

THE NORTH-WESTERN PROVINCES RENT
ACT, 1873.

CONTENTS.

PREAMBLE.

CHAPTER I.

PRELIMINARY.

SECTIONS.

1. Short title.
Local extent.
Commencement.
2. Acts repealed.
Rules and orders now in force.
Proceedings heretofore commenced.
Acts amended.
3. Interpretation-clause.

CHAPTER II.

RIGHTS AND LIABILITIES OF LANDHOLDERS AND TENANTS.

4. Persons holding land at fixed rent without change since permanent settlement to continue to hold at such rent.
5. Tenants at fixed rates.
6. Presumption where rent of land not changed for twenty years.
7. Exproprietary tenants.
8. Occupancy-tenants.
Tenants barred from right of occupancy.
Time excluded from reckoning period necessary for acquiring right of occupancy.
9. Rights under sections 7 and 8 when transferable.
10. Determination of class of tenure of tenant.
11. Bar to enhancement of rent of tenants at fixed rates.
12. Enhancement in case of exproprietary and occupancy-tenants.
13. Grounds of enhancing rent of occupancy-tenants which has not been fixed by order.
14. Enhancement of rent of exproprietary tenants which has not been fixed by order.
Selection of land for comparison.
15. Abatement in like cases.

16. Time

SECTIONS.

16. Time of enhancement or abatement where rent of exproprietary or occupancy-tenant has been fixed by order under this Act.
17. Grounds of enhancement and abatement where his rent has been fixed by order of a Settlement Officer or under this Act.
18. Grounds of enhancement or abatement of rent of tenant at fixed rates.
19. Day before which applications for enhancement or abatement must be made.
Orders when to take effect.
20. Consideration of caste and class of tenant in determining rate of his rent.
21. Tenants-at-will.
22. Rent of exproprietary or occupancy-tenant fixed by agreement.
23. Power to remit or suspend payment of rent where crops have been damaged.

(A).—Leases.

24. Contents of lease to which every tenant is entitled.
25. Leases to which tenants at fixed rates are entitled.
26. Leases to which exproprietary and occupancy-tenants are entitled.
27. Leases to which other tenants are entitled.
28. Landholder granting lease entitled to reciprocal engagement.
29. Lease for period exceeding term of landholder's engagement.
30. Resumption of rent-free grants.
Applications to resume.
Validity of grants which grantor has expressly agreed not to resume.
When rent-free tenure confers proprietary right.

(B).—Relinquishment and Ejection.

31. Relinquishment of land by tenant not holding under a lease.
32. Service through tahsildár of notice of relinquishment.
33. Mode of serving notice.
34. Liability of tenant to pay interest on arrear and to be ejected.
Bar to ejection without decree.
Ejection not to be decreed for certain acts or omissions.
35. Ejection of tenant at fixed rates, exproprietary, with right of occupancy, or holding under unexpired lease.
36. Service of notice on tenant for limited period.
37. Language and contents of notice.

38. Mode

SECTIONS.

- 38. Mode of serving notice.
- 39. Effect of failure of tenant to institute suit to contest liability to ejectment.
- 40. Procedure to enforce ejectment.
- 41. Notice of ejectment when void.
- 42. Rights of ejected tenant.
Effect of tender by landholder of payment for crops.
Power to determine rent and price.
Set-off of rent.
- 43. Application for officer to divide produce or appraise crop.
Procedure on such application.

(C).—Compensation for Improvements made by Tenants.

- 44. Tenants' right to compensation for improvements.
- 45. Mode of making compensation.
- 46. Settlement of difference as to amount or value of compensation.
- 47. Considerations in determining compensation.

(D).—Compensation for wrongful Acts and Omissions.

- 48. Right of tenant to compensation for exactions in excess of rent or for withholding receipt.
Contents of receipt.
- 49. Damages for extorting payment of rent by duress.
Liability to punishment for extortion not affected.

(E).—Deposit of Rent in Court.

- 50. Deposit of amount tendered by tenant and refused.
- 51. Form and verification of application.
Penalty for false statement.
- 52. Notice to issue on deposit being made.
- 53. Mode of serving notice.
- 54. Payment to person served with notice on his application.
- 55. Refund to depositor.

CHAPTER III.

DISTRESS.

- 56. Produce of land hypothecated for rent.
Recovery of arrears by distress.
- 57. Distress of produce barred by security given for rent.
Sharer when entitled to distrain.
Distress by manager.
Distress in pattidári maháls.
- 58. No distress for over-due arrear, nor, without agreement, for excess over past year's rent.
- 59. Distress by managers under Court of Wards, &c.
Liability for illegal act.

60. Written

SECTIONS.

60. Written authority to servants employed to distrain.
61. Standing crops and crops gathered liable to distress.
Exception.
62. Defaulter to be served with written demand and account.
Mode of service.
63. Distress to be proportionate to arrear.
List of property to be prepared and copy served on owner.
64. Standing crops, &c., when distrained, may be reaped and stored.
Sale of products which cannot be stored.
65. Assistance to distrainer opposed or apprehending resistance.
66. Distress to be withdrawn on tender of arrear and expenses before sale.
67. Application for sale.
68. Contents of application.
Fee for service of notice.
69. Procedure on receipt of application.
70. Suspension of sale on receipt of Collector's certificate of institution of suit.
71. Suit to contest distrainer's demand before issue of notice of sale.
72. Distress when to be withdrawn.
73. When sale may be proceeded with.
74. Place of sale.
Manner of sale.
Withdrawal of distress when demand and costs satisfied.
75. If fair price be not offered, sale may be postponed and shall be then completed.
76. Payment of purchase-money.
Re-sale on default.
Certificate to purchaser.
77. Deduction, from proceeds, of costs of sale.
Payment of distrainer's expenses.
Discharge of arrear with interest.
Surplus.
78. Sale-officers and employees prohibited from purchasing.
79. Report of irregularities by distrainer.
Postponement of sale, and report to Collector when owner has not received due notice.
Order of Collector.
80. Levy of charge when sale-officer attends, and no sale takes place.
Recovery from owner.
Recovery from distrainer.
Limit to charge.
81. Order of sale when amount adjudged due.

Second

SECTIONS.

- Second proclamation of sale.
Sale on failure to pay debt and costs.
82. In suit to contest his demand, distrainer to prove arrear.
Recovery of amount decreed in favour of distrainer.
Compensation in case of vexatious distress.
83. Suit by person claiming property distrained for arrears
alleged to be due from another.
Release of property on security being given.
Order of Collector when claim dismissed.
Decree for release and compensation when claim upheld.
Saving of prior claim of person entitled to rent of land.
84. Procedure where right to distrain is claimed by person
other than distrainer.
Saving of right to sue in Civil Court.
85. Persons prevented from suing in time to save property
from sale, may sue for damages.
86. Wrongful acts of distrainer.
87. Suit by owner against person distraining or selling with-
out authority.
Penalty in addition to damages.
88. Limitation of suits under sections 85, 86, 87.
89. Procedure in case of resistance of distress.
90. Proceedings of officers subject to revision and orders of
Collector.

CHAPTER IV.

PROCESS.

91. Mode of serving process.
Deposit before issue.
Power to direct service gratis.
92. Punishment for resisting process.
Power to issue summons and warrant.

CHAPTER V.

JURISDICTION OF COURTS.

93. Suits cognizable by Revenue Courts only.
94. Limitation of suits under this Act.
95. Applications cognizable by Revenue Courts only.
96. Points of procedure relating to applications under sec-
tion 95.
97. Power to invest officers with Assistant Collector's pow-
ers, and withdraw them.
98. Suits and applications cognizable by Assistant Collectors.
99. Additional suits and applications triable by Assistant
Collectors, first class.

100. Additional

SECTIONS.

- 100. Additional applications triable by Assistant Collector, first class, with special powers.
- 101. Power to make over cases.
- 102. Power to withdraw cases.
- 103. Powers exercisable by Collector of District.
Investment of officer in charge of Sub-division with powers of Collector of District,
Mode of conferring powers.

CHAPTER VI.

PROCEDURE IN SUITS UP TO JUDGMENT.

- 104. Place of instituting suits.
Plaint.
- 105. Managers of maháls to be, for purpose of litigation, deemed landholders.
- 106. Suits by co-sharers in undivided property.
- 107. Plaint by whom presented.
Verification of plaint.
False averment.
- 108. Document relied on by plaintiff to be presented with plaint.
Admission afterwards.
- 109. Procuring production of document in possession of defendant.
- 110. Plaint in suits for arrears of rent.
- 111. Plaint in suits for ejection.
- 112. Return or amendment of plaint.
- 113. Issue of summons.
Order for personal attendance or appearance by agent.
- 114. Fixing of day to be specified in the summons.
Order to produce documents.
Order to bring witnesses.
Form of summons.
- 115. Mode of serving summons.
- 116. Endorsement on summons.
- 117. Service of summons in another district.
- 118. Deposit of cost of serving summons or warrant.
Effect of failure to deposit.
- 119. Procedure when plaintiff desires issue of warrant of arrest.
- 120. Procedure after arrest of defendant.
- 121. Procedure when defendant is brought before Court under warrant.
Form of security-bond.
- 122. Procedure when defendant cannot be arrested under warrant.
- 123. Compensation.

SECTIONS.

123. Compensation for arrest applied for without reasonable cause.
124. Consequence of neither party appearing on day fixed.
125. Judgment by default.
Judgment upon admission of claim.
Proviso.
126. If plaintiff only appear, Court may proceed *ex-parte*.
127. If defendant appear on adjourned hearing, Court may allow him to be heard in answer.
128. No appeal from judgment *ex-parte* or by default;
But Court may revive suit and alter or rescind judgment.
Adverse party to be summoned.
129. Examination and cross-examination of parties.
130. Examination and cross-examination of agents.
131. Defendant may file written statement.
132. Mode of examination.
133. Witness produced may be examined.
134. Document relied on by defendant to be produced at first hearing.
135. Decree after examination, if no further evidence is required.
136. Party to attend in person when his agent is unable to answer.
Judgment or order, if he fail to appear.
137. Procedure when parties at issue on question requiring evidence.
138. Parties to produce witnesses or procure attendance by summons.
139. Provisions regarding attendance, examination, &c., of witnesses.
140. Case to be struck off if neither party appears.
Trial of issue *ex-parte*.
141. Provisions to apply when suits are instituted or defended on behalf of landholders by agents.
Processes served on such agents.
142. Personal attendance of female plaintiff or defendant when not required.
143. Parties may employ agents or mukhtárs;
Personal attendance when not excused.
Fee for agents not chargeable as costs.
144. Court may grant time or adjourn hearing.
145. Court may cause local enquiry and report, or may itself enquire.
Provisions applied to such inquiry.
Record in case of inquiry by Court.
146. Defendant may pay admitted debt and costs into Court.
Plaintiff chargeable with subsequent costs if he proceed and recover no further sum.

147. No

SECTIONS.

147. No interest to plaintiff after date of deposit by defendant.
148. In suits where right to receive rent is disputed, third person who has received it may be made a party.
Saving of right to sue in Civil Court to prove title to rent.
149. Court may allow tenant to repair damage caused by certain acts or omissions.
150. Delivery of judgment.
151. Its language and contents.
When it may be in English.
152. Power to hold Court in any place within district.

CHAPTER VII.

PROCEDURE IN EXECUTION OF DECREES IN SUITS.

153. Mode of executing decree for ejection of tenant.
Magistrate to give it effect in case of opposition.
154. Power to order detention in, or commitment to, civil jail, in certain cases.
155. Process against surety on failure to deliver judgment-debtor into custody.
156. Process of execution against person or property, but not both.
Applications on which it may issue.
Form of writ of execution.
157. Execution against moveable property.
Articles exempted from attachment.
158. Date and duration of writs.
159. Second and successive writs.
160. After one year execution not to issue without notice to party concerned.
161. Execution not to issue against heir or representative of deceased party without notice.
162. No process of execution after three years, unless judgment be for sum exceeding five hundred rupees.
Regulation of period in such case.
163. Procedure in execution of writ against person.
Limit of imprisonment.
164. No person to be imprisoned a second time under same judgment.
When further liability extinguished.
When not extinguished.
165. Diet-money to be deposited at time of issue of warrant.
166. Effect of non-payment of diet-money in advance during imprisonment.
167. Diet-money spent to be costs in suit.

Refund

SECTIONS.

- Refund of remainder.
168. Procedure in executing writ against moveable property.
169. Time to elapse before sale of moveable property.
Custody meanwhile.
Provisions applied to sale.
170. Sale not vitiated by irregularity.
Right to sue for compensation.
Limitation.
171. In executing decrees for money, when execution may be applied for against immoveable property.
172. Process when the immoveable property is not a mahál.
173. Procedure when it is a mahál.
174. Procedure where judgment-creditor fails to satisfy creditor within further time, or Collector thinks sale inexpedient.
Power to transfer property to judgment-creditor.
Power to hold property under management.
175. Report of case to Board.
176. Procedure on receipt of report.
177. Power to order sale of property.
178. Examination of third party claiming interest in property.
Stay of sale.
179. Adjudication of such claims.
Rules applied.
180. Compensation awardable against claimant failing to establish right.
181. No appeal from order under section 179 or 180.
Right to sue in Civil Court.
Proviso.

CHAPTER VIII.

APPEALS.

(A) From Decrees in Suits.

182. Judgment of Collector of District or Assistant Collector of first class when final.
183. Appeal from decision of Assistant Collector of second class.
184. Time for presentation.
185. Procedure on appeal.
186. Re-admission of appeal.
187. Judgment in appeal.
188. Rehearing of suits not open to appeal.
189. Appeal to District Judge.
Appeal to High Court.
190. Rules as to time of presentation, &c., to apply.
191. Special appeal to High Court from District Judge.

(B) From

SECTIONS.

(B) From Orders on Applications or relating to the Execution of Decrees.

- 192. Appeal from Assistant Collector of second class.
- 193. Appeal from orders of Assistant Collectors of first class on certain applications.
- 194. Appeal from other orders of Assistant Collector of first class.
- 195. Final orders of Assistant Collector of first class.
- 196. Appeal from certain orders of Collector of District.
- 197. Finality of orders of Commissioner of Division.
- 198. Appeal to Board from his decisions on appeals against orders on applications mentioned in section 100.
- 199. Power of Board to call for cases and pass orders thereon.
- 200. Time for appealing.
- 201. Admission of appeals after prescribed period.

CHAPTER IX.

MISCELLANEOUS.

- 202. Time to be excluded in computing limitation period.
- 203. Rule as to last day for presentation or deposit, when Court is closed on such day.
- 204. Power to state case involving point of law for opinion of District Judge.
- 205. Power to refer to High Court questions as to jurisdiction.
- 206. Procedure where objection that suit was instituted in wrong Court was not taken in Court of first instance.
- 207. Procedure where such objection was taken in Court of first instance.
- 208. Procedure where, in such cases, the appellate Court has not materials for determining the suit.
- 209. Suits by co-sharer against lambardár for share of profits.
- 210. Tenant's power to implead persons claiming through landholder.
Landholder's power to implead persons claiming through tenant.
- 211. Power of Local Government to make rules.
Power of Board to make rules.
- 212. Instalments when to be deemed in arrear.

FIRST SCHEDULE.—FORMS.

SECOND SCHEDULE.—Territories exempted, in the first instance, from the operation of the Act.

ACT No. XVIII OF 1873.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 22nd
December 1873).

An Act to consolidate and amend the Law relating to the recovery of Rent in the North-Western Provinces.

WHEREAS it is expedient to consolidate and amend the law relating to the recovery of Rent in the North-Western Provinces of the Presidency of Fort William in Bengal; It is hereby enacted as follows:—

CHAPTER I. PRELIMINARY.

1. This Act may be called "The North-Western Provinces Rent Act, 1873." Short title.

It extends in the first instance to the territories for the time being under the government of the Lieutenant-Governor of the North-Western Provinces, except those specified in the second schedule hereto annexed. But the Local Government may, by notification in the official Gazette, extend the whole or any part of this Act to all or any of the territories so excepted. Local extent.

Save as provided by sections one hundred and seventy-one and one hundred and seventy-two, nothing herein contained applies to land for the time being occupied by dwelling-houses or manufactories, or appurtenant thereto.

This Act shall come into force on the passing thereof. Commencement.

2. Act No. X of 1859 (to amend the law relating to the recovery of Rent in the Presidency of Fort William in Bengal), Act No. XIV of 1863 (to amend *Act* Acts repealed.

Act X of 1859), and Act No. XXII of 1872 (*to explain and amend Act No. X of 1859*) are hereby repealed. But such repeal shall not legalize any practice which, immediately before the passing of this Act, was unlawful.

Rules and orders now in force.

And all rules and orders now in force and made under any of the Acts hereby repealed shall, so far as they are consistent herewith, be deemed to have been made hereunder.

Proceedings heretofore commenced.

All proceedings commenced under any enactment hereby repealed shall be deemed to have been commenced under this Act, except where a decree has been made or an appeal presented: Provided that no proceeding relative to the enhancement of rent shall be deemed to have been commenced before the passing of this Act, merely because the landholder has served a notice under section thirteen of Act No. X of 1859, or because the tenant has contested his liability to pay the enhanced rent, by complaint of excessive demand of rent, under sections fourteen and twenty-three of the same Act.

Acts amended.

Illustration (a) to the Indian Penal Code, section nineteen, and Act No. XI of 1865, section fifty-two, shall be read as if, for "Act X of 1859," the words and figures, "the North-Western Provinces Rent Act, 1873," were substituted. And section fifteen of Act No. XVIII of 1871 (*for the levy of rates on land in the North-Western Provinces*) shall be read as if, for "section twenty-three of Act No. X of 1859, and in section one of Act No. XIV of 1863," the words and figures "section ninety-four of the North-Western Provinces Rent Act, 1873," were substituted, and as if, for "Act No. X of 1859 and Act No. XIV of 1863," the words and figures, "the North-Western Provinces Rent Act, 1873," were substituted.

Interpretation-clause.

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

'Mahál.'

(1.) 'Mahál' means—

(a) any local area held under a separate engagement for the payment of land-revenue, and for which a separate record-of-rights has been framed;

(b) any

- (b) any local area of which the revenue has been assigned or redeemed, and for which a separate record-of-rights has been framed :
- (2) 'Rent' means whatever is to be paid, delivered or rendered by a tenant on account of his holding, use or occupation of land : 'Rent.'
- (3) 'Landholder' means the person to whom a tenant is liable to pay rent : 'Landholder.'
- (4.) 'Sír-land' means— 'Sír-land.'
- (a) land recorded as sír at the last settlement of the district in which it is situate, and continuously so recorded since ;
- (b) land continuously cultivated for twelve years by the proprietor himself with his own stock or by his servants, or by hired labour ;
- (c) land recognized by village-custom as the special holding of a co-sharer, and treated as such in the distribution of profits or charges among the co-sharers :
- (5.) 'Collector of a District' means the chief officer in charge of the Revenue Administration of a District : 'Collector of a District.'
- (6.) 'Commissioner of a Division' means the chief officer in charge of the Revenue Administration of a Division : 'Commissioner of a Division.'
- (7.) 'Board' means the Board of Revenue for the North-Western Provinces : 'Board.'
- (8.) 'Civil Jail' means the civil jail of the District, and includes any place appointed by the Local Government for the confinement of prisoners under sentence of any Court constituted under this Act. 'Civil Jail.'

CHAPTER II.

RIGHTS AND LIABILITIES OF LANDHOLDERS AND TENANTS.

4. In the permanently-settled districts, persons who possess a permanent transferable interest in land, Persons holding land at fixed rent
and

without change since permanent settlement to continue to hold at such rent.

and who are intermediate between the proprietor of a mahál and the occupants, and who hold (otherwise than under a terminable lease) at a fixed rent which has not been changed from the time of the Permanent Settlement, shall continue to hold at such rent.

Tenants at fixed rates.

5. All tenants in districts or portions of districts permanently settled, who hold lands at fixed rates of rent which have not been changed since the Permanent Settlement, shall have a right of occupancy at those rates, and shall be called "tenants at fixed rates."

Presumption where rent of land not changed for 20 years.

6. Whenever, in any suit to which the provisions of section four or section five apply, it is proved that the rent at which land is held has not been changed for a period of twenty years next before the commencement of the suit, it shall be presumed that the land has been held at that rent from the time of the Permanent Settlement, unless the contrary be shown, or unless it be proved that such rent was fixed at some later period.

Expropriatory tenants.

7. Every person who may hereafter lose or part with his proprietary rights in any mahál shall have a right of occupancy in the land held by him as sír in such mahál at the date of such loss or parting, at a rent which shall be four annas in the rupee less than the prevailing rate payable by tenants-at-will for land of similar quality and with similar advantages.

Persons having such rights of occupancy shall be called "expropriatory tenants," and shall have all the rights of occupancy-tenants.

Occupancy-tenants.

8. Every tenant who has actually occupied or cultivated land continuously for twelve years has a right of occupancy in the land so occupied or cultivated by him.

Such tenants shall be called "occupancy-tenants."

The occupation or cultivating of the father or other person from whom the tenant inherits, shall be deemed to be the occupation or cultivating of the tenant within the meaning of this section :

Provided

Provided that no tenant shall acquire, under this section, a right of occupancy—

Tenants barred from right of occupancy.

(a.) in land which he holds from an occupancy-tenant, or from an exproprietary tenant, or from a tenant at fixed rates;

(b.) in sîr-land;

(c.) in land held by him in lieu of wages.

Provided also that, when a tenant actually occupies or cultivates land under a written lease without having a right of occupancy in such land, the period of twelve years necessary for acquiring a right of occupancy therein by him or any one claiming under him shall begin on the expiration of the term of such lease. If during the currency of such lease he ceases to occupy the land comprised therein, and sublets it to another, no right of occupancy in such land shall be acquired by the sub-lessee during the currency of the lease.

Time excluded from reckoning period necessary for acquiring right of occupancy.

9. The right of tenants at fixed rates shall be heritable and transferable.

Rights under sections 7 and 8 when transferable.

No other right of occupancy shall be transferable by grant, will or otherwise, except as between persons who have become by inheritance co-sharers in such right.

When any person entitled to such last-mentioned right dies, the right shall devolve as if it were land: Provided that no collateral relative of the deceased who did not then share in the cultivation of his holding shall be entitled to inherit under this section.

10. On the application of any tenant to have his class of tenure determined, the Collector of the District or Assistant Collector shall determine the class to which he belongs, namely—

Determination of class of tenure of tenant.

whether he is a tenant at fixed rates,
or an exproprietary tenant,
or an occupancy-tenant,
or whether he is a tenant without a right of occupancy.

11. The

Bar to enhancement of rent of tenants at fixed rates.

11. The rent paid by tenants at fixed rates shall not be liable to enhancement.

Enhancement in case of expropriatory and occupancy-tenants.

12. The rent paid by expropriatory or occupancy-tenants shall not be liable to enhancement except—

(a) by a written agreement registered under the Indian Registration Act, 1871, or recorded before the patwárá of the village or the kánúngo : or

(b) by order of a Settlement Officer passed under the law for the time being in force : or

(c) by order under this Act.

Grounds of enhancing rent of occupancy-tenants which has not been fixed by order.

13. Where the rent of any occupancy-tenant has not been fixed by order of a Settlement Officer under the North-Western Provinces Land Revenue Act, 1873, or by an order under this Act,

or where the rent has been fixed by any such order, but the term for which it has been fixed has expired,

or where any of the events mentioned in section sixteen has occurred,

the landholder may apply to enhance the rent of such tenant on one of the following grounds and on no others :—

(a) that the rate of the rent paid by such tenant is below the prevailing rate payable by the same class of tenants for land of similar quality with similar advantages ;

(b) that the value of the produce has, or the productive powers of the land have, been increased otherwise than by the agency or at the expense of the tenant ;

(c) that the quantity of land held by the tenant has been proved by measurement to be greater than the quantity for which rent has been previously paid by him.

Enhancement of rent of expropriatory tenants which has not been fixed by order.

14. a. Where the rent of any expropriatory tenant has not been fixed by order of a Settlement Officer under the North-Western Provinces Land Revenue Act, 1873, or by an order under this Act,

or

or where the rent has been fixed by such order, but the term for which it has been fixed has expired,

or where any of the events mentioned in section sixteen has occurred,

the landholder may apply to enhance or determine the rent of such tenant as if he were an occupancy-tenant: Provided that his rent shall be four annas in the rupee below the prevailing rate for land of a similar quality with similar advantages held by tenants-at-will.

b. Whenever the district or tahsíl, or other local area in which such land is situated, has been divided by the Settlement Officer into circles of like capacity and soil, the land of similar quality, with similar advantages, shall, for the purposes of this section and section thirteen, be selected from the same circle.

Selection of land for comparison.

c. When the Settlement Officer has not so divided the district or other local area as aforesaid, the land regarding which the application has been made shall be compared with land of similar quality and with similar advantages, in the same tahsíl or in a tahsíl immediately adjacent.

15. Where the rent of any exproprietary tenant or occupancy-tenant has not been fixed by order of a Settlement Officer under the North-Western Provinces Land Revenue Act, 1873, or by an order under this Act,

Abatement in like cases.

or where the rent has been fixed by such order, but the term for which it has been fixed has expired,

or where any of the events mentioned in section sixteen has occurred,

the tenant may apply for an abatement of his rent on one of the following grounds, and on no others:—

(a) that the area of the land held by him has been diminished by diluvion or otherwise:

(b) that the value of the produce has, or the productive powers of such land have, been decreased by any cause beyond his power.

16. Subject to the provisions of section seventeen, where the rent of any exproprietary or occupancy-tenant

Time of enhancement or abatement where rent of

expropriary or occupancy-tenant has been fixed by order under this Act.

tenant has been fixed by an order under this Act, such rent shall not be liable to be enhanced or abated

(a) until the expiration of ten years from the date on which such order took effect, or

(b) until the revision (before confirmation) of the assessment of the district by order of the Local Government, or

(c) until the conclusion of the period of settlement of the district,

whichever of the said three events first occurs.

Grounds of enhancement and abatement where his rent has been fixed by order of a Settlement Officer or under this Act.

17. Where the rent of any expropriary or occupancy-tenant has been fixed by order of a Settlement Officer under the North-Western Provinces Land Revenue Act, 1873, or by an order under this Act, the landholder may apply to enhance the rent of such tenant during the currency of the term for which the rent has been so fixed, on one of the following grounds, and on no others:—

(a) that the area of the tenant's holding has been increased by alluvion or otherwise;

(b) that the productive powers of the land held by the tenant have, since the date of the order, been increased otherwise than by the agency or at the expense of the tenant;

And the tenant may apply for abatement of his rent on one of the following grounds, and on no others:—

(c) that the area of the land held by him has been diminished by diluvion or otherwise;

(d) that the productive powers of such land have been decreased by any cause beyond his control.

Grounds of enhancement or abatement of rent of tenant at fixed rates.

18. In the case of a tenant at fixed rates, the landholder may apply to enhance his rent on the ground that the area of the land in his holding has been increased by alluvion or otherwise,

and the tenant may apply for abatement of his rent on the ground that the area of the land in his holding has been diminished by diluvion or otherwise.

Day before which applications for enhancement

19. Applications for enhancement or abatement of rent must be made on or before the thirty-first day of December next before the year commencing on the

first

first day of July from which the rent is to be enhanced or abated,

and all orders for enhancement or abatement shall take effect from the first day of July next following the date of the application.

20. In determining, under this chapter, the rate of rent payable by any tenant, his caste shall not be taken into consideration, unless it is proved that, by local custom, caste is taken into account in determining such rate;

and whenever it is found that, by local custom or practice, any class of persons, by reason of their having formerly been proprietors of the soil or otherwise, hold land at favourable rates of rent, the rate shall be determined in accordance with such custom or practice.

21. No tenant-at-will of land shall be liable to pay rent in excess of the rent (if any) payable by him in the previous year ending on the thirtieth day of June, unless the landholder and tenant have agreed as to the rent to be paid to the former by the latter, and such agreement has been recorded by the patwari of the village or the kanungo of the pargana in which such land is situate.

22. Notwithstanding anything hereinbefore contained, when the rent of any exproprietary or occupancy-tenant has been fixed by agreement between the parties, such rent shall not be liable to enhancement or abatement for such term as may be agreed on.

23. Whenever in any land the crops have been damaged or destroyed by any cause beyond the tenant's control, any officer empowered by the Local Government in this behalf may, subject to such rules as to appeal, confirmation or otherwise, as may from time to time be prescribed by the Board, order that the whole or any part of the rent then payable for such land shall be remitted, or that the payment thereof shall be suspended for such period as he thinks fit;

And, subject to the same rules, the landholder shall be bound by such order:

or abatement must be made.

Orders when to take effect.

Consideration of caste and class of tenant in determining rate of his rent.

Tenants-at-will.

Rent of exproprietary or occupancy-tenant fixed by agreement.

Power to remit or suspend payment of rent where crops have been damaged.

And

And in case of such remission, the Local Government shall remit the revenue due in respect of such land to an amount which shall, at the option of the Local Government, be equal to one-half of the rent remitted, or shall bear the same proportion to the whole of the revenue due in respect of the mahál, as the rent remitted bears to the whole of the rent payable in respect of such mahál;

And in case of such suspension, the Local Government shall suspend for the period of such suspension so much of the revenue payable in respect of the mahál as, at the option of the Local Government, is equal to one-half of the rent of which the payment has been suspended, or bears the same proportion to the whole revenue payable in respect of the mahál, as the rent of which the payment has been suspended bears to the whole rent payable in respect of such mahál.

(A)—*Leases.*

Contents of lease to which every tenant is entitled.

24. Every tenant is entitled to receive from the landholder, and may at any time during the continuance of his holding apply for, a lease containing the following particulars:—

- (a) the quantity of land held by him, and, where the fields have been numbered in a Government survey, the number of each field:
- (b) the amount of annual rent payable for such land:
- (c) the instalments in which, and the dates on which, such rent is to be paid:
- (d) any special conditions of the lease:
- (e) if the rent is payable in kind, or is calculated on a valuation of the produce, the proportion of produce to be delivered, the mode of valuation, and the time, manner and place of delivery.

Leases to which tenants at fixed rates are entitled.

25. Tenants at fixed rates are entitled to receive leases at such rates.

26. Expropriatory

26. Expropriatory and occupancy-tenants are entitled to receive leases at the rates hitherto paid by them, or determined in accordance with the provisions of this Act.

Leases to which expropriatory and occupancy-tenants are entitled.

27. All other tenants are entitled to leases only on such terms as may be agreed upon between them and the landholders.

Leases to which other tenants are entitled.

28. Every landholder who grants a lease is entitled to receive a reciprocal engagement from the tenant, executed by the tenant, and conformable with the terms of the lease.

Landholder granting lease entitled to reciprocal engagement.

The tender to any tenant of a lease, such as he is entitled to receive, shall entitle the landholder to receive a reciprocal engagement from such tenant.

29. If any lease be granted, or if any agreement be entered into, by any landholder under engagement with Government for his land, fixing the rent of land for any period exceeding the term of such engagement, such lease or agreement shall, on the expiration of the term aforesaid, be void at the option of either party.

Lease for period exceeding term of landholder's engagement.

30. a. And whereas all grants (whether in writing or otherwise) for holding land exempt from the payment of rent which have been made since the first day of December 1790, by any authority other than that of the Governor-General in Council, were declared by Bengal Regulation XIX of 1793, section ten, to be null and void, and like provisions have been by divers Regulations applied to the several parts of the territories to which this Act extends, and the said Regulation XIX of 1793 also provided that no length of possession should be considered to give validity to any such grant, either with regard to the property in the soil or the rents of it, it is hereby enacted as follows:—

Resumption of rent-free grants.

b. Applications by the proprietor to resume such grants or to assess rent on the land, shall be made to the Collector of the District or Assistant Collector, and, subject to rules to be made under section two hundred and eleven, shall be dealt with as other applications under this Act.

Applications to resume.

c. Grants

Validity of grants which grantor has expressly agreed not to resume.

c. Grants of land held under a written instrument, by which the grantor expressly agrees that the grant shall not be resumed, shall be held valid as against him (but not as against his representatives after his death) during the continuance of the settlement of the district in which the land is situate, which is current at the date of the grant.

When rent-free tenure confers proprietary right.

d. Where any land has been for fifty years or upwards, and still is, held rent-free and by at least two successors to the original grantee, such holding shall be deemed to confer on the holder a proprietary right.

e. Nothing in the Indian Limitation Act, 1871, shall bar the right to make an application under this Act to assess to rent land held rent-free.

f. Nothing in this section shall apply to either of the following cases:—

(1) Where land is previously to the passing of this Act held rent-free under a judicial decision:

(2) Where, previously to the passing of this Act, land held rent-free has been purchased for a valuable consideration and resumption thereof has been barred under Act No. X of 1859, section twenty-eight, or under the Indian Limitation Act, 1871, schedule II, No. 130.

(B)—*Relinquishment and Ejectment.*

Relinquishment of land by tenant not holding under a lease.

31. Every tenant not holding under a lease shall continue liable for the rent of the land in his holding for the ensuing year, unless on or before the first day of May in any year he gives notice in writing to the landholder, or his recognized agent, of his desire to relinquish such land on the thirtieth day of June next ensuing, and relinquishes it accordingly; or unless it is let to any other person by such landholder or agent.

Service through tahsildár of notice of relinquishment.

32. If the landholder or his agent refuse to receive such notice, or if he receive it but refuse to sign a receipt for the same, the tenant may make an application to the tahsildár, who shall thereupon cause the notice to be served on such landholder or agent, the tenant paying the costs of service.

33. The

33. The notice shall, if practicable, be served personally on the landholder or his agent; but if the landholder or his agent cannot be found, or if he evades service of the notice, service may be made by affixing the notice at his usual place of residence, or, if he does not reside in the district wherein the land is situate, at the *chaupdt*, or other conspicuous place in the village where the land is situate.

Mode of serving notice.

Where the delay in serving the notice is owing to the fault of the landholder or his agent, the notice shall be deemed to have been served at the first attempt to serve it.

34. a. When an arrear of rent remains due from any tenant, he shall be liable to pay interest on such arrear at one per cent. per mensem; and if the arrear remains due on the thirtieth day of June, to be ejected from the land in respect of which the arrear is due.

Liability of tenant to pay interest on arrear and to be ejected.

b. No tenant at fixed rates, exproprietary tenant, occupancy-tenant, or tenant holding under an unexpired lease, shall be ejected otherwise than in execution of a decree or order under the provisions of this Act.

Bar to ejectment without decree.

c. No ejectment of a tenant or forfeiture of a lease shall be decreed on account of any act or omission of the tenant

Ejectment not to be decreed for certain acts or omissions.

(1) which is not detrimental to the land in his occupation, or inconsistent with the purpose for which the land was let, or

(2) which by law, custom, or special agreement does not involve the forfeiture of the lease.

35. If the landholder desire to eject a tenant at fixed rates, an exproprietary tenant, an occupancy-tenant, or a tenant holding under an unexpired lease, against whom a decree for arrears has been passed and remains unsatisfied, he may, after the expiration of the year, ending on the thirtieth day of June, in which such arrears accrued, apply to the Collector of the District or Assistant Collector to eject the tenant.

Ejectment of tenant at fixed rates, exproprietary, with right of occupancy, or holding under unexpired lease.

Such officer shall, on receiving such application, (subject to the provisions of the Indian Limitation Act,

Act,

Act, 1871, and of section one hundred and sixty-two of this Act) cause a notice to be served on the tenant, stating the amount due under the decree, and informing him that if he does not pay such amount into Court within fifteen days from receipt of the notice, he will be ejected from his land.

If such amount be not so paid, the Collector of the District or Assistant Collector may eject the tenant.

Service of notice on tenant for limited period.

36. If the landholder desire to eject a tenant not having a right of occupancy, or any other tenant holding only for a limited period, after the determination of his tenancy, he may cause a written notice of ejectment to be served on such tenant under the provisions of this Act.

Language and contents of notice.

37. The notice of ejectment shall be written in the vernacular language and character of the district:

it shall specify the land from which the tenant is to be ejected;

and it shall inform him that he must vacate such land on or before the first day of May next following; or that, if he means to contest the right to eject him, he must apply to the Collector of the District or Assistant Collector for that purpose on or before that date.

Mode of serving notice.

38. The notice shall be issued and served through the office of the tahsildár on or before the first day of April, and the landholder shall pay the cost of service: it shall be served personally on the tenant, if practicable; but if he cannot be found, service may be made by affixing the notice to his usual place of residence.

Effect of failure of tenant to institute suit to contest liability to ejectment.

39. a. The tenant, on whom such notice has been served, may, on or before the first day of May next after the service, make an application to the Collector of the District or Assistant Collector, contesting his liability to be ejected.

b. When such an application is made, the Collector or of the District or Assistant Collector shall proceed to determine the question between the parties.

c. If no such application is made, the tenancy of the land in respect of which the notice has been served

served shall be held to cease on the first day of May next after the service; unless, after such service, the landholder authorises the tenant to continue in the occupation of the land.

40. If the landholder require assistance to eject the person whose tenancy is alleged to have ceased under the provisions of section thirty-nine, he may apply to the Collector of the District or Assistant Collector for such assistance before the ploughing for the *kharif* harvest commences in the district; and the Collector of the District or Assistant Collector shall order the ejectment of such tenant if he is satisfied—

Procedure to enforce ejectment.

- (a) that the notice was duly served on such tenant under section thirty-eight;
- (b) that he has not been authorised by the landholder to continue in occupation;
- (c) that the tenant has not made the application mentioned in section thirty-nine; or
- (d) that if such application has been made, the question has been determined adversely to the tenant.

Provided that no such application for the ejectment of a farmer on the determination of a lease shall be received if the lease be of the kind in which an advance has been made by the leaseholder, and the proprietor's right of re-entry at the end of the term is contingent on the re-payment of such advance either in money or by the usufruct of the land. In all such cases the landholder must proceed by suit in the Civil Court.

41. If the landholder expressly authorise the tenant, on whom the notice of ejectment has been served, or against whom any proceedings in ejectment under section forty have been taken, to remain in occupation of the land, and to prepare it for the *kharif* harvest, the proceedings shall become void.

Notice of ejectment when void.

42. a. Any tenant ejected in accordance with the provisions of this Act, shall be entitled to any growing crops or other ungathered products of the earth belonging to the tenant, and growing on the land at the time of his ejectment, and to use the land for the

Rights of ejected tenant.

purpose

purpose of tending and gathering in such crops or other products, paying adequate rent therefor.

Effect of tender by landholder of payment for crops.

b. Provided that, if the landholder desire to purchase such crops or other products, he may tender their price to the tenant; and thereupon the right of the tenant to such crops and other products, and to use the land for the purpose aforesaid, shall cease.

Power to determine rent and price.

c. In the case of a dispute under this section, the Collector of the District or Assistant Collector may, on the application of the landholder or tenant, award the rent and price so payable; and the amount of such award, or of any tender accepted under this section, shall be recoverable as an arrear of rent by suit under this Act.

Set-off of rent.

d. The rent, if any, payable to the landholder by the tenant at the time of his ejection may be set-off against the price of the said crops or other products.

Application for officer to divide produce or appraise crop.

43. a. Wherever rent is taken by division of the produce in kind, or by estimate or appraisement of the standing crop, or other procedure of a like nature, requiring the presence both of the cultivator and landholder, either personally or by agent,

if either landholder or tenant, personally or by agent, neglect to attend at the proper time, or if there is a dispute as to the amount or value of the crop,

an application may be presented by either party to the Collector of the District or Assistant Collector, requesting that a proper officer be deputed to make the division, estimate, or appraisement.

Procedure on such application.

b. On receiving such application, the Collector of the District or Assistant Collector shall issue a written notice to the opposite party or his agent, to attend on the date and at the time specified in the notice, and shall depute an officer before whom such division, estimate, or appraisement shall be made.

c. If on or before the date appointed, the dispute has not been amicably adjusted, three residents of the village or neighbourhood shall be appointed assessors; one by each of the parties, and one by the officer deputed to divide the grain or estimate or appraise

appraise the crops, and the officer deputed shall decide the amount of rent payable by their award, and shall give to the party applying a written authority to divide the grain or cut the crops.

d. Provided that, if either party fail to attend, the officer deputed shall nominate an assessor on his behalf.

e. The officer deputed shall report his proceedings to the Collector of the District or Assistant Collector, who shall determine the amount of costs properly incurred under this section, and the share of the costs to be paid by either party.

(C.)—*Compensation for Improvements made by Tenants.*

44. If any tenant, or any person from whom he has inherited or purchased, make any such improvements on the land in his possession as are hereinafter mentioned, neither he nor his representative shall be ejected from the same land without payment of compensation for such improvements.

Tenants' right to compensation for improvements.

Explanation.—The word "improvements" as used in this section means works by which the annual letting value of the land has been, and at the time of demanding compensation continues to be, increased, and comprises—

(a) tanks, wells and other works for the storage, supply or distribution of water for agricultural purposes,

(b) works for the drainage of land, or for the protection of land from floods, or from erosion or other damage by water,

(c) the reclaiming, clearing, or enclosing of lands for agricultural purposes,

(d) the renewal or re-construction of any of the foregoing works, or alterations therein, or additions thereto.

45. Such compensation may, at the option of the landholder or his representative, be made—

Mode of making compensation.

1st,—by payment in money;

2nd,—by a rent to be charged on the land;

3rd,—by

3rd,—by the grant of a beneficial lease of the land, by the landholder or his representative, to the tenant or his representative;

4th,—partly by one or by any two of the said ways, and partly by the others or other of the same ways.

Settlement of difference as to amount or value of compensation.

46. In case of difference as to the amount or value of the compensation tendered, either party may apply to the Collector of the District or Assistant Collector stating the matter in dispute, and requesting a determination thereof.

On receiving such application, the Collector of the District or Assistant Collector shall

(a) cause notice thereof to be served on the other party,

(b) take such evidence as the parties or either of them may adduce,

(c) make such further inquiry as the Collector of the District or Assistant Collector may deem necessary, and

(d) determine the amount of the payment in money, and the amount and incidence of the rent-charge, and the terms of the lease, or any of such matters.

Considerations in determining compensation.

47. In determining the amount or value mentioned in section forty-six, or the terms of such lease, the Collector of the District or Assistant Collector shall take into account any assistance given to the tenant by the landholder either directly in money, material or labour, for the purpose of making such improvements, or indirectly by allowing the tenant to hold at a favourable rate of rent.

(D.)—*Compensation for wrongful Acts and Omissions.*

Right of tenant to compensation for exactions in excess of rent or for withholding receipt.

48. Every tenant from whom any sum is exacted in excess of the rent specified in his lease or payable under the provisions of this Act,

and every tenant from whom a receipt is withheld for any sum of money paid by him as rent,

shall

shall be entitled to recover from the landholder compensation not exceeding double the amount so exacted or paid.

Receipts for rent shall specify the period or crop on account of which the rent is acknowledged to have been paid ;

Contents of receipt.

and any refusal to make such specification shall be held to be a withholding of a receipt.

49. If payment of rent, whether the same be legally due or not, is extorted from any tenant by illegal confinement or other duress, he shall be entitled to recover from the person guilty of such extortion such further compensation, not exceeding the sum of two hundred rupees, as the Collector of the District or Assistant Collector thinks reasonable.

Damages for extorting payment of rent by duress.

An award of compensation under this section shall not bar or affect any penalty or punishment to which the person guilty of such extortion may be subject under the Indian Penal Code.

Liability to punishment for extortion not affected.

(E.)—Deposit of Rent in Court.

50. If any tenant tenders to the landholder full payment of the rent due from him, and if the amount so tendered be not accepted, and a receipt for the amount forthwith granted, the tenant may thereupon apply to the Collector of the District or Assistant Collector for leave to deposit such amount in his Court to the credit of the landholder.

Deposit of amount tendered by tenant and refused.

51. The application to the Collector of the District or Assistant Collector shall be as nearly as may be in the form (A) in the first schedule hereto annexed, and shall be verified in the manner prescribed for the verification of complaints under section one hundred and seven :

Form and verification of application.

and the person making the verification shall be punishable, if the application contain any averment which he knows or believes to be false, or does not know or believe to be true.

Penalty for false statement.

52. The Collector of the District or Assistant Collector shall receive the amount which the tenant desires to deposit, and shall thereupon issue to the person

Notice to issue on deposit being made.

person to whose credit it has so been deposited, a notice in English or the vernacular language of the district in the form (B) in the first schedule hereto annexed, or to the like effect.

And such deposit shall, in all questions between the landholder and the tenant, be deemed to be a payment made by the tenant to the landholder on account of the rent.

Mode of serving notice.

53. Such notice shall be served through the tahsildár upon the person to whom it is addressed, or upon his recognized agent.

In their absence, the notice shall be affixed at the *chaupál*, or other conspicuous place in the village in which the land for which the rent is due is situate.

Payment to person served with notice on his application.

54. If at any time before the expiration of three years from the date of the deposit the person on whom such notice is served, or his recognized agent, appears, and applies that the money in deposit be paid to him, it shall be paid accordingly, unless it has been repaid or paid in accordance with the provisions next hereinafter contained.

Refund to depositor.

55. If no application be made by such person or his recognized agent, the sum shall be repaid to the depositor on the expiration of three years from the date of the deposit.

And at any time before the expiration of such period, on the joint application of the depositor and the person to whose credit the said sum was deposited, such sum shall be paid in such manner as the joint applicants desire.

CHAPTER III.

DISTRESS.

Produce of land hypothecated for rent.

56. The produce of all land in the occupation of a cultivator shall be deemed to be hypothecated for the rent payable in respect of such land;

Recovery of arrears by distress.

and when an arrear of rent is due from any cultivator, the person entitled to receive rent immediately from him may, instead of suing for the arrear as hereinafter

hereinafter provided, recover the same by distress and sale of the produce of the land in respect of which the arrear is due, under the rules contained in this chapter.

57. Provided—

(a.) that when a cultivator has given security for the payment of his rent, the produce of the land for the rent of which security has been given, shall not be liable to be distrained :

Distress of produce barred by security given for rent.

(b.) that no sharer in any mahál shall have power to distrain upon any cultivator unless he is entitled to collect the whole rent from such cultivator :

Sharer when entitled to distrain.

(c.) that no sharer in a joint undivided mahál shall exercise such power otherwise than through a manager authorized to collect the rents of the whole mahál on behalf of all the sharers therein :

Distress by manager.

(d.) that in pattidári maháls distress shall be made only through a lambardár, or, where the rent of a pattí is not collected by a lambardár, through the pattidár who is entitled to collect the rent.

Distress in pattidári maháls.

58. A distress shall not be made for any arrear which has been due in respect of any land for a longer period than one year :

No distress for over-due arrear, nor, without agreement, for excess over past year's rent.

nor for the recovery of any sum in excess of the rent payable for the same land in the preceding year, unless the rent has been enhanced under the provisions hereinbefore contained, or by order of a Settlement Officer, or unless the cultivator has agreed to pay such excess and such agreement has been attested before the patwári or kánúngo.

59. The power to distrain conferred by sections fifty-six and fifty-seven may be exercised by managers under the Court of Wards, and other persons lawfully entrusted with the charge of immoveable property ;

Distress by managers under Court of Wards, &c.

and also by the agents employed by such persons as aforesaid, in the collection of rent, if expressly authorized by power-of-attorney in that behalf :

If any wrongful act is committed by any such agent, under colour of the exercise of the said power, such

Liability for illegal act.

such agent and his principal shall be jointly and severally liable to make compensation for such act.

Written authority to servants employed to distress.

60. When any person, empowered to distress property under section fifty-six, section fifty-seven or section fifty-nine, employs a servant or other person to make the distress, he shall give him a written authority for the same, and the distress shall be made in the name of the person giving such authority.

Standing crops and crops gathered liable to distress.

61. Standing crops and other ungathered products of the earth, and crops or other products when reaped or gathered, and deposited in any threshing-floor or place for treading out grain or the like, whether in the field or within a homestead, may be distrained by persons invested with power to distress under the provisions of this Act.

Exception.

But no such crops or products, other than the produce of the land in respect of which an arrear of rent is due, or of land held under the same engagement, and no grain or other produce after it has been stored by the cultivator, and no other property whatsoever, shall be liable to be distrained under this Act.

Defaulter to be served with written demand and account.

62. Before or at the time when a distress is made under this Act, the distrainer shall cause the defaulter to be served with a written demand for the amount of the arrear, together with an account exhibiting the grounds on which the demand is made.

Mode of service.

The demand and account shall, if practicable, be served personally on the defaulter; or, if he abscond or conceal himself, so that they cannot be so served, shall be affixed at his usual place of residence.

Distress to be proportionate to arrear.

63. Unless the amount of the demand is immediately paid or tendered, the distrainer may distress property as aforesaid equal in value, as nearly as may be, to the amount of the arrear and the costs of the distress; and shall prepare a list or description of the said property, and deliver a copy of the same to the owner, or, if he be absent, affix it at his usual place of residence.

List of property to be prepared and copy served on owner.

Standing crops, &c., when distrained, may be reaped and stored.

64 a. Standing crops and other ungathered products may, notwithstanding the distress, be reaped and gathered by the cultivator, and he may store the same

same in such granaries or other places as are commonly used by him for the purpose.

b. If the cultivator neglect to do so, the distrainer shall cause the said crops or products to be reaped or gathered, and in such case shall store the same either in such granaries or other places as aforesaid, or in some other convenient place in the neighbourhood.

c. In either case the distrained property shall be placed in the charge of some person appointed by the distrainer for the purpose.

d. Crops or products which, from their nature, do not admit of being stored, may be sold before they are reaped or gathered, under the rules hereinafter provided; but in such case, the distress shall be made at least twenty days before the time when the crops, or products, or any part of the same are fit for reaping or gathering.

Sale of products which cannot be stored.

65. If a distrainer is opposed, or apprehends resistance, and desires to obtain the assistance of a public officer, he may apply to the Collector of the District or Assistant Collector, who may, if he thinks necessary, depute an officer to assist the distrainer in making the distress.

Assistance to distrainer opposed or apprehending resistance.

66. If at any time after property has been distrained and before the day fixed for putting it up to sale as hereinafter provided, the owner of the property tenders payment of the arrear demanded of him, and of the expenses of the distress, the distrainer shall receive the same, and shall forthwith withdraw the distress.

Distress to be withdrawn on tender of arrear and expenses before sale.

67. Within five days from the time of the storing of any distrained crops or products,

Application for sale.

or, if the crops or products do not from their nature admit of being stored, within five days from the time of making the distress,

the distrainer shall apply for sale of the same to the officer for the time being authorized by the Local Government to sell distrained property within the tahsíl in which they are situate.

68. The

Contents of
application.

68. The application shall be in writing, and shall contain—

- (a) an inventory or description of the property distrained,
- (b) the name of the defaulter and his place of residence,
- (c) the amount due, and the date of the distress, and
- (d) the place in which the distrained property is.

Fee for ser-
vice of notice.

Together with the application, the distrainer shall deliver to the said officer the fee for the service of a notice upon the defaulter as hereinafter provided.

Procedure on
receipt of
application.

69. Immediately on receipt of the application, the said officer shall send a copy of it to the Collector of the District or Assistant Collector;

and shall serve a notice in the form (C) contained in the first schedule hereto annexed, or to the like effect, on the person whose property has been distrained, requiring him either to pay the amount demanded, or to institute a suit to contest the demand before the Collector of the District, or Assistant Collector, within the period of fifteen days from the receipt of the notice.

He shall at the same time send to the Collector of the District or Assistant Collector, for the purpose of being put up in his office and in the office of the tahsildár, a proclamation fixing a day for the sale of the distrained property, which shall not be less than twenty days from the date of the application; and shall deliver a copy of the proclamation to the person charged with the service of the notice, to be put up by him in the place where the distrained property is deposited.

The proclamation shall contain—

- (a) a description of the property, and shall specify—
- (b) the demand for which it is to be sold, and
- (c) the place where the sale is to be held.

Suspension
of sale on

70. If a suit is instituted before the Collector of the District or Assistant Collector in pursuance of the aforesaid

aforesaid notice, the Collector of the District or Assistant Collector shall send to the officer referred to in section sixty-seven, or, if so requested, shall deliver to the owner of the distrained property, a certificate of the institution of such suit ;

receipt of Collector's certificate of institution of suit.

and on such certificate being received by, or presented to, the said officer, he shall suspend the sale.

71. A person whose property has been distrained in manner hereinbefore provided, may immediately after the distress, and before the issue of notice of sale, institute a suit to contest the demand of the distrainer.

Suit to contest distrainer's demand before issue of notice of sale.

When such suit is instituted, the Collector of the District or Assistant Collector shall proceed in the manner prescribed in the last preceding section.

If, thereafter, application for the sale of the property is made to the said officer, he shall send a copy of the application to the Collector of the District or Assistant Collector, and suspend further proceedings, pending the decision of the case.

72. The person whose property has been distrained may, at the time of instituting any such suit as aforesaid, or at any subsequent period, execute a bond with a surety, binding himself to pay whatever sum may be adjudged to be due from him, with interest and costs of suit ;

Distress when to be withdrawn.

and when such bond is executed, the Collector of the District or Assistant Collector shall give to the owner of the property a certificate to that effect, and, if so requested, shall serve the distrainer with notice of the same ;

and upon such certificate being presented to the distrainer by the owner of the property, or served on him by order of the Collector of the District or Assistant Collector, the property shall be released from distress.

73. If the institution of a suit to contest the demand of the distrainer has not been certified, in manner hereinbefore provided, to the said officer, on or before the day fixed in the proclamation of sale, he shall, unless the said demand, with such costs of the

When sale may be proceeded with.

distress

distress as are allowed by him, be discharged in full, proceed, in manner hereinafter mentioned, to sell the property or such part of it as may be necessary to satisfy the demand with the costs of distress and sale.

Place of sale.

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

Manner of sale.

The property shall be sold by public auction, in one or more lots, as the officer holding the sale may think advisable ;

Withdrawal of distress when demand and costs satisfied.

and if the demand, with the costs of distress and sale, be satisfied by the sale of a portion of the property, the distress shall be immediately withdrawn with respect to the remainder.

If fair price be not offered, sale may be postponed and shall be then completed.

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

Payment of purchase-money.

76. The price of every lot shall be paid for in ready money at the time of sale, or as soon thereafter as the officer holding the sale thinks necessary ;

Resale on default.

and, in default of such payment, the property shall be put up again and sold.

Certificate to purchaser.

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

Deduction, from proceeds, of costs of sale.

77. From the proceeds of every sale of distrained property under this Act, the officer holding the sale shall make a deduction at the rate of one anna in the rupee on account of the costs of the sale, and shall send the amount so deducted to the Collector of the District or Assistant Collector.

He

He shall then pay to the distrainer the expenses incurred by the distrainer on account of the distress, and of the issue of the notice and proclamation of sale prescribed in section sixty-nine, to such amount as, after examining the statement of expenses furnished by the distrainer, he thinks proper to allow.

Payment of distrainer's expenses.

The remainder shall be applied to the discharge of the arrear for which the distress was made, with interest thereon up to the day of sale;

Discharge of arrear with interest.

and the surplus (if any) shall be delivered to the person whose property has been sold.

Surplus.

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

Sale-officers and employees prohibited from purchasing.

79. Officers holding sales under this chapter are required to bring to the notice of the Collector of the District or Assistant Collector any material irregularities committed by distrainers under colour of this Act;

Report of irregularities by distrainer.

and if, in any case, on proceeding to hold any such sale, the officer holding it find that the owner of the property has not received due notice of the distress and intended sale, he shall postpone the sale and report the case to the Collector of the District or Assistant Collector, who shall thereupon direct the issue of another notice and proclamation of sale under section sixty-nine, or pass such other order as he thinks fit.

Postponement of sale, and report to Collector when owner has not received due notice.

Order of Collector.

80. When an officer goes to any place for the purpose of holding a sale under this Act, and no sale takes place, either for the reason stated in section seventy-nine, or because the demand of the distrainer has been previously satisfied, no intimation of such satisfaction having been given by the distrainer to such officer, the charge of one anna in the rupee on account of expenses shall be leviable, and shall be calculated on the estimated value of the distrained property.

Levy of charge when sale-officer attends, and no sale takes place.

If the distrainer's demand be not satisfied until the day fixed for the sale, the charge for expenses shall

Recovery from owner.

be

be paid by the owner of the property, and may be recovered by the sale of such portion thereof as may be necessary.

Recovery from distrainer.

In every other case it shall be paid by the distrainer, and may be recovered by attachment and sale of his property under the warrant of the Collector of the District or Assistant Collector :

Limit to charge.

Provided that in no case shall a larger amount than ten rupees be recoverable under this section.

Order of sale when amount adjudged due.

81. When a suit has been instituted to contest the demand of a distrainer, and the distrained property has not been released on security, if the demand or any portion of it is adjudged to be due, the Collector of the District or Assistant Collector shall issue an order to the officer authorizing the sale of such property ;

Second proclamation of sale.

and, on the application of the distrainer within five days from the receipt of such order by the officer, such officer shall publish a second proclamation in the manner prescribed in section sixty-nine, fixing another day for the sale of the distrained property, which shall not be less than five nor more than ten days from the date of the proclamation ;

Sale on failure to pay debt and costs.

and, unless the amount adjudged to be due with the costs of distress be paid, shall proceed to sell the property in the manner hereinbefore provided.

In suit to contest his demand, distrainer to prove arrear.

82. *a.* In all suits instituted to contest the distrainer's demand, he shall be required to prove the arrear in the same manner as if he had himself brought a suit for the amount under the provisions hereinafter contained.

Recovery of amount decreed in favour of distrainer.

b. If the demand or any part thereof is found to be due, the Collector of the District or Assistant Collector shall make a decree for the amount in favour of the distrainer, and such amount may be recovered by sale of the property, as provided in the last preceding section, if the distress has not been withdrawn ;

and, if any balance remain due after such sale, by execution of the decree against the person and any other property of the defaulter,

or

or if the property have been released on security, by execution of the decree against the person and property of the defaulter and of his surety.

c. If the distress is adjudged to be vexatious or groundless, the Collector of the District or Assistant Collector, besides directing the release of the distrained property, may award such compensation to the plaintiff as the circumstances of the case require.

Compensation in case of vexatious distress.

83. *a.* If any person claim as his own, property which has been distrained for arrears of rent alleged to be due from any other person, the claimant may institute a suit against the distrainer and such other person, to try the right to the property, in the same manner and under the same conditions as to the time of instituting the suit and to the consequent postponement of sale, as a person whose property has been distrained for an arrear of rent alleged to be due from him, may institute a suit to contest the demand.

Suit by person claiming property distrained for arrears alleged to be due from another.

b. When any such suit is instituted, the property may be released upon security being given for the value of the same.

Release of property on security being given.

c. If the claim is dismissed, the Collector of the District or Assistant Collector shall make an order for the sale of the property, or for the recovery of the value thereof, as the case may be, for the benefit of the distrainer.

Order of Collector when claim dismissed.

d. If the claim is upheld, the Collector of the District or Assistant Collector shall decree the release of the distrained property with costs, and such compensation (if any) as the circumstances of the case require:

Decree for release and compensation when claim upheld.

e. Provided that no claim to any produce of land liable to distress under this Act, which at the time of the distress may have been found in the possession of a defaulting cultivator, shall bar the prior claim of the person entitled to the rent of the land, nor shall any attachment in execution of a judgment of any Civil Court prevail against such prior claim.

Saving of prior claim of person entitled to rent of land.

84. If, in any case in which property has been distrained for an arrear of rent, and a suit has been instituted to contest the demand, the right to dis-

Procedure where right to distrain is claimed by

train

person other
than dis-
trainer.

train for such arrears is claimed by or on behalf of any person other than the distrainer, on the ground of such other person being actually and in good faith in the receipt and enjoyment of the rent of the land, such other person shall be made a party to the suit, and the question of the actual receipt and enjoyment of the rent by him before and up to the time of the commencement of the suit shall be enquired into, and in deciding the suit the result of such inquiry shall be taken into consideration :

Saving of
right to sue
in Civil Court.

Provided that the decision of the Collector of the District or Assistant Collector shall not affect the right of any person who may have a legal title to the rent of the land, to establish his title by suit in the Civil Court if instituted within one year from the date of the decision.

Persons pre-
vented from
suing in time
to save pro-
perty from
sale, may sue
for damages.

85. If any person whose property has been distrained for the recovery of a demand not justly due, or of a demand due or alleged to be due from some other person, is prevented by any sufficient cause from bringing a suit to contest the demand or to try the right to the property, as the case may be, within the period allowed by section ninety-four, and his property is in consequence brought to sale, he may, nevertheless, institute a suit under this Act to recover compensation for the illegal distress and sale of his property.

Wrongful
acts of dis-
trainer.

86. If any person empowered to distrain property, or employed for the purpose under a written authority by a person so empowered, distrain or sell, or cause to be sold, any property for the recovery of an arrear of rent alleged to be due, otherwise than according to the provisions of this Act,

or if any distrained property is lost, damaged, or destroyed by reason of the distrainer not having taken proper precautions for the due keeping and preservation thereof,

or if the distress is not immediately withdrawn when it is required to be withdrawn by any provision of this Act,

the

the owner of the property may institute a suit under this Act to recover compensation for any injury which he has thereby sustained through any act or omission mentioned in the former part of this section.

87. If any person not empowered to distrain property under section fifty-six, fifty-seven or fifty-nine, nor employed for the purpose under a written authority by a person so empowered, fraudulently distrains or sells, or causes to be sold, any property under colour of this Act, the owner of the property so distrained or sold may institute a suit under this Act to recover compensation from such person for any injury which the plaintiff has sustained from the distress or sale,

Suit by owner against person distraining or selling without authority.

and the defendant shall be held to have committed criminal trespass, and shall be subject to the penalties provided for that offence by the Indian Penal Code in addition to any damages which may be awarded against him in such suit.

Penalty in addition to damages.

88. Provided that every suit instituted under any of the three last preceding sections shall be commenced within the period allowed by section ninety-four.

Limitation of suits under sections 85, 86, 87.

89. a. If any person resists a distress of property duly made under this Act, or forcibly or clandestinely removes any distrained property, the Collector of the District or Assistant Collector in charge of the Sub-division, upon complaint being made within fifteen days from the date of such resistance or removal, shall cause the person accused to be arrested and brought with all convenient speed before the Collector or Assistant Collector, who shall, if possible, proceed forthwith to try the case.

Procedure in case of resistance of distress.

b. If the case cannot be at once heard, the Collector of the District or Assistant Collector may, if he think fit, require the party arrested to give security for his person, and, in default of such security, may commit him to the civil jail until the case is tried,

and if the offence be proved and the offender be the owner of the property concerned, the Collector of the District or Assistant Collector may order him to

be

be imprisoned in the civil jail for a term not exceeding six months, unless the whole arrear due to the distrainer, with all expenses and costs, is previously to the expiration of such term paid or levied under warrant of the Collector of the District or Assistant Collector by distress and sale of the property of the offender.

c. If the offender be not the owner of the property concerned, he shall make good to the distrainer the value of the same, and shall further be liable to a fine not exceeding one hundred rupees, or, in default of payment thereof, to imprisonment in the civil jail for a period not exceeding two months.

Proceedings of officers subject to revision and orders of Collector.

90. All proceedings of officers distraining, or assisting distrainers, or holding sales, under this chapter, shall be subject to the revision and orders of the Collector of the District or Assistant Collector in charge of a Sub-division of the District.

CHAPTER IV.

PROCESS.

Mode of serving process.

91. a. Every process issued by a Collector of a District or Assistant Collector under this Act shall be under his seal and signature, and shall be served or executed by the Názir, or by such other officer as the Collector of the District or the Assistant Collector may direct, at the cost of the party at whose instance it is issued.

Deposit before issue.

b. The amount of such cost, and, in the case of summons to a witness, the sum required for his travelling expenses, shall be deposited in Court before the process is issued :

Power to direct service gratis.

c. Provided that, if in any case the Collector of the District or the Assistant Collector is satisfied that a party is unable to pay the cost of any necessary process, he may direct such process to be served free of charge.

Punishment for resisting process.

92. Any resistance or opposition to the lawful process of a Collector of the District or Assistant Collector under this Act, may be punished by him according

according to the provisions of the law for the time being in force for the punishment of resistance or opposition to the processes of the Courts of civil justice.

When, in any such case, the offender is not present, the Collector of the District or Assistant Collector may summon him to answer to the charge: and if after due service of the summons he fail to attend, may issue a warrant for his apprehension.

Power to
issue sum-
mons and
warrant.

CHAPTER V.

JURISDICTION OF COURTS.

93. Except in the way of appeal as hereinafter provided, no Courts other than Courts of Revenue shall take cognizance of any dispute or matter in which any suit of the nature mentioned in this section might be brought, and such suits shall be heard and determined in the said Courts of Revenue in the manner provided in this Act, and not otherwise:

Suits cogni-
zable by
Revenue
Courts only.

(a) suits for arrears of rent on account of land or on account of any rights of pasturage, forest-rights, fisheries or the like;

(b) suits to eject a tenant for any act or omission detrimental to the land in his occupation or inconsistent with the purpose for which the land was let;

(c) suits to cancel a lease for the breach of any condition binding on the tenant, and which, by law, custom or special agreement, involves the forfeiture of the lease;

(d) suits for the recovery of any over-payment of rent, or for compensation under section forty-eight or forty-nine;

(e) suits for compensation for withholding receipt for rent paid;

(f) suits for contesting the exercise of the powers of distress conferred on landholders and others by this Act, or anything purporting to be done in the exercise of the said power, or for compensation for wrongful acts or omissions of a distrainer;

(g) suits

(g) suits by lambardárs for arrears of Government revenue, payable through them by the co-sharers whom they represent, and for village-expenses and other dues for which the co-sharers may be responsible to the lambardár;

(h) suits by co-sharers for their share of the profits of a mahál, or any part thereof, after payment of the Government revenue and village-expenses, or for a settlement of accounts;

(i) suits by muáfídárs, or assignees of the Government revenue, for arrears of revenue due to them as such;

(j) suits by taluqdárs and other superior proprietors, for arrears of revenue due to them as such.

Limitation of suits under this Act.

94. Suits for arrears of rent or revenue, or for a share of the profits of a mahál, or of village-expenses or other dues, shall not be brought after three years from the day on which the arrears or share became due:

Suits relating to distress shall not be brought after three months from the day on which the right to sue accrued:

All other suits must be brought within one year from the day on which the right to sue accrues, unless otherwise specially provided for in this Act.

The day on which the arrears become due or the day on which the right to sue accrues (as the case may be) shall be excluded in computing the periods of limitation prescribed by this section.

Applications cognizable by revenue Courts only.

95. No Courts other than Courts of Revenue shall take cognizance of any dispute or matter on which any application of the nature mentioned in this section might be made: and such applications shall be heard and determined in the said Courts in manner provided under this Act, and not otherwise:—

(a) Application to determine the nature and class of a tenant's tenure, under section ten.

(b) Application by a landholder, or his agent, to compel a patwári to produce his accounts relating to land.

(c) Application

(c) Application to resume rent-free grants under section thirty, and to assess to rent land previously held rent-free.

(d) Application from a landholder to eject a tenant, under section thirty-five or section thirty-six.

(e) Applications made by a tenant, under section thirty-nine.

(f) Application from a landholder, under section forty, for assistance to eject a tenant.

(g) Application from a tenant or landholder to determine the value of any standing crop, or ungathered products of the earth, belonging to the tenant and being on the land at the time of his ejection, under section forty-two.

(h) Application by a landholder to determine rent payable for land used by a tenant for the purpose of tending or gathering in the crop, under section forty-two.

(i) Application by a landholder or tenant for assistance in the division or appraisal of a standing crop, under section forty-three.

(j) Application by a landholder or tenant to determine compensation for improvements of land.

(k) Application by a tenant for leave to deposit rent.

(l) Application for enhancement of rent.

(m) Application for compensation for wrongful dispossession.

(n) Application for the recovery of the occupancy of any land of which a tenant has been wrongfully dispossessed.

(o) Application for abatement of rent.

(p) Application for leases or counterparts, and for the determination of the rates of rent at which such leases or counterparts are to be delivered.

For the purposes of the Court Fees Act, 1870, applications under clauses (c), (l), (m), (n), (o) and (p) of this section shall be deemed to be plaints in suits.

Points of procedure relating to applications under section 95.

96. a. All applications under section ninety-five shall be made in the district in which the land, crops or products referred to is or are situate, and may, with the consent of the parties, be referred to arbitration under sections two hundred and twenty to two hundred and thirty-one (both inclusive) of the North-Western Provinces Land-Revenue Act, 1873.

b. All orders passed on applications under section ninety-five shall be proved in the same manner, and when proved shall have the same effect, as if they were judgments of the Civil Courts.

c. In cases wherein a specific sum of money is adjudged to be due, or any costs or damages are awarded, all such orders may be executed by any process in use for the recovery of an arrear of revenue or rent.

d. In cases wherein possession of immoveable property is adjudged, the officer making the award may deliver over possession in the same manner, and with the same power, in regard to contempts, resistance and the like, as may be lawfully exercised by the Civil Courts in execution of their own decrees.

e. Applications under heads (*m*) and (*n*) of section ninety-five shall not be brought after six months from the date of the wrongful dispossession.

Power to invest officers with Assistant Collector's powers, and withdraw them.

97. The Local Government may invest any officer with the powers of an Assistant Collector of the first or second class under this Act, and may at any time withdraw such powers.

Suits and applications cognizable by Assistant Collectors.

98. Assistant Collectors of either class shall have, as such, power to try suits and applications of the following descriptions :—

(*a*) suits for arrears of rent on account of land or on account of any rights of pasturage, forest-rights, fisheries or the like ;

(*b*) suits for compensation for withholding receipts for rent paid, under section forty-eight ;

(*c*) suits to contest the exercise of the powers of distress conferred on landholders and others by this Act, or anything purporting to be done in exercise

of

of the said powers, or for compensation for wrongful acts or omissions of a distrainer ;

(d) suits by lambardárs for arrears of Government revenue, payable through them by the co-sharers whom they represent, and for village-expenses and other dues, for which the co-sharers may be responsible to the lambardár ;

(e) suits by muáfidárs or assignees of the Government revenue, for arrears of revenue due to them as such ;

(f) suits by taluqdárs or other superior proprietors for arrears of revenue due to them as such ;

(g) applications by a landholder, or by an agent employed by a landholder, to compel the production of accounts by patwáris ;

(h) applications by a tenant or landholder to determine the value of any standing crops or ungathered products of the earth, and being on the land at the time of his ejectment, under section forty-two ;

(i) applications by a landholder to determine the amount of rent payable by a tenant using land for the purpose of tending or gathering in crops, under section forty-two ;

(j) applications by a landholder or a tenant for assistance in the division or appraisement of standing crops, under section forty-three ;

(k) applications by tenants for leave to deposit rent.

99. Assistant Collectors of the first class, in addition to the suits and applications specified in section ninety-eight, shall have power to try suits and applications of the following descriptions :—

Additional suits and applications triable by Assistant Collectors, first class.

(a) suits to eject a tenant for any act or omission detrimental to the land in his occupation, or inconsistent with the purpose for which the land was let ;

(b) suits to cancel a lease for any breach of any condition binding on the tenant ;

(c) suits for the recovery of any over-payment of rent or for compensation, under section forty-eight or section forty-nine ;

(d) suits

(d) suits by co-sharers for their shares of the profits of a mahál or any part thereof, after payment of the Government revenue and village-expenses, or for a settlement of accounts;

(e) applications by a landholder to eject a tenant, under section thirty-five or section thirty-six;

(f) applications under section thirty-nine by a tenant contesting notice of ejectment;

(g) applications by a landholder under section forty, for assistance to eject a tenant, on whom notice of ejectment has been served;

(h) applications for compensation for wrongful dispossession;

(i) applications by a landholder or tenant to determine the amount to be paid as compensation for improvements;

(j) applications to recover the occupancy of any land from which a tenant has been wrongfully dispossessed by the landholder.

100. In addition to the powers specified in sections ninety-eight and ninety-nine, an Assistant Collector of the first class specially empowered by Government in this behalf, shall have power to try the following applications :—

(a) applications for enhancement of rent;

(b) applications for abatement of rent;

(c) applications under section thirty for the resumption of rent-free grants, or for the assessment to rent of land hitherto held rent-free;

(d) applications for leases or counterparts, and the determination of the rates of rent at which such leases or counterparts are to be delivered;

(e) applications to determine the nature or class of a tenant's tenure.

101. The Collector of the District, or any Assistant Collector in charge of a sub-division of a district, may make over any case, or class of cases, for inquiry and decision, from his own file, to any of his subordinates competent to deal with such case or class of cases under the provisions of this Act.

102. Collectors

Additional applications triable by Assistant Collector, first class, with special powers.

Power to make over cases.

102. Collectors of Districts, and Assistant Collectors in charge of sub-divisions of districts, may, respectively, withdraw any case or class of cases from any officers subordinate to them, and may deal with such case or class of cases themselves, or refer it for disposal to any other such Revenue Officer competent to deal with the same under the provisions of this Act.

Power to withdraw cases.

103. The Collector of the District may exercise
(a) all powers given by this Act to Collectors of Districts,

Powers exercisable by Collector of District.

(b) all powers which by this Act are conferred, or can be conferred, on Assistant Collectors.

The Local Government may invest any officer in charge of a sub-division of a district with all or any of the powers conferred by this Act on a Collector of a District.

Investment of officer in charge of sub-division with powers of Collector of District.

In conferring powers under this Act, the Local Government may empower persons specially by name, or classes of officials generally by their official titles.

Mode of conferring powers.

CHAPTER VI.

PROCEDURE IN SUITS UP TO JUDGMENT.

104. Suits under this Act shall be instituted in the district in which the subject of the suit, or some part thereof, is situate,

Place of instituting suits.

and all such suits shall be commenced by presenting to the Court a plaint, which shall contain—

Plaint.

(a) the name, description and place of abode of the plaintiff;

(b) the name, description and place of abode of the defendant, so far as they can be ascertained;

(c) the subject-matter of the claim, and its amount or value computed according to the Court Fees Act, 1870; and

(d) the date on which the right to sue accrued.

105. For

Managers of maháls to be, for purpose of litigation, deemed landholders.

105. For the purpose of suing or being sued under this Act, the managers of maháls, whether held under the Court of Wards or under direct management, shall be deemed to be landholders.

Suits by co-sharers in undivided property.

106. No co-sharer in an undivided property shall in that character be entitled separately to sue a tenant under this Act, unless he is authorized to receive from such tenant the whole of the rent payable by such tenant.

Plaint by whom presented.

107. The plaint shall be presented by the plaintiff, or by an agent duly authorized on his behalf, who has personal knowledge of the facts of the case, or by an agent accompanied by a person who has such knowledge.

Verification of plaint.

The plaint shall be subscribed and verified at the foot by the plaintiff or his agent in the manner following, or to the like effect:—

“I, *A. B.*, the plaintiff named in the above plaint, do declare that what is stated therein is true to the best of my knowledge and belief.”

False averment.

If the plaint contains any averment which the person making the verification knows or believes to be false, or does not know or believe to be true, he shall be punishable according to the law for the punishment of giving or fabricating false evidence.

Document relied on by plaintiff to be presented with plaint.

108. If the plaintiff rely in support of his claim on any document in his possession, he shall deliver the same to the Court at the time of presenting his plaint.

Admission afterwards.

Unless such document be so delivered, or its non-production be sufficiently excused, or unless the Court see fit to extend the time for producing the same, it shall not afterwards be admitted.

Procuring production of document in possession of defendant.

109. If the plaintiff require the production of any document in the possession or power of the defendant, he may, at the time of presenting his plaint, deliver to the Court a description of the document, in order that the defendant may be required to produce the same.

110. If

110. If the suit be for the recovery of an arrear of rent or revenue, or of a share of profits or village-expenses, or other dues under section ninety-three, the plaint shall specify the name of the village and estate, and of the pargana or other local division in which the land is situate :

Plaint in suits for arrears of rent.

and, if the suit be for an arrear of rent alleged to be due from any tenant, the plaint shall also specify the quantity of land, and (where fields have been numbered in a Government survey) the number of each field, and yearly rent of the land; the amount (if any) received on account of the year for which the claim is made; and in all cases coming under this section the plaint shall specify the amount in arrear, and the time in respect of which it is alleged to be due.

111. If the suit be for the ejection of a tenant from any land, the plaint shall describe (as circumstances may require) the extent, situation and designation of the land; and, if necessary for its identification, shall set forth its boundaries.

Plaint in suits for ejection.

112. If the plaint do not contain the several particulars hereinbefore required to be specified therein, or be not subscribed and verified as hereinbefore required, the Court may, at its discretion, return it to the plaintiff, or allow it to be amended.

Return or amendment of plaint.

113. If the plaint be in proper form, the Court, except as otherwise hereinafter specially provided, shall direct the issue of a summons to the defendant,

Issue of summons.

and if the plaintiff require the personal attendance of the defendant, and satisfy the Court that such attendance is necessary, or the Court of its own accord require such attendance, the summons shall contain an order for the defendant to appear personally on a day to be specified in the summons.

Order for personal attendance or appearance by agent.

If the plaintiff or the Court does not require the personal attendance of the defendant, the summons shall order the defendant to appear either personally or by an agent duly authorized on his behalf, who has personal knowledge of the subject, or is accompanied by a person who has such personal knowledge.

114. The

Fixing of day to be specified in the summons.

114. The day to be specified in the summons shall be fixed with reference to the state of the file and the distance that the defendant may be or be supposed to be at the time from the place where the Court is held,

Order to produce documents.

and the summons shall order the defendant to produce any document in his possession or power of which the plaintiff demands inspection, or upon which the defendant relies in support of his defence.

Order to bring witnesses.

It shall also direct him to bring with him his witnesses, if they are willing to attend without issue of process,

Form of summons.

and it shall be in the form (D) contained in the first schedule hereto annexed, or to the like effect.

Mode of serving summons.

115. The summons shall be served by delivering a copy thereof to the defendant personally when practicable;

or, if the copy cannot be delivered to the defendant personally, by affixing copy of the summons to some conspicuous part of his usual residence, and also affixing a copy of the same in the Court.

Endorsement on summons.

116. If the summons be served by delivering a copy to the defendant personally, the Názir shall endorse on the summons the fact of such service.

If personal service be not effected, the Názir shall endorse on the summons the reason of not serving it personally, and how it has been served.

Service of summons in another district.

117. If the usual residence of the defendant be in another district, the summons, together with the cost of the service thereof, shall be sent by the public post to the Collector of such district, who shall issue the summons, and return the same, after service, with the prescribed endorsement, to the officer by whom it was transmitted to him.

Deposit of cost of serving summons or warrant.

118. The amount of the cost of serving the summons,

or, if a warrant be issued as provided in the next following section, of serving the warrant,

shall in all cases be deposited in Court by the plaintiff within such time before the issue of such

summons

summons or warrant as is fixed by the Court issuing the process.

If the said amount be not so deposited (except where the Court in exercise of the discretion reserved to it in section ninety-one allows the summons to be served gratis), the case shall be struck off the file of suits;

Effect of failure to deposit.

but in such case the plaintiff may present another plaint at any time within the period allowed by the rules herein contained for the limitation of suits.

119. *a.* If in any suit against a tenant for the recovery of an arrear of rent, or in any suit for the recovery of an arrear of revenue, or a share of profits or village-expenses or other dues, the plaintiff desires a warrant of arrest to be issued against the defendant, such defendant being resident within the district in which the suit is instituted, the plaintiff shall present, with his plaint, an application for the issue of such warrant.

Procedure when plaintiff desires issue of warrant of arrest.

b. When such application is presented, the Court shall examine the plaintiff or his agent, according to the law for the time being in force in relation to the examination of witnesses, and inspect the documents adduced by him in support of his claim; and if *prima facie* it appear to the Court that the claim is well founded, and that, if a summons be issued, the defendant will abscond instead of appearing to answer the claim, the Court may issue a warrant for his arrest.

c. The Court shall fix a reasonable time for the return of the warrant, and the officer entrusted with the service thereof shall, at the time of arresting the defendant, deliver to him a notice addressed to the defendant containing the particulars of the claim, and requiring the defendant, if he contest the claim, to bring with him any document upon which he relies in support of his defence.

d. Every warrant issued and notice delivered under this section, shall be respectively in the forms (E) and (F) in the first schedule hereto annexed, or to the like effect.

120. If

Procedure
after arrest
of defendant.

120. If a defendant be arrested under the warrant of arrest, he shall be brought with all convenient speed before the Court.

Procedure
when defend-
ant is brought
before Court
under war-
rant.

121. When a defendant is brought before the Court under warrant, the Court shall with all convenient speed proceed to try the case in the manner hereinafter provided,

and if the suit cannot be at once adjudicated, the Court may, if it think fit, require the defendant to give security for his appearance whenever the same may be required at any time whilst the suit is pending, or until execution of the final decree which may be passed thereon,

and may commit him to the civil jail to be there detained until he furnishes such security or deposits such sum as the Court orders.

Form of se-
curity-bond.

The security-bond shall be in the form (G) contained in the first schedule hereto annexed, or to the like effect.

Procedure
when defend-
ant cannot be
arrested un-
der warrant.

122. If the defendant cannot be arrested under the warrant, the Court, on the application of the plaintiff, shall either postpone the case for such period as to it seems proper, in order that the plaintiff may apply within the said period for another warrant to be issued for the arrest of the defendant, or shall forthwith issue a proclamation, to be affixed in its own office and at the residence of the defendant, appointing a day for the hearing of the case, which shall not be less than ten days from the date of the publication of the notice, at the residence of the defendant.

If the defendant appear in pursuance of the proclamation, he shall be dealt with as provided in the last preceding section.

Compensa-
tion for ar-
rest applied
for without
reasonable
cause.

123. If it appear to the Court that the arrest of the defendant was applied for without reasonable cause, the Court may, in its decree, award to him such sum not exceeding one hundred rupees as it may deem a reasonable compensation for any injury or loss which he has sustained by reason of such arrest, or of his detention in jail during the pendency of the suit.

124. If

124. If on the day fixed by the summons or proclamation for the appearance of the defendant, or on any subsequent day to which the hearing of the case may be adjourned prior to the recording of an issue for trial as hereinafter provided, neither of the parties appear in person or by an agent, the case may be struck off, with liberty to the plaintiff to bring a fresh suit, unless precluded by the rules herein contained for the limitation of suits.

Consequence of neither party appearing on day fixed.

125. If on any such day the defendant only appear, the Court shall pass judgment against the plaintiff by default, unless the defendant admit the plaintiff's right to the relief which he claims, in which case the Court shall proceed to give judgment for the plaintiff upon such admission without costs :

Judgment by default.

Judgment upon admission of claim.

Provided that such judgment, if there be more than one defendant, shall be only against the defendant who makes the admission.

Proviso.

126. If on any such day the plaintiff only appear, the Court, upon proof that the summons or proclamation has been duly served according to the provisions of this Act, shall proceed to examine the plaintiff or his agent, and after considering the allegations of the plaintiff, and any documentary or other evidence adduced by him, may either dismiss the case or postpone the hearing of it to a future day for the attendance of any witness the plaintiff may wish to call, or may pass judgment *ex-parte* against the defendant.

If plaintiff only appear, Court may proceed *ex-parte*.

127. If the defendant appear on any subsequent day to which the hearing of the suit is postponed under the last preceding section, the Court may, upon such conditions, if any, as to costs or otherwise as it thinks proper, allow the defendant to be heard in answer to the suit as if he had appeared on the day fixed for his attendance.

If defendant appear on adjourned hearing, Court may allow him to be heard in answer.

128. *a.* No appeal shall lie from a judgment passed *ex-parte* against a defendant who has not appeared, or from a judgment against a plaintiff by default for non-appearance.

No appeal from judgment *ex-parte* or by default;

b. But in all such cases, if the party against whom judgment has been given appears, either in person or

But Court may revive suit and alter

by

or rescind
judgment.

by agent, if a plaintiff, within fifteen days from the date of the Court's decree, and, if a defendant, within fifteen days after any process for enforcing the judgment has been executed, or at any earlier period, and shows good and sufficient cause for his previous non-appearance, and satisfies the Court that there has been a failure of justice, the Court may, upon such terms and conditions as to costs or otherwise as it thinks proper, revive the suit and alter or rescind the judgment according to the justice of the case.

Adverse
party to be
summoned.

c. But no judgment shall be reversed or altered without previously summoning the adverse party to appear and be heard in support of it.

Examination

129. When both parties appear in person or by agent on the day named in the summons, or upon any subsequent day to which the hearing of the case may be adjourned, for sufficient reason to be recorded by the Court, the Court shall proceed to examine such of the parties as may be present, and either party or his agent may cross-examine the other party or his agent.

Examination
and cross-
examination
of agents.

130. If either of the parties be not bound to attend personally, any agent by whom he appears, or any person accompanying such agent, may be examined and cross-examined in like manner as the party himself would have been if he had attended personally.

Defendant
may file
written
statement.

131. At the time of the examination, the defendant may, if he think fit, file a written statement in his defence.

Mode of
examination.

132. The examination of the parties or their agents, or such other persons as aforesaid, shall be according to the law for the time being in force relative to the examination of witnesses in the Civil Courts.

The substance of the examination shall be reduced to writing in the mother-tongue of the presiding officer, and shall be filed with the record.

Witness
produced
may be
examined.

133. If either of the parties produce a witness on such day, the presiding officer may take the evidence of such witness.

134. If

134. If the defendant rely on any document in support of his defence, he shall deliver the same into Court at the first hearing of the suit :

Document
relied on by
defendant to
be produced
at first
hearing.

and unless such document be so delivered, or its non-production be sufficiently excused, or unless the presiding officer see fit to extend the time for delivering the same, it shall not afterwards be admitted.

135. If after the examination required by section one hundred and twenty-nine, and also the examination of any witness who may attend to give evidence on behalf of either of the parties, and after a consideration of the documentary evidence adduced, a decree can be properly made without further evidence, the Court shall make its decree accordingly.

Decree after
examination,
if no further
evidence is
required.

136. If on such examination as aforesaid either party be absent and his agent be unable to answer any material question relating to the case which the Court is of opinion that the party whom he represents ought to answer, and is likely to be able to answer if interrogated in person, the Court may postpone the hearing of the case to a future day, and direct that the party whose agent was unable to answer as aforesaid shall attend in person on such day ;

Party to
attend in
person when
his agent is
unable to
answer.

and if such party fails to appear in person on the day appointed, the Court may pass judgment as in case of default, or make such other order as it deems proper in the circumstances of the case.

Judgment
or order if he
fail to appear.

137. If on such examination as aforesaid it appear that the parties are at issue on any question upon which it is necessary to hear further evidence, the Court shall declare and record such issue, and shall fix a convenient day for the examination of witnesses and the trial of the suit ; and the trial shall take place on that day, unless there be sufficient reason for adjourning it, which reason shall be recorded by the Court.

Procedure
when parties
at issue on
question
requiring
evidence.

138. The parties shall produce their witnesses on the day of trial, and if either party require assistance to procure the attendance of a witness on such day, either to give evidence or to produce a document, he shall apply to the Court in sufficient time before

Parties to
produce wit-
nesses or
procure
attendance by
summons.

the

the day fixed for the trial, to enable the witness to be summoned to attend on that day; and the Court shall thereupon issue a summons requiring such witness to attend.

Provisions regarding attendance, examination, &c., of witnesses.

139. The law and rules for the time being in force relating to the evidence of witnesses, for procuring the attendance of witnesses and the production of documents, and for the examination, remuneration, and punishment of witnesses, whether parties to the case or not, in cases before the Civil Courts, shall, except so far as may be inconsistent with the provisions herein contained, apply to suits under this Act.

Case to be struck off if neither party appears.

140. If on the day fixed for the trial of any issue neither of the parties appear, the case may be struck off, with liberty to the plaintiff to bring a fresh suit, unless precluded by the rules herein contained for the limitation of suits.

Trial of issue *ex parte*.

If on any such day one only of the parties appear, the issue may be tried and determined in the absence of the other party, upon such evidence as may be then before the Court.

Provisions to apply when suits are instituted or defended on behalf of landholders by agents.

141. When suits under this Act are instituted or defended by agents employed in the collection of rent or management of land, in the name and on the behalf of the landholders by whom they are so employed, all the provisions of this Act, by which the personal appearance or attendance of parties to a suit is or may be required, shall be applicable to such agents;

and anything which, by this Act, is required or permitted to be done by a party in person, may be done by any such agent as aforesaid.

Processes served on such agents.

Processes served on any such agent shall be as effectual for all purposes in relation to the suit, as if the same had been served on the landholder in person:

and all the provisions of this Act relative to the service of processes on a party to the suit shall be applicable to the service of processes on such agent.

Personal attendance of

142. A female plaintiff or defendant shall not be required to attend in person, if she be of a rank

or

or class which, according to the custom and manners of the country, would render it improper for her to appear in public.

143. Any party to a suit may employ an authorized agent or mukhtár to conduct the case on his behalf :

but the employment of such agent or mukhtár shall not excuse the personal attendance of the plaintiff or defendant, in cases where his personal attendance is required by the summons, or any order of the Court ;

and no fee for any agent or mukhtár shall be charged as part of the costs of suit in any case under this Act, unless the Court certify that, under the circumstances of the case, such fee is proper to be allowed.

144. The Court may in any case grant time to the plaintiff or defendant to proceed in the prosecution or defence of a suit,

and may also, from time to time, in order to the production of further evidence, or for other sufficient reason to be recorded by the Court, adjourn the hearing of any case, to such day as to it may seem fit.

145. The presiding officer may, at any stage of a case, cause a local enquiry and report respecting the matter in dispute to be made by any officer subordinate to him, or by any other officer of Government, with the consent of the authority to whom such officer is subordinate, or may himself proceed to the spot and make such local enquiry in person.

The provisions of the law for the time being in force relative to local inquiries by Amíns or Commissioners, under orders of the Civil Courts, shall apply to any local inquiry made by any officer under this section,

and, so far as they are applicable, to inquiries made by the presiding officer of the Court in person.

In the latter case the presiding officer, after completing the inquiry, shall record such observations as appear to him appropriate, and the observations so recorded shall form part of the proceedings in the suit.

female plaintiff or defendant when not required.

Parties may employ agents or mukhtárs ;

Personal attendance when not excused.

Fee for agents not chargeable as costs.

Court may grant time or adjourn hearing.

Court may cause local enquiry and report, or may itself enquire.

Provisions applied to such inquiry.

Record in case of inquiry by Court.

146. The

Defendant may pay admitted debt and costs into Court.

146. The defendant in any suit under this Act may pay into Court such sum of money as he thinks a full satisfaction for the demand of the plaintiff, together with the costs incurred by the plaintiff up to the time of such payment, and such sums shall be paid to the plaintiff.

Plaintiff chargeable with subsequent costs if he proceed and recover no further sum.

If the defendant deposit less than the sum claimed and the plaintiff elect to proceed in the case, and ultimately recover no further sum than has been paid into Court, the plaintiff shall be charged with any costs incurred by the defendant in the suit after such payment.

No interest to plaintiff after date of deposit by defendant.

147. No interest shall be allowed to a plaintiff on any sum paid by the defendant into the Court from the date of such payment, whether such sum be in full of the plaintiff's claim, or fall short thereof.

In suits where right to receive rent is disputed, third person who has received it may be made a party.

148. When in any suit between a landholder and a tenant under this Act, the right to receive the rent of the land or tenure cultivated or held by the tenant is disputed on the ground that some third person has actually and in good faith received and enjoyed such rent before and up to the time when the right to sue accrued, such third person may be made a party to the suit,

and the question of such receipt and enjoyment of the rent by such third person may be enquired into, and the suit shall be decided according to the result of such enquiry :

Saving of right to sue in Civil Court to prove title to rent.

Provided that the decision of the Court shall not affect the right of either party entitled to the rent of such land, to establish his title by suit in the Civil Court, if instituted within one year from the date of the decision.

Court may allow tenant to repair damage caused by certain acts or omissions.

149. Whenever a decree is given for the ejectment of a tenant, or the cancelment of his lease, on account of any act or omission by which the land in his occupation has been damaged, or which is inconsistent with the purpose for which the land has been let, the Court may, if it think fit, allow him to repair such damage within one month from the date of the decree, or order him to pay such compensation, within such

such time, or make such other order in the case, as the Court thinks fit,

and if such damage be so repaired, or compensation so paid, or order obeyed, the decree shall not be executed.

150. Every judgment under this chapter shall be pronounced in open Court. Delivery of judgment.

151. The judgment shall be written in the mother-tongue of the presiding officer, and shall contain the reasons for the same, and shall be dated and signed by the presiding officer at the time it is pronounced: Its language and contents.

Provided that, where his mother-tongue is not English, the judgment may be written in English, if he is able to write a clear and intelligible decision in that language. When it may be in English.

152. Every officer invested with powers under this Act may hold a Court for hearing and determining suits under this Act in any place within the limits of the district to which he is appointed. Power to hold Court in any place within district.

Every hearing shall be in open Court, and the parties to the suit or their authorized agents shall have due notice to attend in such place.

CHAPTER VII.

PROCEDURE IN EXECUTION OF DECREES IN SUITS.

153. If the decree be for the ejection of any tenant from land occupied by him, the decree shall be executed by giving the possession or occupancy of the land to the person entitled by the decree thereto. Mode of executing decree for ejection of tenant.

If any opposition is made to the execution of the order for giving such possession or occupancy, by the party against whom the order is made, the Magistrate, on the application of the Collector of the District or Assistant Collector, shall give effect to the same. Magistrate to give it effect in case of opposition.

154. If the decree be for the payment of arrears of rent or revenue, or of money, and the defendant has been committed to jail, or appear in Court pursuant to the conditions of any security-bond given under Power to order detention in, or commitment to, civil jail, in certain cases.

under section one hundred and twenty-one, the Collector of the District or Assistant Collector may order that he be detained in, or committed to, the civil jail, unless he immediately pay into Court the amount of the decree with costs, or otherwise comply with the terms of the decree.

Process against surety on failure to deliver judgment-debtor into custody.

155. If the judgment-debtor has given security for his appearance, and is not present when judgment is pronounced, and the surety fails to deliver him into custody when required so to do, process of execution may be taken out against the surety in the same manner as if a decree for the amount due by the debtor had been passed against the surety.

Process of execution against person or property, but not both.

156. a. A writ of execution may be issued against either the person or the property of a judgment-debtor;

but process shall not be issued simultaneously against both person and property.

Applications on which it may issue.

b. Such writ may be issued on the oral application of the judgment-creditor, his agent, or mukhtár, made at the time the decree is passed, or, thereafter, upon the written application of the judgment-creditor, his agent, or mukhtár.

Form of writ of execution.

c. Writ of execution against the person or moveable property of a debtor shall be in the form (H) or (I), contained in the first schedule hereto annexed, or to the like effect.

Execution against moveable property.

157. Any moveable property required to be seized under an execution shall, if practicable, be described in a list to be furnished by the judgment-creditor;

but, if the creditor is unable to furnish such list, he may apply for a general attachment of the debtor's effects, to the amount of the judgment and costs.

In either case, the property to be seized shall be pointed out to the officer entrusted with execution of the process, by the creditor, or his agent:

Articles exempted from attachment.

Provided that no implements of husbandry, or cattle actually employed in agriculture, or tools of artisans, shall be attached under this section.

158. Every

158. Every writ of execution shall bear date on the day on which it is signed by the Collector of the District or Assistant Collector, and shall continue in force for such period as he may direct (not being more than sixty days) calculated from such date.

Date and duration of writs.

159. Second and successive writs of execution may be issued by order of the Collector of the District or Assistant Collector on the application of the judgment-creditor, after the expiration of the period fixed for the continuance in force of a previous warrant.

Second and successive writs.

160. Process of execution shall not be issued upon any judgment, without previous notice to the party against whom execution is applied for, if, when application for the issue of the process is made, a period of more than one year has elapsed from the date of the judgment, or from the date of the last previous application for execution.

After one year execution not to issue without notice to party concerned.

161. Execution on a judgment shall not issue against the heir or other representative of a deceased party, unless notice to appear and be heard has been previously served on such heir or other representative.

Execution not to issue against heir or representative of deceased party without notice.

162. No process of execution shall be issued on a judgment under this Act, after the lapse of three years from the date of such judgment, unless the judgment be for a sum exceeding five hundred rupees;

No process of execution after three years, unless judgment be for sum exceeding 500 rupees.

in which case the period within which execution may be had shall be regulated by the general rules in force in respect to the period allowed for the execution of decrees of the Civil Court.

Regulation of period in such case.

163. If a writ issue for taking any person in execution, the officer charged with the execution of the writ shall bring him with all convenient speed before the Collector of the District or Assistant Collector.

Procedure in execution of writ against person.

If such person does not then deposit in Court the full amount specified in the writ,

OR

or make such arrangement for the payment of the same as is satisfactory to the judgment-creditor,

or satisfy the Collector of the District or Assistant Collector that he has no present means of paying the same amount,

the Collector of the District or Assistant Collector shall send him to the civil jail, there to remain for such time as may be directed by a warrant addressed to the keeper of the jail, unless in the meanwhile he pays the full amount for the payment of which he is liable under the decree :

Limit of imprisonment.

Provided that the time for which a debtor may be confined in execution of a decree under this Act, shall not exceed three months when the amount decreed (exclusive of costs) does not exceed fifty rupees,

or six months when such amount does not exceed five hundred rupees,

or two years in any other case.

No person to be imprisoned a second time under same judgment.

164. a. Any person once discharged from jail shall not be imprisoned a second time under the same judgment.

When further liability extinguished.

b. If the amount due under the decree does not exceed one hundred rupees, the Collector of the District or Assistant Collector may declare such discharged person absolved from further liability under that decree, and such liability shall thereupon be extinguished.

When not extinguished.

c. In other cases the discharge shall not extinguish the liability of the discharged person under the decree, or exempt any property belonging to such person from attachment in execution of the same.

Diet-money to be deposited at time of issue of warrant.

165. Every person applying for the issue of a warrant of arrest under section one hundred and nineteen, or suing out process of execution against the person of any judgment-debtor, shall deposit in Court, when the warrant issues, diet-money for thirty days at such rate not exceeding two annas per diem, as the Collector of the District or Assistant Collector may direct, unless for any special reason he directs that
deposit

deposit be made at a higher rate, which shall not exceed four annas per diem.

166. Payment of diet-money at the same rate shall be made previously to the commencement of each succeeding month of the imprisonment, on failure of which the party confined shall be discharged.

Effect of non-payment of diet-money in advance during imprisonment.

167. All diet-money spent in providing subsistence for any prisoner shall be added to the costs in the suit,

Diet-money spent to be costs in suit.

and any diet-money not so spent shall be returned to the person who deposited the same.

Refund of remainder.

168. In executing a writ of execution against the moveable property of a debtor liable under this Act, the officer charged with the execution of the writ shall prepare a list of the property pointed out by the judgment-creditor, and shall publish a proclamation, specifying the day upon which the sale is intended to be held, together with a copy of the said list, at the intended place of sale and at the residence of the debtor.

Procedure in executing writ against moveable property.

A copy of the said proclamation and list shall be sent to the Collector of the District or Assistant Collector, and shall be affixed in his office.

169. No moveable property taken in execution under this Act shall be sold before the expiration of ten days next after the day on which such property is so taken.

Time to elapse before sale of moveable property.

Until such sale the property shall be deposited in some fit place, or it may remain in custody of some fit person approved by the officer executing the writ.

Custody meanwhile.

The provisions of sections seventy-four to seventy-eight (both inclusive) so far as the same are applicable, shall apply to sales under this section.

Provisions applied to sale.

170. No irregularity in publishing or conducting a sale of any moveable property under an execution shall vitiate such sale.

Sale not vitiated by irregularity.

But any person injured by such irregularity may recover compensation for such injury by suit in the Civil Court :

Right to sue for compensation.

provided

Limitation.

provided that such suit be brought within one year from the date of sale.

In executing decrees for money, when execution may be applied for against immoveable property.

171. In the execution of any decree for the payment of arrears of rent or revenue, or of money, under this Act, if satisfaction of the judgment cannot be obtained by execution against the person or moveable property of the debtor, the judgment-creditor may apply for execution against any immoveable property belonging to such debtor.

Process when the immoveable property is not a mahál.

172. If the immoveable property against which execution is applied for be other than a mahál, or share of a mahál, process shall be issued in the same manner as for the attachment and sale of moveable property: and the provisions of sections one hundred and sixty-eight, one hundred and sixty-nine and one hundred and seventy shall be applicable.

Procedure when it is a mahál.

173. When such property is a mahál, or a share of a mahál, the decree shall be sent for execution to the Collector of the District in which such property is situate,

and if the judgment-debtor satisfies the Collector of the District that there is reasonable ground to believe that the amount of the judgment-debt may be raised by mortgage of the property, or by letting it on lease, or by disposing by private sale of a portion of the property or any other property belonging to the judgment-debtor, the Collector of the District may, on the application of the judgment-debtor, postpone the sale for such period as the Collector of the District thinks proper to enable the judgment-debtor to raise the amount,

and if the judgment-debtor satisfies his creditor, the execution shall be stayed, and the Collector shall report the fact to the Court by which the decree was made.

Procedure where judgment-creditor fails to satisfy creditor within further time

174. If the judgment-debtor obtaining a postponement of the sale fails to satisfy his creditor within the period so fixed, or if the judgment-debtor does not apply for, or applies for but does not obtain, a postponement of the sale, and the Collector of the District considers that the sale of the mahál or share

is

is inexpedient, and that satisfaction of the decree may be made by means of a temporary alienation of the property,

or Collector thinks sale inexpedient.

the Collector of the District shall cause an accurate rent-roll of the property to be prepared, and ascertain the annual income derivable therefrom.

If, in the opinion of the Collector of the District, such income is sufficient to pay off the judgment-debt with interest at six per cent. per annum, within any period not exceeding fifteen years from the date of the decree, he may transfer the property to the judgment-creditor, or if the judgment-creditor refuse to take it, to some other person, or he may hold it under his own management, for such period not exceeding fifteen years, as may be sufficient for the recovery of the debt with interest as aforesaid, and on such conditions as to the payment of such debt and interest as he deems expedient.

Power to transfer property to judgment-creditor.

Power to hold property under management.

Orders passed under this section and section one hundred and seventy-three shall be subject to revision by the Commissioner of the Division and the Board, but shall not be open to appeal to the Civil Court.

175. If in the opinion of the Collector of the District the recovery of the debt under section one hundred and seventy-four is impossible, or if the sale of the property appear to him advisable on other grounds, he shall report, through the Commissioner of the Division, the case for orders to the Board.

Report of case to Board.

176. On the receipt of such report, the Board may make, or cause to be made, such further endeavours for the recovery of the debt under the provisions of section one hundred and seventy-four, as to it may seem practicable.

Procedure on receipt of report.

177. If it appear to the Board that the debt cannot be recovered under section one hundred and seventy-four, or if the sale of the property appear to it advisable on other grounds, it shall order the property to be sold, in which case the sale shall be made under the rules in force for the sale of land for arrears of land revenue, but without prejudice to the

Power to order sale of property.

incumbrances

incumbrances (if any) to which such property may be subject.

Examination of third party claiming interest in property.

178. If before the day fixed for any sale of any property under this Act, a third party appear before the Collector of the District or Assistant Collector, and claim a right or interest to or in any of the property, he shall examine such party or his agent, according to the law for the time being in force relative to the examination of witnesses,

Stay of sale.

and, if he see sufficient reason for so doing, may stay the sale of such property.

Adjudication of such claims.

179. The Collector of the District or Assistant Collector may adjudicate upon such claim, and make such order as he thinks fit between the claimant and the plaintiff and defendant in the original suit.

Rules applied.

In trying such claim, the Collector of the District or Assistant Collector shall be guided by the rules contained in this Act, so far as they may be applicable.

Compensation awardable against claimant failing to establish right.

180. If the claimant fail to establish his right to the property taken in execution, the Collector of the District or Assistant Collector may, at the time of disposing of the case, order him to pay to the judgment-creditor the costs of the proceedings on the claim, and also such sum as he thinks sufficient to cover any loss of interest or damage which the judgment-creditor may have sustained by reason of the postponement of the sale of the property.

No appeal from order under section 179 or 180.

181. a. No appeal shall lie from any order passed under section one hundred and seventy-nine or section one hundred and eighty by the Collector of the District.

Right to sue in Civil Court.

b. But the party against whom the same is given may bring a suit in the Civil Court to establish his right at any time within one year from the date of the order:

Proviso.

c. Provided that, if the order be for the sale of the property taken in execution, the suit shall not be for the recovery of such property, but shall be for compensation from the judgment-creditor by whom it was brought to sale.

CHAPTER VIII.

APPEALS.

(A) From Decrees in Suits.

182. In suits under this Act, tried and decided by a Collector of a District or an Assistant Collector of the first class, his judgment shall be final, and not open to revision or appeal, except as provided by section one hundred and eighty-nine.

Judgment of Collector of District or Assistant Collector of first class when final.

183. All decisions of the Assistant Collector of the second class in suits mentioned in section ninety-three shall be appealable to the Collector of the District, whose order thereon shall (subject to the provisions of section one hundred and eighty-nine) be final.

Appeal from decision of Assistant Collector of second class.

184. The petition of appeal shall be presented to the Collector of the District within thirty days from the date of the decree.

Time for presentation.

185. The Collector of the District may either dismiss the petition or may fix a day for hearing the appeal, and in that case he shall cause notice of the same to be served on the respondent in the manner hereinafter prescribed for the service of summons.

Procedure on appeal.

If, on the day fixed for hearing the appeal, or any other day to which the hearing may be adjourned, the appellant does not appear in person or by an agent, the appeal may be dismissed for default.

If the appellant appears and the respondent does not appear in person or by an agent, the appeal may be heard *ex parte*.

186. If an appeal be dismissed for default of prosecution, the appellant may, within fifteen days from the date of the dismissal, apply to the Collector of the District to re-admit the appeal,

Re-admission of appeal.

and if it be proved to the satisfaction of the Collector of the District that the appellant was prevented by any sufficient cause from appearing when the appeal was called on for hearing, the Collector of the District may re-admit the appeal.

187. After hearing the appeal, the Collector of the district shall give judgment in the manner hereinbefore prescribed for giving judgment in original suits.

Judgment in appeal.

188. In

Re-hearing
of suits not
open to
appeal.

188. In suits in which the judgment of the Collector of the District or Assistant Collector is final, as provided in section one hundred and eighty-two, he may, upon the application of either party, if preferred within thirty days from the date of the decision, order the re-hearing of a suit, upon the ground of the discovery of new evidence or matter material to the issue of the case, which the applicant had no knowledge of, or could not produce, at the time of trial.

Appeal to
District
Judge.

189. An appeal shall lie to the District Judge from the decision of the Collector of the District or Assistant Collector of the first class, in all suits mentioned in section ninety-three

in which the amount or value of the subject-matter exceeds one hundred rupees, or

in which the proprietary title to land has been determined between parties making conflicting claims thereto :

Appeal to
High Court.

Provided that, where the amount or value of the subject-matter of the suits exceeds five thousand rupees, the appeal shall lie to the High Court.

Rules as to
time of pre-
sentation, &c.,
to apply.

190. The rules for the time being in force in regard to the time within which appeals from the decisions of Civil Courts may be received, and to the manner in which such appeals are heard and determined, and to all proceedings which may be had in respect of such appeals, shall be applicable to appeals to the District Judge or High Court under this Act.

Special
appeal to
High Court
from District
Judge.

191. The decisions of District Judges passed in regular appeal under this Act, shall be open to special appeal to the High Court, in the same manner, and subject to the same rules, as the decisions of District Judges passed in regular appeal are open to special appeal under the Code of Civil Procedure and the Indian Limitation Act, 1871.

(B).—*From Orders on Applications or relating to the Execution of Decrees.*

(1) *Assistant Collectors of the Second Class.*

Appeal from
Assistant
Collector of
second class.

192. An appeal to the Collector of the District shall lie from all orders passed under this Act by an Assistant Collector of the second class.

(2) *Assistant*

(2) *Assistant Collectors of the First Class.*

193. An appeal to the Commissioner of the Division shall lie from all orders passed by an Assistant Collector of the first class,

Appeal from orders of Assistant Collectors of first Class on certain applications.

(a) on applications under section ninety-nine, where the amount or value of the subject-matter exceeds one hundred rupees,

(b) on applications under section one hundred.

194. An appeal to the Collector of the District shall lie from all other orders passed under this Act by an Assistant Collector of the first class, except—

Appeal from other orders of Assistant Collector of first class.

(a) orders on applications mentioned in section ninety-eight;

(b) orders on applications mentioned in section ninety-nine;

(c) orders passed in the course of a suit and relating to the trial thereof.

195. The orders of an Assistant Collector of the first class on the following applications shall be final—

Final orders of Assistant Collector of first class.

(a) applications mentioned in section ninety-eight;

(b) applications mentioned in section ninety-nine, where the amount or value of the subject-matter does not exceed one hundred rupees.

(3) *Collector of the District.*

196. An appeal to the Commissioner of the Division shall lie from orders passed by the Collector of the District,

Appeal from certain orders of Collector of District.

(a) under section ninety-nine, when the amount or value of the subject-matter exceeds one hundred rupees,

(b) under section one hundred.

In all other cases orders under this Act passed by the Collector of the District shall be final, subject to review by the Commissioner of the Division or the Board.

(4) *Commissioner of the Division.*

197. Save as provided by section one hundred and ninety-eight, the orders of the Commissioner of

Finality of orders of the Commis-

the

Commissioner of
Division.

the Division on appeals shall be final, subject to review by the Board.

Appeal to Board from his decisions on appeals against orders on applications mentioned in section 100.

198. An appeal from the decisions of the Commissioner of Division on appeals against orders passed by the Collector of the District or Assistant Collector on the applications mentioned in section one hundred shall lie to the Board, except where the Commissioner of the Division dismisses the appeal.

In such case the provisions of section one hundred and ninety-nine shall apply.

Power of Board to call for cases and pass orders thereon.

199. The Board may at any time call for any case which has come before any Commissioner of Division, or any Court subordinate to him, and pass such orders thereon, consistent with this Act, as the Board thinks fit.

Time for appealing.

200. No appeal shall be brought to the Collector of the District after the expiration of thirty days, or to the Commissioner of the Division after the expiration of sixty days, or to the Board of Revenue after ninety days, from the date of the order complained of.

Admission of appeals after prescribed period.

201. Any appeal under this Act may be admitted after the period of limitation prescribed therefor when the appellant satisfies the officer to whom he appeals that he had sufficient cause for not presenting the appeal within such period.

No appeal shall lie against an order under this section admitting an appeal.

CHAPTER IX.

MISCELLANEOUS.

Time to be excluded in computing limitation period.

202. In computing the period of limitation prescribed for any suit under this Act, the day on which the right to sue accrued shall be excluded.

In computing the period of limitation prescribed for any appeal under this Act, the day on which the judgment or order complained of was pronounced, and the time requisite for obtaining a copy of the decree or order appealed against, shall be excluded.

203. Whenever

203. Whenever a Court is closed on the last day of any period provided in this Act for the presentation of any memorandum of appeal, or for the deposit or payment of any money in or into Court, the day on which the Court re-opens shall be deemed to be such last day.

Rule as to last day for presentation or deposit, when Court is closed on such day.

204. a. If in any suit instituted, or on any application made, under this Act, it appears to the presiding officer that any question in issue involving a point of law is more proper for the decision of a Civil Court, such officer, if a Collector of a District, or the Collector of the District on the representation of such officer, may cause a case to be stated for the opinion of the District Judge, who shall hear the case in such manner as nearly as may be as is prescribed for the hearing of cases by the High Court by sections twenty-four, twenty-five and twenty-six of Act No. XI of 1865.

Power to state case involving point of law for opinion of District Judge.

b. If the District Judge finds that the case is insufficiently stated, he may return it to the Collector of the District for amendment.

c. Subject to any limits of value or time provided by law for cases falling under the Code of Civil Procedure, an appeal shall lie from the judgment of the District Judge to the High Court.

d. The District Judge shall return the case with the opinion of the Civil Court to the Collector of the District, and the Revenue Courts shall decide the suit or application in accordance with such opinion.

e. The costs attending such case shall be dealt with as costs in the suit or on the application in the Revenue Court.

205. a. If in any suit instituted, or on any appeal presented, in a Civil or Revenue Court, the Judge or presiding officer doubts whether he is precluded by this Act from taking cognizance of the suit or appeal, he may refer the matter to the High Court.

Power to refer to High Court questions as to jurisdiction.

b. On any such reference being made, the High Court may order the Judge or presiding officer, either to proceed with the case, or to return the plaint or appeal

appeal for presentation in such other Court as it may in its order declare to be competent to take cognizance of the suit or appeal.

c. The order of the High Court on any such reference shall be final, and shall not be questioned by the same parties in the same suit.

Procedure where objection that suit was instituted in wrong Court was not taken in Court of first instance.

206. In all suits instituted in any Civil or Revenue Court, in which an appeal lies to the District Judge or High Court, an objection that the suit was instituted in the wrong Court shall not be entertained by the appellate Court, unless such objection was taken in the Court of first instance; but the appellate Court shall dispose of the appeal as if the suit had been instituted in the right Court.

Procedure where such objection was taken in Court of first instance.

207. If in any such suit, such objection was taken in the Court of first instance, but the appellate Court has before it all the materials necessary for the determination of the suit, it shall dispose of the appeal as if the suit had been instituted in the right Court.

Procedure where, in such cases, the appellate Court has not materials for determining the suit.

208. If in any such suit the appellate Court has not before it the materials necessary for the determination of the suit, it shall proceed under the provisions of the Code of Civil Procedure relating to appeals; but if it remands the suit, or frames and refers issues for trial, or requires additional evidence to be taken by the Court of first instance, it may direct its order, either to the Court in which the suit was instituted, or to the Court it may hold competent to entertain the suit, whichever course it may deem most conducive to justice,

and the objection that the order of a subordinate appellate Court has been directed to a Court which was not competent to entertain the suit shall not be taken on special appeal.

Suits by co-sharer against lambardár for share of profits.

209. In any suit brought by a co-sharer against a lambardár for a share of the profits, the Court may award to the plaintiff not only a share of the profits actually collected, but also a sum equal to the plaintiff's share in the profits which, through gross negligence or misconduct, the lambardár has omitted to collect,

210. In

210. In any suit brought by a tenant against a landholder to recover possession of a holding, the plaintiff may join as a defendant to the suit any other person in possession of the holding, who may claim title through the landholder.

Tenant's power to implead persons claiming through landholder.

In any suit brought by a landholder to eject a tenant, the plaintiff may join as a defendant to the suit any other person in possession of the holding, who may claim title through the tenant.

Landholder's power to implead persons claiming through tenant.

211. The Local Government may from time to time make rules consistent with this Act—

Power of Local Government to make rules.

(a) for the guidance of officers in determining, under sections thirteen, fourteen, fifteen, seventeen, eighteen and twenty, the rent payable by tenants,

(b) for the guidance of officers assessing rent under section thirty,

(c) as to the dates on which instalments of rent shall fall due,

(d) as to the procedure to be followed on all applications under section ninety-five.

All such rules shall be published in the local official Gazette, and shall thereupon have the force of law.

The Board with the previous sanction of the Local Government, may from time to time make rules consistent with the provisions herein contained, for the guidance of all persons in matters connected with the enforcement of this Act.

Power of Board to make rules.

212. When the Local Government has made a rule fixing the date on which any instalment of rent shall fall due, no such instalment shall, for the purposes of this Act, be deemed to be in arrear unless it remains unpaid after the date fixed by such rule.

Instalments when to be deemed in arrear.

THE FIRST SCHEDULE.

FORM A. (See section 51.)

I, *A. B.*, of _____, solemnly declare that I did personally [or by my agent *C. D.*], on the _____ day of _____

Rs. _____, tender payment to *E. F.* of the sum of _____ as and for the whole amount due from me on account of rent from the month of _____ to the month of _____ both inclusive. I further declare that the said *E. F.* refused to accept the sum so tendered, and to give a receipt in full for the same, and I declare that, to the best of my belief, the sum of rupees _____ so tendered, and which I now desire to pay into Court, is the full amount I owe the said *E. F.*, and I hereby apply for leave to pay the same accordingly

FORM B. (See section 52.)

Court of the Collector of _____, dated the _____ day
of _____
To *E. F.* &c.

With reference to the written declaration of *A. B.*, you are hereby informed that the sum of rupees _____ therein mentioned is now in deposit in this Court, and that the above sum will be paid to you, or to your duly authorized agent, on application.

[This is to be written on a copy of the declaration in Form A made by the person paying the money into Court.]

FORM C. (See section 69.)

FORM OF NOTICE TO OWNER OF DISTRAINED PROPERTY.

Office of _____ Commissioner for sale of distrained property.

A. B., Distraimer.

[Name, description and address of the owner of the property.]

Whereas the said *A. B.* has applied to have the distrained property specified below sold for the recovery of _____ alleged to be due to him as arrears of rent, you are hereby required, either to pay the said sum to the said *A. B.*, or to institute a suit before the Collector to contest the demand within fifteen days from the receipt of this notice, failing which the property will be sold.

Dated this _____ day of _____ 187 .

Form D.

FORM D. (See section 114.)

FORM OF SUMMONS TO DEFENDANT.

No. _____ (of suit) dated _____

In the Court of _____

A. B., Plaintiff.

[Name, description and address of plaintiff.]

C. D., Defendant.

[Name, description and address of defendant.]

Whereas the said A. B. has brought a claim against you in this Court for (*here specify particulars of claim as given in the plaint*), you are hereby required to appear in person in this Court on the _____ day of _____ [*if not specially required to appear in person, state, "in person, or by an agent who has personal knowledge of the subject or who shall be accompanied by a person who has such knowledge"*] to answer the above-named plaintiff, and you will bring with you (or send by your agent) [*here mention any document the production of which may be required by the plaintiff*] which the plaintiff desires to inspect, and all documents on which you may intend to rely in support of your defence. You will also bring with you your witnesses, if they are willing to attend without issue of process.

FORM E. (See section 119.)

FORM OF WARRANT OF ARREST.

No. _____ (of suit) dated _____

In the Court of _____

A. B., Plaintiff.

C. D., Defendant.

To the Názir of the Court of the Collector of _____

Whereas the plaintiff in this suit has obtained an order from the Court for the arrest of the defendant, you are hereby commanded to bring the defendant before the Court on or before the day of _____ to be dealt with according to law.

Dated this _____ day of _____ 187 _____.

FORM

FORM F. (See section 119.)

FORM OF NOTICE TO ACCOMPANY SUCH WARRANT.

In the Court of

A. B., Plaintiff.[*Name, description and address of plaintiff.*]*C. D.*, Defendant.[*Name, description and address of defendant.*]

Whereas the said *A. B.* has brought a claim against you in this Court for (*here specify particulars of claim as given in the plaint*) and has obtained a warrant for your arrest, you are hereby required, unless you admit the claim, to bring with you to the Court all documents on which you may intend to rely in support of your defence.

FORM G. (See section 121.)

FORM OF SECURITY BOND FOR APPEARANCE OF DEFENDANT.

Whereas *A. B.*, plaintiff, has instituted a suit in the Court of the Collector of _____ against *C. D.*, defendant, and the said *C. D.* has been required to give security for his appearance at any time when called on while the suit is pending and until execution of the decree, I, *E. F.*, hereby declare myself surety for the said *C. D.*'s appearance as aforesaid, and in case of his making default in such appearance, I engage to pay any sum for the payment of which the said *C. D.* may be liable under the decree. *If the suit be for the delivery of papers or accounts, specify some sum to be fixed by the Collector.*

FORM H. (See section 156.)

WRIT OF EXECUTION AGAINST THE PERSON.

A. B., Plaintiff.*C. D.*, Defendant.

To the Názir of the Court of the Collector of _____

Whereas the said *C. D.* was directed by a decree of this Court, under date the _____ day of _____ 187____, to pay to *A. B.* the sum of _____ and _____ for costs of suit, amounting to _____, and whereas the said *C. D.* has omitted to pay the same, you are hereby commanded to apprehend the said *C. D.*, and to bring him with all convenient speed before this Court to be dealt with according to law.

FORM

FORM I. (See section 156.)

WRIT OF EXECUTION AGAINST THE EFFECTS.

*A. B., Plaintiff.**C. D., Defendant.*

To the Názir of the Court of the Collector of

Whereas *C. D.* was directed by a decree of this Court under date the day of 187 , to pay to *A. B.* the sum of and for costs of suit, amounting to , and whereas the said *C. D.* has omitted to pay the same, you are hereby commanded to levy the said sum of , and the sum of for costs of executing this process, by seizure and sale of such moveable property of the said *C. D.* as (is described in the list annexed, and) [*if no list is furnished, these words to be omitted*] shall be pointed out to you by the judgment-creditor or his agent; and you are hereby ordered to sell such property of the said *C. D.*, on some convenient day, not being less than ten nor more than fifteen days from the day of seizure, unless the amount leviable as aforesaid shall be sooner paid; and you are hereby commanded to certify to me what you shall do by virtue of this warrant.

THE SECOND SCHEDULE.

(See section 1.)

- I. The province of Kumaon and Garhwál.
- II. The Terai Parganas, comprising—Bázpúr, Káshípúr, Jaspúr, Rudarpúr, Gadarpúr, Kilpúri, Nanak-Mattha and Bilheri.
- III. In the Mirzapúr District:—
 - (1.) The tappás of Agori Khás and South Kon in the Pargana of Agori.
 - (2.) The tappá of British Singrauli in the Pargana of Singrauli.
 - (3.) The tappás of Phulwá Dudhí and Barhá in the Pargana of Bichipár.
 - (4.) The portion lying to the South of the Kaimor Range.
- IV. The Family Domains of Mahárájá of Benares comprising the following parganas:—

Bhadohi and Kheyra Mángror in the Mirzapúr District,

Kaswá Rájá in the Benares District.
- V. The tract of country known as Jaunsar Báwar in the Dehra Dhún District.

INDEX.

(Nothing hereinafter contained has the force of law.)

- Abatement of rent of exproprietary and occupancy-tenants which has *not* been fixed by order, sec. 15.
 time of, where rent has been fixed by order, sec. 16.
 grounds of, where rent has been fixed by order, sec. 17.
 of rent of tenant at fixed rates, sec. 18.
 application for, to be in Revenue Court, sec. 95, cl. (o).
- Absconding of tenant owing rent, sec. 62.
- Account showing grounds of demand, to be served by distrainer, sec. 62.
- Act VIII of 1859 (Civil Procedure Code) referred to, sec. 191.
- X of 1859 repealed, sec. 2.
 sec. 28 referred to, sec. 30, cl. (2).
- XLV of 1860, sec. 95 amended, sec. 2.
- XIV of 1863 repealed, sec. 2.
- XI of 1865, sec. 2 amended, sec. 2: secs. 24, 25, 26, referred to, sec. 204, cl. (a).
- VII of 1870 (Court Fees), sec. 95.
- IX of 1871 (Limitation), sec. 30, clauses (e), (f), secs. 35, 191.
- XVIII of 1871, sec. 15 amended, sec. 2.
- XXII of 1872 repealed, sec. 2.
- Adjourned hearing, appearance of defendant on, sec. 127.
- Adjournment of hearing of case, sec. 144.
- Admission of claim, decree upon, sec. 125.
 of appeals after prescribed period, sec. 201.
- Agent, presentation of plaint by, sec. 107.
 appearance of defendant by, sec. 113.
 examination of, sec. 130.
 unable to answer, principal to attend in person, sec. 136.
 instituting or defending suits for landholders, sec. 141.
 parties to suits may employ authorized, sec. 143.
 See *Fees*.
- Agents to collect rent, distress by, sec. 59.
 their liability for wrongful acts, sec. 59.
- Agreement for enhancement of rent of exproprietary or occupancy-tenant, sec. 12.
 by tenant-at-will to pay higher rent, sec. 21.
 fixing rent of exproprietary or occupancy-tenant, sec. 22.
 as to terms on which tenants are entitled to leases, sec. 27.
 fixing rent for period exceeding term of landholder's engagement with Government, sec. 29.
 not to resume grant of land, sec. 30, cl. (c).
 to pay rent exceeding that paid in preceding year, sec. 58.
 attestation of,
 sec. 58.

See *Kánungo, Patwári.*

Alluvion

Alluvion when ground of enhancement—

(1) in case of expropriatory or occupancy-tenant whose rent has been fixed by order, sec. 17, cl. (a).

(2) in case of tenant at fixed rates, sec. 19.

Alteration of decree in suit when judgment is *ex parte* or by default, sec. 128.

Amendment of plaint, sec. 112.

case stated for opinion of District Judge, sec. 204, cl. (b).

Ancestor, occupation or cultivating of, sec. 8.

Appeal, procedure on, sec. 185.

re-admission of, sec. 186.

judgment in, sec. 187.

rehearing of suits not open to, sec. 188.

to District Judge, sec. 189.

to High Court, secs. 189, 191.

rules as to, sec. 190.

not from judgment *ex parte* or by default, sec. 128.

not from orders as to judgment debtor's mahál, sec. 174.

not from orders under secs. 179 and 180, sec. 181.

not from order admitting appeal after prescribed period, sec. 201.

Appeals, limitation of, sec. 200.

admissible after prescribed period, sec. 201.

Appearance by agent, sec. 113.

Application by tenant to have his class determined, sec. 10.

by landholder to enhance or determine rent of expropriatory tenant which has not been fixed by order, sec. 14.

by tenant to abate rent which has not been fixed by order, sec. 15.

for enhancement or abatement, time for making, sec. 19.

to resume rent-free grants, sec. 30, cl. (b).

to eject tenant, sec. 35.

for determination of dispute regarding compensation for improvements, sec. 46.

contesting liability to be ejected, secs. 37, 39.

to determine prices of crops of ejected tenant, sec. 42, cl. (c).

for officer to divide produce or appraise crop, sec. 43.

for leave to deposit rent in Court, sec. 50.

form of, sec. 51.

verification of, sec. 51.

false statements in, sec. 51.

for payment of money in deposit, secs. 54, 55.

of rent deposited in Court, sec. 55.

for assistance to distrain, sec. 65.

for sale of distrained property, sec. 67.

its contents, sec. 68.

to determine nature of tenants' tenure, sec. 95, cl. (a).

for warrant of arrest of defendant in suits for arrears, etc., sec. 119.

for issue of second and successive writs of execution, sec. 159.

Applications solely cognizable by Revenue Courts, sec. 95.

cognizable by Assistant Collectors, sec. 98.

for enhancement or abatement, when to be made, sec. 19.

Appraisalment of crops, sec. 43.

Apprehension

- Apprehension of person resisting process, sec. 92.
- Arbitration, applications under sec. 95 may be referred to, sec. 96.
- Arrears of rent, interest on, sec. 34, cl. (a).
 due for more than one year, no distress for, sec. 58.
 to be proved by distrainer in suit to contest his demand, sec. 82.
 when instalments shall be deemed, sec. 212.
 See *Arrest, Muáfídárs, Set-off*.
- Arrest of person resisting distress, sec. 89.
 of defendant in suits for arrears, etc., sec. 119.
 issue of warrant of, sec. 119.
 procedure after, secs. 120, 121.
- Assessment to rent, application for, sec. 30, cl. (e).
- Assessors for division, &c., of crops, sec. 43.
- Assistance by landholder to tenant in making improvements, sec. 47.
 to distrainers, sec. 65.
 in division or appraisal of standing crops, application for, to be
 in Revenue Court, sec. 95, cl. (i).
 to eject tenant, application for, to be in Revenue Court, sec. 95,
 cl. (f).
- Assistant Collector to determine class of tenant, sec. 10.
 may eject tenant, sec. 35.
 application to, for purpose of contesting right to eject, secs.
 37, 38.
 assistance to eject, sec. 40.
 may fix price of crops of ejected tenant, sec. 42, cl. (c).
 depute officer to divide produce or appraise crop, sec.
 43, cl. (a).
 to determine costs incurred on application to divide pro-
 duce or appraise crops, sec. 43, cl. (d).
 to settle disputes as to compensation for improvements,
 sec. 46.
 application to, for leave to deposit rent, sec. 50.
 to receive deposits of rent and issue notice, sec. 52.
 application to, for assistance to distrainer, sec. 65.
 copy of application for sale of distrained property to be sent
 to, sec. 69.
 suit contesting distrainer's demand instituted before, sec. 69.
 proclamation to be sent to, sec. 69.
 to deliver certificate of institution of suit to contest dis-
 trainer's demand, sec. 70.
 costs of sale of distress to be sent to, sec. 77.
 may grant warrant for attachment of distrainer's property,
 sec. 80.
 if distrainer's demand proved, to make decree in his favour,
 sec. 82, cl. (b).
 his proceedings subject to revision and orders of Collector,
 section 90.
 process issued by, sec. 91.
 may direct process to be served gratis, sec. 92.
 may punish resistance to his process, sec. 92.

Assistant Collector

- Assistant Collector, power to invest officer with powers of, sec. 97.
 suits and applications triable by, sec. 98.
 in charge of sub-division, his procedure in case of resistance to distress, sec. 89.
 may revise proceedings of subordinate officers under chap. III, sec. 90.
 may make over cases to subordinates, sec. 101.
 may withdraw cases from subordinate officer, sec. 102.
 may order issue of second and successive writs of execution, sec. 159.
 person taken in execution to be brought before, sec. 163.
 may declare judgment-debtor discharged from prison absolved from further liability, sec. 164.
 to fix rate of diet-money, sec. 165.
 copy of proclamation and list of moveables to be sold in execution to be sent to, sec. 168.
- Assistant Collector of first class, suits and applications triable by, sec. 99.
 with special powers, applications triable by, sec. 100.
 his judgments when final, sec. 182.
 appeal from orders of, sec. 194.
 his orders when final, sec. 195.
- Assistant Collector of second class, appeals from decisions of, sec. 183.
 orders of, sec. 193.
- Attachment of distrainer's property, sec. 80.
 of judgment-debtor's effects, sec. 157.
- Attendance of witnesses, sec. 139.
- Attestation, see *Agreement*.
- Auction, sale of distrained property to be by, sec. 74.
- Authority to remain in occupation, sec. 41.
 See *Written authority*.
- Award of price of crops of ejected tenant, sec. 42, cl. (c).
- Beneficial lease, compensation for improvements by granting, sec. 45, cl. (3).
- 'Board' defined, sec. 3, cl. (7).
 to make rules as to remission or suspension of rent in case of destruction of crops, sec. 23.
 may revise orders transferring mahál of judgment-debtor, sec. 174.
 to endeavour to recover judgment-debt from proprietor of mahál, sec. 176.
 may order execution-sale of mahál, sec. 177.
 may review orders of Commissioner of Division, sec. 197.
 decisions of Commissioner when appealable to, sec. 198.
 may call for cases and pass orders thereon, sec. 199.
 power to make rules, sec. 211.
- Bond by defaulting tenant whose property has been distrained, sec. 72.
- Cancellation of lease, suits for, sec. 93, cl. (c).
 non-execution of decree for, sec. 151.

- Caste when considered in determining rate of tenant's rent, sec. 20.
 Cattle exempt from attachment, sec. 157.
 Certificate of institution of suit contesting distrainer's demand, sec. 70.
 of execution of bond by defaulting tenant, sec. 72.
 to purchaser of distrained property, sec. 76.
 Cessation of tenancy, sec. 39, cl. (c).
 Charge for attendance of officer at abortive sale of distrained property, sec. 80.
 of serving process, sec. 91.
 Civil Court, suits in, secs. 40, 84, 148, 170, 181.
 'Civil Jail' defined, sec. 3, cl. (8).
 committal to, sec. 89, cl. (b).
 imprisonment in, sec. 89, clauses (b), (c).
 committal of judgment-debtor to, sec. 163.
 Class of tenant, determination of, sec. 10.
 Clearing of land for agricultural purposes, an improvement, sec. 44.
 Closure of Court on last day allowed for presenting appeal, &c., sec. 203.
 Collateral relatives when entitled to inherit right of occupancy, sec. 9.
 'Collector of District' defined, sec. 3, cl. (5).
 to determine class to which tenant belongs, sec. 10.
 may eject tenant, sec. 35.
 application to, for purpose of contesting right to eject,
 secs. 37, 38.
 application to, for assistance to eject, sec. 40.
 may fix price of crops of ejected tenant, sec. 42, cl. (c).
 may depute officer to divide produce or appraise crop,
 sec. 43, cl. (a).
 to determine costs incurred on application to divide pro-
 duce or appraise crops, sec. 43, cl. (d).
 to settle disputes as to compensation for improvements,
 sec. 46.
 application to, for leave to deposit rent, sec. 50.
 to receive deposit of rent and issue notices, sec. 52.
 application to, for assistance to distrainer, sec. 65.
 copy of application for sale of distrained property to be
 sent to, sec. 69.
 costs of sale of distress to be sent to, sec. 77.
 to have notice of irregularities in selling distresses,
 sec. 79.
 may grant warrant for attachment of distrainer's pro-
 perty, sec. 80.
 may order sale of distrained property when demand
 adjudged due, sec. 81.
 if distrainer's demand proved, to decree in his favour,
 sec. 82, cl. (b),
 may award compensation for vexatious distress, sec. 82,
 cl. (c).
 his procedure in case of resistance to distress, sec. 89.
 proceedings under chap. III, subject to revision of,
 sec. 90.
 process issued by, sec. 91, cl. (a).

'Collector of District'

- 'Collector of District' may direct process to be served gratis, sec. 91, cl. (c).
 may punish resistance to his process, sec. 92.
 may make over cases, sec. 101.
 may withdraw case from subordinate officer, sec. 102.
 may exercise powers conferrible on Assistant Collectors, sec. 103.
 to issue and return summons sent from another district, sec. 117.
 may order issue of second and successive writs of execution, sec. 159.
 person taken in execution to be brought before, sec. 163.
 may declare judgment-debtor discharged from prison absolved from further liability, sec. 164.
 to fix rate of diet-money, sec. 165.
 copy of proclamation and list of moveables to be sold in execution to be sent to, sec. 168.
 may postpone execution-sale of mahál, sec. 173.
 may transfer mahál temporarily to judgment-creditor, sec. 174.
 to report to Board cases where recovery of judgment-debt seems impossible, sec. 175.
 to examine third party claiming interest in judgment-debtor's mahál, sec. 178.
 may adjudicate on such claim, sec. 179.
 his judgments when final, sec. 182.
 appeals to, from decrees, secs. 184—187: from orders, secs. 192—194.
- Commencement of Act, sec. 1.
- 'Commissioner' defined, sec. 3, cl. (6).
 of division, may revise orders transferring mahál of judgment-debtor, sec. 174.
 appeals to, secs. 193—196.
 reviews by, sec. 196.
 reviews by Board of orders of, sec. 197.
- Compensation for tenant's improvements, secs. 44—47.
 for landholder's wrongful acts and omissions, secs. 48, 49.
 for withholding receipt for rent, secs. 48, 93, cl. (c).
 for wrongful act of agent authorized to distrain, sec. 59.
 for vexatious distress, sec. 82, cl. (c).
 when A's property is distrained for B's debt, sec. 83, cl. (d).
 for distress and sale for recovery of demand not justly due, sec. 85.
 for distrainer's wrongful acts or omissions, sec. 86.
 for distraining or selling without authority, sec. 87.
 for unreasonable arrest of defendant, sec. 123.
 for injury caused by irregularity in execution-sale of moveables, sec. 170.
 for postponement of execution-sale of land, sec. 180.
 for improper sale of land in execution, sec. 181.
- Concealment of defaulting tenant, sec. 62.
- Conclusion of period of settlement, sec. 16.

Contesting

- Contesting exercise of power of distress, sec. 93, cl. (f).
 Continuous occupation or cultivation, sec. 8.
 Copy of list of distrained property to be given to owner, sec. 63.
 of application for sale of distrained property, secs. 69, 71.
 of proclamation and list of moveables to be sold in execution, sec. 168.
 Co-sharer in an undivided property, suits against tenant by, sec. 106.
 Co-sharers' suit for share of profits of mahál, sec. 93, cl. (h).
 Costs of serving notice of desire to relinquish land, sec. 32.
 of ejection, sec. 38.
 of procedure on application to divide produce or appraise crops, sec. 43.
 of distress, sec. 63.
 of sale of distrained property, sec. 77.
 of serving summons or warrant, sec. 118.
 incurred after payment into Court, sec. 146.
 of case stated for opinion of District Judge, sec. 204, cl. (e).
 Court Fees' Act, sec. 95.
 Court of Wards, distress by managers under, sec. 59.
 suits by or against managers under, sec. 105.
 Criminal trespass, sec. 87.
 Crops, power to remit or suspend payment of rent in case of destruction of,
 sec. 23.
 rights of ejected tenants to growing, sec. 42, cl. (a).
 appraisement of, sec. 43.
 may be distrained, whether growing or cut, sec. 61.
 when stored by cultivator cannot be distrained, sec. 61.
 when distrained may be reaped by the cultivator, sec. 64, cl. (a).
 Cross-examination of parties, sec. 129.
 agents, sec. 130.
 Cultivation by ancestor, sec. 8.
 collateral relation sharing in, sec. 9.
 Cultivator, hypothecation of produce of land in occupation of, sec. 56.
 security for payment of rent of, sec. 57, cl. (a).
 when sharer in mahál may distrain upon, sec. 57, cl. (b).
 his agreement to pay excess-rent, sec. 58.
 produce stored by, free from distress, sec. 61.
 may reap crops notwithstanding distress, sec. 64.
 Custody of moveables to be sold in execution, sec. 169.
 Custom that any class of person should hold at favourable rates, sec. 20.
 Damage, order to defendant-tenant to repair, sec. 149.
 Damages, see *Compensation*.
 Date of writ of execution, sec. 158.
 Dates on which rent is to be paid, sec. 24, cl. (c).
 Decrease of value of produce or productive powers of land, a ground for abatement, sec. 15, cl. (b), sec. 17, cl. (d).
 Decree in suit to contest distrainer's demand, sec. 82.
 after examination, if no further evidence required, sec. 135.
 See *Admission, Alteration*.
 Deduction from proceeds of sale of distress, sec. 77.
 Default, judgment by, sec. 125.
 Defendant, arrest of, in suits for arrears, sec. 119.

Defendant,

- Defendant, tenant suing for possession may join as, person in possession claiming through landholder, sec. 210.
landholder suing for ejection may join as, person in possession claiming through tenant, sec. 210.
- Dehra Dhún, see *Jamsar Bawar*.
- Delay in serving notice, sec. 33.
- Delivery of rent payable in kind, sec. 24, cl. (e).
of document relied on by plaintiff, sec. 108.
- Demand for arrear of rent to be served, sec. 62.
- Deposit of rent in Court, sec. 50.
of cost of serving process, sec. 91.
of travelling expenses of witness, sec. 91.
of cost of serving summons or warrant, sec. 118.
of diet-money, sec. 165.
of moveables, pending execution-sale, sec. 169.
when Court closed on last day allowed for, sec. 203.
- Destruction of crops, see *Remission, Suspension*.
- Devolution of right of occupancy, sec. 9.
- Diet-money of persons imprisoned under decree, sec. 165.
discharge on failure of payment of, sec. 166.
added to costs of suit, sec. 167.
- Diluvion, a ground for abatement—
(1) where rent of exproprietary or occupancy-tenant has not been fixed by order, sec. 15, cl. (a).
(2) where such rent has been so fixed, sec. 17.
(3) in case of tenant at fixed rates, sec. 18.
- Diminution of area a ground for abatement, sec. 15, cl. (a).
- Discharge from further liability under decree, sec. 164, cl. (b).
of prisoner whose diet-money is unpaid, sec. 166.
- Distrainer, payment of expenses of, sec. 77.
report of irregularities by, sec. 79.
See *Account, Arrears, Attachment, Compensation*.
- Distress, recovery of arrears of rent by, sec. 57.
of produce, barred by security given for rent, sec. 57, cl. (a).
when not by sharer in a mahál, sec. 57, cl. (b).
by sharer in a joint undivided mahál, sec. 57, cl. (c).
in pattidári maháls, sec. 57, cl. (d).
not for arrear due more than a year, sec. 58.
by managers, sec. 57, cl. (c), sec. 59.
by agents, sec. 59.
by servants, sec. 60.
of standing crops unstored, sec. 61.
to be proportionate to arrear, sec. 63.
withdrawal of, sec. 65.
See *Assistance, Compensation, Costs, Court of Wards*.
- District Judge, appeal to, secs. 189, 190.
special appeal from, sec. 191.
power to state case for opinion of, sec. 204.
- Division of produce in kind, sec. 43.
- Documentary evidence of defendant, sec. 134.

Documents to be delivered by plaintiff on presenting plaint, subsequent admission of, sec. 108.

Drainage-works, an improvement, sec. 44, cl. (e).

Duress, extortion of payment of rent by, sec. 49.

Dwelling-houses, land occupied by, excluded from Rent Act, sec. 1.

Ejection of tenant for non-payment of rent, sec. 34.

when decree or order required, sec. 34, cl. (b).

application for, sec. 35.

of tenant not having right of occupancy, sec. 36.

of tenant holding over, sec. 36.

assistance in enforcing, sec. 40.

of tenant, application for, to be in Revenue Court, sec. 95, cl. (d).

non-execution of decree for, sec. 149.

mode of executing decree for, sec. 153.

Endorsement on summons, sec. 116.

Enhancement, proceedings heretofore commenced for, sec. 2.

not of rent of tenants at fixed rates, sec. 11.

of rent of exproprietary and occupancy-tenants, secs. 12, 16.

of occupancy-tenants whose rent has not been fixed by order, sec. 13.

of rent of exproprietary tenant which has not been fixed by order, sec. 14.

where rent has been fixed by order, sec. 16.

of rent of tenant at fixed rates, sec. 18.

of rent, application for, to be in Revenue Court, sec. 95, cl. (l).

Enquiry, see *Local enquiry*.

Erosion by water, works for protecting land from, sec. 44.

Estates, see *Maháls*.

Evidence of witnesses, sec. 139.

Exaction of excess-rent, sec. 48.

Examination of parties, sec. 129.

of agents, sec. 130.

mode of, sec. 132.

Execution of decree for ejection, sec. 153.

against person or property, sec. 156.

moveable property, sec. 157.

notice before issuing, when necessary, secs. 160, 161.

limitation to issuing, sec. 162.

against person, procedure on, sec. 163.

Ex parte judgment, sec. 126.

'Expropriatory tenants' defined, sec. 7.

tenant of land held from, sec. 8, 1st proviso.

to receive leases at rates hitherto paid, secs. 24, 26.

not to be ejected otherwise than in execution of a decree or order, sec. 34, cl. (b).

how ejected for non-payment of rent, sec. 35.

Extinguishment of liability under decree, sec. 164.

Extortion of payment of rent, sec. 49.

'Fair price' for distrained property, sec. 75.

False

- False statement in application for leave to deposit rent, sec. 51.
 plaint, sec. 107.
- Family domains, see *Mahárájá of Benares*.
- Favourable rate of rent, secs. 20, 47.
- Fee for service of notice of sale of distrained property, sec. 68.
- Fees for agents and mukhtárs not chargeable as costs, sec. 143.
- Female plaintiffs and defendants when excused from attendance, sec. 142.
- Finality of judgment of Collector or Assistant Collector of first class, sec. 183.
- Fine for resisting distress or removing property, sec. 89.
- Fixed rates, tenants at, sec. 5.
- Fixed rent, persons holding at, since permanent settlement, to continue to hold, sec. 4.
- Forest-rights, suits for arrears of rent on account of, sec. 93, cl. (a).
- Forfeiture of lease, acts or omissions for which it may be decreed, sec. 34, cl. (c).
- Further evidence, power to take, sec. 137.
- Garhwál, Act extendible to, sec. 2.
- General attachment, sec. 157.
- Granaries, storing distrained crops in, sec. 64.
- Grants of land, sec. 30, cl. (c).
- Gross negligence of lambardár, sec. 209.
- Groundless distress, compensation for, sec. 82, cl. (c).
- Heir, execution not to issue against, without previous notice, sec. 161.
- Heritability of right of tenant at fixed rates, sec. 9.
- High Court (North-Western Provinces), appeal to, secs. 189, 190.
 special appeal to, sec. 191.
 appeal to, from order on case stated
 for opinion of District Judge,
 sec. 204.
 reference of questions of jurisdiction
 to, sec. 205.
- Houses, see *Dwelling-houses*.
- Hypothecation of produce of land in cultivator's occupation, sec. 56.
- Illegal confinement, extortion of rent by, sec. 49.
- Immoveable property, execution-sale of, sec. 171.
 where it is not a mahál, sec. 172.
 where it is a mahál, sec. 173.
- Implements of husbandry exempt from attachment, sec. 157.
- Imprisonment of person resisting distress or removing distrained property, sec. 89.
 of arrested defendant failing to furnish security for his appear-
 ance, sec. 122.
 of judgment-debtor, sec. 154.
 limit of, sec. 163.
 in execution of decree, limit of, sec. 163.
 not twice under same judgment, sec. 164.
- 'Improvements' defined, sec. 44.
 of land, application to determine compensation for, to be in
 Revenue Court, sec. 95, cl. (f).
 of value of produce or of productive powers of land, a ground
 of enhancement, sec. 13, cl. (b).

'Improvements'

- 'Improvements' by alluvion, a ground of enhancement, secs. 17, 18.
- Incumbrances, execution-sale of immoveable property to be without prejudice to, secs. 171, 177.
- Inheritance, co-sharers of right of occupancy by, sec. 9.
- Instalments in which rent is to be paid, sec. 24, cl. (c).
 powers to make rules as to, sec. 211, cl. (c).
 when deemed to be in arrear, sec. 212.
- Interest on arrears of rent due by tenant, sec. 34.
 on arrear for which distress has been made, secs. 72, 77.
 on judgment-debt of proprietor of mahál, sec. 174.
 not on sum paid by defendant into Court, sec. 147.
- Interpretation-clause, sec. 3.
- Irregularities by distrainer, sec. 79.
 as to, execution-sale of moveables, sec. 170.
- Jaunsar Báwar, Act extendible to, sec. 1.
- Joint-application for payment of money deposited in Court, sec. 55.
- Judgment by default, sec. 125.
ex parte, sec. 126.
 delivered in open Court, sec. 151.
- Judgment-debt, see *Interest*.
- Judgment-debtor, when he may be imprisoned, sec. 154.
 execution against surety of, sec. 155.
 person or property of, secs. 156, 157.
- Jurisdiction of Courts, secs. 93—103.
 power to refer questions as to, sec. 205, cl. (a).
- Kánúngo, recording agreement for enhancement before, sec. 12.
 as to rent of tenant-at-will, sec. 23.
 agreement to pay rent in excess of that previously payable, attested before, sec. 58.
- Kharíf harvest, secs. 40, 41.
- Kind, rent payable in, sec. 24, cl. (c).
- Kumaon, Act extendible to, sec. 1.
- Lambardár, distress by, in pattídári mahál, sec. 57.
 suits by, sec. 93, cl. (g).
 compensation awardable in suits against, for share of profits, sec. 209.
- Land, see *Protection, Selection*.
- 'Landholder' defined, sec. 3, cl. (3).
 may apply to enhance rent of occupancy-tenant, sec. 13.
 or determine rent of exproprietary tenant,
 sec. 14.
 bound by order remitting or suspending rent in case of destruction of crops, sec. 23.
 to grant lease to tenant, sec. 24.
 entitled to receive reciprocal engagement from tenant, sec. 28.
 manager to be deemed, sec. 105.
 agents of, sec. 141.
 suits between tenant and, sec. 148.

'Landholder'

- 'Landholder' suing for ejectment may implead person in possession claiming through tenant, sec. 210.
 See *Agreement, Compensation, Costs, Defendant, Enhancement*.
- Language of judgment, sec. 152.
 of notice of ejectment, sec. 37.
- Lease for period exceeding term of landholder's engagement, sec. 29.
 to which every tenant is entitled, sec. 24.
 tenant at fixed rates is entitled, sec. 25.
 exproprietary and occupancy-tenants are entitled, sec. 26.
 terms on which other tenants are entitled to, sec. 27.
 See *Agreement, Beneficial lease*.
- Leave to deposit rent, application for, to be in Revenue Court, sec. 95, cl. (k).
- Limitation of applications for compensation for wrongful dispossession, sec. 96,
 cl. (e).
 for recovery of occupancy, sec. 96, cl. (e).
 of petitions of appeal, secs. 184, 202, 203.
 of suits for arrears of rent or revenue, sec. 94.
 for share of profits of a mahál, sec. 94.
 of village expenses, sec. 94.
 relating to distress, sec. 94.
 under secs. 85, 86, 87, sec. 88.
 of executing judgment, sec. 162.
 of suit for injury caused by irregularity in execution-sale of moveables, sec. 170.
 of suit by third party claiming interest in judgment-debtor's mahál, sec. 181.
 exclusion in computing period of, sec. 202.
- List of property distrained, sec. 63.
 moveables required to be seized under an execution, sec. 157.
 moveable property to be sold in execution, sec. 168.
- Local enquiry and report, sec. 145.
- Local extent of Act, sec. 1.
- Local Government may extend Rent Act, 1873, to certain districts, sec. 1.
 to remit or suspend revenue in certain cases of remission or suspension of rent, sec. 23.
 may empower officer to remit or suspend rent when crops destroyed, sec. 23.
 may authorise officer to sell distrained property, sec. 67.
 may invest officers with powers of Assistant Collector, sec. 97.
 may invest officers in charge of sub-divisions with Collector's powers, sec. 103.
 may confer powers by name or *ex officio*, sec. 103.
 power to make rules, sec. 211.
- Lots, sale of distress may be in, sec. 74.
- Magistrate to give effect to decree for ejectment, sec. 153.
- 'Mahál' defined, sec. 3, cl. (1).
 person parting with proprietary right in, sec. 7.
 distress by sharer in, sec. 57, cl. (b).
 distress in joint undivided, sec. 57, cl. (c).
 distress in pattidári, sec. 57, cl. (d).

'Mahál'

- 'Mahál,' manager of, to be deemed a landholder, sec. 105.
 execution-sale of, secs. 173—178.
 See *Interest, Managers, Mortgage, Order.*
- Mahárájá of Benares, Act extendible to Family Domains of, sec. 2.
- Managers authorized to collect rents of joint undivided mahál, distress by,
 sec. 57.
 under Court of Wards, distress by, sec. 59.
 of estates to be deemed landholders, sec. 105.
- Manufactories, land occupied by, excluded from Rent Act, sec. 1.
- Mirzápúr District, Act extendible to certain parts of, sec. 2.
- Misconduct of lambardár, sec. 209.
- Mortgage of mahál, sec. 173.
- Mothertongue of presiding officer, secs. 132, 151.
- Moveable property, execution against, sec. 157.
 procedure in executing writ against, sec. 168.
- Muáfidárs, suit for arrears by, sec. 93, cl. (2).
- Mukhtárs, parties to suits may employ, sec. 143.
- Názir to serve or execute process, sec. 91.
- Nomination of assessor to divide, &c., crops, sec. 44.
- Notice by tenant of his desire to relinquish land, sec. 31.
 service of, sec. 32.
 when served through tahsíl-
 dár, sec. 32.
 mode of serving, sec. 33.
- Notice to attend at division, estimate or appraisal of produce or crop,
 sec. 43.
- Notice of deposit of rent in Court, sec. 52.
 how served, sec. 53.
- Notice of ejectment of tenant at fixed rates, &c., on non-payment, sec. 35.
 of ejectment of tenant for limited period, sec. 36.
 of ejectment, sec. 37.
 how served, sec. 38.
 cost of serving, sec. 38.
 when void, sec. 41.
- Notice requiring payment of arrear for which distress has been made, sec. 69.
- Number of field in Government survey, sec. 24.
- Objection that suit was instituted in wrong Court, secs. 206—208.
- Occupancy right of tenants at fixed rates, sec. 5.
 tenant not to be ejected otherwise than in execution of a decree or
 order, sec. 34, cl. (b).
 how ejected for non-payment of rent, sec. 35.
 tenants defined, sec. 8.
 tenant of land held from, sec. 8, 1st proviso.
 entitled to receive leases, secs. 24, 26.
- Occupation by ancestor, sec. 8.
- Office of Collector of District and Assistant Collector, sec. 166.
- Opposition to distrainer, sec. 65.
 to process, sec. 92.
- Order of Settlement Officer for enhancement of rent of exproprietary or oc-
 cupancy-tenants, sec. 12.

Order

- Order for enhancement or abatement, when to take effect, sec. 19.
of sale of distrained property when amount demanded is adjudged due, sec. 81.
on applications under sec. 95, how proved, sec. 96.
effect of, when proved, sec. 96.
how executed when sum adjudged due or costs awarded, sec. 96, cl. (c).
possession of land is adjudged, sec. 96, cl. (d).
for personal attendance of defendant, sec. 113.
to bring witnesses, sec. 114.
to transfer mahál to judgment-creditor, sec. 174.
to re-hear suit, sec. 188.
- Over-payment of rent, suit to recover, sec. 93, cl. (d).
- Pasturage, suits for arrears of rent on account of, sec. 93, cl. (a).
- Pattidár, distress by, sec. 57.
- Pattidári maháls, distress in, sec. 57, cl. (d).
- Patwáris, recording agreement for enhancement before, sec. 12.
recording agreement as to rent of tenant-at-will, sec. 21.
agreement to pay rent in excess of that previously paid, attested before, sec. 58.
accounts relating to land, sec. 95, cl. (b).
- Payment, compensation for improvements by, sec. 45.
of rent deposited in Court, sec. 54.
of purchase money of distrained property, sec. 76.
into Court of admitted debt and costs, sec. 146.
- Penal Code amended, sec. 2.
saved, sec. 49.
- Permanently settled districts, persons holding lands at fixed rates in, sec. 4.
tenants at fixed rates in, sec. 5.
- Permanent Settlement, persons holding at fixed rent unchanged from, sec. 4.
presumption as to, sec. 6.
- Personal attendance of defendant, sec. 113.
of parties when not excused, sec. 143.
- Place of selling distrained property, sec. 74.
of holding Court by officer invested with powers, sec. 152.
of instituting suit under Act, sec. 104.
- Plaint in suits under Act, sec. 104.
by whom presented, sec. 107.
verification of, sec. 107.
false averment in, sec. 107.
in suit for arrear of rent or revenue, sec. 110.
to eject a tenant, sec. 111.
return of, sec. 112.
amendment of, sec. 112.
- Postponement of sale of distress, sec. 75.
for want of due notice, sec. 79.
of case where defendant cannot be arrested under warrant, sec. 123.
of execution-sale of immoveable property, sec. 173.
- Power to invest officers with Assistant Collector's powers, sec. 97.
to make rules, sec. 211.

Power-of-attorney

- Power-of-attorney to distrain, sec. 59.
- Practice that any class of person should hold at favourable rates, sec. 20.
- Presentation of plaint, sec. 107.
- Presumption where rent of permanently-settled land has not changed for twenty years, sec. 6.
of rent-free grants, sec. 30.
- Prevailing rate of rent, secs. 13, 14.
- Proceedings heretofore commenced, sec. 2.
- Process for enforcing decree for arrears of rent, sec. 35.
how served, sec. 91.
for enforcing judgment, sec. 128.
served on agent, sec. 141.
of execution of a judgment, sec. 162.
- Proclamation of sale of distress, sec. 69.
where defendant cannot be arrested under warrant, sec. 122.
of execution-sale of moveables, sec. 168.
- Produce of land hypothecated for rent, sec. 56.
- Production of documents, by defendant, secs. 109, 114.
provisions of Civil Procedure Code as to, applied to suits under Rent Act, sec. 139.
- Productive powers of land, enhancement on ground of increase in—
(1) in case of occupancy-tenant, sec. 13, cl. (b).
(2) in case of exproprietary or privileged tenant, sec. 17, cl. (b).
abatement on ground of diminution in—
(1) in case of exproprietary or occupancy-tenant whose rent has *not* been fixed by order, sec. 15.
(2) in case of exproprietary or occupancy-tenant whose rent *has* been so fixed, sec. 17, cl. (d).
- Prohibition of purchase by officers selling distrained property, sec. 78.
- Proof of orders on applications under sec. 95, sec. 96, cl. (b).
- Proprietary right in mahál, person parting with, sec. 7.
when conferred on rent-free holder, sec. 30, cl. (d).
- Protection of land from damage by water, sec. 44.
- Publication of rules in *Gazette*, sec. 211.
- Punishment of witnesses, sec. 139.
- Purchase of distrained property by officers holding sales, prohibited, sec. 78.
- Rate of rent, sec. 20.
of diet-money, sec. 165.
- Re-admission of appeal, sec. 186.
- Reaping distrained crops, sec. 64.
- Reasonable compensation, sec. 49.
- Receipt for notice of desire to relinquish land, sec. 32.
rent, compensation for wrongfully withholding, sec. 48.
contents of, sec. 48.
- Reciprocal engagement, landholder entitled to, sec. 28.
- Reclamation of land, an improvement, sec. 44.
- Recognized agent, secs. 31, 32, 53.
- Record of agreement to enhance rent of exproprietary or occupancy-tenant, sec. 12.

- Record of agreement between tenant-at-will and landlord as to rent, sec. 21.
in case of local enquiry by Court, sec. 145.
- Recovery of arrears of rent by distress, sec. 56.
of occupancy, application for, to be in Revenue Court, sec. 95, cl. (a).
- Reference to arbitration, sec. 96.
as to jurisdiction, sec. 205.
- Refund of rent deposited in Court, sec. 55.
of unspent diet-money, sec. 167.
- Refusal to receive notice of desire to relinquish, sec. 32.
- Registration of agreement to enhance rent of exproprietary and occupancy-tenant, sec. 12.
- Regulation XIX of 1793, sec. 10, referred to, sec. 30.
- Re-hearing of suits not open to appeal, sec. 188.
- Release of property distrained, sec. 72, sec. 83, cl. (b).
- Relinquishment of land by tenant, sec. 31.
- Remission of rent and revenue in case of destruction of crops, sec. 23.
- Removal of distrained property, sec. 89.
- Remuneration of witnesses, sec. 139.
- 'Rent' defined, sec. 3, cl. (2).
unchanged from permanent settlement, persons holding at fixed, sec. 4.
payable by exproprietary tenants, sec. 7.
for land used by tenant for purpose of gathering in the crop, application to determine, to be in Revenue Court, sec. 95, cl. (h).
See *Abatement, Arrears, Assessment, Caste, Crops, Duress, Enhancement, Erection, Extortion, Instalments, Interest, Kind, Payment, Remission, Suspension.*
- Rent-charge as compensation for agricultural improvements, secs. 45, 46.
- Rent-roll, sec. 173.
- Repair of damage caused by tenant, sec. 149.
- Repayment of money deposited in Court, secs. 54, 55.
- Report in case of local enquiry, sec. 145.
to Board in cases of execution-sales of mahál, sec. 175.
procedure thereon, sec. 176.
- Representative, execution not to issue against, without previous notice, sec. 161.
- Re-sale of distrained property on default of purchaser, sec. 76.
- Rescission of decree in suit when judgment is *ex parte* or by default, sec. 128.
- Resistance to distress, secs. 65, 89.
of process, sec. 92.
- Resumption of grant of land, agreement relating to, sec. 30, cl. (c).
rent-free grants, application for, to be in Revenue Court, sec. 95, cl. (c).
- Return of plaint, sec. 112.
- Revenue, suspension or remission of, in case of suspension or remission of rent, sec. 23.
- Revenue Courts, suits solely cognizable by, sec. 93.
applications solely cognizable by, sec. 95.
- Review by Commissioner of orders of Collector of District, sec. 196.
by Board of orders of Commissioner of Division, sec. 197.

- Revision of settlement, sec. 16.
by Collectors of proceedings under chap. III, sec. 90.
- Revivor of suit, sec. 128, cl. (b).
- Right of tenants at fixed rates, sec. 5.
of expropriary tenant, sec. 7.
of occupancy-tenant, sec. 8.
of occupancy when transferable, sec. 9.
to distrain claimed by person other than distrainer, sec. 84.
- Rules and orders saved, sec. 2.
as to remitting rent in case of damage of crops, sec. 23.
power to make, sec. 211.
publication of, sec. 211.
- Sale of distrained property, secs. 56, 57.
which cannot be stored, sec. 64, cl. (d).
suspended by suit contesting demand, sec. 70.
when it may take place, sec. 73.
place of holding, sec. 74.
how effected, sec. 74.
postponement of, sec. 75.
costs of, sec. 77.
of judgment-debtor's property, sec. 173.
See Auction, Compensation, Costs, Incumbrances, Lots, Payment, Prohibition, Purchase, Resale.
- Seal of Collector, or Assistant Collector, sec. 91.
- Security for payment of rent, bars distress of produce, sec. 57.
for subject of suit by claimant of property distrained for another's debt, sec. 83.
for person resisting distress or removing distrained property, sec. 89.
for appearance of arrested defendant, sec. 121.
- Selection of land for comparison, sec. 14, cl. (b).
- Servant employed to distrain to have written authority, sec. 60.
- Service of notice of desire to relinquish land, sec. 33.
of notice of deposit of rent in Court, sec. 53.
of demand of arrears, and account of its grounds, sec. 62.
of certificate of execution of bond by owner of distrained property, sec. 72.
of process issued by Collector or Assistant Collector, sec. 91.
of summons, sec. 115.
in another district, sec. 117.
deposit of cost of, sec. 118.
- Set-off of arrears of rent against price of ejected tenants' crops, sec. 42, cl. (d).
- Settlement of accounts, suit by co-sharers for, sec. 93, cl. (h).
- Settlement-officer, enhancement by order of, sec. 12, cl. (b).
division of district into circles by, sec. 14, cl. (b).
enhancement and abatement where rent fixed by order of, sec. 17.
- Sharer in mahál, when entitled to distrain, sec. 57, cl. (b).
- Short title, sec. 1.
- Signature of Collector, or Assistant Collector, sec. 91.

- 'Sír-land' defined, sec. 3, cl. (4).
 - right of occupancy in, sec. 7.
 - tenant of, sec. 8, 1st proviso, cl. (b).
- Special conditions of lease, sec. 24, cl. (d).
 - appeal to High Court, sec. 191.
- Standing crops may be distrained, sec. 61.
 - may, notwithstanding distress, be reaped and stored by cultivator, sec. 64.
- Stay of execution-sale of immoveable property, sec. 175.
 - when third party claiming interest appears, sec. 178.
- Storing distrained crops, sec. 64.
- Striking case off file, sec. 118.
 - off case where neither party appears on day fixed, sec. 124.
- Sub-division of district, power to invest with powers of Collector of District officer in charge of, sec. 102.
- Sub-lease by tenant holding under written lease, without occupancy-right, sec. 8, 2nd proviso.
- Suit to contest distrainer's demand, before issue of sale-notice, sec. 71.
 - to contest distrainer's demand, distrainer must prove arrear, sec. 82.
 - by claimant of property distrained for another's debt, sec. 83, cl. (a).
 - for compensation for sale for demand not justly due, sec. 85.
 - for distrainer's wrongful acts, sec. 86.
 - for distraining or selling without authority, sec. 87.
- Suits cognizable only by Revenue Courts, sec. 93.
 - limitation of, sec. 94.
 - cognizable by Assistant Collectors, sec. 98.
- Summons to person resisting process of Collector, sec. 92.
 - to defendant, sec. 113.
 - contents and form of, sec. 114.
 - service of, sec. 115.
 - endorsement on, sec. 116.
 - served in another district, sec. 117.
 - deposit of cost of serving, sec. 118.
 - to adverse party before rescinding or altering decree, sec. 128.
- Surety failing to deliver judgment-debtor into custody, sec. 155.
 - See *Bond*.
- Survey, see *Number*.
- Suspension of payment of rent and revenue in case of destruction of crops, sec. 23.
 - of sale of distress, sec. 70.
- Tahsildár, service of notice of desire to relinquish through, sec. 31.
 - service of notice of ejectment through, sec. 38.
- Taluqdárs, suits for arrears of revenue due to, sec. 93, cl. (j).
- Tanks are improvements, sec. 44, cl. (a).
- Tenant without right of occupancy, sec. 10.
 - relinquishment of land by, sec. 31.
 - holding under an unexpired lease not to be ejected otherwise than in execution of decree or order, sec. 34, cl. (b).
 - how ejected for non-payment of rent, sec. 35.
 - rights of ejected, to growing crops, sec. 42.

- Tenant absconding, sec. 62.
 bond by defaulting, sec. 72.
 suing for possession may implead person in possession claiming through landholder, sec. 210.
 See *Abatement, Compensation, Defendant, Ejection, Enhancement, Expropriary tenants, Fixed rates, Lease, Notice, Occupancy, Order, Rent, Repair, Sublease*.
- 'Tenants at fixed rates' defined, sec. 5.
 tenant of land held from, sec. 8, 1st proviso.
 their rights hereditary and transferable, sec. 9.
 grounds of enhancing or abating rent of, sec. 18.
 entitled to receive lease at such rate, sec. 25.
 not to be ejected, otherwise than in execution of decree or order, sec. 34, cl. (b).
 how ejected for non-payment of rent, sec. 35.
- Tenants-at-will, reference to rate of rent payable by, secs. 7, 14.
 excess-rent not payable by, sec. 21.
- Tender by landholder of payment for crops of ejected tenant, sec. 42, cl. (b).
 of arrear and costs of distress, sec. 66.
 of lease to tenant, sec. 28.
- Terai Parganas, Act extendible to, sec. 2.
- Terminable lease, sec. 4.
- Threshing floor, distress of crops deposited in, sec. 61.
- Time for enhancing or abating rent, sec. 16.
 excluded in computing limitation period, sec. 22.
 may be granted to plaintiff or defendant, sec. 144.
 for sale of moveables taken in execution, sec. 169.
 for appealing, sec. 200.
- Tools of artisans exempt from attachment, sec. 157.
- Transfer of cases, sec. 101.
 of immovable property to judgment-creditor, sec. 174.
- Transferability of right of tenant at fixed rates, sec. 9.
- Travelling expenses of witness, sec. 91.
- Undivided property, suits by co-sharers in, sec. 106.
- Ungathered products, sec. 42, cl. (a).
- Usufruct, sec. 40.
- Value of produce, decrease of, a ground of abatement, sec. 15, cl. (b).
 of standing crop, application to determine, to be in Revenue Court, sec. 95, cl. (g).
- Verification of application for leave to deposit rent, sec. 51.
 of plaint, sec. 107.
- Vexatious distress, compensation for, sec. 82, cl. (c).
- Wages, tenant of land held in lieu of, sec. 8, 1st proviso, cl. (c).
- Warrant for attachment and sale of distrainer's property, sec. 80.
 to levy arrear due to distrainer, sec. 89.
 for apprehension of person resisting process, sec. 92.
 of arrest, sec. 119.
 to keeper of civil jail, sec. 163.
- Water for agricultural purposes, sec. 44.

- Wells are improvements, sec. 44, cl. (a).
- Withdrawal of distress on tender of arrear, sec. 66.
of distress when demand and costs satisfied by sale of portion of distress, sec. 74.
of cases from subordinate officers, sec. 102.
- Withholding receipts, compensation for, sec. 48.
- Witnesses, travelling expenses of, sec. 91.
order to bring, sec. 114.
produced by parties, examination of, sec. 133.
to be produced on day of trial, sec. 138.
attendance, remuneration, examination and punishment of, sec. 139.
- Women, see *Female plaintiff*.
- Writs of execution, against person or property, sec. 156.
applications on which they may be issued, sec. 156.
form of, sec. 156.
description of moveables to be seized under, sec. 157.
date and duration of, sec. 158.
second and successive, sec. 159.
against person, procedure in executing, sec. 163.
- Written lease, effect of occupying land under, sec. 8, 2nd proviso.
instrument by which grantor agrees not to resume, sec. 30, cl. (c).
authority to distrain, sec. 60.
demand to be served by distrainer, sec. 62.
statement filed by defendant, sec. 131.
- Wrongful acts or omissions of distrainer, compensation for, sec. 86.
dispossession, application for compensation for, to be in Revenue Court, sec. 95, cl. (m).
time for making application for compensation for, sec. 96, cl. (e).

See *Agents*.