and preserve produce.

(2) If such person fails to do so at the proper time, the distrainer shall do all acts necessary for the preservation or maturing of such standing crops or ungathered produce, and for their being reaped or gathered when ripe, and stored or preserved in such granaries or other places as are commonly used for the purpose, or in some other convenient place in the neighbourhood.

(3) In either case the distrained produce shall remain in the charge of the distrainer or of some person appointed by him in this behalf.

73. (1) After a distraint has been made under this chapter and at any time until forty-eight hours before the date appointed for sale, the defaulter or the owner of the property, where he is not the defaulter, may deposit in the office of the Collector, or such other officer of the Department of Land Revenue as the Local Government may order, the amount of arrear with all costs incurred, or may pay this amount to the distrainer, or may furnish security to the satisfaction of the distrainer, whereupon the Collector, other officer or distrainer shall give a written acknowledgment of the deposit, payment or security, and shall forthwith direct the withdrawal of the distraint.

Withdrawal of distraint on deposit, payment, or furnishing of security.

(2) At any time before the sale of the distrained property, the defaulter or owner may deposit, in the hands of the officer appointed to conduct the sale, the amount of arrear with interest and all costs which may have been incurred, and the officer conducting the sale shall grant a receipt for the same and shall withdraw the distraint forthwith.

74. After the expiration of one month from the date of a deposit being made under the last preceding section, the Collector shall pay therefrom to the landlord who made the distraint the amount due to him, unless in the meantime the owner of the property distrained shall have instituted a suit against the landlord contesting the legality of the distraint and claiming compensation in respect of the same.

Payment of amount due to landlord.

75. When property distrained may be stolen, lost, damaged or destroyed while in the keeping of the distrainer, by reason of his not having taken the necessary precautions for its due preservation, he shall be responsible to the owner for the loss or damage, and the

Liability of distrainer for loss of, or injury to, distrained property.

Collector shall, on the application of the owner, and on proof of such loss or damage, pass an order that the same shall be made good.

Claims by third parties.

76. Claims to crops distrained under section 63, whether founded upon a previous sale, mortgage, or otherwise, shall not bar the prior claim for rent due to the landlord by his defaulting tenant; but if, before the day fixed for the sale, a third party appears before the Collector and claims a right or interest in the crops under distraint, the Collector shall hold, or cause to be held, an immediate enquiry, and if he sees sufficient cause for doing so, may postpone the sale of such crops. The Collector shall adjudicate upon the claim and pass such order between the claimant and the distrainer as he shall deem fit. If the claimant fails to establish his right, an order shall be issued for proceeding with the sale.

Penalty for fraudulent conveyance of property to prevent distraint.

77. When a defaulter may make a fraudulent conveyance of property to prevent distress for arrears, the Collector shall, on application by the distrainer, and on proof of such conveyance, pass an order directing the property to be delivered up or its value paid to the distrainer. The defaulter will further be liable to the penalties prescribed by section 424 of the Penal Code.

Penalty for forcibly or clandestinely taking away distrained property.

78. When it may be proved to the satisfaction of the Collector that any person has forcibly or clandestinely taken away property once distrained, the Collector may, on the application of the distrainer, cause such property to be restored, or its value to be paid, to the distrainer.

Notice of sale of distrained property.

79. If the tenant does not within thirty days from the date of distraint file a suit before the Collector to set aside the distraint, or if such a suit is filed and is decided against the tenant, the distrainer shall, within fifteen days from the expiration of the thirty days, or from the decision of the suit, apply to the Collector for an order directing the public officer empowered by Act VII of 1839 to cause the sale of the distrained property. That officer, on receiving such order, shall fix up in some conspicuous place in the village a notice specifying the property to be sold and the time and place which he has fixed on for its sale. He shall also cause proclamation of the intended sale to be made by beat of drum in the village to which the lands belong on which the arrear has accrued. In fixing the day of sale, not less than seven days must be allowed from the time of the public notice and not less than thirty days from the date of distraint.

Place of sale.

80. The sale shall ordinarily be held in the village where the property was distrained or is stored, unless the Collector is of opinion that the property is likely to sell to better advantage in some neighbouring village, when he may order the sale to take place in such village. In any case, the landlord shall be bound to produce the property at the time and place of sale, and the cost of the transport thereof shall be considered part of the cost of distraint; provided that crops or products which are in their nature speedily perishable shall be sold as early as possible by the distrainer under rules to be framed in this behalf by the Local Government.

When crops may be sold standing.

81. (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.

82. 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 thereof, the distraint shall be immediately withdrawn with respect to the remainder.

Postponement of sale.

83. 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 until the next day, or (if a market is held at the place of sale) until 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.

84. 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. The defaulting purchaser shall be liable for any loss arising from, as well as for expenses incurred on, the re-sale.

Obligation to report irregularity in distraining.

85. The officer appointed to sell property distrained shall bring to the notice of the Collector any material irregularity committed by the distrainer under colour of this Act, and he is authorised in such case to postpone the sale pending the Collector's order.

Effect of irregularity in distraining.

86. When it shall come to the knowledge of the Collector, either through the above officer or otherwise, that the distrainer did not serve on the tenant a written notice as required by section 64, or failed to publish the notice as required by section 65, or that the distress was excessive, the Collector may direct the restoration of the distrained property to the owner. If the Collector so directs the restoration, the distrainer shall not be allowed to proceed further under this Act for the recovery of the arrear of rent, and the tenant shall be at liberty to sue the distrainer before the Collector for any loss or damage which he may have sustained.

Certificate to be given to purchaser.

87. When the purchase-money has been paid in full, the officer holding the sale shall deliver the property to the purchaser and shall give him a certificate duly signed by himself, describing the property purchased by him and the price paid.

Proceeds of sale how to be applied.

88. 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. The remaining proceeds 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 to the discharge of any arrear which may have accrued between the date of distress and the date of sale; and the surplus (if any) shall be paid to the person whose property has been sold. The defaulter shall receive from the officer who has conducted the sale a receipt for arrears of rent discharged from the proceeds of sale.

Persons prohibited from purchasing.

89. 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.

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

90. (1) When an inferior tenant, on his produce being lawfully distrained under this chapter for the default of a superior tenant, makes any payment for the purpose of releasing such produce from distraint, 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 any other remedy to which such inferior tenant would be entitled.

Conflict between distraint by landlord and attachment by Court.

91. When any conflict arises between the distraint of a landlord under this chapter and an order issued by a Civil Court in execution of a decree for the attachment and sale of the property distrained by such landlord, the landlord's distraint shall prevail; but if the property is sold by a Collector in consequence of such landlord's distraint, the surplus proceeds of the sale shall not be paid under section 88 to the owner of the property without the sanction of the Court by which the order of attachment or sale in execution of a decree was issued.

Power of landlord to proceed against security.

92. Landlords are empowered to proceed under this Act against a tenant, or his security, or against both; provided that no more than the total sum of arrears and interest with costs and charges shall be realized from both, and provided also that no distraint shall be made upon the property of a surety until the arrear has been demanded from the defaulter, unless the defaulter has absconded.

93. No appeal shall lie from any order passed by a Collector under sections 73 to 80 and 86, but any tenant whose property is distrained by his landlord under section 63 in any case in which such distraint is not permitted by that section may institute a suit before a Civil Court against his landlord for the recovery of compensation.

Right to sue for compensation for wrongful distraint.

94. The Local Government may, from time to time, make rules consistent with this Act regulating the scale of charges which may be levied as costs of distraint, custody of property and sale, and of inquiries by Collectors under sections 75 to 78, and regulating the procedure in such inquiries and in all cases of distraint and sale of moveable property under this chapter.

Power of Local Government to make rules.

Attachment and Sale of Occupancy Right in Land.

95. An occupancy ryot shall not be liable to ejectment for arrears of rent, but his occupancy right in his holding or in part of his holding shall be liable to attachment and sale in execution of a decree for the rent thereof.

Liability of occupancy ryot to sale of occupancy right for arrears of rent.

96. When an arrear of rent due to a proprietor by an occupancy ryot may not be liquidated within the current revenue year, it shall be lawful for the proprietor to attach and sell the defaulter's occupancy right in his holding or in part of his holding, in the manner hereinafter provided, in satisfaction of the arrear and of interest thereon at the prescribed rate and of costs, if any, of the attachment.

When occupancy right may be attached.

97. When the proprietor to whom an arrear is due intends to avail himself of the powers given by the last preceding section, he shall give the defaulter a written notice of his intention to sell, and such notice shall state the amount due for arrears, interest and costs, if any, and shall inform him that, if the amount is not liquidated within one month from the date of service upon him, his occupancy right in his holding or in any part thereof specified in the said notice, shall be sold.

Notice of attachment.

The notice shall be served as prescribed in section 65 and a duplicate of the notice shall be sent to the Collector with an endorsement stating the date of service and the mode in which it was effected.

98. If no suit is instituted before the Collector within thirty days from the date of service to set aside the notice, or if such suit is decided against the defaulter, the proprietor shall be authorized to take measures for the sale, which shall be conducted under the rules for the sale of moveable property distrained for arrears of rent. The officer conducting the sale may place the purchaser in possession.

When and how occupancy right may be sold.

99. Rent shall be a first charge upon the occupancy right in the holding, and the proprietor's claim to sell shall not be defeated by any other encumbrance.

Rent a first charge on occupancy right.

100. When the occupancy right in a holding or in part of a holding is sold for arrears due in respect thereof, the purchaser shall take subject to any right or interest which the ryot has created therein with the proprietor's written permission, and subject also to any encumbrances created before the passing of this Act, but to no others.

Liabilities of purchaser as to encumbrances.

101. The proceeds of a sale of the occupancy right in a holding or in part of a holding for arrears of rent shall be disbursed in like manner as the proceeds of a sale of distrained property are to be disbursed under section 88, and the defaulter shall receive from the officer who has conducted the sale a receipt for arrears of rent discharged from the proceeds of sale. The rules prescribed by section 295 of the Code of Civil Procedure shall not apply to a sale in execution of a decree for arrears of rent.

Rules for disposal of sale-proceeds.

102. (1) Sections 278 to 283 (both inclusive) of the Code of Civil Procedure shall not apply to a holding attached in execution of a decree for arrears due thereon.

When occupancy right may be released from attachment.

(2) After a sale of the occupancy right in a holding or in part of a holding has been authorized, it shall not be released from attachment unless, before it is knocked down to the auction-purchaser, the amount of arrears, interest and costs

due to the proprietor is paid, or the proprietor makes an application for the release of the holding on the ground that the debt has been otherwise satisfied.

(3) The defaulting ryot or any person having in the occupancy right in the holding or in part of the holding which is to be sold for arrears any interest voidable on the sale may, where the sale is authorized in execution of a decree, pay money under this section to the officer conducting the sale or into Court, and may, where the sale is authorized under section 98, pay money to the officer conducting the sale or to the Collector or such other officer of the Department of Land Revenue as the Local Government may order.

103. (1) When any person having in the occupancy right in a holding or in part of a holding advertised for sale an interest which would be voidable upon the sale, pays to the officer conducting the sale or into Court or to the Collector or other officer aforesaid, as the case may be, the amount requisite to prevent the sale—

Amount paid to prevent sale to be in certain cases a mortgage-debt on the holding.

(*a*) the amount so deposited by him shall be deemed to be a debt bearing interest at twelve per centum per annum and secured by a mortgage of the occupancy right in the holding to him;

(*b*) such mortgage shall take priority of every other charge on the occupancy right in the holding other than a charge for arrear of rent; and

(*c*) the depositor shall be entitled to possession of the 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.

(3) When more than one person having interest as described in sub-section (1) desires to make payment as therein provided, preference shall be given to the person having priority of interest.

104. When the occupancy right in a holding or in part of a holding is advertised for sale in execution of a decree against, or for arrears of rent due by, a superior tenant defaulting, and an inferior tenant, whose interest would be voidable upon the sale, pays money into Court or to the Collector or such other officer of the Department of Land Revenue aforesaid, as the case may be, 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 money to prevent sale may deduct from rent.

105. (1) A proprietor who has brought to sale a ryot's occupancy right in his holding or in part of his holding for arrears of rent may, notwithstanding anything contained in section 294 of the Code of Civil Procedure, bid for or purchase the occupancy right in the holding or in part thereof without the permission of the Court or the Collector, as the case may be.

Proprietor may bid at sale: defaulting ryot may not.

(2) The defaulting ryot shall not bid for or purchase the occupancy right in the holding or in part thereof so sold.

(3) When a defaulting ryot purchases by himself or through another person the occupancy right in a holding or in part of a holding so sold, the Court or Collector, as the case may be, may, if it or he thinks fit, on the application of the proprietor or of any person interested in the land, by order set aside the sale; and the cost 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 defaulting ryot.

106. (1) When the occupancy right in a holding or in part of a holding is sold for an arrear of rent due thereon, then, at anytime within thirty days from the date of sale, the defaulting ryot may apply to have the sale set aside on his depositing in Court or with the Collector or such other officer of the Department of Land Revenue aforesaid, as the case may be, for payment to the proprietor, the arrears with interest and costs, and, for payment to the purchaser, a sum equal to five per centum of the purchase money.

Application by defaulting ryot to set aside sale.

(2) If such deposit is made within the thirty days, the Court or the Collector 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.

Provided that if a defaulting ryot applies under section 311 of the Code of Civil Procedure to set aside the sale of his occupancy right in his holding or in part of his holding, he shall not be entitled to make an application under this section.

(3) Section 313 of the Code of Civil Procedure shall not apply to any sale under this chapter.

CHAPTER VIII.

MISCELLANEOUS PROVISIONS AS TO LANDLORDS AND TENANTS.

Repair of Irrigation Works.

107. Any ryot or ryots holding irrigated land under a proprietor may apply to the District Collector stating that the irrigation work whereby the land held by the applicant or applicants is served is out of repair and praying for the issue of an order under section 108 for the repair of the said work. The application shall state in sufficient detail the nature of the repairs deemed necessary and the probable cost of the same, and the extent and rental of the land irrigated by the work. The District Collector shall then by himself or by a Collector subordinate to him, to whom he may depute the inquiry, cause to be served on the proprietor a copy of the application and a notice to show cause, on a date to be stated in the notice, why the order prayed for should not issue. The notice shall also be placarded in the village or villages wherein the land irrigated is situated.

Application to District Collector for repair of irrigation works.

108. On the day fixed in the notice, or on any other date to which the inquiry may be adjourned, the District Collector or Collector shall hear the applicant or applicants, the proprietor and any ryots of land irrigated by the work who may attend, and may take any evidence that he may think fit. If the inquiry is made by a Collector other than the District Collector, he shall make a report thereon to the District Collector. If satisfied that the irrigation work is in disrepair and that the proprietor is by the custom of the country or otherwise bound to provide for its maintenance, the District Collector shall pass an order authorizing the execution, by the applicant or applicants or by them and any ryots willing to join with them, of any of the works stated in the application or shown at the inquiry to be necessary to restore the irrigation work to efficiency and stating the estimated cost of the same. The order shall also fix a reasonable time within which the works should be executed.

Inquiry and order on application.

Provided that such works shall be works of repair only and shall not include additions or improvements unless with the consent of the proprietor; nor shall they include any works, such as the clearance of supply and distribution channels, which by the custom of the country should be carried out by the ryots.

109. When the works have been carried out, the parties authorised to execute them may apply to the District Collector for an order for the recovery of the cost of the same. The District Collector shall then take such steps as he may deem necessary to satisfy himself that the works have been executed properly and within the time fixed, and that the cost claimed is not excessive. He shall, if so satisfied, pass an order for the recovery, from the ryots holding land under the irrigation work, of such amount as he may find to be reasonably due on account of the works executed and not exceeding in the total one year's rental of the lands irrigated by the irrigation work. The order shall set out the amount payable by each ryot in proportion to the rental of the land held by him and such amount shall be recoverable as arrears of land revenue.

Recovery of cost of repair from ryots.

110. The amount recovered, less the cost, if any, of inspection of the works executed, shall be paid to the parties authorized under section 108. The cost of estimates and of inspection may be included in the amount to be stated in the order passed under section 108.

Payment to persons executing repairs.

111. Every ryot from whom any sum may be recovered under section 109 shall be entitled to deduct such sum from any rent payable by him to the proprietor: and a receipt for the sum recovered shall be valid as a receipt for rent due by such ryot.

Amount recovered for cost of repairs may be deducted from rent.

112. No Civil Court shall entertain a suit or issue an injunction regarding a District Collector's proceedings under sections 107 to 111, but from any order issued by a District Collector under the said sections, an appeal shall lie to the Board of Revenue, whose decision shall be final.

Right of Appeal.

Illegal Cesses.

113. (1) Landlords shall not levy any unauthorized tax or cess on their tenants under any name or pretence. Every tenant from whom anything is exacted in excess of his rent or other authorized charge specified in his puttah or lease shall be entitled to recover by suit before the Collector, in addition to the amount of the exaction, such sum by way of penalty as the Collector thinks fit, not exceeding ten times the amount exacted.

Penalty for illegal exactions.

(2) All stipulations and reservations for the payment of any such tax or cess shall be void.

Explanation.—The levy of any tax on trees or other tax not included in the assets on which the peshcush of a permanently-settled estate has been fixed, is illegal.

Improvements.

114. (1) For the purposes of this Act the term "improvement" used with reference to a ryot's holding shall mean any work which adds to, or is designed to add 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.

What constitutes an 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 supply, storage or distribution of water for the purposes of agriculture or for the use of men and cattle employed in agriculture;

(*b*) the levelling and ridging of land to fit it 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 of waste land which is culturable;

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

(*e*) the repair, renewal or reconstruction of any of the foregoing works, or alterations therein or additions thereto;

(*f*) the erection of a suitable dwelling-house or houses for the ryot and the members of his family residing with him, together with all necessary out-offices; and

(*g*) the plantation of trees and useful plants.

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

115. (1) Where a ryot has occupancy right in his holding, neither the ryot nor the proprietor 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 occupancy holdings.

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

116. If a question arises between the ryot and the proprietor—

(*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, if he be the District Collector, shall be final. If he be not the District Collector, an appeal shall lie to the District Collector, whose decision shall be final.

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

117. (1) A non-occupancy ryot 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 or houses for himself and for the members of his family residing with him, with all necessary out-offices, and to grow trees and useful plants; but shall not, except as aforesaid and as next hereinafter provided, be entitled to make any other improvement in respect of his holding without the proprietor's permission.

Right to make improvement in case of non-occupancy holdings.

(2) A non-occupancy ryot who would, but for the want of the proprietor'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 the proprietor a request in writing calling upon him to make the improvement within a reasonable time; and if the proprietor is unable or neglects to comply with that request, may make the improvement himself.

118. (1) A proprietor may, by application to the Collector, register any improvement which he has lawfully made, or which has been lawfully made at his expense or which he has assisted a ryot in making.

Registration of proprietor's 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 Collector 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.

119. (1) If any proprietor or ryot desires that evidence relating to any improvement made in respect of the ryot's holding be recorded, he may apply to the Collector, who shall thereupon, at a time and place of which notice shall be given to the parties, record or cause to be recorded 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 improvements.

(2) When any evidence has been recorded under this section, the record thereof shall be admissible in evidence in every subsequent proceeding between the proprietor and ryot or any persons claiming under them.

120. (1) Every ryot who is ejected from his holding or from part thereof otherwise than by sale under chapter VII of this Act, shall be entitled to compensation for improvements which have been made in respect thereof in accordance with this Act by him, or by his predecessors in interest, and for which compensation has not already been paid.

Right to compensation for improvements.

(2) Whenever a Court or Collector makes a decree or order for the ejectment of a ryot otherwise than by sale under chapter VII of this Act, the Court or Collector shall determine the amount of compensation (if any) due under this section to the ryot for improvements, and shall make the decree or order of ejectment conditional on the payment of that amount to the ryot. All arrears of rent due by the ryot at the date of the execution of the decree or order shall be set off against the amount of compensation for improvements ordered to be paid.

(3) No compensation under this section for an improvement shall be claimable where the ryot 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 ryot between the (here enter date of first publication of the Bill) 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 or Collector to associate with itself or himself, 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 and remunerating them.

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

How compensation to be estimated.

(*a*) to the amount by which the value or the letting 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 expended on the making of the improvement;

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

(*e*) in the case of trees and plants, to the probable market value of the same.

(2) When the amount of the compensation has been assessed, the Court or Collector may, if the proprietor and ryot 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.

122. (1) A Principal Civil Court of original jurisdiction 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 or for the opening and working of mines or factories, and on being satisfied 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.

Acquisition of land for building and other purposes.

(2) In determining the amount of compensation, the Court shall be guided, so far as may be practicable, by the rules contained in sections 23 and 24 of the Land Acquisition Act I of 1894, and shall add fifteen per centum to the full value of land and improvements as compensation for the compulsory acquisition.

Surrender and Abandonment.

123. (1) A tenant, not bound by a lease or other agreement to hold for a fixed period, may, at the end of any revenue year, surrender his holding or, with the consent of the landlord, any part thereof.

Surrender.

(2) A tenant who surrenders his holding or part of his holding shall be liable to indemnify the landlord against any loss of the rent of the holding for the revenue 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 tenant has surrendered his entire holding, if the tenant takes a new holding in the same village from the same landlord during the same revenue year or during the revenue year next following the surrender, it shall be presumed, for the purposes of sub-section (2), that such notice was so given.

(4) The tenant may, if he thinks fit, cause the notice to be served through the Collector.

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

(6) Nothing in this section shall affect any arrangement by which a tenant and his landlord may arrange for surrender of the whole or a part of the holding.

124. (1) If a tenant voluntarily abandons his residence in the village without notice to his landlord, and without arrangement 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 revenue year in which the tenant 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 tenant shall be entitled to institute a suit in the Civil Court for recovery of possession of the land at any time not later than the expiration of one year, or in the case of a non-occupancy tenant, six months from the date of the publication of the notice and thereupon the Court may, on being satisfied that the tenant 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 shall seem just.

(4) If an occupancy tenant who has abandoned his holding does not sue for recovery of possession within the period above prescribed, his occupancy right shall be extinguished.

Obligation of landlord to sub-lessee in respect of surrendered or abandoned holding wholly or partly sub-let.

125. Where the whole or part of a holding has been sub-let by a registered instrument, the landlord shall, before entering on the holding under either of the last two preceding sections, offer the whole holding to the sub-lessee for the remainder of the term of the sub-lease at the rent paid by the tenant who has ceased to cultivate the holding, and on condition of the sub-lessee paying up all arrears due from that tenant. 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 hereinbefore provided.

Sub-division of Tenancy and Transfers.

Division of tenancy binding on landlord.

126. It shall not be competent to a landlord to refuse to consent to the division of a holding and to the proportionate distribution of the rent payable in respect thereof, and to enter into separate engagements with the several holders of the parts thereof so divided:

Provided that no landlord shall be compelled to consent to the division, or further division, as the case may be, of a revenue field, or to the distribution of the rent due on the field or on the part thereof included in the holding, as the case may be.

Notice of transfer by tenant.

127. When a tenant transfers his interest in the whole or part of his holding, the tenant and the transferee shall give notice of such transfer in writing to the landlord, and, unless and until such notice is given, they shall be jointly and severally liable to the landlord for arrears of rent accruing due after the transfer, and all proceedings taken under this Act against the tenant shall be as effectual and binding upon the transferee as if they had been taken against the transferee himself.

Notice of transfer by proprietor.

128. When any proprietor transfers the whole or a portion of his estate, the proprietor and the transferee shall give notice of the transfer, by publication in the District Gazette and in such other manner as the Local Government by rule directs, to the ryots in the occupation of the land transferred, and, unless and until such notice is given, no ryot shall be liable to the transferee for rent which became due after the transfer and was paid to the proprietor before notice of such transfer was given to him, and all proceedings taken by any of the ryots to whom no such notice was given against the proprietor shall be as effectual and binding on the transferee as if they had been taken in the first instance against the transferee himself.

Ejectment.

No ejectment except under Court's decree or Collector's order.

129. No tenant shall be ejected from his holding except in execution of a decree of a Civil Court or order of a Collector passed in accordance with this Act.

Ejectment of non-occupancy tenant under Collector's warrant.

130. When any non-occupancy ryot or under-tenant shall be in arrear at the end of a revenue year and when there is no sufficient distress upon the premises to satisfy the arrear, the landlord or his authorized agent may apply to the Collector for a warrant authorizing him to enter upon and take possession of the premises. Such warrant shall be granted upon the production of a written statement of the person applying for the warrant, which statement shall contain the name of the defaulter, the

description and extent of the premises, the amount due for arrears, interest and costs of distraint, if any, and the date at which it fell due, and also a declaration that there is no sufficient distress upon the premises. Such statement shall be filed in the office from which the warrant issues.

Contents of warrant.

131. The warrant shall state the defaulter's name, the whole amount due and the description and extent of the premises, and shall set forth that, unless payment is made within fifteen days, the defaulter will be turned out of possession. The Collector may, for special reasons, extend the period of fifteen days mentioned in this section.

Execution of warrant.

132. The warrant shall be entrusted to an officer of police, who shall serve it in the manner laid down in section 65 of this Act. If within fifteen days after service, or within the period extended by the Collector under the last foregoing section, the amount named in the warrant is not discharged, and if no suit has been filed by the defaulter before the Collector to set aside the warrant, or if such suit has been decided against the defaulter, the police officer shall place the landlord or his authorized agent in possession.

Determination of tenancy.

133. Upon delivery of possession, the tenancy existing between the defaulter and the landlord shall cease and determine unless a suit shall be filed within one month in a Civil Court to reverse the delivery of possession and shall be prosecuted to a successful termination.

CHAPTER IX.

SURVEY, RECORD OF RIGHTS AND SETTLEMENT OF RENTS.

Power to order survey and record of rights.

134. (1) The Local Government may make an order directing that a survey be made and a record of rights be prepared in respect of a local area or estate by such officer or officers as it shall see fit to empower in this behalf.

(2) An order may be made under this section in any case in which the Local Government thinks fit to make such an order, including the following cases (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 and

(*c*) where the local area is comprised in or constitutes an estate managed by the Government or by the Court of Wards.

(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.

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

(*a*) the name of the landlord;

(*b*) the name of the tenant;

(*c*) the class to which he belongs, that is to say, whether he is an occupancy ryot, a non-occupancy ryot, or an under-tenant;

(*d*) the situation, extent and boundaries of the land held by the tenant;

(*e*) the rent payable at the time the record is being prepared;

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

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

Power to record particulars on application of proprietor.

136. On the application of a proprietor and on his depositing or giving security for the required amount for expenses, the District Collector may, subject to and in accordance with rules made in this behalf by the Local Government, make an order directing an officer or officers to ascertain and record the particulars specified in the last foregoing section with respect to the estate or any part thereof.

Provided that when an estate or part of an estate has been leased, assigned or mortgaged with possession and a question arises between the owner and such lessee, assignee or mortgagee as to the right to make the application, the lessee, assignee

or mortgagee shall be held to be the person entitled to make the application.

Publication of preliminary record, and entertainment of objections thereto.

137. (1) When the officer preparing the record of rights has, after making such inquiry as he sees fit, completed a preliminary record for the local area, estate or part of an estate included in the order, he shall cause a draft thereof to be locally published in the prescribed manner, under rules to be framed in this behalf by the Local Government, for a period of six months, and shall receive and hear any objection which may be made to any entry therein during the said period.

(2) No objection shall be entertained by the officer to any entry in the record unless it is made within the said period: and every entry to which objection has not been so made shall be final and conclusive as to the fact or facts which it records.

Procedure in disposing of objections to preliminary record.

138. In hearing objections to entries in the record, the officer shall, subject to any rules made from time to time in this behalf by the Local Government, adopt the procedure laid down in this Act for the trial of suits by Collectors, and his decision in every such proceeding shall have the force of a decree.

Provided that when, on an objection to an entry in the record a *bonâ fide* dispute arises as to the title to be recorded as landlord, or as to the right to be recorded as tenant, or as to a claim to have land recorded as rent-free, the officer shall, and, in any other case in which he deems fit, may, stay proceedings and refer the objector to the Civil Court. If the objector does not, within thirty days of such order of reference, file a suit in the Civil Court to set aside the entry objected to, the officer shall proceed to hear and dispose of the objection as if no such dispute had arisen.

Publication of final record.

139. When all objections to the preliminary record have been disposed of, the officer shall frame the final record and shall cause it to be published in the prescribed manner under rules to be framed in this behalf by the Local Government, and the publication shall be conclusive evidence that the record has been duly made under this chapter. The entries so published shall be final and conclusive as to the facts which they record.

Provided that when it appears to the officer that undue delay will be caused by deferring publication of the final record until all suits and appeals on objections to the preliminary record have been decided, the officer may first publish a final record of the cases in which no such suits and appeals have been filed and may thereafter publish, from time to time, supplementary final records of the cases in which such suits and appeals have been filed.

Settlement of rent.

140. (1) When, in any proceeding under this chapter, either the landlord or the tenant applies for a settlement of rent or when it appears that a tenant is holding land in excess of or less than that for which he is paying rent, or when rent is admittedly payable but a dispute arises as to the amount or rate of rent payable, the officer shall settle a fair and equitable rent in respect of the land held by the tenant.

(2) 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 Collectors in enhancing, reducing or altering rents, or in deciding disputes regarding rates of rent, as the case may be.

Appeals from decisions of officers preparing records of rights.

141. (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 officers under this chapter.

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

(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 this chapter as if he were a Court subordinate to the High Court within the meaning of the first section of that chapter.

Time from which settlement of rent is to take effect.

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

Stay of proceedings during preparation of record.

143. When an order has been made under section 134—

(1) no Collector shall, until the publication of the final record, entertain a suit or application for the alteration of the rent, and no Civil Court shall, until the publication of the final record, entertain a suit or application for the determination of the status, of any tenant in the area or estate to which the order applies; and

(2) the High Court may, if it thinks fit, transfer to the officer preparing the record any proceedings pending before a Collector or 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 135.

Expenses of proceedings under chapter.

144. When an order is made under this chapter, the expenses incurred by the Government in carrying out the provisions of this chapter in any local area or estate, 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 or estate 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.

CHAPTER X.

RECORD OF PROPRIETOR'S PRIVATE LANDS.

Saving as to proprietor's private lands.

145. Nothing in chapter III shall confer a right of occupancy in, and nothing in chapter IV shall apply to a proprietor's private lands known as kambattam, khas, seri, pannai and the like.

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

146. The Local Government may, from time to time, make an order directing such officer or officers as it shall see fit to empower in this behalf 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 to record private land on application of proprietor or tenant.

147. 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, the District Collector may, subject to and in accordance with rules made in this behalf by the Local Government, direct an officer to ascertain and record whether the land is or is not a proprietor's private land.

Procedure for recording private land.

148. When an officer proceeds under either of the two last foregoing sections, the provisions of sections 137 to 139, both inclusive, and section 141, shall apply.

Rules for determination of proprietor's private land.

149. (1) The officer preparing the record shall record as a proprietor's private land—

(*a*) land which is proved to have been cultivated as kambattam, khas, seri or pannai by the proprietor himself with his own stock or by his own servants or by hired labour for three continuous years immediately before the date of the order directing the preparation of the record; and

(*b*) cultivated land which is recognised by village usage as proprietor's kambattam, khas, seri or pannai; and

(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 1st day of May 1871, specifically let as his private land, and to any other evidence that may be produced; but shall presume that the 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 certain 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 officers preparing records of proprietors' private lands.

CHAPTER XI.

JUDICIAL PROCEDURE.

Power to invest Revenue or Judicial officer with powers of Collector.

150. The Local Government may invest any Revenue or Judicial officer with all or any of the powers of a Collector, to be exclusively exercised within any local area, in respect of all or any classes of original suits or proceedings instituted under this Act, and may withdraw such powers, and the decisions passed by such Revenue or Judicial officer shall be appealable as if they were

the decisions of the Collector who would have taken cognizance of the suits or proceedings if the Revenue or Judicial officer had not been so invested.

Jurisdiction in proceedings under Act.

151. (1) The cause of action in all suits triable by Civil Courts 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 holding in connection with which the suit is brought.

(2) When a suit is triable by a Collector, the cause of action shall be deemed to have arisen in the revenue division of the district where the land is situated.

Landlord's agents.

152. Every agent 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, be deemed to be the recognised agent of the landlord.

Special register of suits.

153. Every Collector shall keep a register, in the following form, of the suits heard and decided by him:—

Number of suit.	Date of plaint	Abstract of plaint.	Abstract of defence.	Date and abstract of judgment.

Procedure in suits before Collectors.

154. The following rules shall apply to suits before Collectors under this Act:—

(*a*) The District Collector may transfer any suit on the file of any Revenue Officer in charge of a division of the district to his own file or from the file of one such officer to that of another or to the file of an Assistant or Deputy Collector not in charge of a division, for disposal.

(*b*) The trial of suits by Collectors under this Act shall be regulated by rules, consistent with this Act, made by the Local Government and by the following provisions:—

(i) A date shall be fixed for the hearing of the suit, and the same shall be notified to the parties, who shall be entitled to be heard in person or by agent.

(ii) The parties shall be entitled to produce witnesses and to demand that any person whose evidence they require shall be summoned as a witness, and the officer trying the suit shall comply with such demand unless, for reasons to be recorded, he considers it unnecessary to do so.

(iii) The officer trying the suit shall record with his own hand, in English, a memorandum containing the material portions of the evidence and he shall record, either in the same way or by dictation to a short-hand writer, whose transcript he shall correct where necessary and sign, his decision and the reasons therefor.

(iv) Except where it is otherwise prescribed in this Act, an appeal from the decision of a Collector trying a suit under this Act shall lie to the District Judge, and a second appeal on any point of law shall lie to the High Court. No judgment of a Collector under this Act shall be set aside for want of form or for irregularity in the procedure, but upon the merits only.

(v) In every decree or order passed in any suit under this Act, the Collector shall have full power to give and apportion costs of the suit or application in any manner he thinks fit, and he shall direct by whom the costs of each party are to be paid and whether in whole or in what part or proportion.

(vi) Subject to the provisions of this Act, the Code of Civil Procedure shall apply to all suits tried by Collectors under this Act.

Payment of money admitted to be due to third person.

155. (1) In any suit for rent or in any proceeding under this Act to recover rent, if a tenant admits that money is due from him on account of rent, but pleads that it is due not to the plaintiff or applicant but to a third person, the Court or Collector, as the case may be, shall, except for special reasons to be recorded in writing, refuse to take cognizance of the plea unless the tenant pays into the Court or office of the Collector the amount so admitted to be due.

(2) Where such a payment is made, the Court or Collector 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).

Payment of money admitted to be due to landlord.

156. In any suit for rent or in any proceeding under this Act to recover rent, if a tenant admits that money is due from him to the plaintiff or applicant on account of rent, but pleads that the amount claimed is in excess of the amount due, the Court or Collector, as the case may be, shall, except for special reasons to be recorded in writing, refuse to take cognizance of the plea unless the tenant pays into the Court or office the amount so admitted to be due.

Provision as to payment of portion of money.

157. When a tenant is liable to pay money into the Court or office of the Collector under either of the last two foregoing sections, if the Court or Collector thinks that there are sufficient reasons for so doing, the Court or Collector may take cognizance of the tenant's plea on his paying such reasonable portion of the money as the Court or Collector directs.

Court or Collector to grant receipt.

158. When a tenant pays money under either of the said sections, the Court or Collector shall give the tenant 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, the applicant or the third person, as the case may be.

Date from which decree for enhancement or ejectment shall take effect.

159. Except where otherwise expressly provided by this Act, a decree for enhancement of rent or for ejectment under this Act, if passed in the first eight months of any revenue year, shall take effect on the commencement of the revenue year next following; and if passed in the last four months of the revenue year, shall take effect on the commencement of the revenue year next but one following; but nothing in this section shall prevent the Collector or Court, as the case may be, from fixing, for special reasons, a later date from which any such decree shall take effect.

Relief against forfeitures.

160. (1) A suit for the ejectment of a tenant on the ground—

(*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 manner prescribed for service of notice under section 64 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 the 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 the 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.

Power of Court to fix fair rent as alternative to ejectment of trespasser.

161. When a plaintiff institutes a suit for the ejectment of a trespasser, he may, if he thinks fit, claim an 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.

CHAPTER XII.

CONTRACT AND CUSTOM.

Restrictions on exclusion of Act by agreement.

162. (1) Nothing in any contract between a landlord and a tenant made before or after the passing of this Act—

(*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 ryot, as provided in this Act, to make improvements and claim compensation for them.

(2) Nothing in any contract made between a landlord and a tenant since the 1st day of May 1871 and before the passing of this Act shall prevent a ryot 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 ryot from acquiring in accordance with this Act an occupancy right in land;

(*b*) take away or limit the right of an occupancy ryot to use land as provided by section 9;

(*c*) take away the right of a tenant to surrender his holding or part of his holding in accordance with section 123;

(*d*) take away the right of a tenant to transfer or to bequeath his holding or part of his holding in accordance with any law or custom to which he is subject;

(*e*) take away the right of a ryot to apply for a reduction of rent under section 25 or section 28;

(*f*) take away the right of a proprietor or of a ryot to apply for a commutation of rent under section 27;

(*g*) affect the provisions of section 42 relating to interest payable on arrears of rent.

Homesteads.

163. When a tenant holds his dwelling-house, with cattle-sheds and other appurtenances necessary or convenient for the purpose of agriculture, otherwise than as part of his holding as a tenant, the incidents of his tenancy of the same shall be regulated by local custom or usage and, subject to local custom or usage, by the provisions of this Act.

Saving of custom.

164. 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.

CHAPTER XIII.

LIMITATION.

Limitation in suits, &c., in schedule II.

165. (1) The suits, appeals and applications specified in schedule II 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 or 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 to 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 Indian Limitation Act not applicable to such suits, &c.

166. (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.

(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.

CHAPTER XIV.

SUPPLEMENTAL.

Penalties.

Penalties for illegal interference with produce.

167. (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 produce 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 liable to imprisonment of either description for a term which may extend to three months or to fine which may extend to five hundred rupees, or to both.

(2) Any person who, within the meaning of the Indian Penal Code, abets the doing of any act mentioned in sub-section (1) shall be deemed to have abetted an offence within the meaning of that Code.

(3) Persons entering the apartments of women or forcing open the outer doors of dwelling houses contrary to the provisions of this Act shall be deemed to have committed house trespass within the meaning of the Indian Penal Code.

Agents of Landlords.

Power of landlord to act through agent.

168. (1) Any appearance, application or act before, or to any Court, Collector or officer, required or authorized by this Act to be made or done by a landlord, may, unless the Court, Collector or officer otherwise directs, be made or done also by an agent empowered in this behalf by a written authority under the hand of the landlord.

(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.

169. 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 these persons acting together, or by an agent authorized to act on behalf of both or all of them.

Leases Binding on Successors in Interest.

Leases for special purposes.

170. Notwithstanding any law or custom to the contrary every *bonâ fide* grant or lease of land on favourable terms by a landlord for the purpose of erecting dwelling houses, factories or other permanent buildings or for the purposes of mining, quarrying or bringing waste lands into cultivation or for making any permanent improvements thereon, shall be binding on his successors in interest: provided that the terms of such grant or lease have been substantially acted up to.

Saving of rent enhanced during Publication of Act.

Invalidation of enhancement during publication of Act.

171. No enhancement of rent made or agreed to between the 22nd March 1898 and the date of commencement of this Act shall be valid or binding on any tenant.

Publication of Rules under Act.

Rules to be made after previous publication.

172. Wherever power is expressed to be given to the Local Government to make rules under this Act, such power is given subject to the condition of the rules being made after previous publication.

Delegation of Powers.

Delegation of powers to Board of Revenue.

173. The Local Government may delegate to the Board of Revenue all or any of its powers under this Act save and except the powers specified in the next following section and in sections 1, 3 (2), 134, 141, 146 and 150.

Investiture of officer with powers of District Collector.

174. The Local Government may from time to time appoint an officer to exercise, in addition to the District Collector, all or any of the powers of the District Collector under this Act.

SCHEDULE I.

FORM OF RECEIPT.

Patta No., *of Fasli* situated in the taluk of in the district of

Receipt granted to tenant of the village of for the amount of rent paid by him for lands in his holding.

Date of payment, Month and Year.	Name of Payer.	Fasli for which paid.	Items.	Amount paid.		Signature of the landlord or his agent or village officer acknowledging receipt thereof.
				In ready-money.	In kind.	

SCHEDULE II.

LIMITATION.

Part I.—Suits.

Description of suit.	Period of limitation.	Time from which period begins to run.
Suit to eject under section 11	One year	Date of misuse or breach.
Suit to eject under section 34 (*a*) or (*b*)	Do.	Date of arrear, misuse or breach.
Suit for penalty under section 44	Three months ..	Date of payment.
Suit to obtain patta under section 58	Thirty days ..	Expiration of three months from demand.
Suit to enforce patta under section 59	Do.	Expiration of one month from tender.
Suit for damages under section 86	Six months	Date of Collector's order.
Suit to recover penalty under section 113	Thirty days	Date of exaction.

Part II.—Appeals.

Description of appeal.	Period of limitation.	Time from which period begins to run.
Appeal to District Collector under section 31 ..	Thirty days ..	Date of decree or order of Collector.
Do. to Board of Revenue do. 112 ..	Do. ..	Date of order appealed against.
Appeal to Special or District Judge under section 141 or 148.	Do. ..	Date of decree appealed against.
Second appeal to High Court under section 141 or 148	Ninety days ..	Do. do.
Appeal to District Judge under section 154 (*b*) (4) ..	Thirty days ..	Date of Collector's decree.
Second appeal to High Court under section 154 (*b*) (4)	Ninety days ..	Date of District Judge's decree.

Part III.—Applications.

Description of application.	Period of limitation.	Time from which period begins to run.
Application by depositor under section 49 (3) ..	Thirty days ..	Expiration of three years from date of deposit.
Do. under section 75	Do. ..	Date of theft, loss, damage or destruction.
Do. do. 77	Do. ..	Date on which conveyance was known to applicant.
Do. do. 78	Do. ..	Date of removal.
Do. to set aside sale under sections 105 and 106	Do. ..	Date of sale.
Do. to recover cost under section 109 ..	One year	Date of completion of work.
Do. for warrant under section 130	Do.	Expiration of revenue year in which the arrear fell due.

STATEMENT OF OBJECTS AND REASONS.

The law in force in this Presidency on the subject of landlord and tenant is Madras Act VIII of 1865. The imperfections of this Act, which, with the exception of one section (section 11) laying down certain rules for the decision of suits involving disputes regarding rates of rent, is a purely processual Act relating to the recovery of rent, have long been recognised. Its most serious defect is that it nowhere defines and declares the substantive rights of ryots in zemindari tracts. In respect of the most important of these rights, the right of occupancy, the received opinion has always been that, by the custom of the country, it exists as an inherent right in every permanent ryot of a village, so that every permanent ryot, from the mere fact of his personal status as such, becomes entitled to hold as an occupancy ryot all land for the time being held by him as a ryot in his village. This right has, generally speaking, been consistently respected by proprietors of estates in the southern districts of the Presidency; but in the northern districts it has been steadily encroached upon until, in many estates, the ryots have been reduced practically to the position of mere tenants-at-will. It is one of the main objects of this Bill, while securing the occupancy right to every ryot already possessing it as a customary right or otherwise, to restore the right, as a matter of personal heritable status, to every permanent ryot of a village and to facilitate the acquisition of that status by every other ryot.

2. Another serious defect in the existing law is that it contains no definite rules regulating the enhancement of rent; and where, as in many estates in the northern districts, the ryot has proved too unequally matched with the proprietor to refuse to agree to even undue raising of his rent, it has not sufficed to prevent arbitrary enhancement and rack-renting. It is one of the

main objects of this Bill, by permitting enhancement only on certain clearly-defined grounds, and then only by suit before the Collector, to secure the occupancy ryot in a fair and equitable rent.

3. Of other substantive rights of ryots for which it is a main object of this Bill to provide, the principal are the right of free transfer of occupancy rights, the right to a puttah or written agreement as a prerequisite to the recovery of rent, and the right to make and be compensated for improvements.

4. In respect of the rights of proprietors, it is a serious defect of the existing law that by omitting to secure the rent as a first charge on the land and by requiring the absolute accuracy of a puttah in every particular, however unimportant, as a condition precedent to the recovery of rent, it often fails, as in many estates in the southern districts, to protect the proprietor in the realisation of even his just dues. It is one of the main objects of this Bill, by making rent a first charge on the land indefeasible by any other encumbrance, and by declaring the sufficiency of a substantially correct puttah, to secure the proprietor in the recovery of his just dues.

5. Of other substantive rights of proprietors for which it is a main object of this Bill to provide, the principal are the right of entry and measurement, the right of distraint and sale for arrears, the right of ejectment, the right to acquire tenants' holdings for building and other purposes, and the right of absolute disposal of pannai or private lands.

6. Chapter I provides for the commencement and local extent of the Act, and for definitions.

7. The Act is to come into force on the first day of a revenue year. That is the period to which very many of its important provisions particularly relate, and the object is to avoid difficulties of the kind which were experienced when Madras Act VIII of 1865 was brought into force in the middle of a revenue year.

8. The Act is to extend to the whole Presidency except Malabar and the South-East Wynaad, where the peculiar land system demands entirely separate treatment. South Canara, though a ryotwari and not a zemindari district, is thus included. The existing Act, VIII of 1865, is in force there, and this Bill is intended to regulate not only the relations between proprietors and their ryots in proprietary estates, but also the relations, as landlord and tenant, between ryots, whether proprietary-estate or Government ryots, and their under-tenants.

9. As all landlords will not be proprietors and all tenants will not be ryots, though all proprietors will be landlords and all ryots will be tenants, the four terms "proprietor," "ryot," "landlord" and "tenant" are defined. The terms "estate" and "village" are defined in connection with the term "proprietor", which is limited, so as to avoid the absurdity of petty inamdars of perhaps an acre or two being ranked as "proprietors," to proprietors of estates comprising at least one whole village. The term, subject to the same limit, is defined so as to include persons for the time being in the shoes of the proprietor—lessees, mortgagees with possession, managers of estates of disqualified owners and the like—between whom and the tenants of the estate it is necessary, for the proper carrying on of the business of the estate, that the provisions of the Act should be made applicable.

10. In defining "rent," care has been taken to admit of the necessary distinction being made, in the actual working of the Act, between the rent proper of the land and what is legally or usually recoverable as, or along with, rent,—namely, water-tax, cesses, customary fees and the like.

11. Chapter II, recognising that in proprietary estates there are, in fact, ryots without occupancy right as well as ryots with occupancy right, enumerates and defines the three classes of tenants which there will be under the Act, namely, occupancy ryots, non-occupancy ryots and under-tenants, the latter including tenants holding under Government ryots, who are "landlords other than proprietors."

12. Chapter III deals with occupancy ryots. By section 5, it permits occupancy right in land to be created at any time by written agreement between proprietor and ryot: by section 6, it secures occupancy right to every ryot already possessing it as a customary right or otherwise: and by section 7, it presumes of every ryot, until the contrary is shown, that he possesses occupancy right in all his holding. It thus remedies that part of the ruling in the leading case known as Chockalingam's case (VI M.H.C.R., 164), which threw upon the ryot the burden of setting up and proving his possession of occupancy right as a customary right and follows the recent ruling on the subject in Indian Law Reports, Madras Series, Vol. XX, page 299.

13. Section 8 provides for the acquisition of occupancy right by attainment of the personal status of a permanent ryot of the village and, for this purpose, treats every ryot as a permanent ryot of the village who has by himself, or by a person whose heir he is, held land as a ryot in the village continuously for twelve years, whether under lease or otherwise, and whether the land held has been the same throughout or has been different at different times. It further presumes of every ryot, until the contrary is shown, that he has continuously held land in his village as a ryot for twelve years. This section has, however, to be read with section 145 which excludes the proprietor's private lands from the operation of this statutory acquisition of occupancy right, and with the definition of "ryot" in section 3 which restricts its operation to land held for agricultural purposes, including horticulture and grazing: so that occupancy right can be acquired by reason of the ryot's personal status as a permanent ryot only in land held for agricultural purposes and other than proprietor's private land. The period of twelve years, which has been taken as sufficient to entitle a ryot to be looked upon as a permanent ryot of his village, is the period prescribed in the corresponding section of the Bengal Tenancy Act.

14. Under the incidents of occupancy right, provision is made for the ryot's right to use the land in any manner which does not impair its value (section 9), for his payment of a fair and equitable rent (section 10), for his right of free transfer (section 12) and for his protection from eviction except in execution of the decree of a Civil Court passed on the ground of misuse of the land or breach of conditions of his contract with the proprietor (section 11)—which are usual incidents of tenant right.

15. Experience having proved it unsafe to permit enhancement of rent by contract, where the ryot is so unequally matched with the proprietor as in many estates, particularly in the northern districts, enhancement of the occupancy ryot's rent is permitted only by suit before the Collector on certain specified grounds (sections 16 and 17) and only in the case of money-rent. Where rent is paid in kind, the proprietor already participates, by the very nature of things, in the effects of any increase in the productive power of the land or in the price of its produce; and the proprietor is enabled, by section 27, to have his produce-rents converted into money-rents, if he seeks enhancement under the provisions of this Bill. There is nothing in the Bill to prevent rent being reduced by contract; and section 25 enables the occupancy ryot, when he pays a money-rent, to sue before the Collector for its reduction on certain specified grounds.

16. Disputes as to the correctness of a ryot's rent with reference to the *extent* of his holding being of very common occurrence, sections 28 to 30 of the Bill enable either proprietor or ryot to obtain a rectification of the rent with reference to the area of the holding, by order of the Collector on application duly made for that purpose, section 29 giving the proprietor the right of entry and measurement at any time.

17. Chapter IV deals with non-occupancy ryots. By section 34, read with section 129, the non-occupancy ryot, as long as he pays his rent, is protected against eviction except by decree of a Civil Court passed on certain grounds under which special protection is given to a non-occupancy ryot who by having held continuously for at least seven years, may be taken to have proved himself a good tenant. He is liable (section 32) to pay the rent agreed upon at the time of his admission to his holding, and he may be asked to agree to an enhancement of rent and may be sued in ejectment before the Collector for refusal, and he may be forthwith ejected if he refuses to agree even to a fair and equitable enhancement determined by the Collector in such suit. If he agrees to the enhanced rent so determined, he becomes entitled to hold at that rent for such further period, not exceeding five years, as may be required to make up a total continuous holding of twelve years,—the object of these provisions being, while enabling the proprietor to obtain an equitable enhancement of rent, to facilitate the acquisition of the personal status of a permanent ryot of the village by every non-occupancy ryot who by seven years' continuous holding has proved himself a good tenant. Except by such agreement or by registered agreement, the non-occupancy ryot's rent is, by section 33, protected against enhancement. Section 37 makes it clear that the non-occupancy ryot possesses no transferable rights in his holding as the occupancy ryot does.

18. Chapter V deals with under-tenants, protecting them, as in section 49 of the Bengal Tenancy Act, against ejectment, as long as they pay their rent, except on expiration of a written lease, or when holding otherwise than under a written lease, at the end of the revenue year next following that in which a notice to quit has been served upon them.

19. Chapter VI contains general provisions as to rent. For the decision of disputes regarding rates of rent, the presumption has to be made that the tenant holds at the same rent as in the preceding year (section 40); and contracts to pay rent have, by section 39, to be enforced as long as they are not inconsistent with the other provisions of the Bill. Enhancement by contract of the rent of an occupancy ryot being, for instance, prohibited, any contract for enhanced rent of such a ryot would be inconsistent with the provisions of the Bill: and in any dispute where enhanced rent is claimed, the Collector will simply have to see whether such enhancement has been decreed in a separate suit for the purpose and, if not, to maintain the existing rent as in the preceding year.

20. The rate of interest on arrears of rent has, by section 42, been increased from 12 to 12½ per cent. per annum which works out to 2 pies per rupee, and fractions of a month and of a rupee are permitted to be disregarded—the object being to facilitate calculation.

21. The provisions of the Bengal Tenancy Act for safeguarding the tenant by proper receipts in a prescribed form and by permitting him to deposit his rent in cases of dispute or doubt, have been substantially adopted in sections 43 to 49 of the Bill, every facility being afforded to the tenant by permitting payment of rent by postal order or to the village headman unless the proprietor has appointed an authorised agent in the village or within three miles of it, and by permitting deposit in a convenient Revenue office.

22. Chapter VI embodies everything connected with the recovery of rent. The existing system of puttahs and muchilikas is maintained; and in the case of the occupancy ryot, the tender of proper puttah is, in accordance with the Full Bench ruling in VII, Madras, H.C.R., 312, made a pre-requisite to the recovery of rent either by ordinary suit in a Civil Court or by the special procedure of distraint and sale of movable property, or attachment and sale of occupancy right in the defaulter's holding, by proceedings before the Collector. But in order to prevent the defeating of the proprietor, in the recovery of his just dues, by reason of some perhaps unimportant defect in the stipulations of the puttah, section 53 holds a substantially correct puttah to be a proper puttah, valid to the extent to which it is correct, as long as it contains no stipulations

in restraint of cultivation or of harvesting or for termination of the tenancy at any specified time which are stipulations of a kind consistently held by the Madras High Court to be invalid. And for the further advantage of the proprietor, section 54 permits him to tender puttahs by filing them in a convenient Revenue office, and thus obviates the common plea of the tenant, in proceedings for the recovery of his rent, that no puttah has been tendered.

23. The provisions of the Bill (sections 63 to 94) for the distraint and sale of moveable property are substantially those of the existing law.

24. Though an occupancy ryot is not liable to ejectment for arrears of rent, his occupancy right in his holding is, by section 95, made liable to attachment and sale in execution of a decree for arrears, and by section 96, to attachment and sale by proceedings before the Collector, as under the existing law, when the ryot is in arrear at the end of a revenue year. And for the further security of the proprietor in the recovery of his just dues, rent is, by section 99, made a first charge on occupancy right, indefeasible by any other encumbrance. The rules regarding the attachment and sale of the occupancy ryot's interest in his holding (sections 97 to 106) combine those of the existing law and of the Bengal Tenancy Act so as to provide for attachment and sale either in execution of a Court's decree for arrears or in pursuance of the special procedure before the Collector.

25. Chapter VIII contains miscellaneous provisions as to landlords and tenants.

26. The upkeep of irrigation works being a matter of importance for the welfare of the country, provision is made, by sections 107 to 111, enabling the ryots holding irrigated land under works neglected by the proprietor to enforce repairs thereof by order of the District Collector on application made to him in that behalf, and empowering them to deduct the cost of the same from any rent due by them to the proprietor.

27. By sections 114 to 121, all ryots, occupancy or non-occupancy, but not under-tenants, are secured in the right to make improvements and to be compensated for the same on ejectment. The occupancy ryot's right in this respect is practically unrestricted as long as he causes thereby no substantial diminution of the value of his landlord's property. The non-occupancy ryot, except with the proprietor's permission or on the proprietor's refusal to make the improvement himself, is not entitled to make and be compensated for any improvements except a well for the irrigation of his holding, a suitable dwelling for himself and his family, and the culture of trees and useful plants. The rules as to compensation are substantially the same as in the Bengal Tenancy Act.

28. By section 122, every landlord is secured in the right to acquire a tenant's holding or part thereof for any reasonable and sufficient purpose, including building purposes, religious, educational or charitable purposes, or for the opening and working of mines or factories; but in view of the importance of the matter, the jurisdiction to dispose of applications for such acquisition is limited to the Principal Civil Court.

29. The provisions relating to surrender and abandonment of holdings (sections 123 to 125) are substantially the same as those of the Bengal Tenancy Act, except that they are made applicable to all tenants and not limited to ryots as in that Act.

30. In connection with the sub-division and transfer of tenancies, section 126 makes it incompetent to a landlord to refuse to consent to the division of a holding and to the proportionate distribution of the rent payable in respect thereof, except in the case of such minute division as that of a revenue field. This is in accord with the idea which has always obtained in this Presidency, and which it is desired to foster, that the ryot possesses rights in his holding which he can deal with as property.

31. While providing, by section 129, that no tenant shall be ejected from his holding except in execution of a decree of a Civil Court or order of a Collector passed in accordance with its provisions, the Bill, by sections 130 to 133, empowers summary ejectment, under the Collector's warrant, of non-occupancy ryots or under-tenants who are in arrear at the end of a revenue year and on whose premises there is no sufficient distress to satisfy the arrear. It is only fair to the landlord that, in the case of such hopeless tenants, he should be saved the tedious and expensive process of ejectment by regular suit.

32. Chapter IX provides for the making of a survey, record-of-rights and settlement of rents in estates, either by the order of the Local Government where circumstances—such as the likelihood of averting serious disputes between the tenants and their landlords generally—call for such a step, or on the application of the proprietor himself. The procedure under the Bill is substantially the same as that of the Bengal Tenancy Act in this matter, with such modifications as experience of the working of that Act has shown to be advisable.

33. The officer preparing the record-of-rights is, by section 137, required to publish it in draft for six months (and not for only one month as in Bengal) so as to give parties ample time to file objections; but ample time being given, all entries to which no objections are filed are made final and conclusive as to the facts which they record. In hearing objections to entries the officer is, by section 138, bound to refer the objector to the Civil Court in all cases of *bonâ fide* dispute involving questions of title, status or the right to hold land rent-free, which are difficult questions calling for determination by regular Courts of law. In other cases, the officer's decisions are, by section 141, made appealable to a Special Judge. When all objections to the preliminary record have been disposed of, section 139 requires the officer to frame and publish the final record-of-rights, and the entries so published are declared to be final and conclusive as to the facts which they record. The object of these provisions is to secure the framing of a record-of-rights which shall be really a complete and conclusive record of the rights of landlord and tenant existing at the time, which shall not be liable to be re-opened in the Civil Courts after final publication, and which will therefore give everybody concerned a definite unmistakeable starting point for the future.

34. Where, in cases of general rack-renting and discontent likely to give rise to disturbances, the Local Government finds it necessary to order survey and record-of-rights in a particular estate, it is of importance that the means should be at hand of effecting a fair and equitable settlement of rents as part of the operation. Provision to this end is therefore made in section 140 of the Bill.

35. Chapter X provides for the record of proprietors' private lands. By section 145, such lands are exempted from the operation of chapter III for the acquisition of occupancy right, and from the operation of chapter IV as to non-occupancy ryots; and by section 149, the pannai lands of the proprietor, are to be recorded as his private lands. In this way, the proprietor is secured in the right of absolute disposal of his private lands.

36. Chapter XI deals with judicial procedure in suits and proceedings under the Act. While leaving suits before Civil Courts—which will only be suits of an important nature, such as suits in ejectment—to be tried under the provisions of the Civil Procedure Code, a simplified procedure in the trial of suits before Collectors—which will be of a simpler and more summary nature—is prescribed by section 154. And to prevent hardship in the case of standing crops and the like, it is enacted by section 159 that, except where otherwise expressly provided by the Bill (as in the case of non-occupancy ryots ejected under section 36 for refusal to agree to an equitable enhancement of rent), a decree for ejectment, if passed in the first eight months of a revenue year, is not to take effect until the commencement of the revenue year next following, and if passed in the last four months of a revenue year, is not to take effect until the commencement of the revenue year next but one following.

37. Chapter XII deals with contract and custom. Experience having proved the zemindari ryot, in a large area of the Presidency, to be too unequally matched with the zemindar to protect himself against stipulations to the obvious prejudice of his rights, every tenant is, by section 162, prevented from contracting himself out of his statutory rights in respect of occupancy, ejectment, improvement, user of land, surrender, commutation and reduction of rent. Section 164 saves custom and usage not inconsistent with, or not modified or abolished by the provisions of, this Bill; and by section 163, the tenancy of homesteads held otherwise than as part of a tenant's agricultural holding is, in the first instance, regulated by local custom or usage.

38. Chapter XIII reproduces the provisions of the Bengal Tenancy Act as to limitation.

39. Chapter XIV, completing the Bill, deals with supplemental matters. The most important of these is that, to prevent tenants from being induced to agree to improper raising of their rents for the purpose of forestalling the provisions of the Bill against enhancement, section 171 provides that no enhancement of rent made or agreed to between the date of publication of the Bill and the date of commencement of the Act shall be valid or binding on any tenant.

40. The foregoing statement shows that, in its main provisions, the Bill is based upon the Bengal Tenancy Act VIII of 1885 modified, to suit local conditions, chiefly by embodying in the Bill those provisions of the existing law, Madras Act VIII of 1865, which it is considered desirable to retain. The Bengal Act has been taken as a model, because it was the product of very full discussion and deliberation, was applied to a state of facts in the main the same as that obtaining in this Presidency, and has been proved by experience to be practical and beneficial in its working.

H. TREMENHEERE,
Acting Secretary to Government

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

Revenue Secretariat,

20th June 1899.

Dear Treasurer,

If "1899" shall be printed in Act I of the Stamp Bill which commences of last / time of first publication, will you kindly see that the necessary alteration is made in the enacted

Copy of Bill returned to
you yesterday, before it
was to pass.

Jonathan S.

Corrected Copy

THE MADRAS TENANCY BILL, 189 .

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SCHEDULE I.—FORM OF RECEIPT.

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Abbreviations.

B.T.A.=Bengal Tenancy Act, VIII of 1885.

M.R.A.=Madras Rent Recovery Act, VIII of 1865.

[The section-numbers in square brackets denote the sections in the previous Bill.]

A

BILL

TO

Amend the Law relating to Landlord and Tenant in the Presidency of Madras.

WHEREAS it is expedient to amend and declare the law regulating the relations between landlords and their tenants in the Presidency of Madras; It is enacted as follows:—

Preamble.

CHAPTER I.

PRELIMINARY.

B.T.A. 1. [1] **1.** This Act may be called the Madras Tenancy Act, 189 : it shall come into force on the first day of July 189 :

Short title.

Commencement.

[3] and it shall extend to the whole of the Presidency of Madras outside the limits of the Presidency Town, except the district of Malabar and the portion of the Nilgiri district known as the South-East Wynaad. But the Local Government may by notification declare that, from a date to be specified in such notification, all or any of the provisions of this Act shall be extended to all or any of such excepted areas or any portion thereof.

Local extent.

B.T.A. 2. [2] **2.** Madras Acts VIII of 1865 and II of 1871 and section 7 of Madras Act III of 1890 are hereby repealed.

Repeal.

B.T.A. 3 and 5. [4] **3.** In this Act, unless there is something repugnant in the subject or context :—

Definitions.

(1) "Estate" means

(*a*) any permanently-settled estate, whether a zemíndárí, jághír, mittah or pálaiyam ;

(*b*) any portion of such permanently-settled estate which has been separately registered in the office of the Collector ;

(*c*) any unsettled pálaiyam or jághír ;

(*d*) any inam or shrotriem village or group of villages of which the grant was made or confirmed, or has been recognised, by the British Government;

(*e*) any portion, consisting of one or more villages, of any of the estates specified above in clauses (*a*), (*b*) and (*c*) which is held on a permanent under-tenure.

(2) "Village" means any local area situated in, or constituting, an estate, which is designated as a village in the Revenue accounts and for which the Revenue accounts are separately maintained by one or more curnams, or which is now recognised by the Local Government as a village or may hereafter be declared by the Local Government, for the purposes of this Act, to be a village.

(3) "Proprietor" means a person owning an estate and, in respect of an estate specified in clause (*e*) of sub-section (1) of this section, the holder thereof; and includes also assignees, lessees, mortgagees with possession and purchasers of the interest of, and farmers of rents from, any such person, provided such interest or farm extends to at least a whole village. It also includes managers of estates of disqualified owners, and public officers in possession of estates as stake-holders or holding land in attachment for arrears of revenue or under the orders of a Civil Court.

Explanation.—Where there is a dispute as to ownership of an estate, or as to who, among joint-owners of an estate, is entitled to proceed as proprietor under this Act, the proprietor shall, for the purposes of this Act, be the person in whose name the estate is for the time being registered in the office of the Collector of the district wherein the estate is situated; and where an estate is so registered in the names of two or more persons as joint-owners thereof, the proprietor shall, for the purposes of this Act, be the person who is recognised by the other joint-owners as the managing owner of the estate or who, in case of dispute, is recognised and registered by the Collector as senior joint-owner.

(4) "Ryot" means a person who has acquired a right to hold land as a tenant immediately under a proprietor, for the purpose of agriculture, horticulture or grazing; and includes also the successor

in interest of a person who has 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 agriculture, horticulture or grazing.

Provided that no tenant shall be deemed to be a 'ryot' by reason only of his having the right to bring under cultivation the land appurtenant to his dwelling-house or attached thereto for use therewith as a garden or pleasure-ground or for the pasturage of animals kept for private use.

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

(6) "Landlord" means a person immediately under whom a tenant holds.

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

In chapters VI and VII, sections ~~110~~, ~~112~~, ~~125~~ to ~~127~~ both inclusive, and schedule I of this Act, 'rent' includes also (*a*) money payable on account of the use and enjoyment of trees held independently of land: (*b*) money payable on account of the use and enjoyment of water supplied for cultivation of land, where the charge for such water has not been consolidated with the rent for the land: (*c*) any cesses, fees or charges payable along with the rent of land or trees according to law or usage having the force of law: and (*d*) money recoverable in respect of land, trees or water, under any other enactment for the time being in force as if it was rent.

Explanation.—The payments to be made by a farmer of rents to a proprietor are not 'rent.'

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

(9) "Signed" includes stamped, when the name of the person signing is affixed by a stamp.

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

(11) "Revenue year" means the year ending on the 30th June.

CHAPTER II.

Classes of Tenants.

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

(*a*) Occupancy ryots, that is to say, ryots having a right of occupancy in the land held by them as ryots:

(*b*) Non-occupancy ryots, that is to say, ryots not having such a right of occupancy:

(*c*) Under-tenants, that is to say, tenants holding whether immediately or mediately under ryots, or under landlords other than proprietors.

CHAPTER III.

Occupancy Ryots.

General.

5. Occupancy right in land may be created at any time by written agreement between proprietor and ryot. [5] Occupancy right by agreement.

6. Every ryot, who immediately before the commencement of this Act has, by the operation of any enactment, by custom, contract or otherwise, a right of occupancy in land in any village shall, when this Act comes into force, be deemed to have that right of occupancy under this Act. [7] B.T.A. 19. Continuance of existing occupancy rights.

7. Every ryot shall be presumed to have occupancy right in all land held by him as a ryot, until the contrary is admitted or proved. [6] Presumption of existence of occupancy right.

8. (1) Every person who, for a period of twelve years, whether wholly or partly before or wholly or partly after the commencement of this Act, has continuously held as a ryot land situate in any village, whether under lease or otherwise, shall be deemed, on the expiration of that period, to have a right of occupancy in all land for the time being held by him as a ryot in that village. [8] B.T.A. 20 and 21. Occupancy right how acquired.

~~Provided that, when the expiration of that period falls during currency of a lease for a term, the ryot shall not be deemed to have acquired occupancy right in the land so leased.~~

B.T.A. 4.

(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.

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

(4) Land held by two or more persons jointly as ryots shall be deemed, for the purposes of this section, to have been held as a ryot by each such person.

(5) If, in any proceeding under this Act, it is proved or admitted that a person holds any land as a ryot, it shall, as between him and the proprietor under whom he holds the land, be presumed for the purposes of this section, until the contrary is admitted or proved, that he has for twelve years continuously held land in the same village as a ryot.

Incidents of Occupancy Right.

B.T.A. 23. [10] **9.** An occupancy ryot may use the land in his holding in any manner which does not materially impair the value of the land or render it unfit for the purposes of the tenancy; but he shall not be entitled to cut down trees in contravention of any local custom. Rights in respect of use of land.

B.T A. 24. **10.** An occupancy ryot shall pay rent for his holding at fair and equitable rates. Obligation to pay fair rent.

B.T.A. 25. [11] **11.** An occupancy ryot shall not be ejected from his holding, except in execution of a decree for ejectment passed on the ground— Protection from ejectment 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 the proprietor, liable to be ejected.

[9] **12.** All rights of occupancy shall be transferable by sale, gift or otherwise. Occupancy right transferable.

B.T.A. 22. [12] **13.** (1) When the entire interests of proprietor and occupancy ryot in a holding become united in the same person by transfer, succession Effect of acquisition of occupancy right by proprietor.

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, 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.

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 by subsequently holding the land in ijárá or farm.

[13]

14. If a ryot 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 immovable property.

Devolution of occupancy right on death.

Enhancement of Rent.

[30]

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

Presumption as to fair rent.

[31]

16. The rent of an occupancy ryot shall not be enhanced except as provided by this Act.

Restriction on enhancement.

[33]

17. Where an occupancy ryot holds at a money-rent not fixed in perpetuity, the proprietor may, subject to the provisions of this Act, institute a suit before the Collector to enhance the rent on one or more of the following grounds, namely :—

Enhancement of rent by suit.

(*a*) that there has been a rise in the average local prices of staple food-crops in the taluk or zemíndárí division since the existing rent was fixed:

(*b*) that the productive powers of the land held by the ryot have been increased by an improvement effected by, or at the expense of, the proprietor since the existing rent was fixed:

(*c*) that the productive powers of the land held by the ryot have been increased, since the existing rent was fixed, by any work of irrigation or other improvement

B.T.A. 26.

B.T.A. 27.

B.T.A. 28.

B.T.A. 30.

B.T.A. 32.

executed at the expense of Government, and the proprietor has been required to pay an additional revenue or rate to Government in consequence thereof :

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

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

Provided that no enhancement of rent on the ground stated in clause (*a*) of this section shall be claimable in any estate within the districts of Salem, Madura or Tinnevelly.

[34]

18. Where an enhancement is claimed under section 17, clause (*a*)—

Rules as to enhancement on ground of rise in prices.

(*a*) the Collector 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 ;

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

(*d*) the average prices by which the Collector shall be guided shall be those published under the authority of the Local Government, unless and until they are proved to be incorrect ;

(*e*) the decennial periods taken for the comparison of average prices shall be periods of ten years excluding all years which the Local Government may notify to be, or to have been, famine years in respect of any local area ;

(*f*) the Local Government shall make rules for determining what are to be termed staple food-crops in any local area, and for the guidance of officers preparing price lists under this section.

B.T.A. 33.

[35]

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

19. (1) Where an enhancement is claimed under section 17, clause (*b*)—

(*a*) the Collector shall not grant an enhancement unless the improvement has been completed and registered in accordance with this Act:

(*b*) in determining the amount of enhancement the Collector 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 preparation and cultivation required for utilising 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 ryot or his successor in interest, be subject to reconsideration in the event of the improvement not producing or ceasing to produce the estimated effect.

[36]

Rules as to enhancement on ground of improvement by Government.

20. Where an enhancement is claimed under section 17, clause (*c*), the Collector shall have regard to—

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

(ii) the cost of the preparation and cultivation required for utilising the improvement; and

(iii) the additional payment which the landlord is required to make to Government on account of the improvement.

Provided that the enhancement imposed on the ryot shall not exceed the sum which the proprietor has to pay to Government on account of the improvement made by it.

B.T.A. 34.

[37]

Rules as to enhancement on account of fluvial action.

21. Where an enhancement is claimed under section 17, clause (*d*)—

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

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

B.T.A. 35.

Enhancement to be fair and equitable.

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

B.T.A 36.

[38]

Power to order progressive enhancement.

23. If the Collector passing a decree for enhancement considers that the immediate enforcement of the decree in its full extent will be attended with hardship to the tenant, he may 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 decreed has been reached.

B.T.A. 37.

[39]

Limitation of right to bring successive enhancement suits.

24. (1) A suit instituted for the enhancement of the rent of a holding 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, or, if within the said period of fifteen years, the rent has been commuted under section 27, or a decree has been passed under this Act enhancing the rent on the ground aforesaid 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.

Reduction of Rent.

B.T.A. 38.

[40]

Reduction of rent by suit.

25. (1) An occupancy ryot holding at a money-rent not fixed in perpetuity may institute a suit before the Collector for the reduction of his rent on the following grounds but not otherwise, namely:—

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

(*b*) on the ground, in the case of irrigated land, that the irrigation work on which it is dependent has completely failed; or

(*c*) on the ground that there has been a fall, not due to a temporary cause, in the average local prices of staple food crops in the taluk or zemíndárí division since the existing rent was fixed; or

(*d*) on the ground that the rent has been unduly raised after 1st May 1871 and before the commencement of this Act.

Provided that no reduction of rent on the ground stated in clause (*c*) of this sub-section shall be claimable in any estate within the districts of Salem, Madura or Tinnevelly.

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

[41]

Limitation of right to bring successive reduction suits.

26. (1) A suit instituted for the reduction of rent on the ground of a fall in prices shall not be entertained if, within fifteen years next preceding its institution, the rent has been reduced by contract, or a decree has been passed under this Act reducing the rent on the ground aforesaid or dismissing the suit on its merits.

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

Commutation of Rent.

[42]

Rules for commutation of rent payable in kind.

27. (1) Where an occupancy ryot 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 these ways and partly in another, either the ryot or the proprietor may apply to the Collector to have the rent commuted to a money-rent.

(2) If the application is opposed, the Collector shall consider whether, in 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 reason for the refusal.

(3) If the application is not opposed, or if it is opposed and the objection is disallowed, the Collector shall determine the sum to be paid as money-rent, and shall order that the ryot shall, in lieu of paying the rent in kind or otherwise as aforesaid, pay the sum so determined.

B.T.A. 40.

B.T.A. 52 (1).

B.T.A. 90 (1).

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

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

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

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

(5) The order determining the sum to be paid as money-rent shall be made in writing and shall state the grounds on which it is made and the time from which it is to take effect.

Alteration of Rent with Area.

Alteration of rent in respect of alteration in area.

28. Every occupancy ryot 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 holding of land which having previously belonged to the 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 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 holding by alluvion or otherwise, and that an addition has not been made to the rent in respect of the addition to such area.

Proprietor's right to measure land.

29. Every proprietor may, by himself or by any person authorized by him in this behalf, at any

time enter on and measure any land comprised in his estate, for the purposes of the last preceding section; but no alteration of rent under the said section shall be allowed except under the order of the Collector upon application made to him for that purpose by the proprietor or the occupancy ryot concerned.

B.T.A. 52 (3) to (4), and 91.

30. (1) Upon such application and upon notice to the opposite party, the Collector shall, after causing such measurements to be made as he thinks fit, and after hearing such evidence as the parties may adduce, determine the area for which rent has previously been paid and the amount, if any, to be added to or deducted from the rent.

Alteration of rent with area how determined.

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

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

(*b*) whether the ryot 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 proprietor;

(*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 application.

(3) In determining the amount to be added to the rent, the Collector shall have regard to the rates payable by occupancy ryots for lands of a similar description and with similar advantages in the vicinity, 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 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 holding.

31. No Civil Court shall entertain any suit or issue any injunction regarding a Collector's proceedings under this chapter, but from every decree or order passed by a Collector under this chapter, if the Collector is not the District Collector, an appeal shall lie to the District Collector, whose decision shall be final. If the Collector is the District Collector, his decree or order shall be final.

Right of appeal.

Provided that—

(*a*) If, before or during the hearing of a suit or application under this chapter or of an appeal against a decree or order passed under this chapter, or if, in the execution of any such decree, any question of law or usage having the force of law, or of the construction of a document which construction may affect the merits, arises, and the officer trying the suit or appeal or executing the decree entertains reasonable doubt on such question, he may, either of his own motion or on the application of any of the parties, draw up a statement of the facts of the case and the point on which doubt is entertained and refer such statement for the decision of the Board of Revenue and shall stay further proceedings until the said decision is communicated to him:

(*b*) The Board of Revenue shall, if any of the parties so request, hear him or his agent and shall decide the point referred and transmit a copy of its judgment to the officer by whom the reference was made, and the said officer shall, on receipt thereof, proceed to dispose of the case in conformity with the decision of the said Board, and the correctness of the decision of the said Board shall not be contested in any appeal made under this section.

CHAPTER IV.

Non-occupancy Ryots.

B.T.A. 42. [44]

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

Initial rent of non-occupancy ryot.

B.T.A. 43. [45]

33. The rent of a non-occupancy ryot shall not be enhanced except by registered agreement or by agreement under section 36.

Conditions of enhancement.

34. A non-occupancy ryot shall, subject to the provisions of this Act, be liable to ejectment from his holding on one or more of the following grounds, but not otherwise (namely):— [46]

Grounds on which non-occupancy ryot 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 his holding 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 the proprietor, liable to be ejected;

(*c*) when he has been admitted to occupation of the land under a registered lease, on the ground that his original lease has expired; or when he has not been in occupation of the land for seven years, on the ground that his last lease has expired;

(*d*) on the ground that he has refused to agree to an enhancement of rent;

(*e*) on the ground that he has refused to agree to pay a fair and equitable rent determined under section 36, or that the term for which he is entitled to hold at such a rent has expired.

35. A suit for ejectment on the ground of the expiration of the term of a lease shall not be instituted against a non-occupancy ryot unless notice to quit has been served on the ryot 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. [48]

Conditions of ejectment on ground of expiration of lease.

36. (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 ryot unless the proprietor has tendered to the ryot an agreement to pay the enhanced rent for a fresh term, and the ryot has, within three months before the institution of the suit, refused to execute the agreement. [47]

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

(2) A proprietor desiring to tender an agreement to a ryot under this section may file it in the office of the Collector or such other officer as the Local Government appoints in this behalf, for service on the ryot. The Collector or officer shall forthwith cause it to be served on the ryot in the manner prescribed for service of notice under section ~~64~~ and when it has

B.T.A. 44.

B.T.A. 45.

B.T.A. 46.

Non-occupancy ryot not transferable.

37. The right of a non-occupancy ryot in his holding shall be transferable by sale, gift or otherwise.

B.T.A 49.

(And succeeding sections to be renumbered up to section 150 V. V.)

been so served, it shall, for the purposes of this section, be deemed to have been tendered.

(3) If a ryot 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 revenue year next following.

(4) When an agreement has been executed and filed by a ryot under sub-section (3), the Collector 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 proprietor in the manner prescribed for service of notice under section ~~64~~.

(5) If the ryot 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 ryot refuses to execute an agreement tendered to him under this section, the proprietor may thereupon institute a suit before the Collector to eject him, and the Collector shall determine what rent is fair and equitable for the holding.

(7) If the ryot agrees to pay the rent so determined, he shall be entitled to remain in occupation of his holding at that rent for such further term from the date of the agreement as is requisite to make up a total continuous holding of twelve years, but on the expiration of that term he shall be liable to ejectment. Provided that such further term shall not exceed five years.

(8) If the ryot does not agree to pay the rent so determined, he shall be forthwith ejected.

CHAPTER V.

Under-Tenants.

~~37.~~ Subject to the provisions of sections ~~120~~ to ~~132~~, an under-tenant shall not be liable to be ejected by his landlord except— [119] [123]

Restriction on ejectment of under-tenants.

(*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 revenue year next following the year in which a notice to quit is served upon him by his landlord.

CHAPTER VI.

General Provisions as to Rent.

Rates of Rent.

~~38.~~ In the decision of suits between landlords and their tenants involving disputes regarding rates of rent, all contracts to pay rent, not inconsistent with the provisions of this Act, shall be enforced. [22 and 23 (1)] M.R.A. 11 (1).

Rule for deciding disputes as to rates of rent.

~~39.~~ If a question arises as to the amount of a tenant's rent or the conditions under which he holds in any revenue 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 revenue year. B.T.A. 51.

Presumption as to amount of rent and conditions of holding.

Arrears of Rent.

~~40.~~ (1) When rent shall remain unpaid at the time when, according to any agreement or, in the absence of agreement, according to the custom of the country, it ought to have been paid, the amount remaining unpaid shall be deemed an arrear of rent. [51] B.T.A. 54 (3). M.R.A. 14.

What deemed an arrear of rent.

(2) If in times of distress a landlord desires to postpone demand on his tenants he may do so from time to time by a general declaration to be published in each village in such manner as may be prescribed by rules to be framed from time to time by the Local Government in this behalf: and a declaration so published shall operate from time to time as an agreement as to the time of payment within the meaning of sub-section (1).

~~41.~~ An arrear of rent shall bear simple interest at the rate of twelve and one-half per centum per annum from the date on which the arrear fell due until the arrear is liquidated. [61] B.T.A. 67. M.R.A. 37.

Interest on arrears.

Explanation.—This interest may be calculated at two pies per rupee per mensem, fractions of a month and of a rupee being disregarded in the calculation.

Receipts.

~~42.~~ (1) Every tenant who makes a payment on account of rent to his landlord shall be entitled to obtain forthwith a written receipt for the amount paid by him signed by the landlord or by the landlord's authorised agent. [53] B.T.A. 56. M.R.A. 81.

Right of tenant to receipt for rent.

(2) The landlord or his agent 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 I of 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.

~~43.~~ If a landlord, without reasonable cause, refuses or neglects to deliver to a tenant a receipt containing the particulars prescribed by section ~~42~~ for any rent paid by the tenant, the tenant may, within three months from the date of payment, institute a suit before the Collector to recover from the landlord a penalty not exceeding double the amount or value of that rent as the Collector thinks fit. B.T.A. 58 (1). M.R.A. 81. [54]

Penalty for withholding receipt.

~~44.~~ The headman of each village shall be presumed to be the authorized agent of the landlord for the purpose of receiving rents and granting receipts under sections ~~42~~ and ~~43~~ unless the landlord has duly appointed for such purpose as his authorized agent some other person resident in the village or within three miles of it; provided that the tenants may pay their rents to the landlord by postal money-orders under rules which the Local Government may from time to time prescribe. B.T.A. 61. [55]

Persons to whom, and how, rents may be paid.

Deposit of Rent.

~~45.~~ (1) In any of the following cases, namely—

Application to deposit rent.

(*a*) when a tenant tenders money on account of money-rent which has become due 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 money-rent which has become due 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 money-rent which has become due is payable to two or more persons jointly, and the tenant is unable to obtain the joint receipt of the said persons 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 money-rent which has become due;

the tenant may present to the Collector or such other officer of the Department of Land Revenue as the Local Government may order, an application in writing for permission to deposit in the office of the said Collector or other officer the full amount of the money which he alleges to be then due.

(2) The application shall contain a statement of the grounds on which it is made; and 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 persons 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 name of the person to whom the rent was last paid and of the person or persons now claiming it.

(3) The application 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 may, from time to time, fix.

47/ [56]

Receipt for deposit in Revenue office to be a valid acquittance.

~~46.~~ (1) If it appears to the Collector, or other officer to whom an application is made under the last foregoing section, that the applicant is entitled under that section to deposit the rent, he shall receive the rent and shall give a receipt for it under his official seal.

(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 persons to whom the rent is due; and

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

[57]

Notification of receipt of deposit.

~~47.~~ (1) The Collector or other officer receiving the deposit shall forthwith cause to be affixed in a conspicuous place at his office a notification of the receipt thereof, containing a statement of all material particulars. 48/

(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 Collector or other officer shall forthwith—

in cases (*a*) and (*b*) of section ~~45~~, 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; 46/

in case (*c*) of that section, cause a notice of the receipt of the deposit to be served, free of charge, on the persons referred to in case (*c*) of sub-section (2) of the said section and to be posted 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, the Collector or other officer has reason to believe, claims or is entitled to the deposit.

[58]

Payment or refund of deposit.

~~48.~~ (1) The Collector or other officer may pay the amount of the deposit to any person appearing to him to be entitled to the same, or may, if he thinks fit, retain the amount pending the decision of a competent Court as to the person so entitled. 49/

(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 competent Court to the contrary, be repaid to the depositor upon his application and on his returning the receipt given by the Collector or other officer 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 Collector or other officer 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.

Produce Rents.

Order for appraising or dividing produce.

~~49.~~ (1) Where rent is taken by appraisement or division of 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,

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.

~~50.~~ (1) Where 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 these 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 any 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 or both fails or fail 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 after making such inquiry (if any) as he may think necessary, he 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 crops.

~~51.~~ (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.

(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.

CHAPTER VII.

Recovery of Rent.

Puttahs and Muchilikas.

[14 and 15] M.R.A. 2, 3 and 7.

~~53.~~ No proprietor shall have power to proceed against an occupancy ryot for the recovery of rent, under this Act or otherwise, unless and until he shall have exchanged a puttah and muchilika with such ryot or tendered him such a puttah as he was bound to accept.

Obligation of proprietor to tender puttah to occupancy ryot.

Provided that when proceedings are taken by a proprietor on a puttah which is not entirely but is substantially correct, such proceedings shall be valid to the extent that such puttah is correct.

Provided also that no proceedings with respect to a puttah which contains any stipulation in restraint of cultivation or of harvesting or for termination of the tenancy at any specified time shall be valid.

[14] M.R.A. 7.

~~53.~~ The tender of a puttah may be made directly to the ryot or by filing the same in the office of the Collector or such other officer of the Department of Land Revenue as the Local Government may order; and, if so filed, the Collector or such officer shall cause the puttah to be served on the ryot, at the cost of the proprietor, in the manner prescribed for the service of notice under section ~~61~~.

Puttah how to be tendered.

[15] M.R.A. 6.

~~54.~~ Puttahs and muchilikas shall be signed by the respective parties or by persons duly authorized in that behalf.

Puttahs and muchilikas to be signed.

[16] M.R.A. 4.

~~55.~~ The puttah shall contain the names of the parties; the local description and extent of the land; the rate or amount and nature of the rent, according as it may be payable in money, in kind or by a share of the produce, separately specifying any fees or charges payable with it according to law or usage having the force of law; the period or periods at which such rent, fees or charges are to be paid; the date of the instrument and all special terms by which it is intended that the parties shall be bound. The muchilika may, at the option of the proprietor, be a counterpart of the puttah or a simple engagement to hold according to its terms.

Contents of puttah and muchilika.

[17] M.R.A. 8 and 71.

~~56.~~ Puttahs and muchilikas may be exchanged for periods of one year or more, but the tender of puttah shall always take place within twelve months after the commencement of the period to which the puttah relates; provided that no proprietor shall be bound to tender, and no occupancy ryot to accept, a puttah for a period of more than one revenue year.

Period for which puttahs and muchilikas may be exchanged.

[18] M.R.A. 9.

~~57.~~ When any proprietor shall, for three months after demand, have refused to grant such a puttah as his tenant, being an occupancy ryot, was entitled to receive, it shall be lawful for the tenant to sue for such a puttah before the Collector. The Collector shall decide the terms of the puttah to be granted, and if it be not granted as directed within the time specified, the decree shall be of the same force and effect as if a puttah and muchilika had been exchanged.

Suit to obtain puttah.

[19] M.R.A. 10 and 72.

~~58.~~ When an occupancy ryot shall for one month have refused to accept the puttah tendered to him and to give a muchilika in exchange, the proprietor may sue before the Collector to enforce acceptance of such puttah.

Suit to enforce acceptance of puttah.

[20]

~~59.~~ In adjudicating suits under the preceding section, the Collector shall first inquire whether the party sued was bound to accept a puttah, and, unless this be proved, the suit shall be dismissed. Should the plaintiff establish the above point, the Collector shall inquire whether the puttah tendered is a proper one. If it is found to be so, the Collector shall order the defendant to accept the puttah and to execute a muchilika in accordance with it. If the Collector is of opinion that the puttah tendered is not a proper one, he shall decide what the terms of the puttah should be, and shall then order the defendant to accept such puttah and to execute a muchilika in accordance with it. In default of the tenant so doing, the decree shall be of the same force and effect as if a puttah and muchilika had been exchanged.

Procedure in adjudication of suit to enfore acceptance of puttah.

[21]

~~60.~~ Save as respects lands duly relinquished or newly taken up by the tenant, for which the parties may exchange a supplementary puttah and muchilika, the terms of puttahs

Duration of puttahs and muchilikas exchanged or decreed.

and muchilikas exchanged or decreed between proprietors and their occupancy ryots shall remain in force until the beginning of the revenue year for which fresh puttahs and muchilikas are exchanged or decreed.

Written Agreements.

62/ **61.** Landlords may proceed under this Act for the recovery of rent from their tenants other than occupancy ryots if they have taken written agreements from such tenants specifying the rent to be paid, but not otherwise. [50]

Obligation of landlord to take written agreement from non-occupancy tenant.

M.R.A. 13.

Distraint and Sale of Moveable Property.

63/ **62.** When an arrear of rent is due for any period not exceeding a year and no security has been accepted therefor, the landlord may, in addition to any other remedy to which he is entitled by law, distrain the moveable property of the defaulting tenant or the crops, or the ungathered produce of the land or trees held by him, while in his possession. [66]

Cases in which landlord may distrain.

B.T.A. 121.

58/ Provided that when a suit has been filed under section 57, the rent shall be taken to become due from the date of the Collector's decree, or if that is appealed against, from the date of the last decree of the Appellate Courts.

Provided also that no distraint shall be made under this section in respect of the crops or ungathered produce of any part of the holding which the tenant has sublet with the written consent of the landlord.

Provided also that ploughs and implements of husbandry, the cattle actually trained to the plough and seed-grain shall not be distrained for arrears so long as other property may be forthcoming equal to the discharge of such arrear.

64/ **63.** The distraint shall be effected on the personal responsibility of the landlord, by the landlord serving on the tenant a written notice signed by the landlord or by his authorized agent setting forth— [67]

Distraint how to be effected.

B.T.A. 122, 124 and 141.
M.R.A. 14 and 15.

(1) the amount of the arrear due, with interest, if any;

(2) the holding in respect of which it is due;

(3) the period in respect of which it is due;

(4) the nature and approximate value of the property distrained;

and by the landlord or his authorized agent taking charge of the property or placing some person in charge of it on the landlord's behalf.

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

B.T A. 125.
M.R.A 15 and 16.

[69 and 70]

64/ **64.** The notice of distraint prescribed by section 63/ shall be served by delivering a copy to the defaulter or to some adult male member of his family at his usual place of abode in the neighbourhood of the land to which the distraint refers, or to his authorized agent, or, when such service cannot be effected, by affixing a copy of the notice to the outer door or wall of his last-known residence within the district, or on some conspicuous part of the land to which it refers. 63/ 64/

Notice of distraint how to be served and published.

A copy of the notice of distraint shall be fixed up in some conspicuous place in the village in which the land is situate in respect of which the arrear has accrued, and another copy shall be forwarded to the Collector by the landlord within forty-eight hours of its service on the defaulting tenant.

M.R.A. 19.

[71]

65/ **65.** Persons authorized to distrain may apply to the nearest Police station for such assistance as may be necessary to prevent any breach of the peace, and the authority to whom such application is made shall depute one or more Police officers to be present at the time of such distraint for such purpose. 65/

Distrainer may procure Police assistance.

M.R.A. 24.

[73]

67/ **66.** The distraint shall not be excessive; that is to say, the value of the property distrained shall be as nearly as possible proportionate to the amount of the arrears due.

Distraint to be proportionate to arrear.

M.R.A. 25.

[86]

66/ **67.** Distraint shall be made after sunrise and before sunset and not otherwise.

Time of distraint.

M.R.A. 28.

[74]

69/ **68.** It shall be lawful for the distrainer to force open any stable, cow-house, granary, godown, out-house, or other building, and he may also enter any dwelling-house the outer door of which may be open, and may break open the door of any room in such

What places distrainer may force open.

dwelling-house for the purpose of attaching property belonging to a defaulter and lodged therein; provided always that it shall not be lawful for such distrainer to break open or enter any apartment in such dwelling-house appropriated for the zenana or residence of women, except as hereinafter provided.

M.R.A. 29.

[75]

~~69.~~ When a distrainer may have reason to suppose that the property of a defaulter is lodged within a dwelling-house, the outer door of which may be shut, or within any apartments appropriated to women, which, by the usage of the country, are considered private, such distrainer shall represent the same to the officer in charge of the nearest Police station. On such representation the officer in charge of the said station shall send a Police officer to the spot, in the presence of whom the distrainer may force open the outer door of such dwelling-house, in like manner as he may break open the door of any room within the house except the zenana. The distrainer may also, in the presence of the Police officer, after due notice given for the removal of women within the zenana, and after furnishing means for their removal in a suitable manner (if they be women of rank, who, according to the customs of the country, cannot appear in public), enter the zenana apartments for the purpose of distraining the defaulter's property, if any, deposited therein. If any such property be found, it shall immediately be removed from such apartments in order that they may be left free for the return of the former occupants.

Power to force open doors, and to enter zenana, in presence of a Police officer.

[72]

M.R.A. 23.

~~70.~~ The distrainer shall not work the bullocks or cattle or make use of the property distrained. He shall provide necessary food for cattle or live-stock, and the cost of doing so shall be a charge against the owner and shall be recoverable as a cost of the distraint.

Distrained cattle or goods not to be used.

[80]

B.T.A. 126.
M.R.A. 21.

~~71.~~ (1) A distraint under this chapter shall not prevent the defaulter or any person claiming through him from doing all acts necessary for the preservation and maturing of the crops or other produce distrained, or from reaping, gathering or storing the same.

(2) If such person fails to do so at the proper time, the distrainer shall do all acts necessary for the preservation or

Right to reap and preserve produce.

maturing of such standing crops or ungathered produce, and for their being reaped or gathered when ripe, and stored or preserved in such granaries or other places as are commonly used for the purpose, or in some other convenient place in the neighbourhood.

(3) In either case the distrained produce shall remain in the charge of the distrainer or of some person appointed by him in this behalf.

B.T.A 136 (1).
M.R.A. 22.

[63 and 93]

~~72.~~ (1) After a distraint has been made under this chapter and at any time until forty-eight hours before the date appointed for sale, the defaulter or the owner of the property, where he is not the defaulter, may deposit in the office of the Collector, or such other officer of the Department of Land Revenue as the Local Government may order, the amount of arrear with all costs incurred, or may pay this amount to the distrainer, or may furnish security to the satisfaction of the distrainer, whereupon the Collector, other officer or distrainer shall give a written acknowledgment of the deposit, payment or security, and shall forthwith direct the withdrawal of the distraint.

Withdrawal of distraint on deposit, payment, or furnishing of security.

(2) At any time before the sale of the distrained property, the defaulter or owner may deposit, in the hands of the officer appointed to conduct the sale, the amount of arrear with interest and all costs which may have been incurred, and the officer conducting the sale shall grant a receipt for the same and shall withdraw the distraint forthwith.

B.T.A. 136 (4).

[94]

~~73.~~ After the expiration of one month from the date of a deposit being made under the last preceding section, the Collector shall pay therefrom to the landlord who made the distraint the amount due to him, unless in the meantime the owner of the property distrained shall have instituted a suit against the landlord contesting the legality of the distraint and claiming compensation in respect of the same.

Payment of amount due to landlord.

M.R.A. 20.

[85]

~~74.~~ When property distrained may be stolen, lost, damaged or destroyed while in the keeping of the distrainer, by reason of his not having taken the necessary precautions for its due preservation, he shall be responsible to the owner for the loss or damage, and the

Liability of distrainer for loss of, or injury to, distrained property.

Collector shall, on the application of the owner, and on proof of such loss or damage, pass an order that the same shall be made good.

~~75.~~ Claims to crops distrained under section ~~62~~, whether founded upon a previous sale, mortgage, or otherwise, shall not bar the prior claim for rent due to the landlord by his defaulting tenant; but if, before the day fixed for the sale, a third party appears before the Collector and claims a right or interest in the crops under distraint, the Collector shall hold, or cause to be held, an immediate enquiry, and if he sees sufficient cause for doing so, may postpone the sale of such crops. The Collector shall adjudicate upon the claim and pass such order between the claimant and the distrainer as he shall deem fit. If the claimant fails to establish his right, an order shall be issued for proceeding with the sale. [87] M.R A. 32.

Claims by third parties.

~~76.~~ When a defaulter may make a fraudulent conveyance of property to prevent distress for arrears, the Collector shall, on application by the distrainer, and on proof of such conveyance, pass an order directing the property to be delivered up or its value paid to the distrainer. The defaulter will further be liable to the penalties prescribed by section 424 of the Penal Code. [88] M.R.A. 26.

Penalty for fraudulent conveyance of property to prevent distraint.

~~77.~~ When it may be proved to the satisfaction of the Collector that any person has forcibly or clandestinely taken away property once distrained, the Collector may, on the application of the distrainer, cause such property to be restored, or its value to be paid, to the distrainer. [89] M.R.A. 27.

Penalty for forcibly or clandestinely taking away distrained property.

~~78.~~ If the tenant does not within thirty days from the date of distraint file a suit before the Collector to set aside the distraint, or if such a suit is filed and is decided against the tenant, the distrainer shall, within fifteen days from the expiration of the thirty days, or from the decision of the suit, apply to the Collector for an order directing the public officer empowered by Act VII of 1839 to cause the sale of the distrained property. That officer, on receiving such order, shall fix up in some conspicuous place in the village a notice specifying the property to be sold and the time and place [76 and 77] B.T.A. 127. M.R.A. 18.

Notice of sale of distrained property.

which he has fixed on for its sale. He shall also cause proclamation of the intended sale to be made by beat of drum in the village to which the lands belong on which the arrear has accrued. In fixing the day of sale, not less than seven days must be allowed from the time of the public notice and not less than thirty days from the date of distraint.

~~79.~~ The sale shall ordinarily be held in the village where the property was distrained or is stored, unless the Collector is of opinion that the property is likely to sell to better advantage in some neighbouring village, when he may order the sale to take place in such village. In any case, the landlord shall be bound to produce the property at the time and place of sale, and the cost of the transport thereof shall be considered part of the cost of distraint; provided that crops or products which are in their nature speedily perishable shall be sold as early as possible by the distrainer under rules to be framed in this behalf by the Local Government. B.T.A. 128 [78]

Place of sale.

~~80.~~ (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. B.T.A. 129. [79]

When crops may be sold standing.

(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.

~~81.~~ 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 thereof, the distraint shall be immediately withdrawn with respect to the remainder. B.T.A. 130. M.R.A. 33. [81]

Manner of sale.

~~89.~~ 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 until the next day, or (if a market is held at the place of sale) until the next market B.T.A. 131. [82]

Postponement of sale.

day, the sale shall be postponed until that day and shall be then completed, whatever price may be offered for the property.

~~83.~~ 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. The defaulting purchaser shall be liable for any loss arising from, as well as for expenses incurred on, the re-sale. [83]

Payment of purchase-money.

B.T.A. 132.
M.R.A. 35.

~~84.~~ The officer appointed to sell property distrained shall bring to the notice of the Collector any material irregularity committed by the distrainer under colour of this Act, and he is authorised in such case to postpone the sale pending the Collector's order. [84]

Obligation to report irregularity in distraining.

M.R.A. 17.

~~85.~~ When it shall come to the knowledge of the Collector, either through the above officer or otherwise, that the distrainer did not serve on the tenant a written notice as required by section ~~63~~, or failed to publish the notice as required by section ~~64~~, or that the distress was excessive, the Collector may direct the restoration of the distrained property to the owner. If the Collector so directs the restoration, the distrainer shall not be allowed to proceed further under this Act for the recovery of the arrear of rent, and the tenant shall be at liberty to sue the distrainer before the Collector for any loss or damage which he may have sustained. [84]

Effect of irregularity in distraining.

M.R.A. 17.

~~86.~~ When the purchase-money has been paid in full, the officer holding the sale shall deliver the property to the purchaser and shall give him a certificate duly signed by himself, describing the property purchased by him and the price paid. [90]

Certificate to be given to purchaser.

B.T.A. 133.
M.R.A. 35.

~~87.~~ 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. The remaining proceeds 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 to the discharge of any arrear which may have accrued between the date of distress and the date of sale; and [91]

Proceeds of sale how to be applied.

B.T.A. 134.

the surplus (if any) shall be paid to the person whose property has been sold. The defaulter shall receive from the officer who has conducted the sale a receipt for arrears of rent discharged from the proceeds of sale.

~~88.~~ 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. [92]

Persons prohibited from purchasing.

B.T.A. 135.

~~89.~~ (1) When an inferior tenant, on his produce being lawfully distrained under this chapter for the default of a superior tenant, makes any payment for the purpose of releasing such produce from distraint, 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. [95]

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

B.T.A. 137.

(2) Nothing in this section shall affect any other remedy to which such inferior tenant would be entitled.

~~90.~~ When any conflict arises between the distraint of a landlord under this chapter and an order issued by a Civil Court in execution of a decree for the attachment and sale of the property distrained by such landlord, the landlord's distraint shall prevail; but if the property is sold by a Collector in consequence of such landlord's distraint, the surplus proceeds of the sale shall not be paid under section ~~87~~ to the owner of the property without the sanction of the Court by which the order of attachment or sale in execution of a decree was issued. [96]

Conflict between distraint by landlord and attachment by Court.

B.T.A. 139.

~~91.~~ Landlords are empowered to proceed under this Act against a tenant, or his security, or against both; provided that no more than the total sum of arrears and interest with costs and charges shall be realized from both, and provided also that no distraint shall be made upon the property of a surety until the arrear has been demanded from the defaulter, unless the defaulter has absconded.

Power of landlord to proceed against security.

M.R.A. 84.

B.T.A. 140.

Right to sue for compensation for wrongful distraint.

~~93.~~ No appeal shall lie from any order passed by a Collector under sections ~~72~~ to ~~79~~ and ~~85~~, but any tenant whose property is distrained by his landlord under section ~~62~~ in any case in which such distraint is not permitted by that section may institute a suit before a Civil Court against his landlord for the recovery of compensation. [97]

B.T.A. 142.
M.R.A. 34.

Power of Local Government to make rules.

~~93.~~ The Local Government may, from time to time, make rules consistent with this Act regulating the scale of charges which may be levied as costs of distraint, custody of property and sale, and of inquiries by Collectors under sections ~~74~~ to ~~77~~, and regulating the procedure in such inquiries and in all cases of distraint and sale of moveable property under this chapter. [98]

Attachment and Sale of Occupancy Right in Land.

B.T.A. 65.

Liability of occupancy ryot to sale of occupancy right for arrears of rent.

~~94.~~ An occupancy ryot shall not be liable to ejectment for arrears of rent, but his occupancy right in his holding or in part of his holding shall be liable to attachment and sale in execution of a decree for the rent thereof. [59]

M.R.A. 38.

When occupancy right may be attached.

~~95.~~ When an arrear of rent due to a proprietor by an occupancy ryot may not be liquidated within the current revenue year, it shall be lawful for the proprietor to attach and sell the defaulter's occupancy right in his holding or in part of his holding, in the manner hereinafter provided, in satisfaction of the arrear and of interest thereon at the prescribed rate and of costs, if any, of the attachment.

M.R.A. 39.

Notice of attachment.

~~96.~~ When the proprietor to whom an arrear is due intends to avail himself of the powers given by the last preceding section, he shall give the defaulter a written notice of his intention to sell, and such notice shall state the amount due for arrears, interest and costs, if any, and shall inform him that, if the amount is not liquidated within one month from the date of service upon him, his occupancy right in his holding or in any part thereof specified in the said notice, shall be sold.

The notice shall be served as prescribed in section ~~91~~ and a duplicate of the notice

shall be sent to the Collector with an endorsement stating the date of service and the mode in which it was effected.

M.R.A. 40.

When and how occupancy right may be sold.

~~97.~~ If no suit is instituted before the Collector within thirty days from the date of service to set aside the notice, or if such suit is decided against the defaulter, the proprietor shall be authorized to take measures for the sale, which shall be conducted under the rules for the sale of moveable property distrained for arrears of rent. The officer conducting the sale may place the purchaser in possession.

B.T.A. 65.

Rent a first charge on occupancy right.

~~98.~~ Rent shall be a first charge upon the occupancy right in the holding, and the proprietor's claim to sell shall not be defeated by any other encumbrance. [59]

B.T.A. 159.

Liabilities of purchaser as to encumbrances.

~~99.~~ When the occupancy right in a holding or in part of a holding is sold for arrears due in respect thereof, the purchaser shall take subject to any right or interest which the ryot has created therein with the proprietor's written permission, and subject also to any encumbrances created before the passing of this Act, but to no others. [114]

B.T.A. 169.

Rules for disposal of sale-proceeds.

~~100.~~ The proceeds of a sale of the occupancy right in a holding or in part of a holding for arrears of rent shall be disbursed in like manner as the proceeds of a sale of distrained property are to be disbursed under section ~~67~~, and the defaulter shall receive from the officer who has conducted the sale a receipt for arrears of rent discharged from the proceeds of sale. The rules prescribed by section 295 of the Code of Civil Procedure shall not apply to a sale in execution of a decree for arrears of rent. [115]

B.T.A. 170.

When occupancy right may be released from attachment.

~~101.~~ (1) Sections 278 to 283 (both inclusive) of the Code of Civil Procedure shall not apply to a holding attached in execution of a decree for arrears due thereon. [116]

(2) After a sale of the occupancy right in a holding or in part of a holding has been authorized, it shall not be released from attachment unless, before it is knocked down to the auction-purchaser, the amount of arrears, interest and costs

due to the proprietor is paid, or the proprietor makes an application for the release of the holding on the ground that the debt has been otherwise satisfied.

(3) The defaulting ryot or any person having in the occupancy right in the holding or in part of the holding which is to be sold for arrears any interest voidable on the sale may, where the sale is authorized in execution of a decree, pay money under this section to the officer conducting the sale or into Court, and may, where the sale is authorized under section ~~97~~, pay money to the officer conducting the sale or to the Collector or such other officer of the Department of Land Revenue as the Local Government may order.

[117] ~~108.~~ (1) When any person having in the occupancy right in a holding or in part of a holding advertised for sale an interest which would be voidable upon the sale, pays to the officer conducting the sale or into Court or to the Collector or other officer aforesaid, as the case may be, the amount requisite to prevent the sale—

Amount paid to prevent sale to be in certain cases a mortgage-debt on the holding.

(*a*) the amount so deposited by him shall be deemed to be a debt bearing interest at twelve per centum per annum and secured by a mortgage of the occupancy right in the holding to him;

(*b*) such mortgage shall take priority of every other charge on the occupancy right in the holding other than a charge for arrear of rent; and

(*c*) the depositor shall be entitled to possession of the 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.

(3) When more than one person having interest as described in sub-section (1) desires to make payment as therein provided, preference shall be given to the person having priority of interest.

[118] ~~109.~~ When the occupancy right in a holding or in part of a holding is advertised for sale in execution of a decree against, or for

Inferior tenant paying money to prevent sale may deduct from rent.

arrears of rent due by, a superior tenant defaulting, and an inferior tenant, whose interest would be voidable upon the sale, pays money into Court or to the Collector or such other officer of the Department of Land Revenue aforesaid, as the case may be, 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.

[119] ~~104.~~ (1) A proprietor who has brought to sale a ryot's occupancy right in his holding or in part of his holding for arrears of rent may, notwithstanding anything contained in section 294 of the Code of Civil Procedure, bid for or purchase the occupancy right in the holding or in part thereof without the permission of the Court or the Collector, as the case may be.

Proprietor may bid at sale: defaulting ryot may not.

(2) The defaulting ryot shall not bid for or purchase the occupancy right in the holding or in part thereof so sold.

(3) When a defaulting ryot purchases by himself or through another person the occupancy right in a holding or in part of a holding so sold, the Court or Collector, as the case may be, may, if it or he thinks fit, on the application of the proprietor or of any person interested in the land, by order set aside the sale; and the cost 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 defaulting ryot.

[120] ~~105.~~ (1) When the occupancy right in a holding or in part of a holding is sold for an arrear of rent due thereon, then, at anytime within thirty days from the date of sale, the defaulting ryot may apply to have the sale set aside on his depositing in Court or with the Collector or such other officer of the Department of Land Revenue aforesaid, as the case may be, for payment to the proprietor, the arrears with interest and costs, and, for payment to the purchaser, a sum equal to five per centum of the purchase money.

Application by defaulting ryot to set aside sale.

(2) If such deposit is made within the thirty days, the Court or the Collector 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.

Provided that if a defaulting ryot applies under section 311 of the Code of Civil Procedure to set aside the sale of his occupancy right in his holding or in part of his holding, he shall not be entitled to make an application under this section.

(3) Section 313 of the Code of Civil Procedure shall not apply to any sale under this chapter.

CHAPTER VIII.

Miscellaneous Provisions as to Landlords and Tenants.

Repair of Irrigation Works.

[25] ~~106.~~ Any ryot or ryots holding irrigated land under a proprietor may apply to the District Collector stating that the irrigation work whereby the land held by the applicant or applicants is served is out of repair and praying for the issue of an order under section ~~107~~ for the repair of the said work. The application shall state in sufficient detail the nature of the repairs deemed necessary and the probable cost of the same, and the extent and rental of the land irrigated by the work. The District Collector shall then by himself or by a Collector subordinate to him, to whom he may depute the inquiry, cause to be served on the proprietor a copy of the application and a notice to show cause, on a date to be stated in the notice, why the order prayed for should not issue. The notice shall also be placarded in the village or villages wherein the land irrigated is situated.

Application to District Collector for repair of irrigation works.

[26] ~~107.~~ On the day fixed in the notice, or on any other date to which the inquiry may be adjourned, the District Collector or Collector shall hear the applicant or applicants, the proprietor and any ryots of land irrigated by the work who may attend, and may take any evidence that he may think fit. If the inquiry is made by a Collector other than the District Collector, he shall make a report thereon to the District Collector. If satisfied that the irrigation work is in

Inquiry and order on application.

disrepair and that the proprietor is by the custom of the country or otherwise bound to provide for its maintenance, the District Collector shall pass an order authorizing the execution, by the applicant or applicants or by them and any ryots willing to join with them, of any of the works stated in the application or shown at the inquiry to be necessary to restore the irrigation work to efficiency and stating the estimated cost of the same. The order shall also fix a reasonable time within which the works should be executed.

Provided that such works shall be works of repair only and shall not include additions or improvements unless with the consent of the proprietor; nor shall they include any works, such as the clearance of supply and distribution channels, which by the custom of the country should be carried out by the ryots.

[27] ~~108.~~ When the works have been carried out, the parties authorised to execute them may apply to the District Collector for an order for the recovery of the cost of the same. The District Collector shall then take such steps as he may deem necessary to satisfy himself that the works have been executed properly and within the time fixed, and that the cost claimed is not excessive. He shall, if so satisfied, pass an order for the recovery, from the ryots holding land under the irrigation work, of such amount as he may find to be reasonably due on account of the works executed and not exceeding in the total one year's rental of the lands irrigated by the irrigation work. The order shall set out the amount payable by each ryot in proportion to the rental of the land held by him and such amount shall be recoverable as arrears of land revenue.

Recovery of cost of repair from ryots.

[28] ~~109.~~ The amount recovered, less the cost, if any, of inspection of the works executed, shall be paid to the parties authorized under section ~~107~~. The cost of estimates and of inspection may be included in the amount to be stated in the order passed under section ~~107~~.

Payment to persons executing repairs.

[29] ~~110.~~ Every ryot from whom any sum may be recovered under section ~~108~~ shall be entitled to deduct such sum from any rent payable

Amount recovered for cost of repairs may be deducted from rent.

by him to the proprietor: and a receipt for the sum recovered shall be valid as a receipt for rent due by such ryot.

112/ ~~111~~. No Civil Court shall entertain a suit or issue an injunction regarding a District Collector's proceedings under sections ~~106~~ to ~~110~~, but from any order issued by a District Collector under the said sections, an appeal shall lie to the Board of Revenue, whose decision shall be final.

Right of Appeal.

107/ 111/

Illegal Cesses.

113/ ~~112~~. (1) Landlords shall not levy any unauthorized tax or cess on their tenants under any name or pretence. Every tenant from whom anything is exacted in excess of his rent or other authorized charge specified in his puttah or lease shall be entitled to recover by suit before the Collector, in addition to the amount of the exaction, such sum by way of penalty as the Collector thinks fit, not exceeding ten times the amount exacted.

Penalty for illegal exactions.

[129]

B.T.A. 74 and 75.
M.R.A. 5.

(2) All stipulations and reservations for the payment of any such tax or cess shall be void.

Explanation.—The levy of any tax on trees or other tax not included in the assets on which the peshcush of a permanently-settled estate has been fixed, is illegal.

Improvements.

114/ ~~113~~. (1) For the purposes of this Act the term "improvement" used with reference to a ryot's holding shall mean any work which adds to, or is designed to add 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.

What constitutes an improvement.

[130]

B.T.A. 76.

(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 supply, storage or distribution of water for the purposes of agriculture or for the use of men and cattle employed in agriculture;

(*b*) the levelling and ridging of land to fit it 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 of waste land which is culturable;

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

(*e*) the repair, renewal or reconstruction of any of the foregoing works, or alterations therein or additions thereto;

(*f*) the erection of a suitable dwelling-house or houses for the ryot and the members of his family residing with him, together with all necessary out-offices; and

(*g*) the plantation of trees and useful plants.

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

115/ ~~114~~. (1) Where a ryot has occupancy right in his holding, neither the ryot nor the proprietor 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 occupancy holdings.

[131]

B.T.A. 77.

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

116/ ~~115~~. If a question arises between the ryot and the proprietor—

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

[132]

B.T.A. 78.

(*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, if he be the District Collector, shall be final. If he be not the District Collector, an appeal shall lie to the District Collector, whose decision shall be final.

117

~~116.~~ (1) A non-occupancy ryot 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 or houses for himself and for the members of his family residing with him, with all necessary out-offices, and to grow trees and useful plants; but shall not, except as aforesaid and as next hereinafter provided, be entitled to make any other improvement in respect of his holding without the proprietor's permission.

Right to make improvement in case of non-occupancy holdings.

[133]

B.T.A. 79.

(2) A non-occupancy ryot who would, but for the want of the proprietor'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 the proprietor a request in writing calling upon him to make the improvement within a reasonable time; and if the proprietor is unable or neglects to comply with that request, may make the improvement himself.

118

~~117.~~ (1) A proprietor may, by application to the Collector, register any improvement which he has lawfully made, or which has been lawfully made at his expense or which he has assisted a ryot in making.

Registration of proprietor's improvements.

[134]

B.T.A. 80.

(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 Collector 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.

119

~~118.~~ (1) If any proprietor or ryot desires that evidence relating to any improvement made in respect of the ryot's holding be recorded, he may apply to the Collector, who shall thereupon, at a time and place of which notice shall be given to the parties, record or cause to be recorded the evidence, unless he considers that there are no

Application to record evidence as to improvements.

[135]

B.T.A. 81.

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 evidence has been recorded under this section, the record thereof shall be admissible in evidence in every subsequent proceeding between the proprietor and ryot or any persons claiming under them.

B.T.A. 82.

[136]

120

~~119.~~ (1) Every ryot who is ejected from his holding or from part thereof otherwise than by sale under chapter VII of this Act, shall be entitled to compensation for improvements which have been made in respect thereof in accordance with this Act by him, or by his predecessors in interest, and for which compensation has not already been paid.

Right to compensation for improvements.

(2) Whenever a Court or Collector makes a decree or order for the ejectment of a ryot otherwise than by sale under chapter VII of this Act, the Court or Collector shall determine the amount of compensation (if any) due under this section to the ryot for improvements, and shall make the decree or order of ejectment conditional on the payment of that amount to the ryot. All arrears of rent due by the ryot at the date of the execution of the decree or order shall be set off against the amount of compensation for improvements ordered to be paid.

(3) No compensation under this section for an improvement shall be claimable where the ryot 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 ryot between the (here enter date of first publication of the Bill) 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 or Collector to associate with itself or himself, 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 and remmerating them.

121

~~120.~~ (1) In estimating the compensation to be awarded under the last foregoing section for an improvement, regard shall be had— [137]

How compensation to be estimated.

(*a*) to the amount by which the value or the letting 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 expended on the making of the improvement;

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

(*e*) in the case of trees and plants, to the probable market value of the same.

(2) When the amount of the compensation has been assessed, the Court or Collector may, if the proprietor and ryot 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.

122

~~121.~~ (1) A Principal Civil Court of original jurisdiction 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 or for the opening and working of mines or factories, and on being satisfied 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. [138]

Acquisition of land for building and other purposes.

(2) In determining the amount of compensation, the Court shall be guided, so far as may be practicable, by the rules

B.T.A. 83.

B.T.A. 84.

B.T.A. 86.
M.R.A 12.

B.T.A. 87.

contained in sections 23 and 24 of the Land Acquisition Act I of 1894, and shall add fifteen per centum to the full value of land and improvements as compensation for the compulsory acquisition.

Surrender and Abandonment.

123

[139] ~~122.~~ (1) A tenant, not bound by a lease or other agreement to hold for a fixed period, may, at the end of any revenue year, surrender his holding or, with the consent of the landlord, any part thereof.

Surrender.

(2) A tenant who surrenders his holding or part of his holding shall be liable to indemnify the landlord against any loss of the rent of the holding for the revenue 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 tenant has surrendered his entire holding, if the tenant takes a new holding in the same village from the same landlord during the same revenue year or during the revenue year next following the surrender, it shall be presumed, for the purposes of sub-section (2), that such notice was so given.

(4) The tenant may, if he thinks fit, cause the notice to be served through the Collector.

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

(6) Nothing in this section shall affect any arrangement by which a tenant and his landlord may arrange for surrender of the whole or a part of the holding.

124

[140] ~~123.~~ (1) If a tenant voluntarily abandons his residence in the village without notice to his landlord, and without arrangement 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 revenue year in which the tenant 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 tenant shall be entitled to institute a suit in the Civil Court for recovery of possession of the land at any time not later than the expiration of one year, or in the case of a non-occupancy tenant, six months from the date of the publication of the notice and thereupon the Court may, on being satisfied that the tenant 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 shall seem just.

(4) If an occupancy tenant who has abandoned his holding does not sue for recovery of possession within the period above prescribed, his occupancy right shall be extinguished.

B.T.A. 87 (4).

~~124.~~ Where the whole or part of a holding has been sub-let by a registered instrument, the landlord shall, before entering on the holding under either of the last two preceding sections, offer the whole holding to the sub-lessee for the remainder of the term of the sub-lease at the rent paid by the tenant who has ceased to cultivate the holding, and on condition of the sub-lessee paying up all arrears due from that tenant. 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 hereinbefore provided.

Obligation of landlord to sub-lessee in respect of surrendered or abandoned holding wholly or partly sub-let.

Sub-division of Tenancy and Transfers.

B.T.A.88.

[141]

~~125.~~ It shall not be competent to a landlord to refuse to consent to the division of a holding and to the proportionate distribution of the rent payable in respect thereof, and to enter into separate engagements with the several holders of the parts thereof so divided.

Division of tenancy binding on landlord.

Provided that no landlord shall be compelled to consent to the division, or further division, as the case may be, of a revenue

field, or to the distribution of the rent due on the field or on the part thereof included in the holding, as the case may be.

B.T.A. 73.

[142]

~~126.~~ When a tenant transfers his interest in the whole or part of his holding, the tenant and the transferee shall give notice of such transfer in writing to the landlord, and, unless and until such notice is given, they shall be jointly and severally liable to the landlord for arrears of rent accruing due after the transfer, and all proceedings taken under this Act against the tenant shall be as effectual and binding upon the transferee as if they had been taken against the transferee himself.

Notice of transfer by tenant.

B.T.A. 72.

[143]

~~127.~~ When any proprietor transfers the whole or a portion of his estate, the proprietor and the transferee shall give notice of the transfer, by publication in the District Gazette and in such other manner as the Local Government by rule directs, to the ryots in the occupation of the land transferred, and, unless and until such notice is given, no ryot shall be liable to the transferee for rent which became due after the transfer and was paid to the proprietor before notice of such transfer was given to him, and all proceedings taken by any of the ryots to whom no such notice was given against the proprietor shall be as effectual and binding on the transferee as if they had been taken in the first instance against the transferee himself.

Notice of transfer by proprietor.

Ejectment.

B.T.A. 89.

[144]

~~128.~~ No tenant shall be ejected from his holding except in execution of a decree of a Civil Court or order of a Collector passed in accordance with this Act.

No ejectment except under Court's decree or Collector's order.

M.R.A. 41.

~~129.~~ When any non-occupancy ryot or under-tenant shall be in arrear at the end of a revenue year and when there is no sufficient distress upon the premises to satisfy the arrear, the landlord or his authorized agent may apply to the Collector for a warrant authorizing him to enter upon and take possession of the premises. Such warrant shall be granted upon the production of a written statement of the person applying for the warrant, which statement shall contain the name of the defaulter, the

Ejectment of non-occupancy tenant under Collector's warrant.

description and extent of the premises, the amount due for arrears, interest and costs of distraint, if any, and the date at which it fell due, and also a declaration that there is no sufficient distress upon the premises. Such statement shall be filed in the office from which the warrant issues.

~~130.~~ The warrant shall state the defaulter's name, the whole amount due and the description and extent of the premises, and shall set forth that, unless payment is made within fifteen days, the defaulter will be turned out of possession. The Collector may, for special reasons, extend the period of fifteen days mentioned in this section.

Contents of warrant.

~~131.~~ The warrant shall be entrusted to an officer of police, who shall serve it in the manner laid down in section ~~64~~ of this Act. If within fifteen days after service, or within the period extended by the Collector under the last foregoing section, the amount named in the warrant is not discharged, and if no suit has been filed by the defaulter before the Collector to set aside the warrant, or if such suit has been decided against the defaulter, the police officer shall place the landlord or his authorized agent in possession.

Execution of warrant.

~~132.~~ Upon delivery of possession, the tenancy existing between the defaulter and the landlord shall cease and determine unless a suit shall be filed within one month in a Civil Court to reverse the delivery of possession and shall be prosecuted to a successful termination.

Determination of tenancy.

CHAPTER IX.

Survey, Record of Rights and Settlement of Rents.

~~133.~~ (1) The Local Government may make an order directing that a survey be made and a record of rights be prepared in respect of a local area or estate by such officer or officers as it shall see fit to empower in this behalf.

Power to order survey and record of rights.

(2) An order may be made under this section in any case in which the Local Government thinks fit to make such an order, including the following cases (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; and

(*c*) where the local area is comprised in or constitutes an estate managed by the Government or by the Court of Wards.

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

~~134.~~ When an order is made under the last foregoing section, the particulars to be recorded shall be specified in the order, and shall include, either without or in addition to other particulars, all of the following, namely:—

Particulars to be recorded.

(*a*) the name of the landlord;

(*b*) the name of the tenant;

(*c*) the class to which he belongs, that is to say, whether he is an occupancy ryot, a non-occupancy ryot, or an under-tenant;

(*d*) the situation, extent and boundaries of the land held by the tenant;

(*e*) the rent payable at the time the record is being prepared;

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

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

~~135.~~ On the application of a proprietor and on his depositing or giving security for the required amount for expenses, the District Collector may, subject to and in accordance with rules made in this behalf by the Local Government, make an order directing an officer or officers to ascertain and record the particulars specified in the last foregoing section with respect to the estate or any part thereof.

Power to record particulars on application of proprietor.

M.R A 42.

M.R.A. 43.

B.T.A. 102

M.R.A. 44.

B.T.A. 101.

B.T.A. 103.

Provided that when an estate or part of an estate has been leased, assigned or mortgaged with possession and a question arises between the owner and such lessee, assignee or mortgagee as to the right to make the application, the lessee, assignee or mortgagee shall be held to be the person entitled to make the application.

B.T.A. 105 and 106.

~~136~~. (1) When the officer preparing the record of rights has, after making such inquiry as he sees fit, completed a preliminary record for the local area, estate or part of an estate included in the order, he shall cause a draft thereof to be locally published in the prescribed manner, under rules to be framed in this behalf by the Local Government, for a period of six months, and shall receive and hear any objection which may be made to any entry therein during the said period.

Publication of preliminary record, and entertainment of objections thereto.

(2) No objection shall be entertained by the officer to any entry in the record unless it is made within the said period: and every entry to which objection has not been so made shall be final and conclusive as to the fact or facts which it records.

B.T.A. 107.

~~137~~. In hearing objections to entries in the record, the officer shall, subject to any rules made from time to time in this behalf by the Local Government, adopt the procedure laid down in this Act for the trial of suits by Collectors, and his decision in every such proceeding shall have the force of a decree.

Procedure in disposing of objections to preliminary record.

Provided that when, on an objection to an entry in the record a *bonâ fide* dispute arises as to the title to be recorded as landlord, or as to the right to be recorded as tenant, or as to a claim to have land recorded as rent-free, the officer shall, and, in any other case in which he deems fit, may, stay proceedings and refer the objector to the Civil Court. If the objector does not, within thirty days of such order of reference, file a suit in the Civil Court to set aside the entry objected to, the officer shall proceed to hear and dispose of the objection as if no such dispute had arisen.

~~138~~. When all objections to the preliminary record have been disposed of, the officer shall frame the final record and shall cause it to be published in the prescribed manner under

Publication of final record.

rules to be framed in this behalf by the Local Government, and the publication shall be conclusive evidence that the record has been duly made under this chapter. The entries so published shall be final and conclusive as to the facts which they record.

Provided that when it appears to the officer that undue delay will be caused by deferring publication of the final record until all suits and appeals on objections to the preliminary record have been decided, the officer may first publish a final record of the cases in which no such suits and appeals have been filed and may thereafter publish, from time to time, supplementary final records of the cases in which such suits and appeals have been filed.

B.T.A. 104.

~~139~~. (1) When, in any proceeding under this chapter, either the landlord or the tenant applies for a settlement of rent or when it appears that a tenant is holding land in excess of or less than that for which he is paying rent, or when rent is admittedly payable but a dispute arises as to the amount or rate of rent payable, the officer shall settle a fair and equitable rent in respect of the land held by the tenant.

Settlement of rent.

(2) 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 Collectors in enhancing, reducing or altering rents, or in deciding disputes regarding rates of rent, as the case may be.

B.T.A. 108.

~~140~~. (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 officers under this chapter.

Appeals from decisions of officers preparing records of rights.

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

(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 this chapter as if he were a Court subordinate to the High Court within the meaning of the first section of that chapter.

B.T.A. 110.

~~141.~~ When any rent is settled under this chapter, the settlement shall take effect from the beginning of the revenue year next after the publication of the final record.

Time from which settlement of rent is to take effect.

B.T.A. 111.

~~142.~~ When an order has been made under section ~~132~~—

Stay of proceedings during preparation of record.

(1) no Collector shall, until the publication of the final record, entertain a suit or application for the alteration of the rent, and no Civil Court shall, until the publication of the final record, entertain a suit or application for the determination of the status, of any tenant in the area or estate to which the order applies; and

(2) the High Court may, if it thinks fit, transfer to the officer preparing the record any proceedings pending before a Collector or 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 ~~134~~.

B.T.A. 114.

~~143.~~ When an order is made under this chapter, the expenses incurred by the Government in carrying out the provisions of this chapter in any local area or estate, 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 or estate 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.

CHAPTER X.

Record of Proprietor's Private Lands.

B.T.A. 116.

[145] ~~144.~~ Nothing in chapter III shall confer a right of occupancy in, and nothing in chapter IV shall apply to a proprietor's private lands known as kambattam, khas, seri, pannai and the like, ~~or to lands in which the proprietor has acquired the occupancy right by transfer.~~

Saving as to proprietor's private lands.

B.T.A. 117.

[146] ~~145.~~ The Local Government may, from time to time, make an order directing such officer or officers as it shall see fit to empower in this behalf 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 to order survey and record of proprietor's private lands.

B T.A. 118.

[147] ~~146.~~ 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, the District Collector may, subject to and in accordance with rules made in this behalf by the Local Government, direct an officer to ascertain and record whether the land is or is not a proprietor's private land.

Power to record private land on application of proprietor or tenant.

B.T.A. 119.

[149 to 152] ~~147.~~ When an officer proceeds under either of the two last foregoing sections, the provisions of sections ~~136~~ to ~~138~~, both inclusive, and section ~~140~~, shall apply.

Procedure for recording private land.

B.T.A. 120.

[148] ~~148.~~ (1) The officer preparing the record 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 kambattam, khas, seri or pannai by the proprietor himself with his own stock or by his own servants or by hired labour for three continuous years immediately before the date of the order directing the preparation of the record;

(*b*) cultivated land which is recognised by village usage as proprietor's kambattam, khas, seri or pannai; and

~~(c) land in which the proprietor has, by transfer, become possessed of the occupancy right.~~

(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 1st day of May 1871, specifically let as his private land, and to any other evidence that may be produced; but shall presume that the 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 certain 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 officers preparing records of proprietors' private lands.

CHAPTER XI.

JUDICIAL PROCEDURE.

~~149.~~ The Local Government may invest any Revenue or Judicial officer with all or any of the powers of a Collector, to be exclusively exercised within any local area, in respect of all or any classes of original suits or proceedings instituted under this Act, and may withdraw such powers, and the decisions passed by such Revenue or Judicial officer shall be appealable as if they were the decisions of the Collector who would have taken cognizance of the suits or proceedings if the Revenue or Judicial officer had not been so invested. [99]

Power to invest Revenue or Judicial officer with powers of Collector.

~~150.~~ ~~Subject to the provisions of this Act, the Code of Civil Procedure shall apply to all suits tried by Collectors under this Act.~~ [100 (2)] B.T.A. 143 (2).

~~Restriction on application of Civil Procedure Code to suits tried by Collectors.~~

151. (1) The cause of action in all suits triable by Civil Courts 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 holding in connection with which the suit is brought. [101] B.T.A. 144.

Jurisdiction in proceedings under Act.

(2) When a suit is triable by a Collector, the cause of action shall be deemed to have arisen in the revenue division of the district where the land is situated.

152. Every agent 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, be deemed to be the recognised agent of the landlord. [102] B.T.A. 145. M.R.A. 52.

Landlord's agents.

153. Every Collector shall keep a register, in the following form, of the suits heard and decided by him :— [103] B.T.A. 146. M.R.A. 77.

Special register of suits.

Number of suit.	Date of plaint.	Abstract of plaint.	Abstract of defence.	Date and abstract of judgment.

B.T.A. 148. M.R.A. 53 to 57, 61, 63, 68 and 69. [105]

154. The following rules shall apply to suits before Collectors under this Act :—

Procedure in suits before Collectors.

(*a*) The District Collector may transfer any suit on the file of any Revenue Officer in charge of a division of the district to his own file or from the file of one such officer to that of another or to the file of an Assistant or Deputy Collector not in charge of a division, for disposal.

(*b*) The trial of suits by Collectors under this Act shall be regulated by rules, consistent with this Act, made by the Local Government and by the following provisions :—

(i) A date shall be fixed for the hearing of the suit, and the same shall be notified to the parties, who shall be entitled to be heard in person or by agent.

(ii) The parties shall be entitled to produce witnesses and to demand that any person whose evidence they require shall be summoned as a witness, and the officer trying the suit shall comply with such demand unless, for reasons to be recorded, he considers it unnecessary to do so.

(iii) The officer trying the suit shall record with his own hand, in English, a memorandum containing the material portions of the evidence and he shall record, either in the same way or by dictation to a short-hand writer, whose transcript he shall correct where necessary and sign, his decision and the reasons therefor.

(iv) Except where it is otherwise prescribed in this Act, an appeal from the decision of a Collector trying a suit under this Act shall lie to the District Judge, and a second appeal on any point of law shall lie to the High Court. No judgment of a Collector under this Act shall be set aside for want of form or for irregularity in the procedure, but upon the merits only.

(v) In every decree or order passed in any suit under this Act, the Collector shall have full power to give and apportion costs of the suit or application in any manner he thinks fit, and he shall direct by whom the costs of each party are to be paid and whether in whole or in what part or proportion.

(vi) Subject to the provisions of this Act, the Code of Civil Procedure shall apply to all suits tried by Collectors under this Act.

B.T.A. 149.

[106]

155. (1) In any suit for rent or in any proceeding under this Act to recover rent, if a tenant admits that money is due from him on account of rent, but pleads that it is due not to the plaintiff or applicant but to a third person, the Court or Collector, as the case may be, shall, except for special reasons to be recorded in writing, refuse to take cognizance of the plea unless the tenant pays into the Court or office of the Collector the amount so admitted to be due.

Payment of money admitted to be due to third person.

(2) Where such a payment is made, the Court or Collector 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).

B.T.A. 150.

[107]

156. In any suit for rent or in any proceeding under this Act to recover rent, if a tenant admits that money is due from him to the plaintiff or applicant on account of rent, but pleads that the amount claimed is in excess of the amount due, the Court or Collector, as the case may be, shall, except for special reasons to be recorded in writing, refuse to take cognizance of the plea unless the tenant pays into the Court or office the amount so admitted to be due.

Payment of money admitted to be due to landlord.

B.T.A. 151.

[108]

157. When a tenant is liable to pay money into the Court or office of the Collector under either of the last two foregoing sections, if the Court or Collector thinks that there are sufficient reasons for so doing, the Court or Collector may take cognizance of

Provision as to payment of portion of money.

the tenant's plea on his paying such reasonable portion of the money as the Court or Collector directs.

B.T.A. 152.

[109]

158. When a tenant pays money under either of the said sections, the Court or Collector shall give the tenant 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, the applicant or the third person, as the case may be.

Court or Collector to grant receipt.

B.T.A. 154

[110]

159. Except where otherwise expressly provided by this Act, a decree for enhancement of rent or for ejectment under this Act, if passed in the first eight months of any revenue year, shall take effect on the commencement of the revenue year next following; and if passed in the last four months of the revenue year, shall take effect on the commencement of the revenue year next but one following; but nothing in this section shall prevent the Collector or Court, as the case may be, from fixing, for special reasons, a later date from which any such decree shall take effect.

Date from which decree for enhancement or ejectment shall take effect.

B.T.A. 155.

[111]

160. (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 manner prescribed for service of notice under section 64 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 the 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 the 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.

B.T.A. 157. [113]

161. When a plaintiff institutes a suit for the ejectment of a trespasser, he may, if he thinks fit, claim an 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.

Power of Court to fix fair rent as alternative to ejectment of trespasser.

CHAPTER XII.

Contract and Custom.

B.T.A. 178. [121]

162. (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 ryot, as provided in this Act, to make improvements and claim compensation for them.

(2) Nothing in any contract made between a landlord and a tenant since the 1st day of May 1871 and before the passing of this Act shall prevent a ryot 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 ryot from acquiring in accordance with this Act an occupancy right in land;

(*b*) take away or limit the right of an occupancy ryot to use land as provided by section 9;

(*c*) take away the right of a tenant to surrender his holding or part of his holding in accordance with section ~~123~~;

(*d*) take away the right of a tenant to transfer or to bequeath his holding or part of his holding in accordance with any law or custom to which he is subject;

(*e*) take away the right of a ryot to apply for a reduction of rent under section 25 or section 28;

(*f*) take away the right of a proprietor or of a ryot to apply for a commutation of rent under section 27;

(*g*) affect the provisions of section ~~41~~ relating to interest payable on arrears of rent:

123/

42/

B.T.A. 182. [122]

163. When a tenant holds his dwelling-house, with cattle-sheds and other appurtenances necessary or convenient for the purpose of agriculture, otherwise than as part of his holding as a tenant, the incidents of his tenancy of the same shall be regulated by local custom or usage and, subject to local custom or usage, by the provisions of this Act.

Homesteads.

B.T.A. 183. [123]

164. 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.

Saving of custom.

CHAPTER XIII.

Limitation.

B.T.A. 184. [124]

165. (1) The suits, appeals and applications specified in schedule II annexed to this Act shall be instituted and made within the time prescribed in that schedule for them respectively; and every such suit or

Limitation in suits, &c., in schedule II.

appeal instituted or 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 to make any application which would have been barred by limitation if it had been instituted or made immediately before the commencement of this Act.

B.T.A. 185.

[125]

166. (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.

Portions of Indian Limitation Act not applicable to such suits, &c.

(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.

CHAPTER XIV.

SUPPLEMENTAL.

Penalties.

B.T.A. 186.
M.R.A. 30.

[126]

167. (1) If any person, otherwise than in accordance with this Act or some other enactment for the time being in force—

Penalties for illegal interference with produce.

(*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 produce 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 liable to imprisonment of either description for a term which may extend to three months or to fine which may extend to five hundred rupees, or to both.

(2) Any person who, within the meaning of the Indian Penal Code, abets the doing of any act mentioned in subsection (1) shall be deemed to have abetted an offence within the meaning of that Code.

(3) Persons entering the apartments of women or forcing open the outer doors of dwelling houses contrary to the provisions of this Act shall be deemed to have committed house trespass within the meaning of the Indian Penal Code.

Agents of Landlords.

B.T.A. 187.
M.R.A. 79.

[127]

168. (1) Any appearance, application or act before, or to any Court, Collector or officer, required or authorized by this Act to be made or done by a landlord, may, unless the Court, Collector or officer otherwise directs, be made or done also by an agent empowered in this behalf by a written authority under the hand of the landlord.

Power of landlord to act through agent.

(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.

B.T.A. 188.

[128]

169. 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 these persons acting together, or by an agent authorized to act on behalf of both or all of them.

Joint landlords to act collectively or by common agent.

Leases Binding on Successors in Interest.

M.R.A. 11.

[24 (6)]

170. Notwithstanding any law or custom to the contrary every *bonâ fide* grant or lease of land on favourable terms by a landlord for the purpose of erecting dwelling houses, factories or other permanent buildings or for the purposes of mining, quarrying or bringing waste lands into cultivation or for making any permanent improvements thereon, shall be binding on his successors in interest: provided that the terms of such grant or lease have been substantially acted up to.

Leases for special purposes.

Saving of rent enhanced during Publication of Act.

171. No enhancement of rent made or agreed to between the ~~(here enter date of first publication of the Bill)~~ and the date of commencement of this Act shall be valid or binding on any tenant.

Invalidation of enhancement during publication of Act.

Publication of Rules under Act.

172. Wherever power is expressed to be given to the Local Government to make rules under this Act, such power is given subject to the condition of the rules being made after previous publication.

Rules to be made after previous publication.

Delegation of Powers.

173. The Local Government may delegate to the Board of Revenue all or any of its powers under this Act save and except the powers specified in the next following section and in sections 1, 3 (2), ~~133~~, ~~140~~, ~~145~~ and ~~149~~.

Delegation of powers to Board of Revenue.

174. The Local Government may from time to time appoint an officer to exercise, in addition to the District Collector, all or any of the powers of the District Collector under this Act.

Investiture of officer with powers of District Collector.

B.T.A. 190.

SCHEDULE I.

FORM OF RECEIPT.

Patta No. *of Fasli* in the district of situated in the taluk of

Receipt granted to tenant of the village of for the amount of rent paid by him for lands in his holding.

Date of payment, Month and Year.	Name of Payer.	Fasli for which paid.	Items.	Amount paid.		Signature of the landlord or his agent or village officer acknowledging receipt thereof.
				In ready-money.	In kind.	

SCHEDULE II.

LIMITATION.

Part I.—Suits.

Description of suit.	Period of limitation.	Time from which period begins to run.
Suit to eject under section 11	One year	Date of misuse or breach.
Suit to eject under section 34 (*a*) or (*b*)	Do.	Date of arrear, misuse or breach.
Suit for penalty under section 44	Three months ..	Date of payment.
Suit to obtain patta under section 67	Thirty days ..	Expiration of three months from demand.
Suit to enforce patta under section 68	Do.	Expiration of one month from tender.
Suit for damages under section 86	Six months	Date of Collector's order.
Suit to recover penalty under section 112	Thirty days	Date of exaction.

Part II.—Appeals.

Description of appeal.	Period of limitation.	Time from which period begins to run.
Appeal to District Collector under section 31 ..	Thirty days ..	Date of decree or order of Collector.
Do. to Board of Revenue do. 211 ..	Do. ..	Date of order appealed against.
Appeal to Special or District Judge under section 140 or 147	Do. ..	Date of decree appealed against.
Second appeal to High Court under section 140 or 147	Ninety days ..	Do. do.
Appeal to District Judge under section 154 (*b*) (4) ..	Thirty days ..	Date of Collector's decree.
Second appeal to High Court under section 154 (*b*) (4)	Ninety days ..	Date of District Judge's decree.

Part III.—Applications.

Description of application.	Period of limitation.	Time from which period begins to run.
Application by depositor under section 44 (3) ..	Thirty days ..	Expiration of three years from date of deposit.
Do. under section 74	Do. ..	Date of theft, loss, damage or destruction.
Do. do. 76	Do. ..	Date on which conveyance was known to applicant.
Do. do. 77	Do. ..	Date of removal.
Do. to set aside sale under sections 104 and 105	Do. ..	Date of sale.
Do. to recover cost under section 105 ..	One year	Date of completion of work.
Do. for warrant under section 250	Do.	Expiration of revenue year in which the arrear fell due.

STATEMENT OF OBJECTS AND REASONS.

The law in force in this Presidency on the subject of landlord and tenant is Madras Act VIII of 1865. The imperfections of this Act, which, with the exception of one section (section 11) laying down certain rules for the decision of suits involving disputes regarding rates of rent, is a purely processual Act relating to the recovery of rent, have long been recognised. Its most serious defect is that it nowhere defines and declares the substantive rights of ryots in zemindari tracts. In respect of the most important of these rights, the right of occupancy, the received opinion has always been that, by the custom of the country, it exists as an inherent right in every permanent ryot of a village, so that every permanent ryot, from the mere fact of his personal status as such, becomes entitled to hold as an occupancy ryot all land for the time being held by him as a ryot in his village. This right has, generally speaking, been consistently respected by proprietors of estates in the southern districts of the Presidency; but in the northern districts it has been steadily encroached upon until, in many estates, the ryots have been reduced practically to the position of mere tenants-at-will. It is one of the main objects of this Bill, while securing the occupancy right to every ryot already possessing it as a customary right or otherwise, to restore the right, as a matter of personal heritable status, to every permanent ryot of a village and to facilitate the acquisition of that status by every other ryot.

2. Another serious defect in the existing law is that it contains no definite rules regulating the enhancement of rent; and where, as in many estates in the northern districts, the ryot has proved too unequally matched with the proprietor to refuse to agree to even undue raising of his rent, it has not sufficed to prevent arbitrary enhancement and rack-renting. It is one of the main objects of this Bill, by permitting enhancement only on certain clearly-defined grounds, and then only by suit before the Collector, to secure the occupancy ryot in a fair and equitable rent.

3. Of other substantive rights of ryots for which it is a main object of this Bill to provide, the principal are the right of free transfer, the right to a puttah or written agreement as a prerequisite to the recovery of rent, and the right to make and be compensated for improvements.

4. In respect of the rights of proprietors, it is a serious defect of the existing law that by omitting to secure the rent as a first charge on the land and by requiring the absolute accuracy of a puttah in every particular, however unimportant, as a condition precedent to the recovery of rent, it often fails, as in many estates in the southern districts, to protect the proprietor in the realisation of even his just dues. It is one of the main objects of this Bill, by making rent a first charge on the land indefeasible by any other encumbrance, and by declaring the sufficiency of a substantially correct puttah, to secure the proprietor in the recovery of his just dues.

5. Of other substantive rights of proprietors for which it is a main object of this Bill to provide, the principal are the right of entry and measurement, the right of distraint and sale for arrears, the right of ejectment, the right to acquire tenants' holdings for building and other purposes, and the right of absolute disposal of pannai or private lands.

6. Chapter I provides for the commencement and local extent of the Act, and for definitions.

7. The Act is to come into force on the first day of a revenue year. That is the period to which very many of its important provisions particularly relate, and the object is to avoid difficulties of the kind which were experienced when Madras Act VIII of 1865 was brought into force in the middle of a revenue year.

8. The Act is to extend to the whole Presidency except Malabar and the South-East Wynaad, where the peculiar land system demands entirely separate treatment. South Canara, though a ryotwari and not a zemindari district, is thus included. The existing Act, VIII of 1865, is in force there, and this Bill is intended to regulate not only the relations between proprietors and their ryots in proprietary estates, but also the relations, as landlord and tenant, between ryots, whether proprietary-estate or Government ryots, and their under-tenants.

9. As all landlords will not be proprietors and all tenants will not be ryots, though all proprietors will be landlords and all ryots will be tenants, the four terms "proprietor," "ryot," "landlord" and "tenant" are defined. The terms "estate" and "village" are defined in connection with the term "proprietor", which is limited, so as to avoid the absurdity of petty inamdars of perhaps an acre or two being ranked as "proprietors," to proprietors of estates comprising at least one whole village. The term, subject to the same limit, is defined so as to include persons for the time being in the shoes of the proprietor—lessees, mortgagees with possession, managers of estates of disqualified owners and the like—between whom and the tenants of the estate it is necessary, for the proper carrying on of the business of the estate, that the provisions of the Act should be made applicable.

10. In defining "rent," care has been taken to admit of the necessary distinction being made, in the actual working of the Act, between the rent proper of the land and what is legally or usually recoverable as, or along with, rent,—namely, water-tax, cesses, customary fees and the like.

11. Chapter II, recognising that in proprietary estates there are, in fact, ryots without occupancy right as well as ryots with occupancy right, enumerates and defines the three classes of tenants which there will be under the Act, namely, occupancy ryots, non-occupancy ryots and under-tenants, the latter including tenants holding under Government ryots, who are "landlords other than proprietors."

12. Chapter III deals with occupancy ryots. By section 5, it permits occupancy right in land to be created at any time by written agreement between proprietor and ryot: by section 6, it secures occupancy right to every ryot already possessing it as a customary right or otherwise: and by section 7, it presumes of every ryot, until the contrary is shown, that he possesses occupancy right in all his holding. It thus remedies that part of the ruling in the leading case known as Chockalingam's case (VI M.H.C.R., 164), which threw upon the ryot the burden of setting up and proving his possession of occupancy right as a customary right.

13. Section 8 provides for the acquisition of occupancy right by attainment of the personal status of a permanent ryot of the village and, for this purpose, treats every ryot as a permanent ryot of the village who has by himself, or by a person whose heir he is, held land as a ryot in the village continuously for twelve years, whether under lease or otherwise, and whether the land held has been the same throughout or has been different at different times. It further presumes of every ryot, until the contrary is shown, that he has continuously held land in his village as a ryot for twelve years. This section has, however, to be read with section ~~11~~ which excludes the proprietor's private lands from the operation of this statutory acquisition of occupancy right, and with the definition of "ryot" in section 3 which restricts its operation to land held for agricultural purposes, including horticulture and grazing: so that occupancy right can be acquired by reason of the ryot's personal status as a permanent ryot only in land held for agricultural purposes and other than proprietor's private land. The period of twelve years, which has been taken as sufficient to entitle a ryot to be looked upon as a permanent ryot of his village, is the period prescribed in the corresponding section of the Bengal Tenancy Act.

14. Under the incidents of occupancy right, provision is made for the ryot's right to use the land in any manner which does not impair its value (section 9), for his payment of a fair and equitable rent (section 10), for his right of free transfer (section 12) and for his protection from eviction except in execution of the decree of a Civil Court passed on the ground of misuse of the land or breach of conditions of his contract with the proprietor (section 11)—which are usual incidents of tenant right.

15. Experience having proved it unsafe to permit enhancement of rent by contract, where the ryot is so unequally matched with the proprietor as in many estates, particularly in the northern districts, enhancement of the occupancy ryot's rent is permitted only by suit before the Collector on certain specified grounds (sections 16 and 17) and only in the case of money-rent. Where rent is paid in kind, the proprietor already participates, by the very nature of things, in the effects of any increase in the productive power of the land or in the price of its produce; and the proprietor is enabled, by section 27, to have his produce-rents converted into money-rents, if he seeks enhancement under the provisions of this Bill. There is nothing in the Bill to prevent rent being reduced by contract; and section 25 enables the occupancy ryot, when he pays a money-rent, to sue before the Collector for its reduction on certain specified grounds.

16. Disputes as to the correctness of a ryot's rent with reference to the *extent* of his holding being of very common occurrence, sections 28 to 30 of the Bill enable either proprietor or ryot to obtain a rectification of the rent with reference to the area of the holding, by order of the Collector on application duly made for that purpose, section 29 giving the proprietor the right of entry and measurement at any time.

17. Chapter IV deals with non-occupancy ryots. By section 34, read with section ~~128~~ the non-occupancy ryot, as long as he pays his rent, is protected against eviction except by decree of a Civil Court passed on certain grounds under which special protection is given to a non-occupancy ryot who by having held continuously for at least seven years, may be taken to have proved himself a good tenant. He is liable (section 32) to pay the rent agreed upon at the time of his admission to his holding, and he may be asked to agree to an enhancement of rent and may be sued in ejectment before the Collector for refusal, and he may be forthwith ejected if he refuses to agree even to a fair and equitable enhancement determined by the Collector in such suit. If he agrees to the enhanced rent so determined, he becomes entitled to hold at that rent for such further period, not exceeding five years, as may be required to make up a total continuous holding of twelve years,—the object of these provisions being, while enabling the proprietor to obtain an equitable enhancement of rent, to facilitate the acquisition of the personal status of a permanent ryot of the village by every non-occupancy ryot who by seven years' continuous holding has proved himself a good tenant. Except by such agreement or by registered agreement, the non-occupancy ryot's rent is, by section 33, protected against enhancement. It makes it clear that the non-occupancy ryot possesses no transferable rights in his holding, as the occupancy ryot does.

18. Chapter V deals with under-tenants, protecting them, as in section 49 of the Bengal Tenancy Act, against ejectment, as long as they pay their rent, except on expiration of a written lease, or when holding otherwise than under a written lease, at the end of the revenue year next following that in which a notice to quit has been served upon them.

19. Chapter VI contains general provisions as to rent. For the decision of disputes regarding rates of rent, the presumption has to be made that the tenant holds at the same rent as in the preceding year (section ~~39~~); and contracts to pay rent have, by section ~~38~~, to be enforced as long as they are not inconsistent with the other provisions of the Bill. Enhancement by contract of the rent of an occupancy ryot being, for instance, prohibited, any contract for enhanced rent of such a ryot would be inconsistent with the provisions of the Bill: and in any dispute where enhanced rent is claimed, the Collector will simply have to see whether such enhancement has been decreed in a separate suit for the purpose and, if not, to maintain the existing rent as in the preceding year.

20. The rate of interest on arrears of rent has, by section ~~41~~, been increased from 12 to 12½ per cent. per annum which works out to 2 pies per rupee, and fractions of a month and of a rupee are permitted to be disregarded—the object being to facilitate calculation.

21. The provisions of the Bengal Tenancy Act for safeguarding the tenant by proper receipts in a prescribed form and by permitting him to deposit his rent in cases of dispute or doubt, have been substantially adopted in sections ~~42~~ to ~~48~~ of the Bill, every facility being afforded to the tenant by permitting payment of rent by postal order or to the village headman unless the proprietor has appointed an authorised agent in the village or within three miles of it, and by permitting deposit in a convenient Revenue office.

22. Chapter VI embodies everything connected with the recovery of rent. The existing system of puttahs and muchilikas is maintained; and in the case of the occupancy ryot, the tender of proper puttah is, in accordance with the Full Bench ruling in VII, Madras, H.C.R., 312, made a pre-requisite to the recovery of rent either by ordinary suit in a Civil Court or by the special procedure of distraint and sale of movable property, or attachment and sale of occupancy right in the defaulter's holding, by proceedings before the Collector. But in order to prevent the defeating of the proprietor, in the recovery of his just dues, by reason of some perhaps unimportant defect in the stipulations of the puttah, section ~~53~~ holds a substantially correct puttah to be a proper puttah, valid to the extent to which it is correct, as long as it contains no stipulations in restraint of cultivation or of harvesting or for termination of the tenancy at any specified time which are stipulations of a kind consistently held by the Madras High Court to be invalid. And for the further advantage of the proprietor, section ~~56~~ permits him to tender puttahs by filing them in a convenient Revenue office, and thus obviates the common plea of the tenant, in proceedings for the recovery of his rent, that no puttah has been tendered.

23. The provisions of the Bill (sections ~~62~~ to ~~68~~) for the distraint and sale of movable property are substantially those of the existing law.

24. Though an occupancy ryot is not liable to ejectment for arrears of rent, his occupancy right in his holding is, by section ~~81~~, made liable to attachment and sale in execution of a decree for arrears, and by section ~~85~~, to attachment and sale by proceedings before the Collector, as under the existing law, when the ryot is in arrear at the end of a revenue year. And for the further security of the proprietor in the recovery of his just dues, rent is, by section ~~93~~, made a first charge on occupancy right, indefensible by any other encumbrance. The rules regarding the attachment and sale of the occupancy ryot's interest in his holding (sections ~~90~~ to ~~105~~) combine those of the existing law and of the Bengal Tenancy Act so as to provide for attachment and sale either in execution of a Court's decree for arrears or in pursuance of the special procedure before the Collector.

25. Chapter VIII contains miscellaneous provisions as to landlords and tenants.

26. The upkeep of irrigation works being a matter of importance for the welfare of the country, provision is made, by sections ~~109~~ to ~~119~~, enabling the ryots holding irrigated land under works neglected by the proprietor to enforce repairs thereof by order of the District Collector on application made to him in that behalf, and empowering them to deduct the cost of the same from any rent due by them to the proprietor.

27. By sections ~~119~~ to ~~120~~, all ryots, occupancy or non-occupancy, but not under-tenants, are secured in the right to make improvements and to be compensated for the same on ejectment. The occupancy ryot's right in this respect is practically unrestricted as long as he causes thereby no substantial diminution of the value of his landlord's property. The non-occupancy ryot, except with the proprietor's permission or on the proprietor's refusal to make the improvement himself, is not entitled to make and be compensated for any improvements except a well for the irrigation of his holding, a suitable dwelling for himself and his family, and the culture of trees and useful plants. The rules as to compensation are substantially the same as in the Bengal Tenancy Act.

28. By section ~~121~~, every landlord is secured in the right to acquire a tenant's holding or part thereof for any reasonable and sufficient purpose, including building purposes, religious, educational or charitable purposes, or for the opening and working of mines or factories; but in view of the importance of the matter, the jurisdiction to dispose of applications for such acquisition is limited to the Principal Civil Court.

29. The provisions relating to surrender and abandonment of holdings (sections ~~109~~ to ~~124~~) are substantially the same as those of the Bengal Tenancy Act, except that they are made applicable to all tenants and not limited to ryots as in that Act.

30. In connection with the sub-division and transfer of tenancies, section ~~125~~ makes it incompetent to a landlord to refuse to consent to the division of a holding and to the proportionate distribution of the rent payable in respect thereof, except in the case of such minute division as that of a revenue field. This is in accord with the idea which has always obtained in this Presidency, and which it is desired to foster, that the ryot possesses rights in his holding which he can deal with as property.

31. While providing, by section ~~128~~, that no tenant shall be ejected from his holding except in execution of a decree of a Civil Court or order of a Collector passed in accordance with its provisions, the Bill, by sections ~~130~~ to ~~132~~, empowers summary ejectment, under the Collector's warrant, of non-occupancy ryots or under-tenants who are in arrear at the end of a revenue year and on whose premises there is no sufficient distress to satisfy the arrear. It is only fair to the landlord that, in the case of such hopeless tenants, he should be saved the tedious and expensive process of ejectment by regular suit.

32. Chapter IX provides for the making of a survey, record-of-rights and settlement of rents in estates, either by the order of the Local Government where circumstances—such as the likelihood of averting serious disputes between the tenants and their landlords generally—call for such a step, or on the application of the proprietor himself. The procedure under the Bill is substantially the same as that of the Bengal Tenancy Act in this matter, with such modifications as experience of the working of that Act has shown to be advisable.

33. The officer preparing the record-of-rights is, by section ~~136~~, required to publish it in draft for six months (and not for only one month as in Bengal) so as to give parties ample time to file objections; but ample time being given, all entries to which no objections are filed are made final and conclusive as to the facts which they record. In hearing objections to entries the officer is, by section ~~137~~, bound to refer the objector to the Civil Court in all cases of *bonâ fide* dispute involving questions of title, status or the right to hold land rent-free, which are difficult questions calling for determination by regular Courts of law. In other cases, the officer's decisions are, by section ~~140~~, made appealable to a Special Judge. When all objections to the preliminary record have been disposed of, section ~~138~~ requires the officer to frame and publish the final record-of-rights, and the entries so published are declared to be final and conclusive as to the facts which they record. The object of these provisions is to secure the framing of a record-of-rights which shall be really a complete and conclusive record of the rights of landlord and tenant existing at the time, which shall not be liable to be re-opened in the Civil Courts after final publication, and which will therefore give everybody concerned a definite unmistakeable starting point for the future.

34. Where, in cases of general rack-renting and discontent likely to give rise to disturbances, the Local Government finds it necessary to order survey and record-of-rights in a particular estate, it is of importance that the means should be at hand of effecting a fair and equitable settlement of rents as part of the operation. Provision to this end is therefore made in section ~~139~~ of the Bill.

35. Chapter X provides for the record of proprietors' private lands. By section ~~144~~, such lands are exempted from the operation of chapter III for the acquisition of occupancy right, and from the operation of chapter IV as to non-occupancy ryots; and by section ~~145~~, ~~not only~~ the pannai lands of the proprietor, ~~but also lands in which he has, by transfer, become possessed of the occupancy right~~ are to be recorded as his private lands. In this way, the proprietor is ~~at once~~ secured in the right of absolute disposal of his private lands ~~and enabled, by purchase of the occupancy right, if he so chooses, to convert the whole land in his estate into his private land~~.

36. Chapter XI deals with judicial procedure in suits and proceedings under the Act. While leaving suits before Civil Courts—which will only be suits of an important nature, such as suits in ejectment—to be tried under the provisions of the Civil Procedure Code, a simplified procedure in the trial of suits before Collectors—which will be of a simpler and more summary nature—is prescribed by section 154. And to prevent hardship in the case of standing crops and the like, it is enacted by section 159 that, except where otherwise expressly provided by the Bill (as in the case of non-occupancy ryots ejected under section 36 for refusal to agree to an equitable enhancement of rent), a decree for ejectment, if passed in the first eight months of a revenue year, is not to take effect until the commencement of the revenue year next following, and if passed in the last four months of a revenue year, is not to take effect until the commencement of the revenue year next but one following.

37. Chapter XII deals with contract and custom. Experience having proved the zemindari ryot, in a large area of the Presidency, to be too unequally matched with the zemindar to protect himself against stipulations to the obvious prejudice of his rights, every tenant is, by section 162, prevented from contracting himself out of his statutory rights in respect of occupancy, ejectment, improvement, user of land, surrender, commutation and reduction of rent. Section 164 saves custom and usage not inconsistent with, or not modified or abolished by the provisions of, this Bill; and by section 163, the tenancy of homesteads held otherwise than as part of a tenant's agricultural holding is, in the first instance, regulated by local custom or usage.

38. Chapter XIII reproduces the provisions of the Bengal Tenancy Act as to limitation.

39. Chapter XIV, completing the Bill, deals with supplemental matters. The most important of these is that, to prevent tenants from being induced to agree to improper raising of their rents for the purpose of forestalling the provisions of the Bill against enhancement, section 171 provides that no enhancement of rent made or agreed to between the date of publication of the Bill and the date of commencement of the Act shall be valid or binding on any tenant.

40. The foregoing statement shows that, in its main provisions, the Bill is based upon the Bengal Tenancy Act VIII of 1885 modified, to suit local conditions, chiefly by embodying in the Bill those provisions of the existing law, Madras Act VIII of 1865, which it is considered desirable to retain. The Bengal Act has been taken as a model, because it was the product of very full discussion and deliberation, was applied to a state of facts in the main the same as that obtaining in this Presidency, and has been proved by experience to be practical and beneficial in its working.

1075

Legve Dept

Deferred 9 March 1878

Telegram from the Hon'ble Sir Henry Bliss, K.C.S.I.

To The Hon'ble Sir John Woodburn
Home Office
Calcutta.

If possible let us have permission to introduce tenancy bill before we leave Madras about 1st proximo we can then take select Committee at Ootacamund during High Court vacation. This of course on understanding that alterations on which India insists will be made in Select Committee.

(Signed) H.W. Bliss
Downton House

The Telegrams were received in the Legislative Dept & copies have not yet been formally Comm'd to us ~~formally~~. We became aware of them only on calling for the originals in connexion with the letter from the Govt of India. The Legislative Dept has not handed them

RS
9-3-78

With Leg. Dept kindly per these telegrams for early ref.

JF
10/3/78

Legislative (189) Department.

CURRENT No.

Telegram

From Sir J. Woodburn

Order

No. 212

Dated 10
Received 9 } 3. 95
Registered 11
Enclosures
Spare copies

SUBJECT.

Stating that he will give definite answer to the Madras Bill papers on Monday.

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

T—14.

Class. INDIAN TELEGRAPH. Monthly

To Station: The Private Secretary

From Station: Calcutta

Words	Day	Hour.	Minute.	Official Instructions.
257	10	13	54	

To (Person)

Sir H. Risley

From (Person)

SECRETARY TO GOVERNMENT
11 MAR 1898
LOCAL & MUNICIPAL DEPARTMENT

1
2
3 The maps left papers
4
5 selected by Daly &
6
7 Wright & will forward
8
9 from a depot Calcutta
10 on Monday
11
12 [illegible] 10/3/98
13

CALCUTTA
10 MAR 98

Recd. from H. N. Sent to H. N.

At Hrs. Min. By At Hrs. Min. By

Date Telegraph

Class. S | INDIAN TELEGRAPH. | Monthly Local 29

To Station: Madras adyar | From Station: Calcutta

Words.	Day.	Hour.	Minute.	Official Instruction.
40	14	16	54	

To (Person): Sir H. Bliss | Collated: Woodburn | 15 MAR 1898 | 14 | 1 | 98

1 Tenney with papers
2 go to-day I see
3 reason why you
4 should not introduce
5 if you will agree
6 on three points
7 regarding which I
8 will send directly
9 H. E. Returns Lt.
10 Sec., Legn Dept
11 Received Hon'ble Secn
12 know about this, also Legn

ADYAR 14 MA. 98

Recd. from ____ L. N. | Sent to ____ L. N.

At ____ Hrs. ____ Mts. By | At ____ Hrs. ____ Mts. By

Date: Rofs, as it is possible the Letter will have to be prepared for

Postmaster.

SECRETARIAT LOCAL & MUNICIPAL DEPARTMENT

15.3.98.

[G / 25 A]
500—8-12-97.

Legd. DEPARTMENT.

C. No

SUBJECT.

Madras Treasury Bill

(1) H.E. the Governor

(2) The Hon'ble the Chief Secy. FOR ~~ORDERS~~. Note.

#98
15.3.98
Jr 17/3/98

By desire of the Hon'ble Sir Henry Bliss, as noted on the last telegram, copies of telegrams which have lately passed between him and the Hon'ble Sir T. Woodburn are circulated.

H.T.
15-3-98.

T—16
T—15

Class S | INDIAN TELEGRAPH. | Monthly Log 43

To
Station Madras adyar

From
Station Calcutta

Words.	Day.	Hour.	Minute.	Official Instruction.
106	15	17	40	

To (Person)
Sir H. Peliss

From (Person)
Chas J. Woodbury

1
2 Treasury bill we
3 maintain four points
4 first that a cause
5 should not be
6 the expedition of
7 a Treasury right
8 under the 12
9 year rule second
10 that our citizenry
11 rights should be
12 declared non
13 transferable third
14

Recd. from	L. N.	Sent to	L. N.
At Hrs. Mts. By		At Hrs. Mts. By	

Date

Postmaster.

APR 23 1898

RATES OF CHARGE FOR INLAND TELEGRAMS.

The address (including name of Sender, and name and residence of Addressee) is transmitted free.

	First 8 words.	Each additional word.	
Deferred Message	... 8 Annas	... 1 Anna.	A group of 3, or less figures, is reckoned as one word.
Ordinary	... 1 Rupee	... 2 Annas.	
Urgent	... 2 Rupees	... 4 Annas.	

No charge for delivery within a distance of 5 Miles.

T. 48.
T—14.

INDIAN TELEGRAPH. | Monthly Log. No.

To | From

Station | Station

Words.	Day.	Hour.	Minute.	Official Instructions.

To (Person) | From (Person)

1 Mrs. Lawson Land Petitioner
2 Dower in occupancy
3 Grant by a grandson
4 should not merge
5 in the present Lands
6 of the purchaser for
7 not section 150
8 the Confirmed and
9 to proceed if
10 Benefit accordingly
11 be inserted of
12 a Tenth under
13 section 154 Hon. I
14 Your order

Recd. from L. N. | Sent to L. N.

At Hrs. Mts. By | At Hrs. Mts. By

Date

Postmaster.

ACTING 28 MAR 38

RATES OF CHARGE FOR INLAND TELEGRAMS.

The address (including name of Sender, and name and residence of Addressee) is transmitted free.

	First 8 words.	Each additional word.	
Deferred Message	... 8 Annas	... 1 Anna.	A group of 3, or less figures, is reckoned as one word.
Ordinary	... 1 Rupee	... 2 Annas.	
Urgent "	... 2 Rupees	... 4 Annas.	

No charge for delivery within a distance of 5 Miles.

INDIAN TELEGRAPH. | Monthly Local No.

To

Station

From

Station

Words.	Day.	Hour.	Minute.	Official Instruction.

To (Person)

From (Person)

1 Rs 8 four pounds
2 will be ready to
3 interest of at once
4 letter will follow
5 with suggestions on
6 other points
7
8
9 Repta
10
11
12
13
14

ADYAR 18 MAR 35

Recd. from	L. N.	Sent to	L. N.
At Hrs.	Mts. By	At Hrs.	Mts. By

Date

Postmaster.

RATES OF CHARGE FOR INLAND TELEGRAMS.

The address (including name of Sender, and name and residence of Addressee) is transmitted free.

	First 8 words.	Each additional word.	
Deferred Message	... 8 Annas	... 1 Anna.	A group of 3, or less figures, is reckoned as one word.
Ordinary	... 1 Rupee	... 2 Annas.	
Urgent ,,	... 2 Rupees	... 4 Annas.	

No charge for delivery within a distance of 3 Miles.

1. Hon'ble Groom
2. Hon. Sir H Bliss
3. His Excellency the Governor

Will His Excellency be now pleased formally to order publication? It will be seen that the Hon'ble members accept the draft telegram, which will now be sent.

H.T.
20.3.98.

The Bills should not be published.

My dear Treasurer,

As directed this morning, I have seen His Excellency and explained matters in connection with Sir E. Woodburn's telegram of 18th inst. to Sir H. Bliss re the Tenancy Bill.

His Excellency fully concurs in omitting points two, three and four; but as regards point one, he is opposed to the Govt. of India and considers that, while it is advisable to give way at present rather than run any risk of the Bill being hung up, it should be made clear that the Government is prepared to object the proviso to section 8 sub-section (1) only in deference to the wishes of the Govt. of India.

His Excellency will approve of the following telegram being sent —

Sir John Woodburn's telegram to Sir H. Bliss — Point one — Government will delete proviso to section 8 sub-section 1 in reference to wishes of Government of India though not concurring with their view on this point — Point two — Government will insert provision declaring non occupancy rights to be non transferable — point three — Government will omit last fourteen words of section 144 and clause c of section 148 sub-section 1 — Point four — Government will expunge section 150 and insert its provisions as a sub-rule under section 154 — Bill as altered will be published immediately and introduced at meeting of Board* early in May during High Court vacation —

Memo similar to Hon. Members and H. C. Smith —

I have altered enclosed copy of the Bill accordingly — in the telegraphic sense.

Yours truly,
H. Stokes
D.S.O.

* Insert in sec 37 the words "or Local Government" as in sec 12. Mem. for Legislative.

19/3/98
20/3/98

* Sir Henry Bliss and Hon. Members of the Legislative Council following by letter.

Telegram.

(Sir John Woodburn's telegram to Sir Henry Bliss. Point one. Government will delete proviso to section eight Subsection one in deference to wishes of Government of India though not Concurring with their view on this point. Point two. Government will insert provision declaring non-occupancy rights to be non-transferable. Point three. Government will out last fourteen words of Section ~~one hundred and forty four~~ 144 & Clause C of Section 148. Subsection 1. Point four. Government will expunge Section 150 and insert its provisions as a Sub-rule under section 154. Bill as altered will be published immediately introduced at meeting at Board called early in May during High Court vacation.

H.S.
20.3.98

[G / 24]
1,000—22-11-97.

Legve DEPARTMEN

Papers to be read in Proceedings:—

Again GO., No.	, dated	189 .
Again G.O., No.	, dated	189 .
Current No.	of 189 , dated	, from
,, ,,	,, 189 , ,,	, ,,
,, ,,	,, 189 , ,,	, ,,

H.E. the Governor with ref. to para 2 of
ORDER. No 17 Legve 3/22: 3·98
P.S.

Under Rule 33 of the Rules for the conduct of business at meetings of the Council of the Governor of Fort St George for making Laws and Regulations His Excellency the Governor directs the publication in the English and all the Vernaculars except Malayalam of a Bill to amend the law relating to landlord and tenant in the Presidency of Madras together with the Statement of Objects and Reasons.

H.T.

2. The Hon'ble Mr. Ross will be requested to take charge of the Bill.

Note
Sent to Press for publication in tomorrow's gazette.

The Bill to amend the law of L & T as revised by with reference to telegram from Sir Alex. Woodburn dated the 18 instant.

will H.E. kindly communicate the Hon'ble member who is to take charge of the Bill?

Mr Ross. AH 22.3.98

J

The Revenue Dept
" Hon'ble -
" Secy Govt to Press
" ~~Translator to Govt~~ Tamil
Telugu
Canarese & Tr.
Hindustani

The translation of the Bill into the Malayalam Vernacular is not considered necessary as the Act will not be applicable to Malabar for which

Vide Govt Rev 95
27 26. H-97
Para B.

23/3/98

Number of letters required.

Order complete. 3515.

Letter only.

Order complete with Letter.

Draft for Secretary

Initial.
Already
Already

who a District a Special Bill is
now in preparation.

No despatch to the Secretary of State
is considered necessary at this stage.
The Government of India remarks have
not yet been received completely, & it
is submitted that the despatch by
25th ~~25~~ November last is quite enough.

flag A

H.T
27 3 98

FDV
27/3/98
E.L.R.V
27.3.98