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Legislative (1899) Department.

ORDINARY MS.

G.O., No. 45

DATED 13-4-99

INDEXED.

37/38



[Despatch Abstract.]

Recording proceedings, Revenue Dep^t,
Circulating the Madras Land Bill as
provisionally redrafted by the majority
of the Select Committee, to all Collectors
for remarks.

T. 13-4-99

No.	Department.	Date	Is from the char	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

Legislative (1897) Department.

CURRENT No. 161

From The Revenue Dept

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Order *Wm* 45 d/13-4-99
mis Recorded

Memo No. 108

ale
10/4/99

Dated 29. 3. 99

Received }
Registered } 5-4-99

Enclosures

Spare copies

SUBJECT.

Circulating
Forwarding Copy of the *Madras*
Land Bill provisionally amended
by the *majority of the* Select Committee *& circulated*
to all Collectors for remarks

Red 5-45

Red
7/4/99

DEPARTMENT. BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

No.

OFFICIAL MEMORANDUM.

No 108.

Copies of the Madras Land Bill, as provisionally redrafted by the majority of the Select Committee at Coimbatore in 1898, are circulated to all Collectors for such remarks as they may wish to offer on the provisions of the draft, after obtaining the opinions of such official and non-official gentlemen and local associations as are, in their opinion, likely to offer useful criticisms on the Bill. A memorandum embodying the main differences between the draft and the provisions of the Bill as introduced is also enclosed.

2. The reply to this reference should be submitted through the Board of Revenue by 1st June next.

(By order)

H. J. J. J. J.

Ag. Under Secretary to Govt.

Fort St. George, }
29 March 1899 }

To

All Collectors.
" The Board of Revenue, Land Revenue.
Copy to the Legislative Department.

No.70

Revenue Department.

Fort St. George, 29th March 1899.

Dear Sir,

I forward herewith copies of a draft of the Madras Land Bill, as provisionally revised by the majority of the Select Committee at Ootacamund, together with copies of a memorandum of the main differences between the redraft and the provisions of the Bill as published.

Yours truly,

(Signed) N.E. Marjoribanks,

Agent Secretary to Government.

To

The Madras Mail

„ „ Times.

„ „ Standard.

„ Hindu.

The Editor of

„ Swadesa Mitran

„ Andraprakasika

MEMORANDUM.

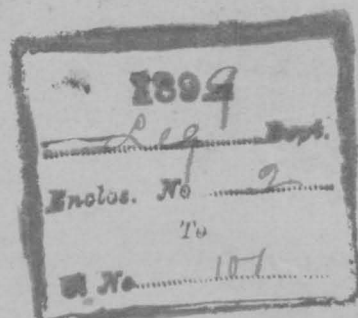
The Tenancy Bill, as modified by the majority of the Select Committee sitting at Ootacamund, is circulated for the information of the remaining and the newly-added Members of the Committee with a short note of the main changes made therein, so that discussion thereon can proceed when the Select Committee meets.

(1) The title of the Bill and some of the definitions contained in chapter I have been altered with the object of preventing the misapprehension which arises from the use of a terminology connoting legal ideas which appertain properly to the English law of landlord and tenant and which tend to prejudice or obscure the true relations which subsist between the Zamindar and the ryot. Thus the Bill has been given the title of "The Madras Land Bill", for "rent" the term "land-revenue" is used, for "landlord" is substituted "landholder" (which is the term adopted by the Zamindars themselves in their memorials), and for "tenant" the word "ryot". The terms "landlord" and "tenant" are retained in chapter IV of the revised Bill solely to express the relation between the Zamindar and the tenant of his pannai or private lands, and between the ryot and the tenant of his occupancy holding where the relations between the parties do resemble with sufficient closeness those of "landlord and tenant" as understood in English law.

(2) The artificial distinction, imported from Bengal of occupancy and non-occupancy ryots as drawn in the original Bill is removed, and chapter II, sections 8 and 11 of chapter III and chapter IV of the original Bill consequently disappear. For chapter II is substituted an almost entirely new chapter which is intended to embody a declaration, the want of which has been long felt, of the various rights of a ryot in respect of his holding.

(3) In section 4 (5) of chapter II, the definition of improvement, which appeared in section 114 of the original Bill, is inserted.

(4) Section 5 of chapter II of the revised Bill lays down the presumption of occupancy right, and the ryots' occupancy title is recognised in the revised



Bill in all lands which he is admitted to cultivate in the estate except the Zamindar's private lands, as defined in section 149 of the original Bill and section 120 of the revised Bill.

(5) The provisions (sections 63—94) dealing with recovery by the distress and sale of the ryot's moveable property have been simplified and improved.

(6) Sections 115—121 relating to improvements have been omitted as unnecessary in the circumstances of this Presidency, as the Bill is re-modelled.

(7) Sections 123 (clauses 2—6)—125 regarding the surrender and abandonment of land have been also omitted as unsuited to this Presidency, and the procedure has been assimilated to that prescribed in the case of Government ryots.

(8) Chapter V of the revised Bill contains general provisions as to the ryots' payment to the Zamindar, giving effect to the occupancy rights of the ryot and reverting to the provisions now in force. Thus section 16 of the revised Bill, which deals with the rates to be paid by the ryot, re-enacts section 11 of Act VIII of 1865 with the exception of the contract clause, and it is declared that when the *paimash* or ancient settlement rates are not in force the standard *varam* or share shall be decreed in all cases of dispute. Disputes being thus provided for, the portion of the original Bill (sections 17—31) which dealt with the enhancement and reduction of rent, the commutation of rent and the alteration of rent with area have consequently been removed.

(9) In section 19 (2) a new provision has been made for the suspension in times of famine or distress by a landholder of the collection of the land revenue payable to him by the ryot when a corresponding suspension of the collection of the land-revenue payable by the landholder to Government has been ordered.

(10) On the analogy of the Punjab Tenancy Act and other recent "rent" legislation, the sole jurisdiction over all suits or applications relating to fiscal or revenue matters and over matters in which such questions are inseparably mixed up is conferred, not on the Civil Courts, but on the Collector and the Board of Revenue. Thus section 40 declares that all suits for the recovery of arrears of land-revenue shall be heard and determined by the Collector as a Revenue Court and no Civil Court

shall take cognizance of them, while in chapter XVI further provisions, relating to jurisdiction and procedure, are made.

(11) Section 145 gives a general right of suit for damages to any person who deems himself aggrieved by proceedings taken under colour of the Act or by neglect of or breach of any of its provisions, and clause 2 of the section saves the right of action in a Civil Court in any case not specially taken out of its jurisdiction by the Act.

(12) Attention is also called to the following new clauses:—

(i) Section 29 (6) of the revised Bill which empowers the Collector in cases in which he refers a question in dispute between parties to the Civil Court to make an order for the protection of the produce;

(ii) Sections 87—88 which contain important provisions for cases in which the landlord neglects to repair works of irrigation. By section 86 (1) as amended the Collector is empowered to pass an order requiring the landholder to repair an irrigation work within a specified time, while if the landholder refuses to carry out the Collector's order or when the ryot is incapable of undertaking the work, the Collector may under section 87 execute the work himself; section 88 provides that where the work belongs partly to an estate and partly to Government the repair shall be executed by the Collector; while section 93 saves a ryot's right to sue a landholder for damages before the Collector for neglect to maintain an irrigation work.

(iii) Section 138 lays down certain conditions to be fulfilled with regard to contracts, relied on by the landholder, before they are recognized by a Collector or Court.

(Signed) H. TREMENHEERE,
23rd March 1899. Secy. to Govt.

THE MADRAS LAND BILL, 189

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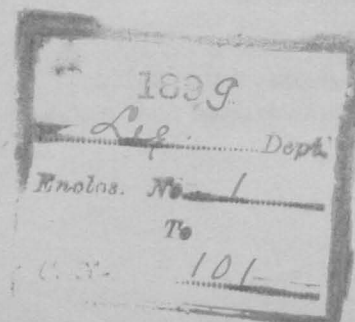
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Abbreviations.

Numbers in square brackets refer to sections of the Bill as introduced.

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

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

P.T.A. = Punjab Tenancy Act, XVI of 1887.

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A

BILL

TO

*Declare and amend the Law relating
to the holding of land in the Pre-
sidency of Madras.*

*(As provisionally amended by the Select
Committee.)*

WHEREAS it is expedient to amend and
Preamble. declare the law re-
lating to the holding
of land in the Presidency of Madras; It is
hereby enacted as follows:— 5

CHAPTER I.

PRELIMINARY.

B.T.A. 1.

1. This Act may
be called the Madras
Land Act, 189 :
it shall come
Commencement. into force on the first 10
day of July 189 :
and it shall extend to the whole of
the Presidency of
Local extent. Madras outside the
limits of the Presidency Town, except the 15
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, 20
all or any of the provisions of this Act
shall be extended to all or any of such
excepted areas or any portion thereof.

B.T.A. 2.

2. Madras Acts VIII of 1865 and II
of 1871 and section 25
[Repeal. 7 of Madras Act III
of 1890 are hereby repealed.

B.T.A. 3 and 5.

3. In this Act, unless there is some-
thing repugnant in
the subject or con- 30
text:—

(1) "Estate" means

(a) any permanently-settled
estate, whether a
"Estate." zamindari, jagir, 35
mittah or palaiyam;

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

5 (c) any unsettled pālaiyam or jāgīr;

10 (d) any inam or shrotriam village or part of a village of which the grant was made or confirmed, or has been recognised, by the British Government;

(2) "Village" means any local are 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 eurnams, 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.

25 (3) "Landholder" means a person holding an estate and every other assignee of public land revenue; and includes every assignee, lessee, mortgagee with possession and every purchaser of the interest of, and every farmer of land-revenue payable to any such person. It also includes managers of estates of disqualified landholders, 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.

40 *Explanation.*—Where there is a dispute as to the right to hold an estate, or as to who, among joint-holders of an estate, is entitled to proceed as landholder under this Act, the landholder 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-holders thereof, the landholder shall, for the purposes of this Act, be the person who is recognised by the other joint-holders as the managing holder of the estate or who, in case of dispute, is recognised and registered by the Collector as senior joint-holder.

55 (4) "Ryot" means a person who occupies land on condition of paying to a landholder in kind or in money the land revenue which is legally due upon it.

Provided that no person shall be deemed to be a 'ryot' by reason only of his occupying a house or other building or the land appurtenant thereto.

(5) The land-revenue payable by a ryot to a landholder includes (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 land-revenue payable for the land: (c) any cesses, fees or charges payable along with the land-revenue of land or trees according to law or usage having the force of law: (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, and (e) any other sum or sums which a ryot is bound to pay under this Act on account of his occupation of the land.

Explanation.—The payments to be made by a farmer of land-revenue to a landholder are not 'land-revenue.'

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

(7) "Tenant" means a person who holds land from a landlord under an agreement to pay rent in respect thereof.

(8) "Rent" means whatever is lawfully payable or deliverable in money or in kind under an agreement between a landlord and a tenant in respect of the use or occupation of land for the purposes of agriculture, horticulture or grazing by the tenant from the landlord.

(9) "Public cultivable land" means land on which land-revenue is payable.

(10) "Holding" means a specific parcel or specific parcels of land held by a ryot.

(11) "Revenue field" means a field, a survey field, or any parcel of land on which a definite amount in kind or in money, has been paid, or may be due, or which in case of dispute, may be declared by a Collector to be a revenue field.

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

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

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

CHAPTER II.

General rights in respect of Land.

15 4. (1) Subject to the provisions of this Act, a landholder is entitled to collect land-revenue on all public cultivable land in the occupation of a ryot.

(2) The land, the buildings upon it and its products shall be regarded as the security of the land-revenue payable by a ryot to a landholder.

25 (3) Notwithstanding anything contained in any Act or Regulation now in force, a ryot possesses in respect of all lands entered in his puttah as against the landholder proprietary right subject only to the payment of the land-revenue.

30 (4) Any improvement effected by a ryot shall belong to him absolutely, and, in the absence of any usage having the force of law to the contrary, shall not render him liable to pay, directly or indirectly, an enhanced rate of land-revenue on account of any increase of production, or of any increase in the value of any crops raised as a consequence of such improvement.

40 "Improvement" means anything done by a ryot in his holding which is calculated to increase its value or to enhance its fertility.

(5) Until the contrary is shown, the following shall be presumed to be improvements within the meaning of sub-section 4— [114]

45 (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 5 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 10 by water, of land used for agricultural purposes, or of waste land which is cultivable;

(d) the reclamation, clearance, en- 15 closure or permanent improvement of land for agricultural purposes;

(e) the repair, renewal or reconstruction of any of the fore- 20 going works, or alterations therein or additions thereto;

(f) the erection of a suitable dwelling-house or houses for the 25 ryot and the members of his family residing with him, together with all necessary out-officers and agricultural buildings;

(g) the plantation of trees and 30 useful plants; and

(h) any addition to the fertility of the holding or any part thereof, effected by means of good tillage, high manuring, or the 35 application of any fertilizing agent.

(6) An occupancy ryot may not be evicted from his holding or any part thereof, for non-payment of the land-revenue except 40 under the provisions of this Act.

(7) When a landholder assigns waste land for cultivation he shall do so at the fixed or customary rate of land-revenue.

(8) Landholders are in possession of 45 threshing floors, cattle stands, and other lands set apart for the common agricultural use of the villagers as trustees for and on behalf of the village communities concerned, and shall not assign such lands or permit them to be 50 used for any other purpose without the written order of the District Collector.

(9) No ryot may except for the purposes for which such lands are appropriated interfere with or make use of any lands set 55 apart for the common agricultural use of the villages without the written order of the landholder.

(10) (a) Landholders are bound to keep in a state of repair the public irrigation works which were in existence at the time of the permanent settlement or which have been subsequently constructed and which have been in use for irrigation at any time within ten years before the commencement of this Act.

(b) Ryots are bound to supply the customary labour known under the name of Kudimaramat for petty repairs to all existing public irrigation works.

(11) Subject to the provisions of the Madras Forest Act of 1882 and to the customary rights of the ryot to grazing, taking green leaves for manure and cutting wood for domestic or agricultural purposes, landholders are hereby declared to have proprietary rights in all forests.

(12) In waste lands and forests landholders have the right to mine and to quarry subject in the case of quarrying to the customary right of the ryots to excavate stone for building purposes but not for sale.

(13) (a) A ryot possesses the right to mine in the land to quarry and to excavate gravel or clay the ground vertically beneath his holding.

(b) When a ryot intends to mine or quarry or to excavate gravel or clay within his holding for profit he shall give notice to the landholder of his intention to do so.

(c) Either the landholder or the ryot may thereupon apply to the Collector to adjust or re-adjust the revenue payable in respect of the field in which the ryot intends to mine, quarry or excavate.

(d) In disposing of any such application, the Collector shall have regard to the rules sanctioned by Government in respect of similar Government lands when used for a like purpose.

5. Subject to the provisions of this Act, every ryot in the Presidency of Madras shall be deemed to have a permanent right of occupancy in his holding.

6. Except as provided in section 14 and sections 100 to 102 and 104 the relations of ryots, of landholders in respect of their private lands, and of any other owners of land, are not regulated by the provisions of this Act, but are left to the operation of private agreement.

B.T.A. 19.

B.T.A. 23.

B.T.A. 24.

B.T.A. 27.

B.T.A. 28.

B.T.A. 22.

CHAPTER III.

RYOTS.

[6] 7. 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.

[9] 8. Every ryot has the right to the enjoyment and use of all trees standing in his holding which have not been assigned to another person before the ryot entered on his holding and he shall be entitled to cut down such trees unless there is a local custom to the contrary, the burden of proving which shall be on the landholder.

[10] 9. (a) A ryot shall pay for his holding fair and equitable rates as shall be hereinafter provided.

[15] (b) The land-revenue payable for the time being by a ryot shall be presumed to be fair and equitable until the contrary is proved.

[16] 10. The land-revenue payable by a ryot shall not be enhanced except as provided by this Act.

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

[13] 12. (1) When the entire interests of landholder and 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.

(2) If the occupancy right in land is transferred to a person jointly interested in the land as landholder 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 a farmer of land-revenue payable to a landholder shall not, while so holding, acquire a right of occupancy in any land comprised in his farm.

(4) A person holding an inam or an unsettled estate whose predecessor in title was in possession of the occupancy right in any or all of the land covered by his grant shall not be affected by the provisions of sub-section (1).

Explanation.—A person having a right of occupancy in land does not lose it by subsequently becoming jointly interested in the land as landholder or by subsequently holding the land in farm.

13. If a ryot dies intestate in respect of a right of occupancy, it shall, subject to any custom to the contrary, devolve in the same manner as immovable property.

B.T.A. 26.

CHAPTER IV.

TENANTS.

14. Subject to the provisions of sections 100 to 102 and 104 a tenant shall not be liable to be ejected under this Act by his landlord except—

B.T.A. 49.

(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.

15. A landlord may proceed under this Act for the recovery of rent from a tenant if he has taken a written agreement from such tenant specifying the rent to be paid but not otherwise.

M.R.A. 13.

CHAPTER V.

GENERAL PROVISIONS AS TO LAND-REVENUE.

16. In the disposal of suits involving disputes regarding rates of land-revenue payable by ryots the following Rules shall be observed:—

(i) In estates which have been surveyed by the British Government previous to 1st January 1859, and in which a money assessment has been fixed on the fields, such assessment is to be considered the proper land-revenue payable.

Act VIII of 1865, Section 11 (ii).

Reg. XXX of 1802, Section 9.

(ii) In the case of all other estates,

(a) The Collector shall adopt the rates of assessment in money, or of division in kind, prevailing in the cultivated lands in the year preceding the assessment of the permanent peshkush, or, in the case of estates not permanently settled, the rates which were in force immediately prior to the date on which the grant of the estate was made, confirmed or recognized.

Act VIII of 1865, Section 11.

(b) Where these rates may not be ascertainable the Collector shall fix the land-revenue in accordance with local usage, and if such local usage is not clearly ascertainable, then in accordance with the rates established and generally paid in the district for lands of similar description and quality.

Provided that if either party be dissatisfied with the rates determined under Rule (ii) (b), he may claim that the land-revenue payable be discharged in kind according to "the Waram," that is, according to the established rate of the village for dividing the crop between the Government or the landholder and the cultivator. When "the Waram" cannot be ascertained, such money rates shall be decreed as may appear to the Collector just and equitable, provided that such rates shall in no case exceed the equivalent of half the gross produce after deducting the expenses of cultivation, of harvesting and of storage. Such money rates shall be determined on a calculation of the average price which the ryot has been able to obtain at the time of harvest on the average of the previous ten years.

Act VIII of 1865, section 11 (iv).

(iii) In the case of immemorial waste land, it shall be lawful for landholders to arrange their own terms of land-revenue; provided that the rates laid down in the foregoing Rules be not exceeded and that nothing in this rule shall be held to affect any special rights which by law, or usage having the force of law, are held by any class or person in such waste land.

(iv) Nothing contained in this section shall affect the right of any landholder to raise the land-revenue upon any land in consequence of additional value imparted to it by any work of irrigation or other improvement executed at his own expense; or where additional value has been imparted to any land by any work of irrigation or other improvement executed at the expense of Government, and where the landholder has therefore been required to pay an additional sum to Government. But in either case the sanction of the Collector as to the amount of

additional land-revenue payable upon such land shall be obtained by the landholder previous to his raising the land-revenue upon the land.

5 (v) Nothing contained in this section shall affect the right of a ryot to sue for the reduction of land-revenue payable by him on the ground that it has been unduly raised after 1st May 1871. [25 (d)]

10 (vi) No puttah which may have been granted by any landholder at rates lower than the rates payable under these rules upon any lands, or upon lands of similar quality and description, shall be binding upon his successor, unless such puttah shall have been bona fide granted for the erection of dwelling houses, factories, or other permanent buildings, or for the purpose of clearing and bringing waste land into cultivation, or for the purpose of making permanent improvement thereon; and the ryot shall have substantially performed the conditions upon which such lower rates are allowed.

20 of contracts to pay land-revenue, not inconsistent with the provisions of this Act, shall, notwithstanding anything contained in the above excepted, be enforceable. [39]

18. If a question arises as to the amount of land-revenue payable by a ryot 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 rate and under the same conditions as in the last preceding revenue year. [40]

40 19. (1) When land-revenue 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. [41]

50 (2) If in time of famine or general distress the Local Government orders a suspension of the collection of any or all of the land revenue, payable by a landholder to Government in respect of any estate or portion of an estate, the landholder shall as regards such estate or portion of an estate suspend the collection of such proportion of the land-revenue payable to him by the ryots as is equal to the proportion of land-revenue payable by the landholder to Government the collection of which

Act VIII of 1865, Section 11.

M.R.A. 11 (1).

B.T.A. 51.

B.T.A. 67.
M.R.A. 37.

B.T.A. 56.
M.R.A. 81.

B.T.A. 54 (3).
M.R.A. 14.

has been suspended and so long as such order remains in force the powers of the landholder to distrain, attach, sell or eject shall not be exercised.

(3) The Local Government may make rules for the carrying out of the provisions of sub-section (2), and in particular, and without prejudice to the generality of the provisions of this sub-section, for regulating the powers of landholders to distrain, attach, or sell as long as such order remains in operation. 5

(4) The order of the Local Government in this behalf shall be published in the Gazette of the District affected: and shall operate to postpone for such period as the order may direct the time or times of payment of land revenue under sub-section (1). 15

(5) Collectors in dealing with proceedings taken under section 40 and chapters VII and VIII of this Act for the realization of land-revenue due to landholders are hereby empowered to direct payments by instalments in cases where a ryot may be able to prove loss owing to extraordinary calamity. 25

[42] 20. An arrear shall bear simple interest at the rate of one pie per rupee per mensem, fractions of a month and of a rupee being disregarded in the calculation, from the date on which the arrear fell due until the arrear is liquidated. 35

[43] 21. (1) Every ryot who makes a payment on account of land-revenue to a landholder may specify the item or items to which he wishes the payment to be credited, and shall be entitled to obtain forthwith a written receipt for the amount paid by him signed by the landholder or by the landholder's authorised agent. 45

(2) The landholder or his agent shall prepare and retain a counterfoil of the receipt. 50

(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: 55

Provided that the Local Government may, from time to time, prescribe or sanction a modified form of receipt either generally or for any particular local area or class of cases. 60

(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 *land-revenue payable by the ryot* up to the date on which the receipt was given.

22. If a landholder, without reasonable cause, refuses or neglects to deliver to a *ryot* a receipt containing the particulars prescribed by section 21 for any *land-revenue* paid by the *ryot*, the *ryot* may, within three months from the date of payment, institute a suit before the Collector to recover from the landholder a penalty not exceeding double the amount or value of that *land-revenue with costs* as the Collector thinks fit.

23. The headman of each village shall be presumed to be the authorized agent of the landholder for the purpose of receiving *land-revenue* and granting receipts under sections 21 and 22, unless the landholder has duly appointed for such purpose as his authorized agent some other person who is resident in the village or within three miles of it or who attends in the village to receive the *land-revenue on his behalf*; provided that the *ryots* may pay their *land-revenue* to the landholder by postal money-orders under rules which the Local Government may from time to time prescribe.

24. (1) In any of the following cases in which *land-revenue is due and is payable in money*, namely—

(a) when a *ryot* tenders *land-revenue* and the landholder refuses to receive it or refuses to grant a receipt for it;

(b) when a *ryot* bound to pay money on account of *land-revenue*, has reason to believe that the person to whom the same is payable will not be willing to receive it or to credit it to the *item or items specified by the ryot* and to grant him a receipt for it;

(c) when the *land-revenue* is payable to two or more persons jointly, and the *ryot* is unable to obtain the joint

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B.T.A. 58 (1).
M.R.A. 81.

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B.T.A. 61.

B.T.A. 62.

receipt of the said persons for the money, and no person has been empowered to receive the *land-revenue* on their behalf; or

(d) when the *ryot* entertains a *bond fide* doubt as to who is entitled to receive the *land-revenue* which has become due;

the *ryot* may present to the Collector or such other officer 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 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 the *item or items to which the payment is to be credited and also—*

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 *land-revenue* is due, or of so many of them as the *ryot* may be able to specify; and

in case (d), the name of the person to whom the *land-revenue* 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 *ryot*, 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] 25. (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 *land-revenue*, he shall receive the amount and shall give a receipt for it.

(2) A receipt given under this section shall operate as an acquittance for the amount of the *land-revenue paid* by the *ryot* and deposited as aforesaid,

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

in the same manner and to the same extent as if that amount of *land-revenue* had been received—

- 5 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;
10 in case (c) of that section, by the persons to whom the *land-revenue* is due; and
in case (d) of that section, by the person entitled to receive the *land-revenue*.

- 15 **26.** (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—

- 30 in cases (a) and (b) of section 24, 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;

- 35 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

- 40 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.

- 50 **27.** (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.

B.T.A. 63

B.T.A. 69.

B.T.A. 64.

B.T.A. 70.

(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 5 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 10 his returning the receipt given by the Collector or other officer with whom the *land-revenue* was deposited.

(4) No suit or other proceeding shall be instituted against the Secretary 15 of State for India in Council or against any officer of the Government, in respect of any thing done by a Collector or other officer receiving a deposit under the foregoing sections; but nothing in this 20 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.

- [50] **28.** (1) Where *land-revenue* is taken by appraisement or division of produce—

- (a) if either the landholder or the 30 *ryot* 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 35 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 40 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 45 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 50 order, prohibit the removal of the produce until the appraisement or division has been effected.

- [51] **29.** (1) Where a Collector appoints an officer under the 55 last foregoing section, the Collector

may, in his discretion, direct the officer to associate with himself any other persons as assessors, and may give him instructions regarding the number, qualifications and mode of selection of those assessors (if any) and the procedure to be followed in making the appraisalment or division; and the officer shall conform to the instructions so given.

(2) The officer shall, before making any appraisalment or division, give notice to the landholder and ryot of the time and place at which the appraisalment or division, will be made; but the officer may make the appraisalment or division if the parties or any of them fail to attend in compliance with the notice.

(3) When the officer has made the appraisalment 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 fit, he shall pass such order as he thinks just.

(5) The Collector may, if he thinks fit, refer any question in dispute between parties for the decision of a Civil Court, but, if no such reference be made, his order shall be final and shall be enforceable as a decree of the Collector.

(6) When the Collector refers a question in dispute between the parties under sub-section (5), he may make any order he deems fit for the protection of the produce pending the decision of the Civil Court, or for its disposal.

30. (1) Where land-revenue is taken by appraisalment of the produce, the ryot shall be entitled to the exclusive possession of the produce.

(2) Where land-revenue is taken by division of the produce, the ryot 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 ryot shall be entitled to cut and harvest the produce in the course of husbandry without any interference on the part of the landholder.

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B.T.A. 71.

(4) If the ryot removes any portion of the produce at such a time or in such a manner as to prevent the due appraisalment 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 VI.

RECOVERY OF LAND-REVENUE.

M.R.A. 2, 3 and 7.

[53] 31. (1) No landholder shall have power to proceed against a ryot for the recovery of land-revenue unless and until he shall have exchanged a puttah and muchalka with such ryot or tendered him such a puttah as he was bound to accept.

(2) A puttah which is not entirely but is in the opinion of the Collector substantially correct, shall be held to be valid to the extent that it may be found to be correct.

(3) A puttah which contains any stipulation in restraint of cultivation or of harvesting or for the giving up of possession of his land by the ryot at any specified time shall be void and of no effect.

M.R.A. 7.

[54] 32. The tender of a puttah may be made directly to the ryot or if the Collector shall so permit in respect of any estate or any portion of an estate, by filing it in the office of the Collector or such other officer as the Local Government may by general or special order direct; and, if so filed, the Collector or such officer shall cause the puttah to be served on the ryot, at the cost of the landholder, in the manner prescribed for the service of notice under section 43.

M.R.A. 6.

[55] 33. Puttals and muchalkas shall be signed by the respective parties or by persons duly authorized in that behalf.

M.R.A. 4.

[56] 34. 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 land-revenue payable thereon, 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 land-revenue, fees, or charges are to be paid; the date of the *puttah* and all special terms by which it is intended that the parties shall be bound. The muchalka may, at the option of the *landholder*, be a counter-part of the *puttah* or a simple engagement to hold according to its terms.

35. *Puttahs* and muchalkas may be exchanged for periods of one *revenue* 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 *landholder* shall be bound to tender, and no *ryot* to accept, a *puttah* for a period of more than one revenue year.

When a *landholder*, for three months after demand, refuses or neglects to accept such a *puttah* as the *ryot* is bound to receive, it shall be lawful for the *ryot* 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 muchalka had been exchanged.

37. When a *ryot* for one month refuses or neglects to accept the *puttah* tendered to him and to give a muchalka in exchange, the *landholder* may sue before the Collector to enforce acceptance of such *puttah*.

38. 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. If the plaintiff establishes that the party sued is bound to accept a *puttah* 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 muchalka 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 muchalka in accordance

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M.R.A. 8 and 71.

M.R.A. 9.

M.R.A. 10 and 72.

B.T.A. 121.

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

with it. If the defendant fails to comply with the Collector's order within the time specified therein the order shall be of the same force and effect as if a *puttah* and muchalka had been exchanged.

39. Save as respects lands duly relinquished or newly taken up by the *ryot*, for which the parties may exchange a supplementary *puttah* and muchalka, the *puttahs* and muchalkas exchanged or decreed between *landholders* and *ryots* shall remain in force until the beginning of the revenue year for which fresh *puttahs* and muchalkas may thereafter be exchanged or decreed.

40. All suits for the recovery of arrears of land-revenue shall be heard and determined by the Collector sitting as a Revenue Court, and no Civil Court shall take cognizance thereof.

CHAPTER VII.

RECOVERY OF LAND-REVENUE BY DISTRAINT AND SALE OF MOVEABLE PROPERTY.

41. A *landholder* may at any time during the revenue year next following the revenue year in which the arrear became due, and if no security has been accepted therefor, in addition to any other remedy to which he is entitled by this Act, distrain the moveable property of the defaulting *ryot*, the growing crops, or the ungathered produce of the land or trees in his holding.

Provided that when a suit has been filed under section 36 or 37 an arrear 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 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 sufficient for the discharge of such arrear.

42. The distress shall be effected on the personal responsibility of the *landholder* by service on the *ryot* of a written notice signed by the *landholder* or his authorized agent setting forth—

- (1) the amount of the arrear due, with interest, if any;
- (2) the holding in respect of which it is due;

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- (3) the period in respect of which it is due;
 (4) the nature and approximate value of the property distrained;
 5 and by the landholder or his authorized agent taking charge of the property or placing some person in charge of it on the landholder's behalf.

10 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.

- 15 43. The notice of distress prescribed by section 42 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 distress 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.

30 A copy of the notice of distress shall be fixed up in some conspicuous place in the village in which the land on which the arrear has accrued is situate and another copy shall be forwarded to the Collector by the landholder within forty-eight hours of its service on the defaulter.

- 35 44. A person 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 distress for such purpose.

- 45 45. The distress 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.

46. Distress shall be made after sunrise and before sunset and not otherwise.

- 55 47. 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

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

M.R.A. 19.

M.R.A. 24.

M.R.A. 25.

M.R.A. 28.

M.R.A. 29.

M.R.A. 23.

B.T.A. 216.
 M.R.A. 21.

break open the door of any room in such dwelling-house for the purpose of attaching property belonging to a defaulter and kept 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 herein-after provided.

- [70] 48. 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 report the fact to the officer in charge of the nearest Police station. Thereupon the officer in charge of the station shall send a Police officer to the spot, in the presence of whom the distrainer may break open the outer door of such dwelling-house, and also 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, kept 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.

- [71] 49. The distrainer shall not work the bullocks or cattle or make use of the property distrained. He shall provide necessary food for cattle or other live-stock, and the cost thereof shall be a charge against the owner and shall be recoverable as a cost of the distress.

- [72] 50. (1) If the defaulter or some person authorized by him fails so to do at the proper time, the distrainer shall do all acts necessary for the preservation or maturing of 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.

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

51. (1) After a distress 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 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 distress.

(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 the 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 distress forthwith.

52. 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 landholder who made the distress the amount due to him, unless in the meantime the owner of the property distrained shall have instituted a suit against the landholder contesting the legality of the distress and claiming compensation in respect of the same.

53. 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 preservation, he shall be responsible to the owner for the loss or damage, and the 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.

54. Claims to growing crops or un-gathered produce distrained under section 41, shall not bar the prior claim for land-

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

M.R.A. 26.

M.R.A. 27.

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B.T.A. 136 (4).

[75]

M.R.A. 20.

[76]

M.R.A. 32.

revenue due to the landholder; but if, before the day fixed for the sale, a third party appears before the Collector and claims a right or interest in such crops or produce, 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 or produce. 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 or interest an order shall be issued for proceeding with the sale.

55. 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 Indian Penal Code.

56. 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. The defaulter will further be liable to the penalties prescribed by section 424 of the Indian Penal Code.

57. If the ryot does not within thirty days from the date of distress file a suit before the Collector to set aside the distress or if such a suit is filed and is decided against the ryot, the distrainer shall, within fifteen days from the expiration of the thirty days, or from the decision of the suit, as the case may be, 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 *shall* be allowed from the time of the public notice.

58. The sale shall ordinarily be held [80]
 5 in the village where the property was
 Place of sale. distrained or is stored, unless the Collector
 is of opinion that the property is likely to
 10 sell to better advantage in some neighbour-
 ing village, when he may order the sale to
 take place in such village. In any case,
 the landholder shall be bound to produce
 the property at the time and place of
 15 sale, and the cost of the transport thereof
 shall be considered part of the cost of
 distress; provided that crops or products
 which are in their nature speedily perish-
 able shall be sold as early as possible by
 the distrainer under rules to be framed
 20 in this behalf by the Local Government.

59. (1) Crops or products which from [81]
 their nature admit
 of being stored shall
 When crops may be sold standing. not be sold before
 25 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
 30 gathered, and the purchaser shall be en-
 titled 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
 35 gathering them.

60. The property shall be sold by [82]
 public auction, in
 Manner of sale. one or more lots as
 the officer holding the sale may think fit,
 40 and if the demand with the costs of
 distress and sale is satisfied by the sale
 of a portion of the property the distress shall
 be immediately withdrawn with respect to
 the remainder.

61. If, on the property being put up [83]
 for sale, a fair price
 Postponement of sale. in the estimation of
 the officer holding the sale is not offered
 for it, and if the owner of the property, or
 50 a person authorized 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
 55 and shall be then completed, whatever
 price may be offered for the property.

62. The price of every lot shall be paid [84]
 at the time of sale,
 Payment of purchase-money. or as soon thereafter
 60 as the officer holding
 the sale directs, and in default of such

B.T.A. 128.

B.T.A. 129.

B.T.A. 130.
M.R.A. 33.

B.T.A. 131.

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

M.R.A. 17.

M.R.A. 17.

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

B.T.A. 134.

B.T.A. 135.

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.

- [85] 63. The officer appointed to sell pro- 5
 perty distrained
 shall bring to the
 Obligation to report irre- regularity in distraining. notice of the Col-
 lector any material irregularity committed
 by the distrainer under colour of this Act, 10
 and may in such case postpone the sale
 pending the Collector's order.

- [86] 64. When it shall come to the know-
 ledge of the Collec- 15
 tor, that the dis-
 Effect of irregularity in distraining. trainer did not serve
 on the ryot a written notice as required
 by section 42, or failed to publish the
 notice as required by section 43, or failed
 20 to apply to the Collector for an order under
 section 41 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 proceed 25
 farther under this or the following chapter
 of this Act for the recovery of the arrear
 and the ryot may sue the distrainer
 before the Collector for any loss or damage
 which he has sustained. 30

- [87] 65. When the purchase-money has
 been paid in full,
 Certificate to be given to purchaser. the officer holding
 the sale shall de-
 liver the property to the purchaser and 35
 shall give him a certificate signed by
 himself, describing the property purchased
 and the price paid.

- [88] 66. From the proceeds of every sale
 of distrained pro- 40
 perty under this
 Proceeds of sale how to be applied. Act, the officer
 holding the sale shall pay the costs
 of the distress and sale. The remaining
 proceeds shall be applied to the dis- 45
 charge of the arrear for which the distress
 was made, with interest thereon, up to
 the day of sale and to the discharge of
 any further arrear which may have
 accrued between the date of distress and 50
 the date of sale; and the surplus (if any)
 shall be paid to the defaulter. The de-
 faulters shall receive from the officer who
 has conducted the sale a receipt for an
 arrear discharged from the proceeds of 55
 sale.

- [89] 67. Officers holding sales of property
 under this Act,
 Persons prohibited from purchasing. and all persons em-
 ployed by, or sub- 60
 ordinate to, such officers, are prohibited

from purchasing, either directly or indirectly, any property sold by such officers.

- 5 **68.** (1) When a tenant, on his produce being lawfully [90]
 Amount paid by tenant for his lessor may be deducted from rent. *distrained under this Act for the default of his landlord,*
 makes any payment for the purpose of releasing such produce from distress he shall be entitled to deduct the amount of that payment from any rent payable by him to his landlord.

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

- 20 **69.** When any conflict arises between the distress of a [91]
 Conflict between distress by landholder and attachment by Court. *landholder under this Act and an order issued by a Civil Court in execution of a decree for the attachment and sale of the property distrained by such landholder the landholder's distress shall prevail; but if the property is sold by a Collector in consequence of such landholder's distress the surplus proceeds of the sale shall not be paid under section 66 to the defaulter without the sanction of the Court by which the order of attachment or sale in execution of a decree was issued.*

- 35 **70.** Landholders may proceed under this Act against a [92]
 Power of landholder to proceed against surety. *ryot, or his surety, or 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, or cannot be found.*

- 45 **71.** No appeal shall lie from any orders [93]
 Right to sue for compensation for wrongful distress. *passed by a Collector under sections 51 to 58 and 64 but any person whose property is distrained by a landholder under section 41 in any case in which such distraint is not permitted by that section may institute a suit against the landholder for compensation.*

- 55 **72.** The Local Government may, from [94]
 Power of Local Government to make rules. *time to time, make rules consistent with this Act regulating the scale of charges which may*

B.T.A. 137.

B.T.A. 139.

M.R.A. 84.

B.T.A. 140.

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

M.R.A. 38.

M.R.A. 39.

M.R.A. 40

B.T.A. 65.

be levied as costs of distress, custody of property and sale, and of inquiries by Collectors under sections 53 to 56, and regulating the procedure in such inquiries and in all cases of distress and sale of moveable property under this Act.

CHAPTER VIII.

ATTACHMENT AND SALE OF RYOT'S HOLDING.

- [96] **73.** When an arrear due by a ryot is not paid within the [10]
 When holding may be attached. *current revenue year, it shall be lawful for the landholder to attach and sell the defaulter's holding or a part of his holding, in the manner hereinafter provided, in satisfaction of the arrear and of interest thereon and of costs, if any, of the attachment and sale.*

- [97] **74.** When the landholder to whom an arrear is due intends to avail himself of the powers given by the last preceding section, he shall give to 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 paid within one month from the date of service upon him, his holding or any part thereof specified in the said notice, will be sold. [25]

The notice shall be served as prescribed in section 43 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. [35]

- [98] **75.** If no suit is instituted before the Collector within thirty days from the date of service [40]
 When and how holding may be sold. *to set aside the notice, or if such suit is decided against the defaulter, the landholder may take measures for the sale, which shall be conducted under the rules for the sale of moveable property distrained for an arrear. The officer conducting the sale shall place the purchaser in possession.*

- [99] **76.** Subject to any claims of Government land-revenue a first charge on holding shall be a first charge upon the holding, and the landholder's right to sell shall not be defeated by any encumbrance. [50]

77. When a holding or a part of a holding is sold for an arrear due in respect thereof, either under the Rules for the sale of moveable property distrained for an arrear or in execution of a decree, the purchaser shall take subject to any encumbrances in favour of Government and subject also to any other encumbrances created before the 22nd March 1898, but to no others.

78. The proceeds of a sale of a holding or a part of a holding for an arrear shall be disbursed in like manner as the proceeds of a sale of distrained property are to be disbursed under section 66, and the defaulter shall receive from the officer who has conducted the sale a receipt for an arrear discharged from the proceeds of sale. The rules prescribed by section 295 of the Code of Civil Procedure shall not apply to a sale for arrears under this Act.

79. (1) After the sale of a holding or a part of a holding has been authorized in execution of a decree, it shall not be released from attachment unless, before it is knocked down to the auction-purchaser, the amount of arrears, interest and costs is paid, or the landholder makes an application for the release of the holding on the ground that the amount has been otherwise satisfied.

(2) Any person having the occupancy right in the holding or in part of the holding which is to be sold for an arrear any interest voidable on the sale or the defaulting ryot may, where the sale is authorized in execution of a decree, pay the amount due under this section to the officer conducting the sale and may, where the sale is authorized under section 75, pay the amount due to the officer conducting the sale or to the Collector or such other officer as the Local Government may order and the attachment shall thereupon be removed.

80. When any person having the occupancy right in a holding or a 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 the Revenue Court, or to the Collector or other officer aforesaid, as the case may be, the amount requisite to prevent the sale—

B.T.A. 159.

B.T.A. 169.

B.T.A. 170.

B.T.A. 172.

B.T.A. 173.

B.T.A. 174.

- (a) the amount so deposited by him shall be deemed to be a debt bearing interest at twelve per centum per annum and to be secured by a mortgage of the occupancy right in the holding to him;
- (b) subject to any claims of Government such mortgage shall take priority of every other charge on the occupancy right in the holding other than a charge for an arrear; and
- (c) the sale shall then be stayed and the depositor shall be entitled to possession of the holding as mortgagee 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 an interest as described in subsection (1) desires to make payment as therein provided, preference shall be given to the person having priority of interest.

81. When a holding or part of a holding is advertised for sale in execution of a decree against, or for an arrear due by a ryot defaulting, and an inferior tenant, whose interest would be voidable upon the sale, pays money into the Revenue Court or to the Collector or such other officer as 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.

82. A landholder who has brought to sale a ryot's holding or a part of his holding for an arrear may, notwithstanding anything contained in section 294 of the Code of Civil Procedure, bid for or purchase the holding or a part thereof without the permission of the Revenue Court or the Collector, as the case may be.

83. (1) When a holding or a part of a holding is sold for an arrear due thereon, the defaulting ryot may at any time within

thirty days from the date of sale, apply to have the sale set aside on his depositing in the *Revenue* Court or with the Collector or such other officer aforesaid, as the case may be, for payment to the *landholder*, the arrear with interest and costs, and, for payment to the purchaser, a sum equal to five per centum of the purchase money.

- 10 (2) If such deposit is made within the thirty days, the *Revenue* 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.

15 Provided that if a defaulting ryot applies under section 311 of the Code of Civil Procedure to set aside the sale of his holding or a 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 *Act*.

CHAPTER IX.

REPAIR OF IRRIGATION WORKS.

84. Any ryot or ryots holding irrigated land under a *landholder* 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 86 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 of and *land-revenue derivable from* the land irrigated by the work. The District Collector shall then by himself or by an *Officer* subordinate to him, to whom he may depute the inquiry, cause to be served on the *landholder* 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 *posted* in the village or villages wherein the land irrigated is situated.

85. On the day fixed in the notice, or on any other date to which the inquiry may be adjourned, the District Collector or *Officer as aforesaid* shall hear the applicant or applicants, the *landholder* and any ryots of land irrigated by the work

[107]

[108]

who may attend, and may take any evidence that he may think fit. If the inquiry is made by an *Officer* other than the District Collector, he shall make a report thereon to the District Collector.

[108]

86. If the District Collector is satisfied that the irrigation work is in such a state of disrepair as materially to prejudice the irrigation of the lands dependent upon the work and that the *landholder* is under the provisions of this *Act* bound to provide for its maintenance, and that he has without sufficient cause failed so to do the District Collector may pass an order:—

(1) requiring the *landholder* to repair the work within a specified time or

(2) authorizing the execution, by the applicant or applicants or by any of them and any other ryots willing to join with them, of any of the works stated in the application or shown at the inquiry to be necessary for the restoration of the irrigation work to efficiency and stating the estimated cost of the same. Such order shall also fix a reasonable time within which the works should be executed.

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

87. If the *landholder* refuses or neglects to carry out the order of the Collector, or if the ryots, owing to poverty or other disabling cause, are, in the Collector's judgment, incapable of undertaking the work, then the Collector may, with the previous sanction of the Local Government, execute the work, and recover from the *landholder* all charges thus incurred by him as an arrear of revenue.

88. If the irrigation work belongs partly to an estate and partly to Government, the repair as aforesaid shall invariably be executed by the Collector, with the previous sanction of Government; and the charges incurred shall be divided between the Government and the *landholder* in proportion to the extent of land belonging to Government and the estate which is irrigable by the work. The portion due by the *landholder* shall be recoverable by the Collector as an arrear of *land-revenue*.

89. In case the works have been [109]

Recovery of cost of repair
from ryots.

ordered to be exe-
cuted by the ryots,
the parties author-

5 ised to execute them may *after they have*
been carried out apply to the District
Collector for an order for the recovery of
the cost of the same. The District Collec-
tor shall then take such steps as he may
10 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,
15 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 land-revenue payable* for the
20 lands irrigated by the irrigation work.
The order shall set out the amount payable
by each ryot in proportion to the *extent of*
the land held by him and such amount
shall be recoverable as an arrear of land
25 revenue *due to Government*.

90. The amount recovered, less the [110]

Payment to persons exe-
cuting repairs.

cost, if any, of in-
spection of the
works executed, shall

30 be paid to the parties authorized under
section 86. The cost of estimates and
of inspection may be included in the
amount to be stated in the order passed
under section 86.

35 91. Every ryot from whom any sum [111]

Amount recovered for
cost of repairs may be de-
ducted from land-revenue.

may be recovered
under section 89
shall be entitled to

40 deduct such sum from any *land-revenue*
payable by him to the *landholder*: and a
receipt for the sum recovered shall be
valid as a receipt for *land-revenue* due by
such ryot.

92. No Civil Court shall entertain a [112]

45 Right of appeal.

suit or issue an in-
junction regarding

a District Collector's proceedings under
this chapter, but from any order issued
by a District Collector an appeal shall lie
50 to the Board of Revenue, whose decision
shall be final.

93. Nothing contained in and no pro-
ceeding taken under

Saving of ryot's right to
sue for damages.

this Chapter shall bar

55 a ryot from suing
a *landholder* for damages before the Collec-
tor in respect of neglect to maintain an
irrigation work.

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

CHAPTER X.

ILLEGAL CESSES.

[113] 94. (1) Landholders shall not levy any

Penalty for illegal exac-
tions.

unauthorized tax or
cess or charge on
their ryots under

any name or pretence. Every ryot from 5
whom anything collected in excess of the
land-revenue payable by him or other autho-
rized charge specified in his patta shall
be entitled to recover by suit before the
Collector, in addition to the amount so 10
collected, such sum by way of penalty as
the Collector thinks fit, not exceeding ten
times the amount so collected.

(2) All stipulations and reservations
for the payment of any such tax, cess, or 15
charge, shall be void.

Explanation.—The levy of any tax on
trees, or other tax, cess, or charge, not in-
cluded in the assets on which the peshkash
of a permanently-settled estate has been 20
fixed, is illegal.

CHAPTER XI.

ACQUISITION OF LAND FOR BUILDING AND OTHER PURPOSES.

[122] 95. (1) A Principal Civil Court of

Acquisition of land for
building and other pur-
poses.

original jurisdiction
may, on the applica-
tion of a landholder, 25
which has been ap-

proved by the District Collector in writing,
and on being satisfied that such landholder
is desirous of acquiring a holding or part
thereof for some reasonable and sufficient 30
purpose, having relation to the good of the
holding or of the estate in which it is com-
prised, including the use of the ground for
any religious, educational or charitable
purpose approved by the District Collector 35
and on being satisfied that the purpose is
reasonable and sufficient, authorise the
acquisition thereof by the landholder upon
such conditions as the Court may think fit,
and require the ryot to sell his interest in 40
the whole or such part of the holding to
the landholder, upon such terms as may
be approved by the Court, including full
compensation to the ryot.

(2) In determining the amount of 45
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 50
of land and improvements as compensation
for the compulsory acquisition.

B.T.A. 84.

CHAPTER XII.

RELINQUISHMENT OF LAND.

96. (1) A ryot shall be allowed to [123]
 Relinquishment. relinquish his lands
 or any part of them

before the end of any revenue year.

5 (2) The relinquishment may take place
 according to the date prescribed in that
 behalf by Government from time to time.

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

CHAPTER XIII.

SUB-DIVISION AND TRANSFER OF HOLDINGS.

97. It shall not be competent to a [126]
 landholder to re-
 fuse to consent to
 the division of a

10 Division of holding bind-
 ing on landholder. ing and to the proportionate distri-
 bution of the land-revenue payable in
 respect thereof, and to enter into sepa-
 15 rate engagements with the several holders
 of the parts thereof so divided.

20 Provided that no landholder 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 land-revenue due on the field or on the
 part thereof included in the holding, as
 the case may be.

25 98. When a ryot transfers his inter- [127]
 est in the whole or
 Notice of transfer by part of his holding
 ryot. the ryot and the
 transferee shall give notice of such trans-
 fer in writing to the landholder, and,
 30 unless and until such notice is given,
 they shall be jointly and severally liable
 to the landholder for arrears accruing due
 after the transfer, and all proceedings
 taken under this Act against the ryot shall
 35 be as effectual and binding upon the trans-
 feree as if they had been taken against the
 transferee himself.

99. When any landholder or landlord [128]
 transfers the whole
 Notice of transfer by or a portion of his
 landholder. estate or land, the

40 landholder or landlord and the transferee
 shall give notice of the transfer, by pub-
 lication in the District Gazette and in such
 45 other manner as the Local Government by
 rule directs, to the ryots or the tenants as
 the case may be in the occupation of the
 land transferred, and, unless or until such
 notice is given, no ryot or tenant shall be
 50 liable to the transferee for land-revenue or

B.T.A. 88.

B.T.A. 73.

B.T.A. 72.

M.R.A. 41.

M.R.A. 42.

M.R.A. 43.

rent which became due after the transfer
 and was paid to the landholder or landlord
 before notice of such transfer was given to
 him, and all proceedings taken by any of
 the ryots or tenants to whom no such 5
 notice was given against the landholder or
 landlord shall be as effectual and binding
 on the transferee as if they had been taken
 in the first instance against the transferee
 himself. 10

Eviction.

[130] 100. When any tenant shall be in arrear
 at the end of a re-
 Eviction of tenant under
 Collector's warrant. venue year and
 when there is no
 sufficient distress upon the premises to 15
 satisfy the arrear, the landlord or his
 authorized agent or either of them may
 apply to the Collector for a warrant autho-
 rizing him to enter upon and take posses-
 sion of the premises. Such warrant shall 20
 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 25
 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 state-
 ment shall be filed in the office from which 30
 the warrant issues.

[131] 101. The warrant shall state the
 defaulter's name,
 Contents of warrant. the whole amount
 due and the description and extent of the 35
 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 40
 in this section.

[132] 102. The warrant shall be entrusted
 to an officer of
 Execution of warrant. police, who shall
 serve it in the manner laid down in section 45
 43 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 50
 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. 55

103. If on any application for the
 issue of a warrant
 Penalty for producing
 false statement on an ap-
 plication under section 99. under section 100 a
 landlord or his

authorized agent produce a statement which is false in any material particular the person producing the statement shall on conviction before a first or second class magistrate be liable to a fine which may extend to 500 rupees.

104. Upon delivery of possession, the defaulter's right and interest in the premises shall cease and determine, unless a suit is filed within one month in a Civil Court and an order is made in such suit setting aside the proceedings and restoring the tenant to possession.

CHAPTER XIV.

SURVEY, RECORD OF RIGHTS AND SETTLEMENT OF LAND REVENUE.

105. (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 such 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 landholder or a large proportion of the landholders or of the ryots 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 ryots and their landholders generally or is required to secure either ryots or landholders in enjoyment of their legal rights; 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.

M.R.A. 44.

B.T.A. 101.

B.T.A. 102.

106. 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 landholder or landlord;
- (b) the name of the ryot or tenant;
- (c) the class to which he belongs, that is to say, whether he is a ryot, or tenant;
- (d) the situation, extent and boundaries of the land held by the ryot or tenant as shown by the map of the village;
- (e) the land-revenue or rent payable at the time the record is being prepared;
- (f) the mode in which that land-revenue or rent has been fixed whether by order of a Collector, by contract or otherwise;
- (g) the special conditions and incidents, if any, of the tenure.

107. On the application of a landholder or if there are more than one landholder, of the registered joint-holders and on his or their 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 landholder 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.

108. (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 specified 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

B.T.A. 105 and 106.

Government, for a period of *two* months, and shall receive and hear any objection which may be made to any entry therein during the said period.

5 (2) No objection shall be entertained by the officer to any entry in the record unless it is made within the said period: and *after the expiration of the said period, the publication of the draft shall be*
10 *conclusive evidence that the record has been duly made.*

109. In hearing objections to entries [138]

Procedure in disposing of objections to preliminary record.

15 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
20 every such proceedings 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
25 *landholder or landlord*, or as to the right to be recorded as *ryot or tenant*, or as to a claim to have land recorded as *free of land-revenue or rent-free*, the officer shall, and, in any other case in which he deems fit, may, stay proceedings and refer the objector to
30 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
35 proceed to hear and dispose of the objection as if no such dispute had arisen.

110. When all objections to the preliminary record have [139]

Publication of final record.

40 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
45 shall be conclusive evidence that the record has been duly made under this chapter. The entries published shall be *presumed to be correct until the contrary is proved.*

50 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
55 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.

B.T.A. 107.

B.T.A. 108.

B.T.A. 110.

B.T.A. 111.

[140] 111. (1) When, in any proceeding under this chapter, either the landholder or the *ryot* applies for a settlement of *land-revenue*, or when it appears that 5 a *ryot* is holding land in excess of or less than that for which he is paying *land-revenue*, or when *land-revenue* is admittedly payable but a dispute arises as to the amount or rate of *land-revenue* payable, the 10 officer shall settle a fair and equitable *land-revenue* in respect of the land held by the *ryot*.

(2) In settling *land-revenue* under this section, the officer shall presume, 15 until the contrary is proved, that the existing rate of *land-revenue* is fair and equitable and shall have regard to the rules laid down in this Act for the guidance of Collectors in deciding 20 disputes regarding rates of *land-revenue*.

[141] 112. (1) The Local Government shall appoint one or more persons to be a Special Collector or 25 Special Collectors for the purpose of hearing appeals from the decisions of officers under this chapter.

(2) An appeal shall lie to the Special Collector from the decision of an officer 30 under this chapter; and the provisions of the Code of Civil Procedure shall, as nearly as may be, apply to all such appeals.

[142] 113. When any *land-revenue* is settled under this chapter, 35 the settlement shall take effect from the beginning of the revenue year next after the publication of the final record and shall not thereafter be changed except under the 40 provisions of rules (iv) and (v) of Section 16.

[143] 114. When an order has been made under section 105,

(1) no Collector shall, until the publication of the final record, entertain a suit or application for the alteration of the *land-revenue*, and no Civil Court shall, until the publication of the final record, entertain a suit or application for the 50 determination of the status, of any *ryot* in the area or estate to which the order applies; and

(2) the Board of Revenue or the High Court may, if it thinks fit, transfer to the 55 officer preparing the record any proceedings pending before a Collector or in a Civil Court for the alteration of any such

land-revenue or for the determination of any of the matters specified or referred to in section 106.

115. 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 landholders and ryots 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 XV.

RECORD OF LANDHOLDER'S PRIVATE LANDS.

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

117. 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 landholder's private lands within the meaning of the last foregoing section.

118. In the case of any land alleged to be a landholder's private land, on the application of the landholder or of any ryot claiming 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 landholder's private land.

119. When an officer proceeds under either of the two last foregoing sections, the provisions of sections 108 to 110 both inclusive, and section 112 shall apply.

B.T.A. 114.

B.T.A. 116.

B.T.A. 117.

B.T.A. 118.

B.T.A. 119.

B.T.A. 120.

- [149] 120. (1) The officer preparing the record shall record as the landholder's private land—

- (a) land which is proved to have been cultivated as kambattam, khas, seri or pannai by the landholder himself with his own stock or by his own servants or by hired labour for twelve continuous years immediately before the date of the commencement of this Act and
- (b) cultivated land which is recognised by village usage as landholder's kambattam, khas, seri or pannai; and

(2) In determining whether any other land ought to be recorded as a landholder'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 landholder'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 landholder's private land, the Court shall have regard to the rules laid down in this section for the guidance of officers preparing records of landholder's private lands.

CHAPTER XVI.

JURISDICTION AND PROCEDURE.

121. (1) The following suits shall be heard and determined by the Collector sitting as a Revenue Court and no Civil Court shall take cognizance thereof:—

- (a) Suit regarding rates of land revenue payable by ryots (16).
- (b) Suit for the recovery of arrears of land revenue (40).
- (c) Suit under contracts for payment of land revenue (17).
- (d) Suit for reduction of land revenue (16) (v).
- (e) Suit for penalty for withholding receipt (22).
- (f) Suit to obtain a puttah (36).
- (g) Suit to enforce acceptance of a puttah (37 and 38).
- (h) Suit by ryot to set aside distress (57).

- (i) Suit by ryot for damage for irregular excessive or wrongful distress (64 and 71).
 (j) Suit to set aside notice of intention to sell holding (75).
 (k) Suit for penalty for illegal cess (94).
 (l) Suit in relation to entry in preliminary record (108).
 (m) Suit for ejectment of trespasser (137).
 (n) Suit for damages not otherwise provided for (145).

(2) In all the cases mentioned in the last preceding sub-section, the decree of the Revenue Court shall be subject to appeal to the District Collector, and a further appeal shall lie from the District Collector to the Board of Revenue in those cases in which the District Collector gives leave to appeal.

(3) The decision of the Board of Revenue shall be final.

122. (1) The following applications shall be disposed of by the Collector and no Civil Court shall take cognizance thereof:—

- (a) Application to adjust land revenue where the ryot gives notice of intention to mine a quarry for profit [4 (13) (c)].
 (b) Application for sanction to fix additional land revenue (16) (iv).
 (c) Application for leave to deposit land revenue (24).
 (d) Application to appraise or divide produce (28, 29 and 30).
 (e) Application to file puttah in the office of Collector or other officer (32).
 (f) Application for order to make good damage to property distrained (53).
 (g) Application by third party as to produce distrained (54).
 (h) Application for order for delivery up of property fraudulently distrained (55).
 (i) Application for restoration of distrained property (56 and 64).
 (j) Application for order for sale of distrained property (57).
 (k) Application by defaulting ryot to set aside sale of holding (83).

- (l) Application for warrant for taking possession of premises (100).
 (m) Application for extension of time for taking possession (101).

(2) Except as otherwise provided in this section, the order of the Collector on any application mentioned in sub-section (1) shall be final.

(3) In the following cases the order of the Collector shall be subject to appeal to the District Collector whose decision shall be final:—

- (a) Application to adjust land revenue, [4 (13) (c)].
 (b) Application for sanction to fix additional land revenue [16 (iv)].
 (c) Application to appraise or divide produce (28, 29 and 30).
 (d) Application by defaulting ryot to set aside sale (83).
 (e) Application for warrant for taking possession of premises (100).

(4) Any application under the provisions of this act in relation to the repair of irrigation works shall be disposed of by the District Collector, and an appeal shall lie from any order made by him on any such application to the Board of Revenue, and the decision of the Board of Revenue shall be final.

(5) Any application under the provisions of this Act in relation to the preparation of the Record of Rights shall be made to the Special Collector appointed by Government, and an appeal shall lie to the Board of Revenue from any decision of the Special Collector in respect of the settlement of land revenue, but in no other case.

123. The period of limitation for an appeal under the last two foregoing sections shall run from the date of the order or decree appealed against, and shall be as follows; that is to say:—

- (a) When the appeal lies to the District Collector—thirty days.
 (b) When the appeal lies to the Board of Revenue—sixty days.

124. (1) The general superintendence and control over all

Superintendence and control over Revenue officers and Revenue Courts.

other Revenue Officers and Revenue Courts shall be vested in, and

all such officers and courts shall be subordinate to, the Board of Revenue.

(2) For the purposes of this Act, subject to the general superintendence and control of the Board of Revenue, a District Collector shall control all other Revenue officers and Revenue courts in his district.

125. The Board of Revenue or the District Collector may by

Power to distribute business, and withdraw and transfer cases.

written order distribute, in such manner as it or he thinks fit,

any business cognizable by any Collector or Revenue Court under its or his control.

(2) The Board of Revenue or a District Collector may withdraw any case pending before any Collector or Revenue Court under its or his control, and either dispose of it itself or himself, or by written order refer it for disposal to any other Collector or Revenue Court under its or his control.

126. (1) The Board of Revenue may at any time call for the

Power to call for, examine and revise proceedings of Revenue officers and Revenue Courts.

record of any case pending before, or disposed of by, any

Revenue Officer or Revenue Court subordinate to it.

(2) A District Collector may call for the record of any case pending before, or disposed of by, any Revenue Officer or Revenue Court under his control.

(3) If in any case in which a District Collector has called for a record, he is of opinion that the proceedings taken or the order or decree made should be modified or reversed, he shall submit the record with his opinion on the case for the orders of the Board of Revenue.

(4) If after examining a record called for by itself under sub-section (1) or submitted to it under sub-section (3), the Board of Revenue is of opinion that it is inexpedient to interfere with the proceedings or the order or decree, it shall pass an order accordingly.

(5) If after examining the record, the Board of Revenue is of opinion that it is expedient to interfere with the proceedings or the order or decree on any ground on which the High Court in the exercise of its revisional jurisdiction may under the law for the time being in force interfere with the proceedings or an order or decree of a Civil

(P.T.A. S. 78.)

(P.T.A. 79.)

(P.T.A. 84.)

B.T.A. 144.

M.R.A. 52.

Court, it shall fix a day for hearing the case, and may, on that or any subsequent day to which it may adjourn the hearing or which it may appoint in this behalf, pass such order as it thinks fit in the case.

(6) Except when the Board of Revenue fixes under sub-section (5) a day for hearing the case, no party has any right to be heard before the Board of Revenue when exercising its powers under this section.

127. Any case or proceeding pending before the Board of

Power to refer a case or proceeding for the decision or orders of the High Court.

Revenue or before any Revenue Court may, if the Board of Revenue

deems it advisable for reasons to be recorded, be referred by the Board for the decision or orders of the High Court.

[150] 128. The Local Government may invest

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

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 subject to appeal 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.

[151] 129. (1) The cause of action in all suits

Jurisdiction in proceedings under Act.

triable by Civil Courts between landholder and ryot

or 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.

[152] 130. Plaintiffs and defendants shall be

Agents may be employed.

allowed to employ a relative, a servant or other authorized agent to act in their behalf in suits brought before Collectors under this Act.

131. Every Collector shall keep a [153]
Special register of suits, 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.

5 132. The trial of suits by Collectors [154]
under this Act and
the publication of
reports of cases
finally decided shall be regulated by rules,
10 consistent with this Act, which the Local
Government is hereby empowered to make
and by the following provisions:—

(i) A date shall be fixed for the
15 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, and the summons shall
20 be for final disposal unless the
Collector, for reasons to be
recorded, otherwise orders.

(ii) The parties shall be entitled
25 to produce witnesses and to
demand that any person
whose evidence they require
shall be summoned as a wit-
ness, and the officer trying
30 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
35 record with his own hand,
in English, a memorandum
containing the material por-
tions of the evidence and he
shall record, either in the
40 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) No judgment of a Collector
45 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
50 in any suit under this Act,
the Collector shall have full

B.T.A. 146.
M.R.A. 77.

B.T.A. 143 (2) and 148.
M.R.A. 53 to 57, 61, 63, 68 and 69.

B.T.A. 149.

B.T.A. 150.

power to give and apportion
costs of the suit or applica-
tion in any manner he thinks
fit, and he shall direct by
whom the costs of each party 5
are to be paid and whether
in whole or in what part or
proportion.

(vi) Subject to rules to be made by
the Local Government under 10
this Act and to the provisions
of this Act, the Code of Civil
Procedure in so far as it
may be applicable shall apply
to all suits tried by Collectors 15
under this Act.

[155] 133. (1) In any suit for land-revenue
or in any proceeding
under this Act to
recover land-revenue 20
if a ryot 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 Revenue Court or
Collector, as the case may be, shall, except 25
for special reasons to be recorded in
writing, refuse to take cognizance of the
plea unless the tenant pays into the
Revenue Court or the office of the Collector
the amount so admitted to be due. 30

(2) Where such a payment is made,
the Revenue Court or Collector shall forth-
with cause notice of the payment to be
served on the third person.

(3) Unless the third person, within 35
three months from the receipt of the
notice, institutes a suit before the Collector
against the plaintiff and therein obtains
an order restraining payment out of the
money, it shall be paid out to the plaintiff 40
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). 45

[156] 134. In any suit for land-revenue or
in any proceeding
under this Act to
recover land-revenue 50
if a ryot admits that money is due from
him to the plaintiff or applicant on ac-
count of land-revenue but pleads that the
amount claimed is in excess of the amount
due, the Revenue Court or Collector, as
the case may be, shall, except for special 55
reasons to be recorded in writing, refuse
to take cognizance of the plea unless the
ryot pays into such Court or office the
amount so admitted to be due.

135. When a ryot is liable to pay [157]

Provision as to payment of portion of money.

money into the Revenue Court or office of the Collec-

5 tor under either of the last two foregoing sections, if *such* Court or Collector thinks that there are sufficient reasons for so doing, the Revenue Court or Collector may take cognizance of the *ryot's* plea on his
10 paying such reasonable portion of the money as the Revenue Court or Collector directs.

136. When a ryot pays money under [158]

15 Court or Collector to grant receipt.

either of the said sections, the Revenue Court or Collector

shall give the *ryot* a receipt, and the receipt so given shall operate as an acquittance in the same manner and to the same
20 extent as if it had been given by the plaintiff, the applicant or the third person, as the case may be.

137. When a plaintiff institutes a suit [161]

25 Power of Collector to fix fair rate of land-revenue as alternative to ejectment of trespasser.

in a Revenue Court for the ejectment of a trespasser, he may, if he thinks fit, claim an alterna-

30 tive relief that the defendant be declared liable to pay for the land in his possession a fair and equitable rate of land-revenue to be determined by the Collector; and the Collector may grant such relief accordingly.

CHAPTER XVII.

CONTRACT AND CUSTOM.

35 **138. A Collector or Court shall not**

What contracts relied upon by a landholder shall be recognized by a Collector or Court.

recognize any contract relied upon by a landholder under this Act unless it be

40 in writing and duly registered under the Indian Registration Act and unless it be shown to his or its satisfaction, that such contract was entered into by defendant with full knowledge of its terms and con-
45 sequences, and likewise that such defendant was not, at the time of making it subject to the undue influence, or within the power of such landholder.

50 **139. (1) Nothing in any contract be- [162]**

Restrictions on exclusion of Act by agreement.

tween a landholder and a *ryot* made before or after the

passing of this Act—

B.T.A. 151.

B.T.A. 152.

B.T.A. 157.

B.T.A. 178.

- (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 5 of the contract, or
- (c) shall entitle a landholder to evict a *ryot* otherwise than in accordance with the provisions of this Act, or
- (d) shall take away or limit the right 10 of a *ryot* to make improvements.

(2) Nothing in any contract made between a landlord and a *ryot* since the 15 1st day of May 1871 and before the 22nd day of March 1898 shall prevent a *ryot* from acquiring in accordance with this Act an occupancy right in land.

(3) Nothing in any contract made 20 between a landholder and a *ryot* after the twenty-second day of March 1898 shall—

- (a) prevent a *ryot* from acquiring an occupancy right in land;
- (b) take away or limit the right of 25 a *ryot* to use land as provided by section 4 (11) of this Act;
- (c) take away the right of a tenant to surrender his holding or part of his holding in accordance with section 95;
- (d) take away the right of a tenant to transfer or to bequeath his holding or part of his holding in accordance with 35 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 rule (iv) of section 40 40 16;
- (f) affect the provisions of section 20 relating to interest payable on arrears of land-revenue: 45

[163] **140. When a *ryot* holds his dwelling- Homesteads. house, with cattle-sheds and other appurtenances necessary or convenient for the purpose of agriculture, otherwise 50 than as part of his holding as a *ryot*, the incidents of his tenure of the same shall be regulated by local custom or usage and, subject to local custom or usage, by the provisions of this Act. 55**

[164] **141. Nothing in this Act shall affect any custom, usage or customary right not inconsistent with, or not expressly**

B.T.A. 182.

B.T.A. 183.

or by necessary implication modified or abolished by, its provisions.

CHAPTER XVIII.

LIMITATION.

142 (1) The suits, 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 instituted or application made after the period of limitation so prescribed shall be dismissed, although limitation has not been pleaded. [165]

(2) Nothing in this section shall revive the right to institute any suit 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.

143. (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. [166]

(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 XIX.

SUPPLEMENTAL.

Penalties.

144. (1) If any person, otherwise than in accordance with this Act or some other enactment for the time being in force— [167]

(a) distrains or attempts to distrain the produce of a ryot's or 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 ryot or 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

B.T.A. 184.

B.T.A. 185.

B.T.A. 186.
M.R.A. 30.

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. 5

(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. 10

General right of suit.

145. (1) Any person deeming himself aggrieved, (a) by any proceedings taken under colour of this Act, or (b) by neglect of or breach of any of its provisions, shall be at liberty to seek redress by filing a suit for damages before the Collector. 15

(2) This section shall not be deemed to bar any right of action in a Civil Court in any case not specially taken out of its jurisdiction by this Act. 20

(3) Provided always that any person who files a suit for damages under sub-section (1), shall not be entitled to file a suit in respect of the same cause of action before a Civil Court. 25

Agents of Landlords.

[168] 146. (1) Any appearance, application or act before, or to any Revenue Court, Collector or officer, required or authorized by this Act to be made or done by a landlord, may, unless such 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. 35

(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. 40

(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. 45

B.T.A. 187.
M.R.A. 79.

128.

30 **151.** The Local Government may from [174]
time to time appoint
Investiture of officer with an officer to exercise,
powers of District Collector. in addition to the
District Collector, all or any of the powers
35 of the District Collector under this Act.

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SCHEDULE II.

LIMITATION.

Part I.—Suits.

Description of suit.	Period of limitation.	Time from which period begins to run.
* Suit regarding rates of land-revenue payable by ryots under section (16).	....	....
Suit for the recovery of arrears of land-revenue under section 40.	Three years ..	The date when the arrear became due.
Suit under contracts for the payment of land-revenue under section (17).	Three years ..	The date of the breach.
Suit for reduction of land-revenue under section [16 (v)].	Three years ..	The date of the raising of the land-revenue.
† Suit for penalty for withholding receipt under section (22).	....	....
Suit to obtain a puttah under section (36) ..	Three months ..	The date of the expiration of three months after demand.
Suit to enforce acceptance of a puttah under sections (37) and (38).	Three months ..	The date of the expiration of one month after refusal or neglect.
† Suit by ryot to set aside distress under section (57) ..	....	....
Suit by ryot for damage for irregular or wrongful distress under sections (71) and (78).	Three months ..	The date of the alleged wrongful distress.
* Suit to set aside notice of intention to sell holding under section (75).	....	....
Suit for penalty for illegal cess (section 94) ..	Six months ..	The date of the levy of the unauthorized tax or charge.
* Suit in relation to entry in preliminary record under sections (108) and (109).	....	....
† Suit to restrain payment of money under section (133).	....	....
* Suit for ejectment of trespasser under section (137) ..	....	....
Suit for damages not otherwise provided for under section (145).	Three months ..	The date of the accrual of the cause of action.

Part II.—Applications.

Description of Application.	Period of limitation.	Time from which period begins to run.
* Application to adjust land-revenue where ryot gives notice of intention to mine or quarry, under section [4 (13) (c)].	....	....
* Application for sanction to fix additional land-revenue under section [16 (iv)].	....	....
Application for leave to deposit land-revenue under section (24).	Six months ..	The date when the land-revenue became due.
* Application to appraise or divide produce under sections (28), (29) and (30).	....	....
* Application to file puttah in the office of Collector or other officer under section (32).	....	....
Application for order to make good damage to property distrained under section (53).	Three months ..	The date when the loss, damage or destruction of the property distrained became known to the owner.
† Application by third party as to produce distrained under section (54).	....	....
Application for order for delivery up of property fraudulently conveyed under section (55).	Three months ..	The date when the fraudulent conveyance became known to the distrainer.
Application for restoration of distrained property under sections (56) and (64).	Three months ..	The date when the taking away of property forcibly or clandestinely became known to the distrainer or the irregularity in distraining, &c., became known to the owner, as the case may be.
† Application for order for sale of distrained property under section (57).	....	....
† Application by defaulting ryot to set aside sale of holding under section (83).	....	....
* Application for warrant for taking possession of premises under section (100).	....	....
* Application for extension of time for taking possession under section (101).	....	....

* Limitation inapplicable.

† Unnecessary. Section itself prescribes period.

Government of Fort St. George.
LEGISLATIVE DEPARTMENT.

A

BILL

TO

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

(As provisionally amended by the Select Committee.)

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LETTER OF GOVERNMENT.

STATEMENT TO.

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