

GOVERNMENT OF RAJASTHAN

REVENUE DEPARTMENT



FIRST REPORT
OF
THE RAJASTHAN REVENUE LAWS
COMMISSION
(The Rajasthan Tenancy Act, 1955)

Government Central Press, Jaipur.

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SECRET

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OFFICE OF THE REV ~~REVENUE DEPARTMENT~~

From :

A. A. KHERIE,
Member Secretary,
Rajasthan Revenue Laws Commission,
Jaipur.

To

The Chief Secretary to the Government of Rajasthan,
Cabinet Secretariat, (O. & M. Section), Jaipur.

Dated Jaipur, January 7, 1964.

Subject.—First Report of the Rajasthan Revenue Laws Commission.

S R,

In forwarding herewith the First Report of the Rajasthan Revenue Laws Commission on the Rajasthan Tenancy Act, 1955 (Rajasthan Act 3 of 1955), with the marginally noted* Appendices. I am directed to state that two of the Members of the Commission, viz., Shri Ramanand Agarwal, M.L.A., and Shri Manikchand Surana, M.L.A., signed the Report subject to notes of dissent. While the former sent in his note of dissent within the period allowed therefor, the latter failed to do so.

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| <ul style="list-style-type: none">*(1) Draft Tenancy Bill,(2) Notes on Clauses,(3) Questionnaire,(4) List of persons to whom copies of the questionnaire were sent,(5) List of persons from whom replies to the questionnaire were received,(6) List of witnesses examined, and(7) Note of dissent by Shri Ramanand Agarwal, M.L.A., Member of the Commission. |
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2. As regards Shri Ramanand Agarwal's note of dissent, his main criticism is on the submission of the First Report by the Commission on the Tenancy Act without waiting for the report of the Impact Committee of the Commission. In this connection I am to point out that the First Report and the Draft Tenancy Bill have been prepared after considering

the 530 replies received to the questionnaire issued by the Commission and after consideration of the evidence recorded by the Commission. Moreover, the Members of the Commission, who all belong to Rajasthan, are personally acquainted with the prevailing conditions and are, more or less, aware of the impact of the existing land reform and tenancy legislation; and the Commission did not wish to delay the submission of its First Report for want of the report of the Impact Committee.

3. The next Report of the Revenue Laws Commission on the Land Revenue Act will be forwarded in due course.

Yours faithfully,
A. A. KHERIE,
Member-Secretary.

Accompaniments.

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INTRODUCTORY

The Government of Rajasthan, under Cabinet Secretariat Order No. F: 5 (23) O&M/62, dated the 2nd July, 1962, as modified by orders of even number dated the 3rd August, 1962, 25th August, 1962, 20th September, 1962 and 26th October, 1962, appointed the Rajasthan Revenue Laws Commission consisting of the following:—

1. The Hon'ble Shri Justice Daulat Mal Bhandari
Judge of the Rajasthan High Court *Chairman.*
2. Shri Ram Prasad Ladha, Deputy Minister
(Revenue) *Vice-Chairman.*
3. Shri Shobha Ram of Alwar *Member.*
4. Shri Sohan Lal Bhatnagar, Salumber, District
Udaipur *Member.*
5. Shri Rama Nand Agarwal, M.L.A., Alwar *Member.*
6. Shri Manik Chand Surana, M.L.A., Bikaner *Member.*
7. Shri Moti Lal Chaudhary, M.L.A., Deedwana *Member.*
8. Shri Mathuresh Behari, M.L.A., Bandikui *Member.*
9. Shri Bisheshwar Nath Bhargava, Pramukh,
Zila Parishad, Ajmer *Member.*
10. Shri Shyam Lal, Member, Rajasthan Public
Service Commission, Ajmer *Member.*
11. Shri Kanwar Bahadur, Retired Member, Board
of Revenue *Member.*
12. Shri R. N. Hawa, Member, Board of Revenue,
(now Commissioner, Departmental Enquiries) *Member.*
13. Shri Goverdhan Singh Mehta, Colonization
Commissioner, Bikaner (since retired) *Member.*
14. Shri Ramesh Chandra Swami, Advocate, Jaipur *Member.*
15. Shri Gokul Bhai Bhatt, Chairman, Rajasthan
Bhoodan Yagna Board *Member.*

16. Shri Durga Lal Badhdar, M.L.A. *Member.*
17. Shri Yashwant Singh Nahar, Advocate,
Bhilwara *Member.*
18. Shri A. A. Kherie, Officer on Special Duty for
Revenue Legislation *Member-Secretary.*

2. The terms of reference of the Commission were:—

“1. to examine the existing system of land tenures and tenancy in Rajasthan and to report on—

(a) what has been the impact on the peasantry of land reforms and tenancy legislation so far undertaken in Rajasthan;

(b) whether the existing tenures and tenancies are suitable, and if not, what changes are required to bring them more in conformity with modern notions of tenures and tenancies;

“2. to examine the existing Acts, Ordinances, and subsidiary legislation in order to review, revise, amend and simplify the laws with a view not only to remove their complexities, superfluities and lacunae, if any, but also to make them more effective instruments for the achievement of the social objectives embodied in Part IV of the Constitution of India and set out in the Five Year Plans; and

“3. to examine the effect of all existing laws and regulations affecting tribals and specially the provisions of laws which prevent transfer of land of tribals to non-tribals.”

3. The Commission was requested to submit its report to the Government within a period of one year.

4. The first meeting of the Commission was held on the 20th of August, 1962, and after a preliminary exchange of views and discussion, it was decided that a comprehensive questionnaire should be issued by the Commission. The draft questionnaire prepared by the Member-Secretary was discussed in the second meeting of the Commission, which was held on the 21st of August, 1962, and a committee consisting of the following was appointed to finalise the draft:—

1. Shri Ram Prasad Ladha *vice-Chairman.*
2. Shri Rama Nand Agrawal, M.L.A. *Member.*

3. Shri Moti Lal Chaudhary, M.L.A., *Member.*
4. Shri Kanwar Bahadur, *Member.*
5. Shri Ramesh Chandra Swami, *Member.*
6. Shri A. A. Kherie, *Member-Secretary.*

This committee finalised the draft questionnaire in its meeting held on 20th September, 1962, and authorised the Member-Secretary to issue the questionnaire and to get it published in an Extraordinary issue of the Rajasthan Gazette, along with its Hindi translation. A copy of the questionnaire is given in Appendix III. It was further decided that, in addition to publication in the Official Gazette, copies of the questionnaire should also be sent to the individuals and institutions mentioned in Appendix IV.

5. The questionnaire was published in the Rajasthan Gazette, Extraordinary, Part III-B, dated the 25th September, 1962, and over 8,000 copies of the questionnaire were distributed amongst individuals and institutions as stated above, besides all Ministers, Deputy Ministers and Secretaries to the Government. Answers to the questionnaire were to be sent to the Member-Secretary so as to reach him by the 30th of November, 1962.

6. In the third and subsequent meetings of the Commission held from the 22nd to the 24th October, 1962, the procedure to be followed by the Commission was, *inter-alia*, discussed, and in order to save time, a Committee consisting of the Chairman, Shri Shyam Lal and Shri A. A. Kherie, was formed for examining the existing provisions of the Rajasthan Tenancy Act, 1955, in detail and preparing a tentative draft for the consideration of the Commission. This Committee was given permission to invite any other Member of the Commission to offer his suggestion, advice or assistance in the task entrusted to the Committee. For facility of reference this Committee will hereinafter be called as the "Tenancy Committee."

7. It was also tentatively decided that there should be another Committee to examine the impact of the existing laws. The personnel of this Committee was to be finalised later on.

8. In pursuance of a decision which had already been taken, steps were taken for making a collection of the tenancy laws of the sister States and of some of the advanced foreign countries such as the United Kingdom, United States of America,

Union of Soviet Socialist Republics, Japan and Australia, and other useful books of reference.

9. The Tenancy Committee had hardly started functioning, when the working of the Commission was suspended by Government Order No. F. 5 (23) O & M/62, dated the 13th December, 1962, due to the prevailing emergency created by the Chinese aggression and the consequent need for the utmost economy. The Commission thus remained in abeyance till the 30th March, 1963, when the order dated the 13th December, 1962, was rescinded and the Commission was asked to start working again and to submit its report within a period of six months. This period has further been extended upto the end of March, 1964.

10. Thereafter, the sixth meeting of the Commission was held on the 22nd of April, 1963. The personnel of the Committee to examine the impact of the existing laws was finalised and it was decided that this Committee should consist of the following—

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|---|--------------------------|
| 1. Shri Ram Prasad Ladha, | <i>Chairman.</i> |
| Deputy Minister (Revenue) and
Vice Chairman of the Commission. | |
| 2 Shri Sohan Lal Bhatnagar, | <i>Member.</i> |
| 3 Shri Manik Chand Surana, M.L.A., | <i>Member.</i> |
| 4 Shri Gokul Bhai Bhatt, | <i>Member.</i> |
| 5 Shri Yashwant Singh Nahar, | <i>Member.</i> |
| 6 Shri A. A. Kherie. | <i>Member-Secretary.</i> |

For facility of reference this Committee will hereinafter be called the "Impact Committee." It was decided that the Impact Committee may undertake a tour to study the impact of the existing legislation and may also record evidence, if considered necessary.

11. Shri Kanwar Bahadur and Shri Mathuresh Behari were further appointed as members of the Tenancy Committee.

12. The time for submission of replies to the questionnaire was decided to be formally extended till the 30th of June, 1963. A notification was accordingly issued on the 23rd of April, 1963, and published in a Gazette Extraordinary.

13. So far 530 replies to the questionnaire (mostly from Village Panchayats) have been received and they are being summarised. A list of the persons from whom replies have been received is given in Appendix V.

14. The Impact Committee has so far examined 28 witnesses whose names are given in Appendix VI.

15. The Tenancy Committee held 33 sittings and a draft Tenancy Bill was prepared by it for the consideration of the Commission. The Bill was discussed in 14 sittings of the Commission.

16. Since the submission of the complete report on all the terms of reference will take time, it was thought proper that the report might be submitted to Government by stages and the first report of the Commission should be on the Rajasthan Tenancy Act, 1955 (Act 3 of 1955). A draft report was thereupon prepared and circulated amongst the members. It was discussed in the twenty-first meeting of the Commission and finally approved by it on the 23rd of November, 1963.

17. The Report is divided into two parts. Part I contains the main body of the report and Part II Appendices. The Draft Tenancy Bill and the notes on its clauses are given in Part II and are Appendices I and II respectively.

PART I

18. *Formation of Rajasthan.*—The State of Rajasthan, as it is to-day, came into being as a result of the remarkable statesmanship and political sagacity of Sardar Vallabh Bhai Patel. Before its formation, Rajputana, as it was then called, was composed of 25 Princely States. They were all moulded into one State by successive rapid strokes imparted with an iron will and unerring accuracy at the hands of that great political leader. The history of the formation of Rajasthan is too well-known to be recounted here. The various Indian States, that were thus unified, varied in size, population, administrative efficiency and agricultural development. In all these States the rulers had assigned most part of the land to various classes of persons, too many to be enumerated. Rich endowments were also made to temples, mosques and other religious institutions. Over 60% of the land in Rajasthan was thus assigned to these persons and institutions, and they used to collect rent from the tenants, and pay a very small fraction of the same to the State. It was only about 40% of the land which the tenants held directly from the State. The very existence of a large number of intermediaries, in whatever shape or form, led to a steady deterioration of the condition of the tenants. When land was in plenty, the intermediaries could not afford to create discontentment amongst the tenants, but, as time went on, they tried to extract as much as possible from the tenants in the shape of rent or *lag-bag*. The progressive States had perforce to take recourse to legislation to safeguard, to a limited extent, the rights of the tenants. Notable amongst the laws that emerged thus are the Jaipur Tenancy Act, 1945, and the Marwar Tenancy Act, 1949.

19. *The Rajasthan Tenancy Act, 1955, (Act 3 of 1955).*—With the formation of the State of Rajasthan, the new State was faced with two problems. The first was to abolish the intermediaries and the second was to bring about uniformity in the tenancy legislation, so as to ameliorate the condition of the tenants and till then to protect their interest. To achieve the second object, the Rajasthan (Protection of Tenants) Ordinance, 1949, was promulgated. This Ordinance aimed at prevention of ejection or dispossession of a tenant from the

whole or any part of the land. In 1951, the Rajasthan Government promulgated the Rajasthan Produce Rents Regulating Act, 1951, regulating the share recoverable by the intermediaries from the tenants. The maximum share was fixed at one-sixth of the gross produce. Another enactment with a similar purpose was the Agricultural Rents Control Act, 1952. This Act was declared *ultra vires* the State Legislature, and its place was taken by an Ordinance. Later on, its provisions were incorporated in the Rajasthan Agricultural Rents Control Act, 1954. This Act provided that the intermediaries shall not be entitled to recover as rent an amount exceeding twice the land revenue. Then came the Rajasthan Tenancy Act, 1955. It absorbed in it all the earlier enactments on the point, and was a comprehensive piece of legislation, defining classes of tenants, conferring rights on the tenants, providing for the devolution, transfer and division of holdings, laying down the conditions under which improvements were to be made, fixing the rent and providing the mode for its recovery, laying down the conditions under which the tenants could be ejected, providing for the establishment of an hierarchy of courts to settle the disputes and providing for the procedure and jurisdiction of the courts so created.

20. *Achievements of the Act.*—This Act served a very useful purpose. It brought about uniformity in the State with regard to the tenancy laws. Without this piece of legislation, Rajasthan would have been still lingering in the maze of laws, customs and traditions which would have hampered all progress. Unification of laws of all the Covenanted States was by itself a great achievement. This is not its only merit; it revolutionised the concept about the rights and liabilities of the tenants. It stands to the everlasting credit of the Rajasthan State that by one stroke it had the courage to grant Khatedari rights to tenants, and this had the effect of stabilising and consolidating the tenure of the majority of the tenants in Rajasthan. This step breathed a spirit of progress, which placed Rajasthan in the forefront in the matter of tenancy legislation. The Khatedari rights granted under this Act were far-reaching in their amplitude, and made the tiller practically the master of the land, which must be the essence of any rational and progressive legislation on the subject. The Act granted protection to the tenant against illegal ejection and unjust and unfair treatment at the hands of the land-holder and afforded security to the tenant so long as he continued to pay the rent. For the settlement of disputes between the landlords and tenants, a uniform procedure was provided and an hierarchy

of courts established, which, inspite of some criticism, served the purpose well.

21. *Shortcomings of the Act.*—This Act is not, however, without its shortcomings. It was largely based upon the provisions of the Tenancy Acts of the premier Covenanted States in Rajasthan, which in their turn had drawn upon the laws in the neighbouring States chiefly the U. P. and the Punjab. These laws were made when there was a multiplicity of tenures and contained provisions for the different systems of tenures. Thus these laws were unduly complex. These laws were conservative and were not in consonance with the spirit of the time. They could not also be taken to be model pieces of legislation so far as draftsmanship is concerned. Naturally, the Rajasthan law inherited some of these defects.

22. *Amendments to the Rajasthan Tenancy Act, 1955.*—After its enactment in 1955, the defects and shortcomings discovered in it were remedied from time to time by various amendments. The Act had to be amended from time to time for another reason also. The ideas about agricultural tenancies were fast changing and developing and the changes reflecting the progressive outlook had to be incorporated in the Rajasthan Tenancy Act by way of amendments and thus the law was kept evolving. The first amendment Act [The Rajasthan Tenancy (Amendment) Act, 1956, (Act 27 of 1956)] was brought into force from the 22nd September, 1956, with the object of improving the language and removing the ambiguities. By the second amendment Act (Act 28 of 1956) which was also brought into force from the 22nd September, 1956, amendments were made to the Tenancy Act to prevent lands held by members of the scheduled castes and scheduled tribes from passing into the hands of persons not belonging to the scheduled castes and scheduled tribes through sub-letting or mortgage. By section 41 of the Rajasthan Co-operative Land Mortgage Banks Act, 1956 (Act 38 of 1956) brought into force from the 31st of October, 1956, section 43 of the Tenancy Act was amended so as to empower a Khatedar tenant to transfer his rights in his holding in the form of a simple mortgage for the purpose of obtaining loans from the Rajasthan Central Land Mortgage Bank or a Co-operative Land Mortgage Bank or a Co-operative Credit Society.

The Rajasthan Tenancy (Third Amendment) Act, 1956 (Act 5 of 1957) was brought into force from the 12th of January, 1957, by which a new section, 43A, containing provisions in relation to mortgages of agricultural holdings effected before the

commencement of the Tenancy Act was inserted, and section 19 of the Tenancy Act, regarding acquisition of Khatedari rights by certain categories of tenants of Khudkasht or sub-tenants on payment of compensation to the land-holder, was amended so as to extend the period of limitation for the submission of applications from one to two years. The Rajasthan Tenancy (Amendment) Act, 1957 (Act 33 of 1957) was brought into force from the 23rd of November, 1957, by which, *inter alia*, the definition of "land cultivated personally" was amended.

In the process of reorganisation of States, which took place on the 1st of November, 1956, the Ajmer, Abu and Sunel areas merged in Rajasthan, and consequently the Rajasthan Revenue Laws (Extension) Act, 1957 (Act 2 of 1958) was brought into force from the 15th of June, 1958. By this Act numerous amendments were made to the Tenancy Act and it was brought into force in the Abu, Ajmer and Sunel areas, and the Tenancy Act, in force in the said areas were repealed. Provisions about Khatedari rights in the said areas were also inserted in the Rajasthan Tenancy Act.

During the year 1958, the Rajasthan Tenancy Act was further amended four times by Acts Nos. 6 of 1958, 14 of 1958, 35 of 1958, and 46 of 1958. By the first amendment Act, a new section, 15A, relating to the non-accrual of Khatedari rights in the Rajasthan canal area, was inserted; by the second amendment Act, section 19, relating to conferment of Khatedari rights on certain tenants of Khudkasht and sub-tenants, was further amended; by the third amendment Act, section 86, relating to penalties for unlawful removal of trees, was amended; and by the fourth amendment Act, *inter alia*, sections 15A and 55 were amended.

In 1959, the Rajasthan Tenancy (Amendment) Act, 1959 (Act 7 of 1959) was brought into force from the 5th April, 1959 by which new provisions were enacted in Chapter III-A conferring Khatedari rights on certain sub-tenants and tenants of Khudkasht on payment of compensation.

Three amendment Acts were passed in 1960, viz., the Rajasthan Tenancy (Amendment) Act, 1960 (Act 4 of 1960), the Rajasthan Tenancy (Second Amendment) Act, 1960 (Act 7 of 1960) and the Rajasthan Tenancy (Third Amendment) Act, 1960 (Act 22 of 1960). Further amendments were made by the Rajasthan Zamindari and Biswedari Abolition (Amendment) Act, 1960 (Act 35 of 1960).

In 1961, there was another amendment Act, viz., the Rajasthan Tenancy (Amendment) Act, 1961 (Act 12 of 1961),

In 1962, the Rajasthan Tenancy (Amendment) Act, 1962 (Act 5 of 1962), and the Rajasthan Divisional Commissioners (Office Abolition) Act, 1962 (Act 8 of 1962) were passed.

23. *Necessity for drafting a new Bill.*—No piece of legislation can bear the stress of constant amendments. The newly introduced amendments, while serving their purpose, made the enactment more and more difficult of interpretation. It led to further complexity, vagueness and obscurity, which to some extent existed in it from the very beginning. With the progress of times, the intermediaries in the State of Rajasthan were abolished and the tenants of the former intermediaries became the tenants of the State. As already pointed out, the Rajasthan Tenancy Act contained ample provision for the protection of the tenants from the intermediaries. With the abolition of the intermediaries, these provisions lost their significance and became redundant, e.g., Chapter II (sections 9 to 13)—Khudkasht; Chapter VIII (sections 88 to 92A)—Declaratory suits; Chapter XIV (sections 199 to 205)—Ijaredars and Thekedars. Their existence on the statute book, except for a limited purpose, is no longer necessary. They only create confusion. Faced with this situation, we decided to draft an entirely new Bill on this subject: we had no other alternative. The changes that we want to introduce in the existing law, either for the purpose of weeding out unnecessary provisions, or for amending it in order to remove its shortcomings, or for introducing new reforms, cannot be done except by enacting an entirely new law. Any attempt to amend the existing law with the objects just mentioned must fail. The provisions in the present law are so interwoven with the idea of granting protection to the tenants from the intermediaries that it is well nigh impossible to divorce the one from the other by amending the existing provisions. Amending the existing law would, instead of simplifying it, make it still more complex. Introducing changes in the existing law by amending it has long before reached its limit. It was for these reasons that we decided to prepare a Draft Bill embodying our recommendations.

24. *Reasons for not repealing the Act in its entirety.*—For various reasons, we have thought it proper not to repeal the Rajasthan Tenancy Act, 1955 (Act 3 of 1955), in its entirety. Firstly, though we are assured that the intermediaries have been altogether abolished in the State of Rajasthan, yet it is possible that there may be remnants left out, and by way of abundant precaution, it is necessary that the existing provisions contained in the Rajasthan Tenancy Act, 1955, that apply to the tenants of

the intermediaries should continue to remain in force, otherwise there might remain a lacuna in the tenancy laws. Secondly, a Bill further to amend the Constitution of India (Bill No. 26 of 1963) has been introduced in the Lok Sabha on the 6th of May, 1963, by which the Rajasthan Tenancy Act, 1955 (Act 3 of 1955) is sought to be placed on the list contained in the Ninth Schedule to the Constitution. If this amendment is made in the Constitution by Parliament, the provisions of the Rajasthan Tenancy Act, 1955, shall be valid, even if the said provisions are inconsistent with, or take away or abridge, any of the fundamental rights. This immunity shall not be available to the new law. Thirdly, the provisions relating to fixation of ceiling area and surrender of land in excess of ceiling area as contained in the Rajasthan Tenancy (Amendment) Act, 1960 (Act 4 of 1960), have not yet been carried out. For reasons which we shall mention at their appropriate place, we have thought it proper that these provisions should remain intact for the present. Lastly, there may be cases pending in the courts of law under the provisions of the Rajasthan Tenancy Act, 1955, and, after a careful consideration, we are of the opinion that it would be proper that such cases should continue to be governed by the provisions of the Rajasthan Tenancy Act, 1955. We have drafted the repealing clause in the Bill keeping in view all these matters.

25. *Basic structure unchanged.*—As we shall discuss presently, we have suggested important and far reaching changes in certain matters in the draft Bill. We have, however, thought it proper that we should not needlessly depart from the scheme, arrangement and terminology of the existing Act. After all, this Act has remained in force for a sufficiently long time and its provisions have acquired a certain amount of familiarity and it would not serve any useful purpose to change the basic structure. From the point of view of draftsmanship, it may be that there could have been some more satisfactory arrangement of the provisions of the Bill, e.g., the rights and liabilities of the various classes of tenants could have been grouped separately, but this would have meant a departure from the provisions of the existing Act without any substantial advantage; similarly, some more attractive phraseology or terminology could have been employed, e.g., a Khatedar tenant could have been styled as Pattedar, as in the former Jaipur State, or a Bhuswami as in Madhya Pradesh, giving the tenant enjoying such rights a high-sounding name. In substance this would have meant nothing. In the Draft Bill we have taken care to see that the contents of the rights of the various classes of tenants in the State of Rajasthan are in no way less than

those of the corresponding class of tenants in the other sister States. We shall have occasion to deal with this matter later on. We may also point out that by changing the structure of the Act, we could have abridged it to a certain extent, but that would have been in the long run at the cost of clarity.

26. *State ownership and peasant proprietorship.*—The Bill has been drafted on the assumption that the intermediaries have been totally abolished and all the tenants in Rajasthan hold land directly under the State. This at once poses the problem: What should be the rights of the State in the land and what should be the rights of the tenants? Broadly speaking, there are two schools of thought on the question whether the land should belong to the tiller of the soil or should be the property of the State. From the earliest times these two schools of thought have been in the field. So far as the Hindu Shastras are concerned, Mahamahopadhyaya Pandurang Vaman Kane in his "History of Dharmashastra", Volume III at page 495, after discussing the divergence of views in the Shastras, has summed up the position thus—

"Taking into consideration the Purvamimamsa texts, the Vyavaharamayukha, and the verses of Katyayana and others, it appears that the State was deemed to be the owner of all lands as a general proposition, but that where individuals or bodies of persons had been in long possession of the lands that they cultivated, the ownership of the State was qualified and restricted only to the recovery of a tax or share of crops and that individuals and groups that had cultivated lands in their possession were regarded practically as owners of the land subject to the liability to pay land—tax and to the right of the State to sell the land for non-payment of tax."

In the Institute of Manu it is stated that "the sages declare a field to belong to him who first cleared and tilled it."

His Lordship Ayyangar, J. of the Supreme Court recently in *Purshothaman Nambudiri v. State of Kerala* (1) observed as follows:—

"The assertion by the State to the proprietorship of the soil which carried with it a denial of the right of alienation by the tenant of the leased lands and so of the right to hereditary enjoyment was besides being contrary

(1) A.I.R. 1962 Supreme Court 694.

to the accepted theory of the Hindu Law-givers, was also productive of grave economic ills. According to the Hindu Law-givers, starting from Manu, property in the soil arose out of occupation and cultivation. The texts which expound this position are set out and discussed by Westropp C. J. in *Vyakunta Bapuji v. Government of Bombay*, 12 Bom. HCR App. 1 at pp. 29-43 (See also *Sundaraja Iyengar Land Tenures in the Madras Presidency*, pp. 5 to 21). According to this theory the King was not the owner of cultivated land but the proprietary interest in it vested in the cultivator, the right of the King being merely to the *Raja bhagam* which represented various proportions of the produce, sometimes thought of as being a sixth and at other times at higher proportions ranging up to a half."

In the Mahomedan jurisprudence also the same rule is asserted, viz., that land is the property of him who first clears it.

According to Baden-Powell, in the past in the absence of any settled law on the point, tradition and custom governed the relationship of landlord and tenant. By and large in Rajasthan the rule was—

*"Bhogra dhani Rajhu
Bhumra dhani majhu"*

"The share (revenue share of the grain) is the wealth of the Raja, the soil (bhum) is my wealth.†"

With the advent of the British rule, theoretically the State was taken to be the owner of the land and all laws were passed on that basis. Thus the position in law is that the State is on that basis. Thus the position in law is that the State is deemed to be the owner of all lands. In our view it must be provided by legislation that the tenant shall remain the master of the land so long as he continues to pay the rent. The State may be *de jure* owner of the land but the tenant must be made the *de facto* owner of it. This is the guiding principle which we have kept always in view in drafting the Bill.

27. *State bound by the Tenancy Law.*—None-the-less the State must have the right to recover rent, to eject the tenant under certain circumstances and to compel him to carry out the programme of agricultural development. In exercising all these

† Land-Systems of British India by B.H. Baden-Powell, Vol. I, P. 222.

rights, or such of them as are conferred by the Legislature, the State must act in accordance with law, and, therefore, the rights of the State should be made subject to the provisions of this Act. There is already a provision to that effect in the existing law. Without such a provision, it can be contended that the State is not bound by the tenancy laws. Their Lordships of the Supreme Court recently, in *Director of Rationing and Distribution v. Corporation of Calcutta* (2) observed as follows:—

“The common law of England is that the King’s prerogative is illustrated by the rule that the Sovereign is not necessarily bound by a statutory law which binds the subject. This is further enforced by the rule that the King is not bound by a statute unless he is expressly named or unless he is bound by necessary implication or unless the statute, being for the public good, it would be absurd to exclude the King from it.

That was the law applicable to India also until the advent of the Constitution.

The Constitution has not made any change in that position. There are no words in the Constitution which can be cited in support of the proposition that the position has changed after the republican form of Government has been adumbrated by our Constitution.”

We have, therefore, retained the provision that the State Government shall be bound by the provisions of the tenancy law. We have slightly amended the existing provision to put it in unambiguous language. We are making a reference to this pointedly at this stage so that its implications may be properly understood. Such a provision is all the more necessary on account of the fact that now the State is the only landlord.

28. *Salient features of the Draft Bill.*—In the Draft Bill we have attempted not only to simplify the provisions of the law but also to introduce certain important changes in it. In the notes on clauses we have pointed out the reasons for making the changes. Here we shall confine ourselves to refer to some of the salient features of our recommendations which are embodied in the Draft Bill.

29. *Classes of Tenants.*—To begin with, we have recommended that the tenants holding directly from the State

(2) A. I. R. 1960 Supreme Court 1355 = (1961) 1 Supreme Court Reports 158.

Government may be classified into two classes, viz., Khatedar tenants and Ghair Khatedar tenants. In the existing law there are several classes of tenants:—

1. Khatedar tenants,
2. Maliks,
3. Tenants of Khudkasht,
4. Grove-holders,
5. Village servants,
6. Ghair Khatedar tenants.

After a careful examination of the provisions of the existing Act, we came to the conclusion that the rights and liabilities of Maliks and grove-holders are the same as those of a Khatedar tenant. We do not find any justification for giving them a separate nomenclature. The term "Malik" is used in the existing Law not for the purpose of denoting any higher status of tenancy but only to respect the sentiments of a certain class of persons. In essence there is no difference between a Khatedar tenant and a Malik. The existing law expressly says that a "Malik" shall be entitled to all the rights conferred, and be subject to all the liabilities imposed, on a Khatedar tenant by or under this Act" (vide proviso to section 13). What matters is the substance and not the form. We have, therefore, abolished the separate nomenclature of "Malik" and have included Maliks in the category of Khatedar tenants.

30. A grove-holder for all practical purposes has the same rights, and is subject to the same liabilities, as a Khatedar tenant. He had, however, certain special rights in the matter of plantation and removal of trees. We have included him also in the category of Khatedar tenants and have preserved his rights in the matter of plantation and cutting of trees. We may mention that the number of grove-holders is infinitely small and they can be conveniently classified as Khatedar tenants. By our proposal for the abolition of grove-holders as a separate class of tenants it should not be understood that we are not in favour of having grove-lands. We have included provisions in the Draft Bill which would encourage plantation of trees (Cf. clause 45); but so far as the rights and liabilities of grove-holders are concerned, we do not think that the rights and liabilities of a grove-holder should be different from the rights and liabilities of a Khatedar tenant.

31. The other classes of tenants may be conveniently called Ghair Khatedar tenants and for enumerating the rights and liabilities of these tenants, it is not necessary to classify them further. It is needless to emphasise the obvious advantages of the mode of classification adopted by us. It has facilitated the simplification of the laws governing the rights and liabilities of the tenants to a great extent. It avoids unnecessary discrimination. It does away with the difficulties in maintaining the proper revenue records which are inherent in a system where there are several classes of tenures.

32. In the Rajasthan Tenancy Act, 1955, tenants of Khudkasht are separately classified; but after the resumption of jagirs, there are now no holders of Khudkasht, of whom they were tenants, and in the nature of things there is no necessity for a separate classification for them.

33. We may at this stage mention that in other States a similar attempt has been made to reduce the number of tenancies and tenures.

34. *Acquisition of Khatedari rights.*—All tenants who are in the enjoyment of Khatedari rights shall continue to remain as Khatedar tenants under the new law. For the future acquisition of such rights, the only mode that we have provided is that of conferment of such rights by the State Government. This power may be delegated by the State Government to any authority. We have provided no other mode of acquisition of Khatedari rights. The State Government is the owner of the land and no Khatedari rights can be acquired by anybody as against the State unless such rights are granted by the State Government or by the Legislature by enacting a law in this behalf.

35. *Grant of lease by the State Government.*—As an incident of the ownership of land, the State Government necessarily possesses the right to grant unoccupied agricultural land to any person on lease on such terms and conditions as it thinks fit. If the terms and conditions are such as fall short of conferring Khatedari rights, the tenant is really not a Khatedar tenant. In such circumstances, the tenancy is governed by the terms of the grant. These matters find express mention in the provisions of the Draft Bill only as a matter of abundant caution, otherwise they are implicit in the right of ownership of the State in the land.

36. *Rights and liabilities of tenants.*—Before we discuss in detail the provisions of the Draft Bill regarding the rights and liabilities of Khatedar and Ghair Khatedar tenants, it would be proper for us to set out these rights and liabilities as envisaged in the Draft Bill. Under the provisions of the Draft Bill, the interest of a Khatedar tenant is both heritable and transferable. He has the power of sale and of making a gift and bequest (cl. 15). He has been granted the right to mortgage under certain conditions (cl. 18). He can make any improvement (cl. 36). He has the right to plant trees and to remove them in certain circumstances (cls. 41, 43, 44). Most important of all, he has the right to remain in possession so long as he continues to pay rent and does not do any act detrimental to the land (cl. 70). The right of sub-letting is a controversial matter, but it has been granted under certain conditions (cl. 22). The interest of a Ghair Khatedar tenant is heritable, but his rights are governed by the terms of the lease. For the period of his lease, he is to remain in undisturbed possession and cannot be ejected so long as he continues to pay rent and does not do any detrimental act. He has the right to make any improvement but with the previous permission of the Tehsildar. He has the same rights to trees as a Khatedar tenant, except that in the matter of removal, certain further conditions have been imposed. He has also been granted the right of sub-letting under certain conditions like a Khatedar tenant. Thus, closely analysed a Khatedar tenant becomes the master of the land. He is to remain in undisturbed possession of the land. He can make it cultivable, improve it, and invest in it without any fear of losing it at any time. In the liabilities imposed on him, there is nothing unjust, oppressive and irrational. The liability to pay rent is an incident of his tenure, but the other liabilities to which he is subject are more in the nature of safeguards rather than any impediments on his rights. At every stage we have taken care that the provisions of the Draft Bill should be formulated with a view to ameliorating the conditions of the tenant and increasing agricultural production in the State.

37. *Prevention of fragmentation.*—One formidable evil with which the country is faced is the small size of the holding of a tenant. About 70 per cent of the people in India are dependent on land for their living, with the increase in the population, the pressure on land is increasing day by day. The total geographical area of the country is 80.63 crore acres. Excluding the area under forests, land put to non-agricultural uses, barren and uncultivable land, it is only about 40 crore acres of land which can be brought under cultivation. If necessity some land must

be reserved for pasture and grazing purposes and for groves. Thus the land which can be utilised for cultivation is less than an acre per capita. In Rajasthan the evil is no less serious. The total area of Rajasthan is 1,32,152 sq. miles, out of which 85,000 sq. miles is situated in the north-west part of Rajasthan, which is an arid zone. In the eastern and southern parts of Rajasthan, the pressure of population is already telling on the size of the holdings. It is needless for us to emphasise the necessity of consolidation of holdings and preventing their further fragmentation.

The disadvantages of fragmentation are obvious. It is a serious impediment to the agricultural progress and acts as a deterrent to full utilisation of land. Time is wasted and extra expense involved in moving workers, animals and implements to and from farmstead or from one field to another and in carrying seed and manure to the various fields and crops from the field to the threshing floor, stockyard or barn. Supervision is rendered more difficult, depredations of animals and birds are harder to control; expenses on fences, water supply, buildings, threshing floors etc. are often much greater; comprehensive drainage or other schemes of improvement are rendered almost impossible, access to the various fields may become difficult especially during the season when crops are growing; more hands are required for watching crops and so on.*

The approach to the problem of excessive fragmentation has two aspects, namely:—

- (1) the preventive aspect, i.e., measures to prevent further fragmentation; and
- (2) the curative aspect, i.e., measures to remedy the evils arising out of fragmentation.

So far as the curative aspect is concerned, recourse may be had to consolidation of holdings, co-operative farming or diversion of people from agriculture to other avocations. However, these are not easy to achieve. Diminution in size of a holding generally results from partitions consequent upon inheritance, transfers by sale, mortgage or gift and leases. It frequently happens that during partitions not only the total holding is sub-divided into uneconomic units but even individual plots get sub-divided into fragments which are unprofitable to cultivate due to an anxiety on the part of the co-sharers to get a share of each class

* Consolidation of Holdings by Sir Bernard O. Binns.

of land and particularly, a share in a good quality plot. Similarly unregulated transfers also result at times in tiny plots.® We have, therefore, made an earnest endeavour to prevent such fragmentation by regulating partitions and transfers. We shall deal with this matter in detail when taking up these subjects. At this stage we only wish to mention that the restrictions that we have placed on the rights of a Khatedar tenant to divide his holdings or transfer it have not been proposed with the object of curtailing his rights but for preserving at least the present size of the fields and prohibiting further fragmentation. From our point of view, all reforms in tenancy legislation would go in vain if fragmentation, due either to pressure of population or any other reason is allowed to go on as at present.

38. *Inheritance*.—Now we proceed to deal with the matter relating to succession of the interest of a tenant. The manner in which succession to agricultural land should be regulated is a much disputable question. In olden times, either by law, custom or tradition, succession to agricultural land was limited to the male members of the family. Baden-Powell has observed in his learned treatise on the Land Systems of British India, Volume I, at page 225, as follows:—

“In agricultural castes, daughters and other females do not usually get a share in land, or sometimes only till marriage. This is a sure mark that property is in the ‘family’ stage: it means that the daughter on marriage goes into another family, and that if she got a share, she would take it away with her. Widows are allowed a life-tenure, but cannot devise the land or alienate it without ‘necessity’.”

In Rajasthan this was particularly so. The legislative enactments of the Covenanted States provided that the male lineal descendants were preferred to widow or daughter (of secs. 17 & 18 of the Jaipur Tenancy Act, 1945, and secs. 14 & 15 of the Marwar Tenancy Act, 1949). It was for the first time that the Rajasthan Tenancy Act, 1955, in section 40, provided succession to the agricultural tenancies in accordance with the personal law. This change was effected as there was some doubt whether succession to agricultural tenancies could be otherwise than in accordance with the personal law. We are not oppressed by any such consideration as in our opinion it is possible to regulate succession to agricultural land by making a special law on the

subject even contrary to the personal law. The Hindu Succession Act, 1956, is an instance of such a law whereby the personal law of Hindus has been changed in the matter of succession even after the Constitution came into force. That law, however, did not disturb the existing law of succession as to agricultural tenancies. Sub-Section (2) of section 4 of that Act runs as follows:—

“For the removal of doubts, it is hereby declared that nothing contained in this Act shall be deemed to affect the provisions of any law for the time being in force providing for the prevention of fragmentation of agricultural holdings or for the fixation of ceilings or for the devolution of tenancy rights in respect of such holdings.”

In Rajasthan the Rajasthan Tenancy Act had enacted in 1955 that succession to agricultural tenancies was to be governed by the personal law. Even when the Hindu Succession Act was enacted, this was the law. In spite of this change in the Rajasthan law, in practice the female heirs did not get any land in competition with the male lineal descendants of the propositus. Custom and tradition could not be so easily defeated and they held their sway. Mutations continued to be effected in the names of the sons, even though there were daughters and widows, who would be entitled to succeed along with the sons according to personal law.

After the enactment of the Rajasthan Tenancy Act, 1955, this question was examined by the State Land Commission for Rajasthan appointed by the Government of Rajasthan on the 4th of September, 1956, under the chairmanship of the Chief Minister, to study the land reforms already introduced in Rajasthan. Its recommendations on the subject are as follows:—

“78. Section 40 of the Tenancy Act lays down that ‘when a tenant dies intestate, his interest in his holding shall devolve in accordance with the personal law to which he was subject at the time of his death.’

In the former Jaipur State and the former Jodhpur State, as also in several of the other Covenanted States of Rajasthan, succession to agricultural tenancies was not governed by personal law but by a definite order of succession, which excluded married females and distant relatives (of sections 17 and 18 of the Jaipur State Tenancy Act, 1945 Jaipur Act XXIV of 1945) and sections 14 and 15

of the Marwar Tenancy Act, 1949 (Marwar Act XXXIX of 1949).

Under the Tenancy Acts of U.P. (cf. sections 35 and 36 of U.P. Act XVII of 1939), the Punjab (cf. section 59 of Punjab Act XVI of 1887) and other Indian Provinces too, succession to agricultural tenancies was not governed by personal law, and a definite order of succession had been laid down.

The Rajasthan-Madhya Bharat Jagir Enquiry Committee, to which a reference has already been made, made the following observations on this point (vide page 57—Chapter XIII—paragraph 3)—

“Even though property in land has not been in the past recognised in India, the right of the male heir of a cultivator to continue to be in possession of his holding after his death, and to cultivate the land subject to the same liability to pay the share of the State, has always been respected. Recently tenancy reforms in North India have also tended to confer heritable rights on tenants-at-will. The pattedari tenant should, therefore, have clearly established rights. Inheritance of these rights need not and in fact should not follow the personal law of the ryot. This again is a principle which has been recognised by the tenancy reforms in North India. Agricultural holdings have certain peculiarities which require that the laws of inheritance governing them should be simple and not lead to too much fragmentation of the holding at each succession. The U.P. tenancy laws have, therefore, made separate provision for inheritance. The Madhya Bharat Tenancy Act and the existing individual tenancy laws in Rajasthan also make a separate provision for inheritance of ryots’ holdings.”

The U. P. Tenancy Act, 1939, has been repealed; but under the U. P. Zamindari Abolition and Land Reforms Act, 1950 (U. P. Act No. 1 of 1951) succession to bhumidars, sirdars and asamis is not governed by personal law, but by a prescribed order of succession (of. section 171 *ibid*).

The Land Commission fears that if succession to agricultural tenancies is to be governed by personal law, it will lead to the fragmentation of holdings, while the policy of the Government is to prevent fragmentation.

Further, the revenue patwaris cannot be expected to know the personal laws of Hindus, Muslims, Parsis etc.; and the revenue officers too are not fully conversant with the law relating to succession of the various communities.

Under the Hindu Succession Act, 1956 (Central Act No. 30 of 1956) daughters too have been allowed a share in their father's property. Sub-section (2) of section 4 of the said Act has made it clear that nothing contained in the said Act shall be deemed to affect the provisions of any law for the time being in force providing for the prevention of the fragmentation of agricultural holdings or for the fixation of ceilings or for the devolution of tenancy rights in respect of such holdings. In view of this provision, it is all the more necessary, in the opinion of the Land Commission, to have a specified order of succession in regard to agricultural tenancies.

For all these reasons, the Land Commission would recommend that succession to agricultural tenancies in Rajasthan should not be governed by personal law, but by a specified order of succession, on the lines of those laid down in the old Jaipur Tenancy Act, 1945, and the old Marwar Tenancy Act, 1949, and necessary amendment to the Tenancy Act may be made."

We are much impressed by the arguments advanced by the State Land Commission for changing the Law on the subject of succession. Suggestions have come to us that succession to agricultural tenancies should be governed by the Law of primogeniture, or that the father should be given the power to nominate his successor, or that the tenancy should be inherited by only those heirs of the propositus who actually till the land or who are willing to till it, or that the female heirs should be entirely excluded or given only a life interest, or their interest should be limited till marriage in the case of daughters or re-marriage in the case of widows. At the same time there is a large volume of opinion that the present provision in section 40 should be allowed to stand as it is. This opinion mainly proceeds on the ground that having regard to the modern trend in the law, it is not proper

to exclude daughters and widows from inheritance even when there are male descendants of the propositu.

In our opinion, to apply the rule of primogeniture is entirely out of question. As will be discussed hereinafter, we are in favour of allowing a tenant to bequeath his interest and he may bequeath his interest to whomsoever he thinks fit. Apart from that, we do not think that the law of inheritance should be moulded in such a way that the father should enjoy the power to nominate his successor. We are also not in favour of accepting the suggestion that inheritance should be confined to those heirs who actually till the land or who are willing to till it. When there is so much hunger for the land, no heir is likely to say that he would not till the land. Besides being indefinite, such a provision is likely to lead to unnecessary litigation. The only suggestion which deserves consideration is whether the female heirs should be entirely excluded or granted any life interest or interest till marriage or re-marriage, as the case may be. The entire exclusion of female heirs in the presence of male heirs does not appeal to us. It is a retrograde step and is not in consonance with the spirit of the times. Discrimination on the ground of sex is not to be favoured. After devoting earnest consideration to the matter, the Commission evolved two alternative schemes:—

(1) prescribing an order of succession giving life interest to the females;

(2) compensating female heirs by payment in cash in case the property devolves according to personal law on male and female heirs.

We may refer to them at this stage. We have formulated the prescribed order as follows:—

“(1) Notwithstanding any law, custom or usage to the contrary, the interest of a tenant in his holding shall, on his dying intestate, devolve in accordance with the order of succession given below:—

Class I—Son, daughter, widow or husband as the case may be, and the heirs of a predeceased son as mentioned hereinafter;

Class II—Mother, father;

- Class III—Daughter's son;
- Class IV—Son's daughter;
- Class V—Brother being the son of the same parents as the deceased; sister being the daughter of the same parents as the deceased;
- Class VI—Brother being the son of the same father but of a different mother; sister being the daughter of the same father but of a different mother;
- Class VII—Brother's son, the brother being a son of the same father as the deceased;
- Class VIII—Father's brother;
- Class IX—Father's brother's son;
- Class X—Father's mother; Father's father;
- Class XI—Daughter's daughter;
- Class XII—Sister's son;
- Class XIII—Brother's son's son;
- Class XIV—Paternal uncle's son's son.

(2) Among the heirs specified in sub-section (1) those in class I shall be preferred to those in class II; those in Class II shall be preferred to those in Class III, and so on in succession.

(3) The heirs specified in Classes I, II, V, VI and X in sub-section (1) shall take simultaneously.

(4) The property of an intestate, shall be divided among the heirs in Class I in accordance with the following rules:—

- Rule 1. The intestate's widow, or if there are more widows than one, all the widows together, shall take one share;

Rule 2. The surviving sons and daughters of the intestate shall each take one share.

Rule 3. The heirs of a predeceased son shall be his son, his widow, son of his predeceased son, and widow of his predeceased son, and they shall take between them one share.

Rule 4. The distribution of the share referred to in Rule 3 among the heirs in the branch of the pre-deceased son shall be so made that his widow (or widows together) and the surviving sons get equal portions and the branch of his pre-deceased son gets the same portion.

(5) The property of an intestate shall be divided between the heirs specified in Classes II, V, VI, and X so that they share equally.

(6) Notwithstanding anything herein-before contained, the female heir shall take only life interest and on her death her share shall devolve upon the nearest surviving heir of the propositus."

In framing the aforesaid prescribed order we have taken into account the personal laws of Hindus and Muslims both, as tenants in Rajasthan mostly belong to either of these two communities, and have tried to evolve an order of succession which appeared to us to be just and proper. In view of the fact that we have showed our preference for the second scheme, it is needless for us to mention in detail how far we have departed from the personal laws of both these communities except that we have given only life interest to the female heirs.

The other alternative scheme is the part of our recommendations and is mentioned in clause 14 of the Draft Bill, which, for the sake of convenience, is reproduced below:—

"14. *Succession to tenants.*—(1) When a Khatedar or Ghair Khatedar tenant dies intestate, his interest in his holding shall devolve in accordance with the personal law to which he is subject at the time of his death:

Provided that when there are male and female heirs succeeding simultaneously, the female heirs shall not be

entitled to any land of the deceased, but shall be re-compensated for their share in cash, and such cash amount shall be a charge on the land in the hands of the male heirs or such of them as have not paid their share of the cash amount."

Our reasons for giving preference to the second scheme may now be enumerated. Under this scheme there is no wholesale departure from the existing law as is there under the first scheme. Such a position may be brought about in due course when there is a uniform civil code as envisaged by the Constitution (cf. Article 44). Under this scheme, when the male and female heirs succeed simultaneously, the land goes to the male heirs, while the female heirs receive monetary compensation for their share. This would achieve the object of preventing fragmentation of land in a more effective manner than any other scheme, avoiding at the same time injustice to the female heirs by excluding them altogether. To take a concrete illustration, suppose a tenant dies leaving two sons, two daughters and a widow. According to the personal law of Hindus, all these five will inherit as tenants-in-common getting one-fifth share each. According to Muslim law the widow would get $\frac{6}{48}$, each son will get $\frac{14}{48}$, and each daughter will get $\frac{7}{48}$ share. Under the second scheme, only the sons will get the land, while the daughters and the widow will be compensated for their shares in money, in accordance with the personal law applicable to them. Thus fragmentation of the land which is to take place on division, is avoided to a very great extent. At the same time we are also respecting the sentiments of the general public that at least the agricultural land should not go out of the family which is likely to be the result if the land is given to the female heirs. This sentiment is as old in India as the notion of property. In our opinion, law must pay due regard to public opinion and in the name of reform we should not ignore it. Under our scheme the law on the subject of inheritance becomes very simple and avoids all difficulties in effecting mutations, which work is in the hands of persons who are not expected to be conversant with the personal laws of the different communities. Our enquiry as to the manner in which mutations have been effected even after the enactment of section 40 of the Rajasthan Tenancy Act, 1955, leads us to the conclusion that that section is altogether ignored and mutations are effected in the name of male heirs. Thus under the second scheme, the practice, custom or tradition, whatever we may call it, is legalised. It must not be forgotten that the giving of the land to the females, which may

ultimately go to their husbands, will disturb the carrying out of agricultural operations and would spoil the co-operation and cohesion which are so necessary for that purpose. The second scheme takes due note of this. We have, therefore, after taking account of the various views on the subject and also their relative advantages and disadvantages, come to the conclusion that the second scheme, though somewhat novel in character, should be given effect to. We have made the amount that would be payable as compensation to the female heirs a charge on the land in the hands of the male heirs or such of them as have not paid their share of the cash amount; and have thus safeguarded their interest.

39. *Alienation.*—Now we come to the subject of alienation. The usual forms of alienation are sale, gift, mortgage, lease and exchange. We may include the right to bequeath also under this head. We shall take up these subjects separately. The provision on these subjects in the Draft Bill are practically on the same lines as in the existing law; but we have made certain important changes. As already pointed out, the subject of prevention of fragmentation has been uppermost in our mind while drafting the provisions of the Bill. With this end in view, we have placed certain restrictions on the rights of a Khatedar tenant to sell, gift or bequeath his interest. The existing survey number is not to be divided except under special circumstances. Ordinarily, the size of an existing survey number is small. From what we have already mentioned while dealing with the subject of fragmentation, it is clear that there should be no further subdivision of an existing survey number. This finds mention in clause 16 of the Draft Bill. Exception has, however, been provided when the area of the survey number is in excess of the standard area. "Standard area" has been defined in the definitions clause as "the area which the State Government may, from time to time, notify as the minimum area necessary for profitable cultivation in any particular area." Even in such case, we have provided that the fragmentation of the existing survey number should not be allowed so as to reduce the area to an extent less than the standard area. The two provisos to this clause are as follows:—

"Provided that this restriction shall not apply if the area so transferred becomes merged in a contiguous survey number.

PROVIDED further that this restriction shall not apply if the sale, gift, or bequest is of the entire undivided interest of a tenant in his survey number."

The first proviso makes the transfer legal when the land transferred merges in the land of the contiguous survey number. This would help consolidation. In such a case we have thought it unnecessary to provide that the total area of a contiguous survey number and the area transferred should be above or equal to the standard area. This proviso will make it possible to adjust the existing boundaries of the fields which may be necessary under certain circumstances. The second proviso enables the tenant to transfer his entire undivided interest in the survey number, irrespective of the area transferred.

40. We devoted our earnest consideration to the matter whether any further restrictions should be placed on the rights of a Khatedar tenant to sell, gift or bequeath his interest in his holding. As held in *Jassuram & others v. The State of Rajasthan* (@), Khatedari rights under the Rajasthan Tenancy Act are property within the meaning of Article 31 of the Constitution. Under Article 19 (1) (f) of the Constitution, a citizen has the right to acquire, hold and dispose of property. Only such restriction on this right can be imposed as is reasonable, or is in the interest of the general public, or is for the protection of the members of the scheduled caste or scheduled tribe. Keeping in view these provisions of the Constitution, we have made a provision for pre-emption of an agricultural land on sale. We have also provided that if the sale, gift or bequest is by a member of the scheduled caste, it should be to a member of the scheduled caste, otherwise it would be void. A similar provision has been made for scheduled tribes. Apart from these restrictions, we have refrained from putting any further restrictions.

41. The Committee on Tenancy Reform set up by the Panel on Land Reforms appointed by the Planning Commission, in its Report of March, 1956, made the following recommendations as regards the right of transfer* :—

“The bulk of the owners already possess the right of transfer subject to certain restrictions. The restrictions, however, vary from State to State and there are also cases where the owners do not possess the right of transfer.

It was suggested that from the point of view of co-operative joint farming as the ultimate goal, it would not be desirable to confer the right of transfer upon those who

@ I. L. R. 1962 Rajasthan 900.

* PP, 53-54.

do not already possess it so that the sense of individual property in land and attachment to land may not be strengthened. It was, however, felt that in the existing conditions this may result in immobility. A cultivator desiring to seek an alternative occupation would be willing to part with his land if he could obtain its price, but would not be willing to do so when the only alternative open to him would be to surrender the land, and receive compensation only for the improvements made by him. Besides, it may lead to absentee ownership as in such a situation the cultivator would not surrender the land but would try to make some arrangement in such a way that though the land would be cultivated by another person he would be in a position to claim that it was under his own personal cultivation. A denial of the right of transfer would further make it difficult to obtain credit, in particular long term and medium term credit. In the circumstances, it is desirable to confer the right of transfer upon all owners subject, however, to certain restrictions, namely:—

(i) In order to prevent accumulation of large holdings, there should be a ceiling on future acquisition;

(ii) The transfer of land should be regulated with the following objects in view:—

(a) On account of the excessive pressure of population on land, and the lack of alternative means of employment, the ownership of land has given rise to a monopolistic situation. On account of land hunger, people are willing to pay more than the economic price of land with the result that most of rural savings are utilised for land acquisition rather than development of land and a cultivator at the beginning of his career, as an owner cultivator, starts with a considerable handicap and with inadequate financial resources. The price of land should, therefore, be regulated in the interest of community as a whole.

(b) Peasant farming can be established only if provisions are made to ensure that units of management do not decrease below a minimum size. The shifts that take place, in exercise of the rights of transfer, should be utilised to bring about progressively a more equitable distribution of

land. Transfers should, therefore, take place in accordance with an order of preference.

Such provisions would be ineffective if transfers continue to be made by private contracts between individuals. The Committee, therefore, recommends that transfers should be made through village Panchayats at regulated prices (which should give adequate recompense to the transferor, and be also economic for the transferee) and according to an order of preference which should be prescribed by law. The aggregate of the land which the transferee may own (including the area already owned) should not exceed the area which a family can cultivate with their own labour and occasional hired labour to the extent customary. In cases where there are more applicants than one belonging to the same order of preference, who are willing to purchase the land at regulated price, lots may be drawn."

42. As already mentioned, we are in agreement with the recommendation of the Committee that the right of transfer should be conferred on the tenants. We consider that the right of transfer to the khatedar tenants should be granted. Coming to the restrictions as envisaged by the Committee, we may point out that we accept that there should be a ceiling on the future acquisitions. To that effect we shall make our recommendations hereinafter. The view of the Committee that the sale price in the case of land should be determined in accordance with the prescribed rules is not acceptable to us. Keeping in view the various classes of land in Rajasthan, this appears to be too cumbersome a process and is likely to lead to dis-satisfaction in every case of transfer. The further recommendation is that the village Panchayats should determine the purchaser according to an order of preference which should be prescribed by law. With respect, we may say that this again is a very complicated affair. The law must be simple. The principles enunciated in the aforesaid recommendations may be sound in theory, but their practical application is doubtful. We are unable to endorse the recommendations of the said Committee on this point. We are not in favour of putting any further restrictions on the right of alienation. We may, however, mention that we would not mind if a restriction is placed that the sale shall be made only in favour of a person who is an agriculturist and no other. Our reason for not including it in the Draft Bill is that for some time to come it would be in the interest of a tenant to get the best price of his land.

43. *Gift.*—The right to make a gift differs very little from the right to make a sale, and we have granted this right subject to the same conditions as those under the right of sale.

44. *Bequest.*—A bequest is a gift of the property to take effect after the death of the tenant. If this right has not been granted in some of the States, we do not find any reason why we should put a restriction on the right of a tenant to make a bequest.

45. *Pre-emption.*—We have introduced provisions relating to pre-emption of agricultural land when such land is sold. We have two objects in view. The first is that of consolidation of holdings and the second is the avoidance of dispossession of the person who is actually cultivating the land. The second object may become co-related with the object of providing land to landless persons. The provisions that we have introduced are contained in clause 17 of the Draft Bill and are as follows:—

“17. *Pre-emption.*—(1) If, after the commencement of this Act, a Khatedar tenant transfers by sale, his interest in his holding or part thereof, the following persons shall have the right to pre-empt in the order of preference given below:—

(i) a co-tenant;

(ii) a sub-tenant who has been cultivating the land of a survey number sold continuously for three years before the date of the sale, for such survey number and no other;

(iii) a Khatedar tenant of a contiguous survey number:

Provided that there shall be no right of pre-emption in case the transferee fails in any of the categories mentioned above.

(2) The pre-emptor may file a suit for pre-emption in a competent court and if the suit succeeds, such court shall, after determining the valuation of the property if the sale price is in dispute, pass a decree for pre-emption.

(3) If there are more claimants than one under clause (i) of sub-section (1), they shall be granted a joint decree for pre-emption providing equal shares in the land.

(4) If there are more claimants than one under clause (iii) of sub-section (1), the decree shall be passed in favour of the person who has the smallest holding and if such persons are more than one, they shall be granted a joint decree for pre-emption providing equal shares in the land."

46. On the transfer of agricultural land by a Khatedar tenant to any person who does not belong to any of the three categories mentioned in this clause, a right of pre-emption arises in the order of preference given therein. The first preference is given to a co-tenant who, as a matter of fact, is a co-sharer in the agricultural land sold. The second preference is given to a sub-tenant who has been cultivating the whole or part of the land sold continuously for three years; but the right granted to him is subject to the condition that he is entitled to pre-empt only the land of the survey number and not any other land which might have been sold; this also only when he is cultivating the entire survey number. If he is cultivating only a part of the survey number, he has no right to pre-emption. The third preference is given to the contiguous Khatedar tenant. The object of consolidation of holdings is achieved, while giving the right of pre-emption to the first and the third category of persons, and the object of avoidance of dispossession of a sub-tenant, who has been actually cultivating the land is achieved by providing the right of pre-emption in favour of the sub-tenant who fulfils the requisite conditions. We have already pointed out that except in the desert areas, the holdings of tenants in Rajasthan are very small. Nobody can deny the extreme importance of consolidation of the holdings in Rajasthan. Very little argument is required to support the view that it is in the public interest that a co-tenant should have the right of pre-emption on the sale of agricultural land to a stranger. In *Bhau Ram v. Baij Nath* (4), their Lordships of the Supreme Court have taken this view even with regard to urban property. The question, however, is whether the grant of right of pre-emption to a contiguous neighbour is an unreasonable restriction on the right of sale or purchase of a person as guaranteed under Article 19 (1) (f) of the Constitution. The following observations of their Lordships of the Supreme Court in the majority judgment in the case cited above may be referred to in discussing this point:—

"It is urged, however, that at any rate, in the case of agricultural properties, pre-emption by vicinage results in consolidation of agricultural lands, and that at any rate is an advantage. How far the argument of consolidation

can be availed of now when we find that in most States laws are being passed which are putting ceilings on agricultural holdings is a matter which it is unnecessary to consider in the present case, for the Rewa Act applies not only to agricultural holdings but also to urban property including house property. There is no question of any advantage arising out of consolidation where one is dealing with urban property or house property. The matter of consolidation might have had some bearing if the Rewa Act was applicable to agricultural lands only. But as it applies to urban lands as well as house property where no question of consolidation of holdings arises, the impugned provision cannot be held to be a reasonable restriction in the interests of the general public on the ground that it leads to consolidation of agricultural holdings. There is no way of severing the application of the law so far as it relates to agricultural holdings from its application to urban or house property and therefore the entire provision as to vicinage must fall, even if something could be said in its favour with respect to agricultural holdings on the ground of consolidation."

In the minority judgment it was observed that "a restriction imposed by the law of pre-emption based on vicinage is a reasonable restriction on the right to acquire and dispose of property." The Supreme Court case has not definitely laid down that pre-emption on the ground of vicinage is an unreasonable entrenchment on the right of any person to hold and acquire property when the sale is of agricultural land. This point was left undecided as their Lordships were dealing with urban property in that case. The Rewa Law, which their Lordships were considering, was held *ultra vires* mainly on the ground that it was applicable both to urban and rural property and it could not be severed.

47. There is little doubt that the right of pre-emption to a contiguous neighbour would surely lead to the consolidation of land which, as we have pointed out earlier, is one of the pressing necessities of the day to increase production.

48. We have also given careful consideration to the point whether consolidation of holdings is not necessary when the State is itself making a law putting ceilings on agricultural holdings and by pursuing the policy of fixing ceilings, is encouraging fragmentation of land. We are of the opinion that, inspite of the

fact that we have recommended fixation of ceilings on agricultural land, it is necessary in the public interest that pre-emption should be allowed to a contiguous neighbour to achieve the object of consolidation of holdings. We may point out that the purpose of fixation of ceilings is to take away excess land from those who possess land beyond their requirements. The purpose of consolidation is to increase the size of the holdings which are too small and uneconomic. Excepting a very few cases, the contiguous neighbours, who will come forward to pre-empt, will be those who, even after the land pre-empted comes to their possession, will have land below the ceiling. There is no reason why such persons should be denied the right of pre-emption on the ground that a ceiling on agricultural land has been fixed by the State. Even in cases where the total area becomes in excess of the ceiling area, the contiguous neighbour must be given the right to pre-empt as it will be in the public interest that the land of which he is a contiguous neighbour should first go to him rather than to a stranger. In the presence of the law of ceiling the contiguous neighbour is likely to come forward to pre-empt the land only when the land sold is of some advantage to him for the purpose of carrying on agricultural operations. We have, therefore, taken the view that the right of pre-emption should also be granted to a contiguous Khatedar tenant.

49. In between these two categories, we have placed the sub-tenant who has been cultivating the land sought to be pre-empted continuously for three years before the date of the sale. In our opinion, a man, who is actually carrying on cultivation for a number of years should be given the right to purchase the land, if he is willing to do so. This is in accordance with the view that a person actually carrying on agricultural operations should not be dispossessed except under certain circumstances. The reason is not far to seek. Agricultural production is likely to suffer if the person actually cultivating the land is evicted. It is in the public interest that he should have the option to acquire Khatedari rights in the land if he is willing to pay for the same. Such a sub-tenant is likely to be a landless person, though his avocation may be that of an agriculturist. We are further of the opinion that we must give preference to the sub-tenant over the contiguous neighbour. It is in view of these considerations that we have drafted the provisions of clause 17 of the Draft Bill.

50. It is often urged that the law of pre-emption gives rise to unnecessary litigation. Indeed such an argument was addressed before their Lordships of the Supreme Court in the

case referred to above. In order to avoid unnecessary litigation, we have provided that there shall be no right of pre-emption available in case the transferee falls under any of the categories mentioned in clause 17.

51. *Mortgage*.—We have kept the provisions relating to mortgage as they are, with slight changes here and there. The object of placing restrictions on the right of mortgage is that the tenant may not fall a prey to an unscrupulous creditor who may take advantage of his illiteracy, ignorance or financial stringency. We have, therefore, provided that the mortgagee must be a person of the description mentioned in clause 18 (1), namely the State Government, a Land Mortgage Bank, a co-operative society or any other institution notified by the State Government. To them the Khatedar tenant may mortgage land with or without possession on such terms and conditions as may be agreed upon. It was, however, considered necessary that, in the existing circumstances, credit facilities may not be available to a tenant from the above sources. We have, therefore, thought it proper that the tenant should be permitted to mortgage his land with possession to any other person, provided that such mortgage is satisfied within the stipulated period of not more than ten years. These recommendations are in line with the existing law. We have further provided summary remedy for ejection of such a mortgagee as it has been brought to our notice that it takes a good deal of time to obtain possession in a court of law by a regular suit.

52. *Crop-sharing*.—Clause 20 of the Draft Bill is a new provision framed by us. The underlying object of this provision is that, as far as possible, the tenant should cultivate the land personally and should not get it cultivated by any other person and keep the profits to himself. He should not be permitted to sub-let the land or enter into any agreement with any person for crop-sharing. Further, the sub-tenant cultivating the land should not be permitted to be exploited. This is necessary in order to root out the evil of absentee-landlordism. At the same time, we have taken note of the existing conditions prevailing in many parts of the State. A tenant, not for the purpose of exploiting, but on account of genuine necessity, takes into partnership some other person to carry on his agricultural operations. The evidence recorded by us is definite on the point that now and then a tenant takes some one in partnership to assist him in cultivation, even though there is a provision in the existing law that there shall be no crop-sharing except in the circumstances mentioned

in section 105 of the Rajasthan Tenancy Act, 1955. In carrying on actual agricultural operations, there are bound to arise circumstances in which the tenant may, out of necessity, be called upon to take the assistance of some other person, in order that the land may not remain uncultivated or that the agricultural operations may be carried out speedily and efficiently. These circumstances may vary at different times and in different places. The tenant may be in genuine necessity of finding labour, or means of ploughing, seeds, or other such things. Sometimes he may manage by taking these things on hire or on credit. Sometimes it may be to his advantage that the person supplying these things should become a partner with him in cultivation for a limited time and share the produce with him. More often than not, this arrangement is an arrangement for mutual adjustment and convenience, and not for exploitation. This has become a part of the village economy. It would be unrealistic not to take notice of it. The evidence that has been recorded by us leaves no room for doubt that this arrangement is likely to go on for a considerable period, whatever law may be framed. We consider that it would be no use framing an artificial law. We have, therefore, thought it proper that such an arrangement should be recognised by law. In order to minimise the chances of exploitation, we have thought it proper that such an arrangement should be made permissible only when the tenant is himself cultivating the land. In the Explanation to Clause 20, we have laid down that a tenant shall be deemed to be cultivating the land himself if he cultivates the land by his own labour or by the labour of any member of his family. This means that it is not open to a tenant to take any person in partnership in case he is not personally cultivating the land. We have ruled out cultivation by hired labour in the case of such a tenant. He must not be a person who would be reaping the fruits of the labour of any other person. He must put in personal labour in carrying on agricultural operations. This does away with the evil of absentee-landlordism. At the same time, he is also not in the danger of being exploited by his partner. A tenant cultivating the land himself would normally be a dominant partner and will take the help of the other on such terms and conditions as are mutually advantageous. In our view there is no risk of exploitation of such a tenant. We devoted considerable thought to the point whether it is possible for us to circumscribe the terms and conditions of such an agreement. The varied nature of the circumstances in which such partnership can be entered into defy any attempt to do so. It is not even possible to lay down any definite proportion in

which the share of the crop is to be divided. A tenant cultivating the land personally may be taking very limited help from the other partner, and it would be altogether inequitable if we put any upper limit on the extent of his share in the crop. We have, therefore, thought it proper that this matter should be left to the agreement between the parties.

53. Another point which arises for consideration is whether this agreement should be in writing. Looking to the general conditions prevailing in Rajasthan, we have thought it proper not to insist upon it. Clause 20 appears to us to be not only in consonance with the conditions prevailing in Rajasthan, but also one which would lead to increased agricultural production by attracting investment from other quarters. Again, when a provision of this nature is made, we would be justified in laying down stringent conditions under which sub-letting should be permitted.

54. *Sub-letting.*—We now come to the question of sub-letting. There is little room for controversy that the persons mentioned in clause 23, viz., minors, lunatics etc. should be granted a right to sub-let. The main point for controversy, however is whether such a right should be given to any other tenants. In this respect we partially adopt the recommendation of the Committee on Tenancy Reform set up by the Panel on Land Reforms, Planning Commission, contained in its Report of March, 1956, at page 55, which is as follows:—

“(6) *Right of letting.*—There was no difference of opinion with regard to the desirability of allowing persons who suffer from a disability to lease their lands, namely a widow or unmarried woman, a minor, a person unable on account of physical or mental infirmity to cultivate the land and members of the Armed Forces of the Union.

With regard to the right of letting for categories other than the above, some members felt that in order to put an end to the landlord-tenant system leasing of land should not, in future, be allowed. The Committee, however, feels that it would not be administratively possible to enforce a complete prohibition of letting. Besides, it would make the land system too rigid and would prevent the rural classes from taking up employment in urban areas.

The Committee are generally agreed that in the existing circumstances complete prohibition of leasing is not a practicable or even a desirable proposition. In order, however, to ensure that this right is not abused and that the lessee is not exploited, provision should be made that leases of land will not be made by private contract between individuals. All leases should be made by the village Panchayat for whose guidance suitable principles shall be framed, including an order of priority and describing the conditions in which leases may be allowed. Leases should be permitted for a minimum period of 5 years, at the end of which the lessor should take up the cultivation of land, failing which the tenant shall, where he holds from substantial owner acquire permanent rights. In the case of small owners, however, the lease shall be deemed to be renewed for successive periods of 5 years."

55. The view of the Committee that leases should be made by village Panchayats for whose guidance suitable principles should be framed engaged our careful attention. Except in the matter of laying down the maximum rent, we found it difficult to formulate other such conditions as would not break down when the practical aspects of the matter are taken into consideration. After we have made a provision for crop-sharing, as mentioned, in clause 20, we thought it proper that land should be sub-let either to the village Panchayat or with the prior permission of the village Panchayat, or the prescribed authority, where there is no village Panchayat, to any person. We have laid down in sub-clause (2) of clause 22 the guiding principles for granting such permission. Sub-leases can be granted for a maximum period of five years and only when the village Panchayat or the prescribed authority is satisfied that there are *bona fide* reasons for the tenant not to cultivate the land himself, and that the land is likely to remain uncultivated if such permission is not granted. We are unable to agree that a minimum period of five years should be laid down for the grant of sub-leases. It is neither practicable nor desirable. We are rather of the view that the tenant must be given a chance to let out the land even for a lesser period. After the fixation of ceiling on holdings, there are likely to be very few persons who may be called substantial owners of the land. It is not possible to lay down that a sub-tenant should automatically acquire permanent right in the land on the expiry of a particular period. If a tenant wants to execute lease after the period of the expiry of one lease, he must again apply to the village Panchayat for permission and such permission should not

be granted when there are no reasons for the tenant for not cultivating the land himself. In the matter of sub-letting these provisions are somewhat drastic, but they would achieve the object of weeding out absentee-landlords. At the same time, it is ensured that the land does not remain uncultivated.

56. In this very clause, viz., clause 22, a tenant has been given the right to sub-let to the village Panchayat without any conditions. This in a way softens the harsh nature of the conditions of sub-letting. It is a very beneficial provision inasmuch as the management of the land so sub-let instead of vesting in the individual vests in the community. If the village Panchayat takes advantage of such a provision, it would prove a source of income to it.

57. *Division of holding.*—In clause 28 we have dealt with the division of a holding. As already mentioned, we have tried to avoid further fragmentation of land on such division. The present provision is contained in section 53 of the Rajasthan Tenancy Act, 1955, which prohibits division of a holding in such a manner as to result in an area less than the minimum prescribed by the State Government for each district or part of a district. The division of a holding usually takes place amongst the heirs of a tenant. A holding may comprise a number of fields bearing separate survey numbers, even not situated contiguously. To prohibit division of such fields amongst the heirs is hardly just and proper. We have, therefore, modified this section by prohibiting the division of the land of a *survey number*, except when the land of the survey number intended to be divided is in excess of the standard area. In such a case, the division may take place only when each portion on division is in excess of the standard area. Even to this there is an exception, viz., if such portion is less than the standard area, and becomes merged in a contiguous survey number, division is permitted. On the above lines a division may take place by agreement between the parties or by institution of a regular suit. If there is an existing survey number which cannot be divided on the above principles, the Court may direct an auction of the land amongst the co-sharers and if they do not show their willingness to purchase the same, the court may direct a public auction and divide the proceeds amongst the persons entitled thereto. When the matter comes to a court of law, we have provided that the court shall, as far as possible, see that each co-sharer may get some land on division. At times this will not be found possible except when the land is allotted jointly to some of the co-sharers who are willing to hold the land jointly. The

court should make an attempt in this direction as well. Failing all this, the court may allot land to one or more of the co-sharers and recompense the others by paying them cash. A serious objection to this which one may take is that by this process some of the co-sharers may be left landless. This appears to be inevitable to us in some cases, for we have to balance the advantage of prohibiting further fragmentation of the existing survey number and the disadvantage arising out of non-allotment of land to any co-sharer. After giving earnest consideration to the matter, we are of the view that the scale dips in favour of the former. The over-riding consideration is that if further fragmentation of an existing survey number, except in cases for which we have specially provided, is permitted, it would lead to the creation of such tiny plots of land that all attempts to increase agricultural production will be set at naught. The only way out of the difficulty is to provide other avenues of employment for those who inevitably become landless. The problem has to be faced and what we have suggested appears to be a just and proper solution.

58. *Improvement.*—The provisions relating to improvement are contained in Chapter IV of our Draft Bill. They are the same as the existing law, with slight modifications. The one important modification is that the State Government has been given the power to notify, in public interest, any area in which improvements relating to building of residential houses, cattle sheds etc. on holdings may not be made. This provision has been introduced as, with growing urbanisation, more and more land is likely to be required for the extension of the towns and the Government when acquiring land may have to pay unnecessarily heavy compensation. Moreover, construction of houses on holdings in a haphazard manner also hampers planned development of cities and towns. It has also been brought to our notice that agricultural land had been used by persons, who had their land in the vicinity of cities, for purposes other than agriculture. Permanent and semi-permanent structures are made on the land which cannot be deemed to be the purpose for which it was let out by the State.

59. *Trees.*—Development of forest resources is an integral part of the programme for optimum land utilisation. Forests have important productive as well as protective functions. In Rajasthan there is great need for afforestation. We need not dwell at length on the importance of afforestation in Rajasthan. The importance of creation of village forests is emphasised in the Report of the Forest Enquiry Committee, appointed by the

Government of Rajasthan, in the following words:—

“The Committee would like to invite the attention of the Government to the fact that whatever steps might be taken by the Forest Department it would never be possible to meet the entire demand of agricultural timber and fire-wood of the population of this State. It is, therefore, highly desirable to create small units of village forests through Village Panchayats wherever possible throughout the State. The Forest Department should be able to provide technical guidance and arrange for the supply of seeds and plants at nominal cost to the Village Panchayats for this purpose. It is understood that adequate finances would be available for this purpose in the Third Five Year Plan. It should be made a compulsory function of the Village Panchayat if not already done.”

60. In our opinion, the problem of afforestation cannot be tackled in Rajasthan unless every citizen of Rajasthan takes an active interest in it. In the Report of the Planning Commission on the Third Five Year Plan at page 364 we find a sentence, “individual cultivators should also be assisted in growing trees”. We, therefore, considered at length what elements we should introduce so as to encourage plantation of trees on occupied and unoccupied lands. We are definitely of the view that the State Government must make it obligatory for a tenant to reserve some portion of his holding for the purpose of planting trees. This may be done step by step. Besides affording all facilities in providing seed and saplings, the Government may grant certain concessions in rent to a tenant. A tenant who has facilities of irrigation by well, canal or bund, may be initially required compulsorily to undertake plantation of trees in a part of the holding. Later on, it may be extended to other tenants who have no such facilities. If proper facilities are afforded to the tenants in the matter of plantation of trees, they are likely to take up this programme with vigour, as, in the long run, plantation of trees, and specially fruit trees, is in no way less paying to a tenant than the production of the crops. Once the advantages of plantation of trees are realised by the tenants, they will vie with one another in doing so. With this end in view, we have inserted clause 45 in our Draft Bill, which we hope, if given effect to, will lead to plantation of trees by tenants in such numbers that each may have a small grove for himself which will add much to his material progress. As an incentive, we have provided in this clause that the restrictions which are applicable on removal of trees and the utilization of the timber thereof shall not apply

to the trees planted under this programme. We are assured that this would by itself be a source of great encouragement to the tenants in planting trees in their holdings.

61. We have also given powers to the State Government to make rules for the plantation of trees on unoccupied land. We understand this subject has been occupying the attention of the State Government for long. There was such a practice of permitting any person to plant trees, with the right over the trees, in some of the Covenanted States. This practice was stopped and there was no provision in law entitling any person to plant trees. We have inserted clause 47 in our Draft Bill giving powers to the State Government to make rules on the subject. We have also provided that the produce of the trees so planted shall vest in the planter and the interest of the planter in such trees shall be heritable and transferable in the same manner as the interest of a Khatedar tenant. We may mention here that a similar provision exists in the Madhya Pradesh Land Revenue Code, which runs as follows:—

“239. *Rights in fruit bearing trees planted in unoccupied land.*—(1) Where, before the coming into force of this Code any fruit bearing tree was planted by any person in the unoccupied land of any village, and is so recorded, then notwithstanding that such land vests in the State Government, such person, and his successor in interest shall from generation to generation be entitled to possession and usufruct of such trees without payment of any royalty or other charge whatsoever therefor.

(2) Any person desiring to plant a fruit bearing trees in the unoccupied land of any village may do so with the previous permission of a Tehsildar and the provisions of sub-section (1) shall, as far as may be, apply to the fruit bearing tree, planted in accordance with the permission obtained under this sub-section.

(3) The right conferred under this section shall be transferable but the person planting the fruit bearing tree or his successor in interest shall have no right to the corpus of such tree or the land on which it stands.

(4) If any dispute arises under this section it shall be decided by the Tehsildar whose decision shall be final.

(5) The State Government may make rules regulating the grant of permission and the exercise of the right conferred under this section.”

62. *Restrictions on removal of trees.*—In the matter of cutting of trees, we have liberalised the provisions of the existing Act to a certain extent. Under clause 44, a tenant has been given the power to remove any tree for any purpose with the prior permission of the Village Panchayat. The existing provision for obtaining permission from the Sub-Divisional Officer has not commended itself to us. In our opinion, confidence must be reposed in the Village Panchayat in this respect.

63. On the subject of removal of trees, there were two divergent views expressed before us. One view was that the restrictions on the removal of trees by the tenants should be removed. The other view was that the restrictions should be tightened. Those who take the first view take their stand on the ground that, after the fixation of ceilings, the tenant, who attaches the same importance to trees as to the land itself, is not likely to cut a tree unless there are compelling reasons to do so. The other view proceeds on the basis that it will be dangerous to rely on the tenant to that extent. We have followed a middle course and made provisions relating to removal of trees in clauses 43 and 44 and 45 of our Draft Bill.

64. The Chief Conservator of Forests expressed his opinion that some sort of permit is necessary for the movement of timber, otherwise there was a danger that trees on unoccupied land may be cut down. It was also pointed out that such a permit is necessary under the provisions of the Rajasthan Forests Act. We have considered this aspect of the matter. We do not think that we should make any such provision in the Tenancy Act.

65. With the liberalisation of the provisions relating to removal of trees and movement of the timber, thereof, we have also reduced the penalty for contravention of these provisions. In order to avoid harassment, we have thought it proper that such offences may be tried by Nyaya Panchayats. The income from forfeiture may go to the Village Panchayat thus adding to its resources.

66. *Rent.*—Here we do not propose to enter into a discussion on the question how the rent should be fixed. This we shall take up when we shall consider the provisions of the Land Revenue Act. We proceed on the assumption that the rent payable by the tenant shall be so fixed as not to be onerous to the tenant in the sense that enough shall be left to him after the

payment of the rent for his livelihood and for that of his family and for meeting the demand on agricultural operations. We are not enamoured of any theory which suggests that the payment of rent may be entirely abolished and some other tax as a substitute may be imposed. All over India, from the earliest times, payment of rent, whether in cash or in kind, has been prevalent and has been accepted by the tenants to be a satisfactory mode of discharging their obligation to the State in consideration of their occupation of the land. We have, therefore, considered that the payment of rent should be made a primary liability of the tenant as it is under the existing law. There is also no controversy on the point that the rent should be made realisable by the State through the administrative machinery. There are millions of tenants in Rajasthan and to drag the State Government to a court of law for the recovery of rent would be a suggestion which must be rejected outright. The further question is whether the tenant should incur the liability of ejection on non-payment of rent. While, on the one hand, it has been pointed out that such a step will be a retrograde step, on the other hand, it is urged that at least in law the Legislature must arm the State Government with the power of ejection and a sanction of this kind may assist materially in the collection of rent. Under the existing law, after the passing of a decree for rent, the landlord has been given the power to eject.

67. In the Report of the Committee on Tenancy Reform, referred to above, the recommendation at page 56 with regard to recovery of rent or revenue is as follows:—

“In a number of States, the principal tenure-holders can be ejected from their holdings for default of the rent or revenue payable to the State, while in some other States there is no liability of ejection. We consider that the provision for ejection should be omitted and arrears of rent or revenue may be recovered by sale of the holding. Such sales should be subject to the same conditions as have been suggested above for voluntary transfers. Land of value equivalent to the rent or revenue should be sold but not in such a way as to create a fragment.”

68. We do not think that there are any overriding considerations for us for taking the view that the tenant should be liable for ejection for non-payment of rent when the landlord is the State. The State has ample powers of realisation of rent under the provisions of the Land Revenue Act, which we shall

consider at the proper time. We also do not think that there is any necessity for maintaining the existing provision by which the landlord has been given the power to eject after the passing of the decree for rent. As between tenant and sub-tenant, the liability to eject for non-payment of rent shall be governed by the terms of the contract and a proper decree shall be passed in a court of law for ejectment, if the contract is to that effect.

69. *Ejectment.*—The provisions in the Draft Bill regarding ejectment have also been much simplified and rationalised. The grounds of ejectment of a tenant or a sub-tenant are on well recognised principles. In our opinion, ejectment by the State Government must be through the administrative machinery. We have provided ample safeguards against ejectment in the procedure laid down in clause 74. The Tehsildar has to act in a quasi-judicial manner. The appeal is to lie to the Collector, who has been given still wider powers under clause 76 to condone the faults of the tenants on such terms and conditions as he thinks fit. The use of this power in a judicious manner by such a high authority as the Collector would be a healing balm for the tenant. We have left it to the courts of law to decide cases about the recovery of rent from and ejectment of, sub-tenants.

70. *Production programme.*—So far we have dealt with the rights and liabilities of tenants and sub-tenants. We may mention at this stage one more important provision which is contained in clause 112 of the Draft Bill. By this provision we have made it incumbent on a tenant or a sub-tenant or his transferee to carry out any programme for the efficient management, utilisation and cultivation of land, for conservation and improvement of soil, for production of any specified crop or crops, or for any other similar purpose. In a nutshell this provision enables the State Government or any authority appointed by it to make the maximum use of the land. In the Report of the Planning Commission on the Third Five Year Plan, the opening paragraph of Chapter XIX relating to agricultural production is as follows:—

“Programmes of agricultural production lie at the base of the comprehensive approach to the reconstruction of the rural economy which is embodied in the Third Five Year Plan. Development of irrigation, from large as well as small works, soil conservation programmes and supplies of fertilisers, improved seed and credit, along with the provision of extension services reaching down to the village level, are measures undertaken directly to increase production. In support of these programmes,

through the community development movement, the energies of each village community as a whole are sought to be harnessed and its manpower and other resources effectively mobilised. Land reform policies aim at removing impediments to greater production due to the agrarian structure inherited from the past and to prepare the way for the development of a progressive agriculture organised on a cooperative basis. The various programmes of cooperative development which have been undertaken and will be given still greater emphasis in the Third Plan are intended to build up the necessary institutional framework for rapid economic development in rural areas such as will be of special benefit to the weaker sections of the rural population. Schemes for increasing agricultural production are closely bound up with the success of animal husbandry and dairying and the development of fisheries and of rural industry. From the aspect of long-term development, care of forest wealth, conservation of soil and moisture and the growing of village fuel plantations are of great importance. In some parts of the country rural electrification is already beginning to make a significant impact on rural life through extension of irrigation and speeding up of technological change; this impact will become progressively larger. These various aspects of agricultural development and, in particular, the specific programmes for increasing agricultural production for which the Plan provides, gain in significance when seen against the wider background of the large-scale transformation in rural life which is being brought about through successive Five Year Plans."

The State must have legislative sanction to compel a tenant to follow the programme set up by it from time to time in any area. Clause 112 further arms the State Government with power to take the management of the land in its hand, if the tenant does not follow the programme. No doubt this is a drastic power to the State Government, but in the time to come, such power may be necessary to carry out any programme for agricultural development. We cannot, however, refrain from mentioning that this power should not be utilised for experimentation.

71. Imposition of ceilings on holdings of agricultural lands.— One of the Directive Principles of State Policy laid down in the Constitution of India is that the State should direct its policy towards securing that the ownership and control of the material

resources of the community are so distributed as best to subserve the common good; and that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment.

72. In paragraph 12 of Chapter XII (Land Policy) of the First Five Year Plan, the Planning Commission suggested that "in relation to land (as also in other sectors of the economy) individual property in excess of any norm that may be proposed has to be justified in terms of public interest, and not merely on grounds of individual rights or claims. We are, therefore, in favour of the principle that there should be an upper limit to the amount of land that an individual may hold."

73. In pursuance of this suggestion, the State Government decided, by its order No. F. 4 (503) Rev. I/53, dated the 19th November, 1953, to appoint a Committee, under the chairmanship of the then Revenue Minister, Shri Mohan Lal Sukhadia, for the fixation of ceilings on holdings of agricultural lands in Rajasthan. The Committee was asked—

(1) to study the laws proposed or enacted in other States for fixing a ceiling on agricultural holdings and to recommend how far it would be advisable to adopt similar provision in Rajasthan;

(2) to study the agrarian conditions and the extent of unemployment prevailing in different parts of Rajasthan in relation to the fixation of ceilings on holdings;

(3) to examine the different sizes of holdings ranging from highest to lowest in each district and to propose a ceiling for each area. The proposed ceiling should be related to the average size of holdings and the economic need of an average family;

(4) to examine the question of payment of compensation to persons from whom land above the ceiling fixed on holdings is to be acquired and to make recommendations in respect of each sub-division;

(5) to make recommendations for the distribution of land to land-less persons and other deserving persons;

(6) to examine and report on all matters relevant to the question of fixation of ceilings on agricultural holding."

74. The Ceilings Committee appointed two sub-committees, one of which undertook an extensive tour of Rajasthan with the object of studying local conditions, gathering accurate data regarding soils, rainfalls, crop patterns, yields, expenses of cultivation, etc. and of gauging public opinion.

75. Before the Ceilings Committee could submit its report, the Second Five Year Plan was published in 1956. In the Second Five Year Plan, the Planning Commission proposed that during the Second Five Year Plan "steps should be taken in each State to impose ceilings on existing agricultural holdings" (para 37 of Chapter IX).

76. The Ceilings Committee submitted its report to the Rajasthan Government on the 5th of September, 1957. The Committee expressed the opinion that, while ceilings should be imposed, the best method of fixing ceilings in Rajasthan would be to relate ceilings to the income derived from land in the possession of the cultivating family and the figure of income to be adopted for this purpose should be Rs. 2,400/- a year exclusive of the labour of the tenant and his family but inclusive of all subsidiary income from the land. Areas of land likely to yield this income in the various districts or parts of districts in Rajasthan were worked out and a schedule showing these was appended to the Committee's report.

77. The Ceilings Committee's report was published in February, 1958.

78. The report of the Ceilings Committee was discussed in the State Legislature in April, 1958, whereafter a Bill for the imposition of ceilings was drafted. This Bill, entitled the Rajasthan Tenancy (Sixth Amendment) Bill, 1958, was introduced in the State Legislature in October, 1958. The Bill was referred to a Select Committee of the House. The Select Committee extensively amended the Bill as introduced. With the Bill as introduced was attached a schedule specifying the ceiling areas for the different tehsils of the State. These areas were expected to yield a net income of Rs. 2,400/- a year. The Select Committee omitted the schedule and proposed that the ceiling should be 30 "standard acres", one "standard acre" being an area capable of producing 10 maunds of wheat per year, or some other produce of an equivalent value. The Select Committee proposed that in calculating the produce, *chahi* land should be treated as *barani*. Another important change made by the Select Committee was in regard to the rate of compensation to be paid for the excess area to be surrendered on the application of

the ceilings. In the Bill as introduced, it was proposed that compensation should be at the same scale as is payable by the tenants of Khudkasht and sub-tenants on the accrual of Khatedari rights. The Select Committees altered this and proposed that compensation should be determined at the 'market value' in accordance with the provisions of the Rajasthan Land Acquisition Act, 1953. This was, however, charged by the House of the State Legislature.

79. The Rajasthan Tenancy (Amendment) Act, 1960 (Act No. 4 of 1960), received the assent of the President on the 12th of March, 1960. Under sub-section (2) of section 1 of the said Act, it is to come into force on such date as the State Government may, by notification in the Official Gazette, appoint. That date has not yet been appointed because, before the Act can be brought into force, rules have to be made to give effect to its provisions, and the rules could not be prepared unless the areas capable of producing ten maunds of wheat in a year, or some other produce of equivalent value in the different villages of Rajasthan, had been worked out. A special staff was doing this work under the guidance of the Settlement Commissioner, Rajasthan. The ceiling areas worked out by the Settlement Department and the draft rules entitled the Rajasthan Tenancy (Fixation of Ceiling on land) (Government) Rules, 1963, were published on the 5th of June, 1963, for inviting objections and suggestions. The last date for the receipt of such objections and suggestions was the 15th of July, 1963. In response to a resolution moved by some of the non-official members, Government agreed to a discussion of the draft rules, which discussion took place on the 10th, 11th and 12th September, 1963. We understand from Shri Kherie, Member-Secretary, that the Government now intends to bring the Amendment Act of 1960 and the rules into force very shortly.

80. So far as the principle that there should be an upper limit to the extent of land that a person should hold is concerned, there can be no two opinions on the point. This principle is sound and must be acted upon. The idea that because the average size of holding in Rajasthan is only 16.2 acres, there is no need for the imposition of ceilings is not sound. From the data collected recently, it appears that the total number of Khatas in Rajasthan is 33, 36, 945, out of which 30,63,171 holdings, or 91.7 per cent of the total, is below fifty acres. The total number of holdings between 50 and 75 acres is 1,36,292 or 4.08 per cent of the total. Holdings between 75 and 100 acres total only 55,826;

those between 100 and 150 acres, 37,716, and those between 150 and 200 acres, 18,764. A total of only 10,997 holdings is between 200 and 250 acres, while the total number of holdings exceeding 250 acres, comes to 9,929.

The districts with the largest number of holdings above 250 acres are:—

(i) Jodhpur	3,184;
(ii) Bikaner	2,355; and
(iii) Barmer	1,315.

The Alwar district has no holdings above 250 acres (and none in the 150 to 200 slab), while the Bharatpur district has only three holdings above 250 acres.

Thus in some districts in Rajasthan the land is likely to be made available for fixing the ceiling.

81. We have given anxious thought to the provisions relating to ceilings on the holdings of agricultural land in the existing law. In the Third Five Year Plan, it has been recommended that once legislation has been enacted, amendments should aim primarily at eliminating deficiencies and facilitating implementation rather than at introducing fundamental changes in the principles underlying the legislation." We consider that this is a very sound view, which we should follow and even though much can be said against the existing definitions of 'family', 'standard acre', 'ceiling area', the quantum of compensation and the other provisions relating to the imposition of ceilings, we consider that on the whole, the present law should be allowed to be implemented, otherwise it would be throwing the whole thing into the melting-pot and ceilings may not be imposed for another three or four years.

82. It is necessary for us to sound a note of warning in implementing the existing provisions. The law should be enforced in a liberal and judicious manner. It would not be, we hope, enforced in a spirit of vengeance against any party or class of persons.

After the whole scheme as embodied in Chapter III-B of the Rajasthan Tenancy Act, 1955, has been worked out, the provisions of that Chapter will become obsolete. We have, there-

fore, worked out a draft of the provisions which may be placed on the statute book later on. It is as follows:—

“1. *Maximum land that can be held.*—No person shall hold or retain in his possession as a Khatedar or Ghair Khatedar tenant land in excess of the ceiling area applicable to him.

2. *Restrictions on future acquisitions.*—Every person who is in possession of land in excess of the ceiling area applicable to him, or who comes into possession of any land as a Khatedar or Ghair Khatedar tenant acquiring it by devolution, bequest, purchase, gift, assignment, surrender or otherwise, so as to effect an increase in the extent of the land of his holding beyond the ceiling area applicable to him, shall, within six months after such acquisition, surrender such excess land to the State Government and place it at the disposal of the Tehsildar.

3. *Person in possession of excess land deemed trespasser.*—A person retaining possession of any land in excess of the ceiling area shall be deemed to be a trespasser liable to ejection from such excess land in accordance with the provisions of the Rajasthan Land Revenue Act.

4. *Exemption.*—Notwithstanding anything contained in section, the State Government may, in the public interest, exempt any person or institutions from the operation of the provisions of this Chapter.”

83 *Co-operative Farming.*—The role of co-operative farming in the reconstruction of the rural economy was stressed both in the First and the Second Plan. In the Third Plan also much stress has been laid on the expansion of co-operative farming with a view to securing rapid increase in agricultural production and rural employment with the growth of population.

84 In 1959 the Rajasthan Government appointed a Committee under the Chairmanship of the Revenue Minister to examine the question of introduction of co-operative farming on Government lands and the lands to be obtained through the imposition of ceilings on existing holdings. This Committee expressed the opinion that the co-operative tenant farming society would appeal to the agriculturist; but there should be no objection to the trial of other methods also, if a demand is made in that behalf by any locality or group. The Committee

suggested that where the necessary managerial talent is forthcoming and other essential conditions are fulfilled, and the persons to whom land is allotted prefer to organise a co-operative joint farming society and thus have complete pooling of land, labour and the resulting harvest, formation of such a society may be permitted. It also expressed the view that there should be no objection to the creation of two or even three societies in a village, or a group of adjoining villages, where the area of the available land demands the same, as the existence of a number of co-operative societies would go a long way in creating co-operative spirit and cohesion, in the minds of not only the members of the societies, but in the general tenantry as well. Even before the receipt of the Committee's report, Government had also framed rules for allotment of land to co-operative societies.

85. Co-operative Farming has, however, not made much headway in Rajasthan. Till the end of the Second Plan, only 97 co-operative joint farming societies had been organised. To gather public opinion on the subject, a specific question was included in the Questionnaire issued by the Commission. That question is No. 8 (a) and is as follows:—

“Are you in favour of co-operative farming and if so what in your opinion should be its exact form; and what steps should be taken by the Government to encourage co-operative farming?”

From the replies received it appears that many of the tenants are not in favour of co-operative farming. The main cause of the slow progress of co-operative farming in Rajasthan is the illiteracy and ignorance of the peasantry and the false fear of losing their lands entertained by them.

86. We have given serious thought to the question how co-operative farming can best be encouraged in Rajasthan. In some of the States law for compulsory formation of co-operative farming societies has been enacted. We are, however, not in its favour. Co-operative farming is a voluntary movement and there should be no question of compelling any cultivator to join a co-operative farming society. Compulsion does not bring the desired results and should be avoided as far as possible. To encourage co-operative farming, the State Government should grant as much concessions and facilities as possible and should give wide publicity to the same.

87. In Chapter VII of the Draft Bill, we have made provisions about co-operative farming. These provisions are drawn up on the lines of the provisions in West Bengal, with slight changes. In West Bengal there is a provision that persons farming co-operative societies must be owning lands in a compact block. This appears to us to be a hindrance in the formation of co-operative societies. We have thought it proper to make the law liberal on the subject. We have, therefore, inserted the provision that any ten or more Khatedar tenants holding lands in a village or two or more contiguous villages may form themselves into a co-operative society. We have kept the minimum number at ten, in view of the small size of holdings in Rajasthan. This will secure an area which may be necessary for economic agricultural operations. Under clause 81 of the Draft Bill we have given power to a member of a co-operative society to withdraw from membership after the expiry of five years and the member withdrawing is to be given back his land, if this is possible. This provision has been inserted to induce Khatedar tenants to form co-operative societies and to allay any fear that they would not get back their lands. In some of the States there is a provision that the transfer of land to the co-operative society shall not be construed to mean that the interest of the tenant in the land so transferred to the co-operative society has ceased to vest in him. This appears to us to be inconsistent with the other provisions. On the formation of a co-operative society the lands contributed by the members vest in the society. We have, therefore, not incorporated such a provision in our Draft Bill. As already stated, to encourage co-operative farming, Government should grant as much concessions and facilities as possible and we have accordingly made a provision in this respect in clause 84 of the Draft Bill. Such concessions and facilities may include reduction of rent, free supply of seeds and manure, free technical advice by experts, financial assistance, arrangements for better marketing etc.

88. *Forum.*—Any tenancy legislation cannot be complete without providing for the forum and procedure for the enforcement of any rights granted under it. In Chapters VIII and IX of the Draft Bill we have dealt with this matter. Let us first examine who are going to be the parties to the litigation for the enforcement of the rights granted under the Draft Bill. Disputes are likely to arise between—

- 1) State and tenants,
- 2) tenants and tenants,

- (3) tenants and strangers, and
- (4) tenants and their sub-tenants.

As already mentioned, the State Government has been given the power to enforce the remedies available to it by taking administrative measures. There is a further provision in clause 115 that "no suit or other legal proceedings shall lie against the State Government for anything done or ordered to be done under any of the provisions of this Act or of any rule made thereunder". Thus it is only when the State Government has acted contrary to the provisions of law that there is any legal remedy to the aggrieved person. Any suit or legal proceeding in such a case should naturally lie to a civil court. We have, therefore, to provide only for the other three classes of cases mentioned above. The litigation between these three classes will be between subject and subject and in the normal course, litigation of this type should go to a civil court. However, practically in all the States in India, most of the litigation between landlords and tenants regarding agricultural land is dealt with by the revenue courts, which have their own hierarchy, the Board of Revenue being at the top. For diverse reasons, there has been a growing demand that the revenue courts should not be entrusted to decide revenue cases. However, we have decided to recommend otherwise for reasons mentioned hereinafter. We may borrow some of the reasons given by Dr. Wade in his book "Administrative Law", while dealing with the merits and demerits of the administrative tribunals:—

"To add all this work to the tasks of the ordinary courts would not only cause a breakdown: it would also in many cases be wrong in principle. The process of the courts is elaborate, slow, and costly. Its defects are those of its merits, for the object is to give the highest standard of justice; generally speaking, the public wants the best possible article, and is prepared to pay for it. But in administering social services, the aim is different. Disputes must be disposed of *smoothly, quickly and cheaply*. The object is not the best article at any price, but the best article that is consistent with efficient administration. Moreover, many of these disputes are best decided by bodies on which technical experts can sit."

89. To some extent the administration of the provisions of the tenancy law, so far as agricultural tenancies are concerned, is akin to the administration of laws relating to social services. Disputes regarding agricultural tenancies must be disposed of smoothly, quickly and cheaply. This we have kept in mind in

drafting the provisions of Chapter IX of the Draft Bill conferring summary jurisdiction on certain Revenue Courts in matters enumerated in clauses 106, 107 and 108. We have devised a scheme in which certain matters of moment to the tenant would be efficaciously decided by the authorities functioning not far from the parties. In clause 106 it has been provided that if there is any dispute arising with regard to the right-of-way of a tenant to his field, or with regard to the source or course by which he has been availing himself of water, the Tehsildar may make a summary inquiry and grant relief to the tenant. Similarly, in regard to a dispute as to waste and pasture land, a summary remedy has been provided in sub-clause (2) of clause 106. In clause 107 much more important matter has been dealt with. If any tenant lawfully in possession of any land is dispossessed of such land without his consent, otherwise than in due course of law, he may apply to the Assistant Collector praying for possession. There was such a provision in the Rajasthan Protection of Tenants Ordinance, 1949. In the existing law also there is such a provision. However, the phraseology that has been employed in clause 107 is that relief can be obtained not only when there is dispossession by a person having a superior right, but even when the dispossession is by a stranger. Under the existing law if there is a danger of the breach of the peace, section 145 of the Code of Criminal Procedure may be invoked by the person dispossessed or likely to be dispossessed. A suit may also be filed under section 9 of the Specific Relief Act by the person who is dispossessed. We have thought it proper that a tenant or a sub-tenant actually cultivating the land, when dispossessed unlawfully, should be able to recover the possession without undue delay and should be able to retain it till he is ejected in due course of law. Clause 107 aims at achieving this object in a more efficacious manner. Summary jurisdiction under clause 108 has been given to the Assistant Collector when the mortgagor wants possession back from the mortgagee after satisfaction of the mortgage debt. To put an end to litigation we have also provided that the Assistant Collector may also order payment of mesne profits, both past and future. For deciding all these disputes, reference to revenue record is very often necessary, and we have provided in clause 109 that the Assistant Collector shall have the power to refer to them. Thus this is the scheme for getting matters, which may be of every day occurrence, dealt with in a just, expeditious and cheap manner.

90. The question that now remains is whether it is necessary to provide an hierarchy of revenue courts and the

procedure governing them for deciding other matters by regular suits. One view is that all matters in which there is dispute between subject and subject, though they may relate to agricultural land, should be decided by civil courts. The other view is that certain matters may still be left to be dealt with by the revenue courts. If the first view is adopted, it would mean the abolition of the revenue courts, except in so far as they are necessary for deciding matters already entrusted to them. We consider that it would be too drastic a step. There is yet another important consideration. The Board of Revenue serves a useful purpose in so many respects. The State Government, while carrying out its multifarious duties, may find it necessary that such a body should remain in existence, so that the matters which require quasi-judicial approach may be entrusted to that body. It cannot be denied that this body has a tradition of impartiality and independence in imparting justice between subject and subject, and subject and the State. This tradition has long history behind it. In fact it has been inherited by it from its forerunners in the Covenanting States. We do not deem it proper that such a body should be abolished. As to the constitution of the Revenue Board, we have our own recommendations which we would make at the appropriate time. If the Revenue Board is to exist, it is necessary that certain matters under the Rajasthan Tenancy Act may continue to be decided by the revenue courts.

91. *Delay in disposal of Revenue cases.*—Coming to the point of delay, it was brought to our notice that litigation in revenue courts also takes much time. Sometimes the Revenue Officers are so absorbed—we restrain ourselves from using any strong expression in other work that they do not find time to attend to the judicial work. This state of affairs is highly undesirable. The very purpose of the existence of the revenue courts is that they will deal with the matters expeditiously, and if this purpose is defeated, their existence is at stake. We hope that the Revenue Board, which is the highest revenue court even under our scheme, shall exercise its power of superintendence to put an end to this state of affairs.

92. *Suits to be tried by Revenue Courts.*—Now we come to the nature of the work that we have thought it necessary to entrust to the revenue courts. We have enumerated this in clause 92 of the Draft Bill, which provides as follows:—

“The revenue courts shall have jurisdiction to decide, in accordance with the provisions of this Act, all suits of

- (b) suit by a tenant against a sub-tenant for ejection;
- (c) suit by a sub-tenant against a tenant for recovery of possession;
- (d) suit by or against a tenant or sub-tenant for the recovery of arrears of rent or any other relief on the basis of the contract of sub-tenancy or any breach thereof;
- (e) suit in which the plaintiff claims relief on the basis of the provisions of sub-section (2) of section 20, section 68, or section 69;
- (f) suit regarding enhancement or abatement of rent."

Sub-clause (2) of clause 20, referred to above, relates to taking any person in partnership for purposes of cultivation on such terms and conditions as may be agreed upon; clause 68 relates to the right of a co-tenant and a sub-tenant to recover sums paid; and clause 69 relates to contract for the payment of irrigation dues or nalbat. Thus all matters in which the dispute is between tenants and tenants and between tenants and their sub-tenants have been entrusted to the revenue courts. Disputes regarding division of holding have also been entrusted to revenue courts as it considered that the revenue courts will be in a better position to deal with these matters. A suggestion was made to us that suit for ejection by a tenant of a trespasser should also be entrusted to revenue courts. As already mentioned, we have provided summary remedy in this matter. We do not think that the jurisdiction of the revenue courts should extend beyond this. Revenue courts have been given exclusive jurisdiction to decide the matters enumerated in clause 92. The suits relating to these matters may take any form, but they are to be filed in a revenue court and not in any other court. The Assistant Collector will be the lowest court dealing with these matters, and an appeal shall lie to the Collector, who, we hope, will find time to decide the same. We have abolished the Revenue Appellate Authority. The existence of separate Revenue Appellate Authorities is not necessary in view of the limited amount of work that will go in appeal, and also for the reasons that there are only four such Authorities in the whole of the State and it would be convenient to go in appeal to the Collector. A second appeal has been provided to the Board under the limited circumstances mentioned in section 100 of the Code of Civil Procedure. We have also

provided that there shall be an appeal only from final orders and such orders as are mentioned in section 104 of the Code of Civil Procedure and no others. We have made the provisions of the Code of Civil Procedure applicable to the proceedings before the revenue courts.

93. *Court-fees.*—We have modified the provisions of the Court-fees Act in regard to the suits and applications to be filed before the revenue courts. Irrespective of the valuation of the suit, we have provided that a plaint, written statement pleading a set off or counter-claim, or memorandum of appeal presented to any revenue court should be stamped with a court-fee of rupees five only. This is no doubt a rough and ready method of computing the court-fees; but it has the obvious advantage of definiteness. The amount fixed is also meagre and would not add to the cost of litigation, and thus unnecessarily burden the tenant.

94. *Period of limitation.*—We have provided in clause 92 (3) the period of limitation within which suits are to be filed in revenue courts. The period of limitation for a suit for division of holdings is twelve years, which is the same as in the Limitation Act. A tenant may file a suit for ejection against his sub-tenant within six years. In this respect we have reduced the period of limitation provided under Article 139 of the Limitation Act, which is twelve years. When a sub-tenant wants to eject a tenant, the period of limitation is only one year, for it was thought that in the nature of things a longer period was not necessary. In other matters we have provided three years period of limitation, which is in consonance with the provisions of the Limitation Act. In clause 103 we have provided that the provisions of the Limitation Act, 1908 shall apply to suits, appeals, applications and proceedings under this Act, unless otherwise expressly provided. This is necessary as it is intended that the general provisions contained in Part I to Part V of the Limitation Act should continue to apply to suits filed before the revenue courts. Further, where provision has not been made prescribing the period of limitation for any suit the provisions of the Limitation Act should continue to apply. We have also provided in this clause that in other matters the period of limitation prescribed in the First Schedule to the Limitation Act, if it is longer than the period of 12 years, should be deemed to be curtailed to 12 years. This was considered necessary, as in our view even suits for redemption of mortgage etc. of agricultural

land should be filed within 12 years. This curtailment of the period of limitation does not affect the State Government.

95. *Nyaya Panchayats and Revenue cases.*—In time to come it may be found that some of the work which may be entrusted to the revenue courts may be entrusted to the Nyaya Panchayats. In some States Nyaya Panchayats have jurisdiction to try suits for the recovery of rent. Conferment of such jurisdiction on the Nyaya Panchayats for the time being is not favoured by the Study Team on Nyaya Panchayats. Their observations in this respect are as follows:—

“Suits for the recovery of rent relate to immovable property, and advisedly suits relating to immovable property are for the time being kept outside the jurisdiction of Nyaya Panchayats. In this connection it may be noted that such suits, if they do not relate to house rent are ordinarily outside the purview of even the regular courts of small causes and in the villages such suits would more often than not relate to rent of land. In one or two Acts suits for rent are subject to the modification that the contract must be in writing and signed by the defendant. Even with this exception, we do not think that rent suits should be cognizable by Nyaya Panchayat for the time being.”*

As the institution of Nyaya Panchayats develops and is put on the footing of a court of law, it may be considered proper that some of the matters in which jurisdiction has been conferred exclusively on the revenue courts may be transferred to the Nyaya Panchayats. When such a time comes, it would be for consideration whether the rest of the matters may be transferred to the civil courts and the revenue courts abolished altogether. For the present we are in favour of the set up suggested by us.

- (1) Sd. Doulatmal Bhandari.
- (2) Sd. Ram Prasad Ladha.
- (3) Sd. Shobharam.
- (4) Sd. Sohan Lal Bhatnagar.
- (5) Sd. Rama Nand Agrawal (Subject to note of dissent).
- (6) Sd. Manikchand Surana (Subject to a note of dissent).
- (7) Sd. Moti Lal Chowdhari.

*Report of the Study Team on Nyaya Panchayats, April, 1962, pp. 73-74.

- (8) Sd. Mathuresh Behari Mathur.
- (9) Sd. Basheshwar Nath Bhargava.
- (10) Sd. Shyam Lal.
- (11) Sd. Kanwar Bahadur.
- (12) Sd. R. N. Hawa.
- (13) Sd. G. S. Mehta.
- (14) Sd. Sharma Ramesh Chandra.
- (15) Sd. Gokulbhai D. Bhatt.
- (16) Sd. Durga Lal Bardar.
- (17) Sd. Yashwantsingh Nahar.
- (18) Sd. A. A. Kherie.

PART II
(APPENDICES)

APPENDIX I

DRAFT BILL

THE RAJASTHAN TENANCY BILL

(Bill No.)

A

Bill

to amend the law relating to tenancies of agricultural lands.

WHEREAS, in consequence of the abolition of the intermediaries, it is expedient to simplify the existing tenancy laws and to provide for certain measures of land reforms and matters connected therewith;

BE it enacted by the Rajasthan State Legislature in the year of the Republic of India as follows:—

CHAPTER I

Preliminary

1. *Short title, extent and commencement.*—(1) This Act may be called the Rajasthan Tenancy Act, 196 .

(2) It extends to the whole of the State of Rajasthan.

(3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint in this behalf.

2. *Repeal.*—(1) On and from the date of the coming into force of this Act, so much of the Rajasthan Tenancy Act, 1955 (Act 3 of 1955) as relates to the matters covered by the provisions of this Act, and all other provisions of the said Act relating to tenants holding land directly from the State Government, and the sub-tenants of such tenants, are hereby repealed.

(2) Nothing contained in sub-section (1) shall be deemed to repeal any of the provisions of Chapter III-B of the Rajasthan Tenancy Act, 1955 (Act 3 of 1955)—“Restrictions on holding land in excess of ceiling area.”

(3) Notwithstanding such repeal, any appointment, notification, notice, order, rule, or form made or issued under the Rajasthan Tenancy Act, 1955 (Act 3 of 1955), shall be deemed to have been made or issued under the provisions of this Act in so far as such appointment, notification, notice, order, rule or form is not inconsistent with the provisions of this Act or the rules made thereunder, and shall continue to be in force unless and until it is superseded by any appointment, notification, notice, order, rule, or form made or issued under this Act.

(4) The provisions of sub-section (3) shall be without prejudice to the provisions of the Rajasthan General Clauses Act, 1955 (Act 8 of 1955), which shall apply to the repeal of the law mentioned in sub-section (1).

3. *Saving*.—Nothing in this Act or in the rules made thereunder shall in any way affect the provisions of the Rajasthan Bhoodan Yagna Act, 1954 (Act XVI of 1954), and the Rajasthan Gramdan Act, 1960 (Act 3 of 1960) and the rules made thereunder, or anything done or deemed to have been done under or in pursuance of those provisions.

4. *Provision for pending suits etc.*—Notwithstanding anything contained in section 2, all suits, cases, appeals, applications, references and proceedings pending before a court on the coming into force of this Act shall continue to be governed by the law in force at the time of the commencement of this Act as if this Act had not been passed.

5. *Definitions*.—In this Act, unless the context otherwise requires—

(1) ‘agricultural year’ means the year commencing on the first day of July and ending on the thirtieth day of June next following;

(2) ‘agriculture’ includes—

(i) the raising of annual or periodical crops and garden produce;

(ii) horticulture;

(iii) the planting and upkeep of trees;

(iv) the breeding of cattle, camels, sheep or goats; and poultry; or

(v) the use of land for growing fodder, or thatching grass or for grazing;

(3) 'agriculturist' means a person who earns his livelihood wholly or mainly from agriculture and includes an agricultural labourer or a village artisan;

(4) 'Assistant Collector' means an Assistant Collector appointed under any law for the time being in force and wherever Assistant Collector is mentioned in this Act with reference to any land, the Assistant Collector in whose jurisdiction the land is situated;

(5) 'Board' means the Board of Revenue for Rajasthan established and constituted under any law for the time being in force;

(6) 'Code' means the Code of Civil Procedure, 1908 (Act V of 1908), as amended from time to time by Parliament, or by the Rajasthan State Legislature, or by the High Court of Judicature for Rajasthan;

(7) 'Collector' means a Collector or an Additional Collector appointed under any law for the time being in force; and wherever Collector is mentioned in this Act with reference to any land, the Collector in whose jurisdiction the land is situated;

(8) 'fragment' means a plot of land of extent less than the standard area;

(9) 'Grover-land' means any specific piece of land in any part of the State having trees planted thereon in such numbers that they preclude, or, when full grown, will preclude, such land or any considerable portion thereof from being used primarily for any other agricultural purpose; and the trees so planted shall constitute a grove; and the holder of such land shall be a grove-holder;

(10) 'holding' means a parcel or parcels of land, held under one lease, engagement or grant, or, in the absence of such lease, engagement or grant, under one tenure;

(11) 'Improvement' means, with reference to a tenant's holding,—

(a) a dwelling house erected on the holding by the tenant for his own occupation or a cattle-shed or a store-house or any other construction for agricultural purposes erected or set up by him on his holding;

(b) any work which adds materially to the value of the holding and which is consistent with the purpose for which it was let;

and subject to the foregoing provisions of this clause, shall include—

(1) the construction of bunds, tanks, wells, water-channels and other works for the storage, supply or distribution of water for agricultural purposes;

(2) the construction of works for the drainage of land or for its protection from floods or from erosion or from other damage by water;

(3) the reclaiming, clearing, enclosing, levelling or terracing of land;

(4) the planting of trees;

(5) the renewal or reconstruction of any of the foregoing works or such alterations therein or additions thereto as are not of the nature of mere repairs;

but shall not include such temporary wells, water-channels, bunds, enclosures, or other works as are made by tenants in the ordinary course of cultivation;

(12) 'land' means a portion of the earth's surface whether or not under water; and, where land is referred to in this Act, it shall be deemed to include all things attached to, or permanently fastened to anything attached to, such land and shall also include benefits which arise out of land; but shall not include Abadi land or State forest land;

(13) 'nalbat' means a payment in cash or in kind to the owner of a well by some person for using that well for irrigation;

(14) 'Nyaya Panchayat' means a Nyaya Panchayat constituted under section 27 B of the Rajasthan Panchayat Act, 1953 (Act XXI of 1953), or any other law for the time being in force;

(15) 'Panchayat' means a Panchayat established under the Rajasthan Panchayat Act, 1953 (Act XXI of 1953), or any other law for the time being in force;

(16) 'pasture land' means land used for the grazing of the cattle of a village or villages, or recorded in settlement records as such at the commencement of this Act, or thereafter reserved as such in accordance with the rules framed by the State Government.

(17) 'pay' with all its grammatical variations and cognate expressions, shall, when used with reference to rent, include 'deliver' with all its grammatical variations and cognate expressions;

(18) 'rent' or 'revenue' means whatever is in cash or in kind, or partly in cash and partly in kind, payable on account of the use or the occupation of the land, or on account of any right in land, and, unless the contrary intention appears, shall include sayar;

(19) 'Revenue Court' means a court or an officer having jurisdiction to entertain suits or other proceedings relating to agricultural tenancies, profits and other matters connected with land or any right or interest in land, wherein such court or officer is required to act judicially; it shall include the Board, a Collector, an Assistant Collector, a Tehsildar or any other revenue officer or authority while so acting;

(20) 'sayar' includes whatever is to be paid by a lessee or a licensee on account of the right to gather from un-occupied land such produce as grass, thatching grass, wood, fuel, fruits, lac, gum, loong, pala, panni, water-nuts or the like, or such refuse as bones or dung lying scattered on the surface, or on account of fisheries, or forest rights, or the use of water for irrigation purposes from artificial sources;

(21) 'scheduled caste' means any of the castes, races, or tribes, or members of, or groups within, the castes or tribes, specified in part XIV of the Constitution (Scheduled Castes) Order, 1950;

(22) 'scheduled tribe' means any of the tribes, tribal communities, as parts of, or groups within the castes or tribes or tribal communities, specified in Part XII of the Constitution (Scheduled Tribes) Order, 1950;

(23) 'settlement' means settlement or resettlement of rent or revenue or both and shall include a summary settlement under the Rajasthan Lands Summary Settlement Act, 1953 (Act XIX of 1953);

(24) 'standard area' means the area which the State Government may, from time to time, notify as the minimum area necessary for profitable cultivation in any particular area;

(25) 'sub-tenant' means a person in any part of the State by whatever name designated who holds land from the tenant thereof or his mortgagee and by whom rent is, or but for a contract express or implied would be, payable;

(26) 'Survey number' means the survey number as recognised from time to time in the record of rights;

(27) 'Tehsildar' means a Tehsildar or an Additional Tehsildar appointed under any law for the time being in force; and wherever 'Tehsildar' is mentioned in this Act with reference to any land, the Tehsildar in whose jurisdiction the land is situated;

(28) 'tenant' means a person holding land for agricultural purposes or purposes sub-servient thereto directly from the State Government, by whom rent is, or but for a contract express or implied would be, payable;

(29) 'village service grant' means a grant in any part of the State, by whatsoever name designated, whether rent-free or at a favourable rate of rent, or on other terms made in lieu of, or as remuneration for, some specific service to be performed to the village community or in the village administration, and the holder of such a grant shall be called a 'village servant'.

6. *Possessors of rights, etc., include their predecessors and successors.*—All words and expressions used in this Act to denote the person in possession of any right, title or interest in land, shall, unless the context otherwise requires, be deemed to include the predecessors and successors in right, title or interest of such person.

7. *Applicability of the Act to State Government.*—The provisions of this Act shall, unless expressly provided otherwise, apply to the State Government in respect of land held by tenants from the State Government.

8. *Tehsildar to be the agent of the State Government.*—
(1) Subject to the provisions of this Act, or any other law for the time being in force, and in the absence of any general or special order of the State Government to the contrary, the Tehsildar shall be deemed:—

(a) to be authorised to exercise all the powers and functions of a landlord on behalf of the State Government under this Act;

(b) to be authorised to act on behalf of the State Government in respect of any proceedings under this Act; and

(c) to be the recognised agent by whom appearances, applications, and acts under this Act may be made or done on behalf of the State Government.

(2) The Tehsildar shall be the agent of the State Government for the purpose of receiving processes for the State Government issued by any court under this Act.

CHAPTER II CLASSES OF TENANTS

9. *Classes of tenants.*—(1) There shall be the following classes of tenants holding land directly from the State Government:—

- (a) Khatedar tenants, and
- (b) Ghair Khatedar tenants.

(2) A person who, immediately before the commencement of this Act, was a Khatedar tenant in accordance with the provisions of the Rajasthan Tenancy Act, 1955 (Act 3 of 1955), or who was entitled to the rights, and subject to the liabilities, of a Khatedar tenant under the said Act or under any other law for the time being in force, or who, after the commencement of this Act, is granted Khatedari rights in accordance with the provisions of any law for the time being in force, shall be a Khatedar tenant.

(3) A tenant who is not a Khatedar tenant shall be a Ghair Khatedar tenant.

Explanation.—A tenant holding land temporarily or for a fixed period, or on specified conditions, or as a village service grant shall be a Ghair-Khatedar tenant.

10. *Grove-holder deemed to be a Khatedar tenant on the commencement of the Act.*—On and from the date of the coming into force of this Act, a grove-holder shall become a Khatedar tenant of the land in which he had, immediately before such commencement, the rights of a grove-holder as provided for in the Rajasthan Tenancy Act, 1955 (Act 3 of 1955), and, unless otherwise provided in this Act, shall have all the rights and be subject to all the liabilities of a Khatedar tenant under this Act.

11. *Power of the State Government to grant Khatedari rights and leases.*—(1) The State Government may grant Khatedari rights to any person in any land, and such person shall be entitled to all the rights, and be subject to all the liabilities, of a Khatedar tenant as provided under this Act.

(2) The State Government may grant Ghair Khatedari rights to any person in any land, and such person shall be entitled to all the rights, and be subject to all the liabilities, of a Ghair Khatedar tenant.

12. *Lands in which Khatedari rights shall not accrue or be granted.*—Notwithstanding anything contained in this Act or in any other law for the time being in force in any part of the State, Khatedari rights shall not accrue or be granted in—

- (i) pasture land;
- (ii) land used for casual or occasional cultivation in the bed of a river or tank;
- (iii) land covered by water and used for the purpose of growing singhara or other like produce;
- (iv) land under shifting or unstable cultivation;
- (v) land comprised in gardens owned or maintained by the State Government;
- (vi) land acquired or held for a public purpose or a work of public utility;
- (vii) land which, at the commencement of this Act or at any time thereafter, is set apart for military encamping grounds;
- (viii) land situated within the limits of a cantonment;
- (ix) land included within railway or canal boundaries, or boundaries of an aerodrome or a landing strip;
- (x) land of any Government forest;
- (xi) municipal trenching grounds;
- (xii) land held or occupied by educational institutions;
- (xiii) land of a Government agricultural or grass farm;
- (xiv) land which has been set apart or is, in the opinion of the Collector, necessary for the flow of water thereon into any reservoir for drinking water for a village or for surrounding villages; and

(xv) land in any area which has been, or may hereafter, from time to time, be, notified by the State Government as land in which Khatedari rights are not to accrue:

Provided that the State Government may, by notification in the Official Gazette and subject to such terms and conditions as it may impose, declare that the aforesaid restrictions shall cease to be operative in respect of any land mentioned above.

CHAPTER III

Devolution, Transfer and Extinction of tenancies.

General

13. *Interest of tenants.*—(1) The interest of a Khatedar tenant in his holding shall be heritable and transferable in accordance with the provisions of this Act.

(2) The interest of a Ghair Khatedar tenant in his holding shall be heritable in accordance with the provisions of this Act but not transferable except in so far as provided in this Act.

(3) The interest of a Sub-tenant in his holding shall be heritable in accordance with the personal law to which he is subject at the time of his death but not transferable.

Devolution of tenancies.

14. *Succession to tenants.*—When a Khatedar or Ghair Khatedar tenant dies intestate, his interest in his holding shall devolve in accordance with the personal law to which he is subject at the time of his death:

Provided that when there are male and female heirs succeeding simultaneously, the female heirs shall not be entitled to any land of the deceased, but shall be recompensed for their share in cash, and such cash amount shall be a charge on the land in the hands of the male heirs or such of them as have not paid their share of the cash amount.

Transfer of tenancies.

15. *Sale, gift or bequest.*—(1) Subject to the provisions of this Act, a Khatedar tenant shall have the right to sell, gift or

bequeath his interest in his holding or part thereof, and any sale, gift or bequest in contravention of the provisions of this Act shall be void.

(2) No Ghair Khatedar tenant or a sub-tenant shall have the power to sell, gift or bequeath his interest in his holding or part thereof.

16. *General restrictions on sale, gift and bequest.*—The sale, gift, or bequest by a Khatedar tenant under section 15 shall be void—

(a) if it is not of a survey number except when the area of the survey number so sold, gifted or bequeathed is in excess of the standard area, in which case also the area not transferred shall not remain a fragment:

Provided that this restriction shall not apply if the area so transferred becomes merged into a contiguous survey number:

Provided further that this restriction shall not apply if the sale, gift or bequest is of the entire undivided interest of a tenant in his survey number.

(b) if such sale, gift, or bequest is by a member of a scheduled caste in favour of a person who is not a member of the scheduled caste or by a member of a scheduled tribe in favour of a person who is not a member of the scheduled tribe.

17. *Pre-emption.*—(1) If, after the commencement of this Act, a Khatedar tenant transfers by sale, his interest in his holding or part thereof, the following persons shall have the right to pre-empt in the order of preference given below:—

(i) a co-tenant;

(ii) a sub-tenant who has been cultivating the land of a survey number sold continuously for three years before the date of the sale, for such survey number and no other;

(iii) a Khatedar tenant of a contiguous survey number:

Provided that there shall be no right of pre-emption in case the transferee falls in any of the categories mentioned above.

(2) The pre-emptor may file a suit for pre-emption in a competent court and if the suit succeeds, such court shall, after determining the valuation of the property if the sale price is in dispute, pass a decree for pre-emption.

(3) If there are more claimants than one under clause (i) of sub-section (1), they shall be granted a joint decree for pre-emption providing equal shares in the land.

(4) If there are more claimants than one under clause (iii) of sub-section (1), the decree shall be passed in favour of the person who has the smallest holding and if such persons are more than one, they shall be granted a joint decree for pre-emption providing equal shares in the land.

18. *Mortgage*.—(1) A Khatedar tenant, or, with the general or special permission of the State Government, a Ghair Khatedar tenant, may hypothecate or mortgage his interest in the whole or part of his holding for the purpose of obtaining loan from the State Government or a Land Mortgage Bank as defined under the Rajasthan Co-operative Land Mortgage Bank Act, 1956 (Act 38 of 1956) or a Co-operative Credit Society registered or deemed to be registered as such under the Rajasthan Co-operative Societies Act, 1953 (Act IV of 1953), or any other institution notified by the State Government in that behalf.

(2) A Khatedar tenant may transfer his interest in the whole or part of his holding in the form of a usufructuary mortgage to any person but such mortgage must provide that the mortgage amount shall be deemed to be paid off by the usufruct of the property within a specified time not exceeding ten years, and in the absence of such period being specified such mortgage shall be deemed to be for ten years.

(3) A usufructuary mortgage under sub-section (2) shall, upon the expiry of the period mentioned hereinbefore, be deemed to have been satisfied in full without any payment whatsoever by the mortgagor, and the mortgage debt shall be deemed to have been extinguished and the mortgage land redeemed and the possession thereof shall be delivered by the mortgagee to the mortgagor free from all encumbrances.

(4) If the mortgagee does not so redeliver the possession of the land, he shall be ejected in accordance with the provisions of section 108, or in execution of a decree of a competent court.

19. *Provisions in relation to mortgages of agricultural holdings effected before the commencement of the Act.*—Notwithstanding anything contained in the preceding section, a mortgage effected before the commencement of this Act and the rights and liabilities of the parties to such mortgage shall continue to be governed by the provisions of the Rajasthan Tenancy Act, 1955 (Act 3 of 1955), and in case of non-delivery of possession by the usufructuary mortgagee, the remedy provided under section 108 may be availed of.

20. *Crop-sharing.*—(1) A tenant shall not enter into any agreement with any person for crop-sharing except as provided in sub-section (2), and an agreement in contravention of this provision shall be void.

(2) A tenant may take any person in partnership for purposes of cultivation on such terms and conditions as may be agreed upon only when the tenant himself cultivates the land.

Explanation.—A tenant shall be deemed to be cultivating the land himself if he cultivates the land by his own labour or by the labour of any member of his family.

21. *Right to sub-let.*—A tenant may sub-let the whole or any part of his holding subject to such restrictions as are imposed by this Act, and any sub-letting in contravention of such restrictions shall be void:

Provided that no such sub-letting shall in any way relieve the tenant of any of his liabilities to the State Government.

22. *Restrictions on sub-letting.*—(1) A tenant may sub-let his land to the Village Panchayat, or with the prior permission of the Village Panchayat, and where there is no Village Panchayat, with the prior permission of the prescribed authority, to any person.

(2) Such permission shall be granted for a maximum period of five years and only when the Village Panchayat or the prescribed authority is satisfied that there are *bona fide* reasons for the tenant not to cultivate the land himself and that the land is likely to remain uncultivated if such permission is not granted.

(3) No sub-tenant shall sub-let the whole or any part of his holding unless he belongs to any of the categories (a) to (k) mentioned in sub-section (1) of section 23.

23. *Sub-letting in exceptional cases.*—(1) The restrictions imposed on sub-letting under section 22 shall not apply to:—

- (a) a Village Panchayat; or
- (b) a minor; or
- (c) a lunatic; or
- (d) an idiot; or
- (e) a woman who is unmarried or divorced, or is a widow; or
- (f) a person incapable of cultivating his holding by reason of blindness or other physical disability or infirmity; or
- (g) a person who is a member of the armed forces of the Union; or
- (h) a person who is suffering detention or confinement in prison; or
- (i) a person not exceeding twenty-five years of age, who is a student prosecuting his studies in a recognised institution; or
- (j) a usufructuary mortgagee under sub-section (2) of section 18 in case the land is sub-let to the mortgagor; or
- (k) any other person or class of persons or any institution whom or which Government may, by notification in the Official Gazette, exempt from such restriction:

Provided that where the land of a holding is held jointly by more persons than one the provisions of this section shall not apply unless all such persons are of one or more of the descriptions specified therein:

Provided further that the first proviso shall not apply to a person who is a member of the armed forces of the Union.

(2) A sub-lease which would be invalid but for the provisions of sub-section (1) shall not remain in force for more than two years after the lessor dies or ceases to come within any of the descriptions specified therein.

24. *Special provision for sub-letting by members of scheduled castes and scheduled tribes.*—Notwithstanding anything

contained in sections 21, 22 and 23, no tenant or a sub-tenant who is a member of a scheduled caste or a scheduled tribe shall sub-let, except to the Village Panchayat, the whole or any part of his holding under the said sections to any person who is not a member of a scheduled caste or a scheduled tribe.

25. *Successor bound by sub-lease.*—The successor-in-interest of a tenant or a sub-tenant who has sub-let shall be bound by the terms of the sub-lease in so far as they are not inconsistent with the provisions of this Act.

Exchange of tenancies.

26. *Exchange of land.*—(1) Subject to the provisions of section 16, a Khatedar tenant may exchange his holding or part thereof with any other Khatedar tenant.

(2) A Khatedar tenant may make an application to the prescribed authority for the grant of unoccupied Government land in exchange for his land and such prescribed authority may, after such enquiry as it may deem proper grant any unoccupied Government land in exchange for the land surrendered by such Khatedar tenant.

27. *Rights and Liabilities in land allotted in exchange for other lands.*—Save as otherwise provided by any law for the time being in force, each party to the exchange shall have the right, and be subject to the liabilities, of a seller as to that which he gives, and shall have the right, and be subject to the liabilities, of a buyer as to that which he takes.

Division of tenancies.

28. *Existing survey number not to be divided on division of holding.*—The land of a holding shall not be so divided as to result in the division of the land of an already existing survey number, except when the land of the survey number which is intended to be divided is in excess of the standard area and each portion on division is also in excess of the standard area, or, if, such portion is less than the standard area, it becomes merged into a contiguous survey number.

29. *Division of holding how effected.*—(1) A division of a holding shall be effected in the following manner:—

- (i) by agreement between the co-tenants in respect of such division of the holding in accordance with the provisions of this Act, or

- (ii) by a decree passed in a suit instituted by one or more of the co-tenants in a competent court for the purpose of dividing the holding.

(2) On institution of a suit for the division of a holding, the court shall give notice to the Tehsildar in whose jurisdiction the land is situate and the Tehsildar may apply to the court that the State may be made a party and the court thereupon shall make the State a party.

(3) A suit for the division of more than one holding may be instituted, provided that the parties are the same.

30. *Procedure for division in certain cases.*—(1) In a suit for the division of a holding the court, after determining the value of the land in the prescribed manner, shall, as far as possible, without disregarding the provisions of section 28, allot land to the co-sharers jointly in the case of those who agree to it, otherwise individually; but where this cannot be done, the Court may direct a sale of any land in the manner laid down in sub-section (2) and thereafter divide the sale proceeds amongst them to adjust their claims.

(2) The court shall put the land for auction amongst the co-sharers and shall sell it to the highest bidder and if none of the co-sharers is willing to purchase the same, the court shall order a public auction of the same.

Surrender of tenancies.

31. *Surrender.*—A tenant may surrender his entire holding by making an application in writing and delivering possession thereof to the Tehsildar, whether such holding is or is not sub-let or mortgaged; but the Tehsildar may, for reasons to be recorded, accept the surrender of a part of the holding:

Provided that if such surrender is not made on or before the 1st of May, the tenant shall be liable for the rent of the holding for the agricultural year next following the date of surrender.

32. *Surrender by sub-tenant.*—A sub-tenant may, at any time, surrender his interest in his holding to the person who has let the land to him; but he shall not be held to have surrendered the land under sub-lease unless he has made an application for such surrender to the Tehsildar and the Tehsildar has verified the same from him.

Extinction of tenancies.

33. *Tenancy when extinguished.*—(1) The interest of a tenant or a sub-tenant, as the case may be, in his holding or a part thereof, shall be extinguished—

(i) When he dies leaving no heir entitled to inherit in accordance with the provisions of this Act; or

(ii) when he surrenders it in accordance with the provisions of this Act; or

(iii) when he has lost his right in the holding under the provisions of this Act or under any other law for the time being in force.

(2) The extinction of the interest of a tenant shall not operate to extinguish the interest of any sub-tenant holding under him and if, after the expiry of the term of the sub-lease, the land is re-allotted, such sub-tenant may be given preference in allotment.

34. *Taking possession by the Tehsildar on extinction.*—The Tehsildar shall have the power to take possession of the holding of the tenant whose tenancy has extinguished.

CHAPTER IV

*Improvements and Trees.**Improvements.*

35. *Right of Government to make improvements.*—The State Government may make any improvement on or affecting any land throughout the State.

36. *Right of Khatedar tenants to make improvements.*—(1) A Khatedar tenant may make any improvement in his holding:

Provided that any such improvement as is referred to in sub-clause (a) of clause (11) of section 5 shall be made only on an area not exceeding one-fiftieth of the total area of the holding or such area within this limit as may be prescribed, whichever is less; but in no cases such areas shall be less than 150 square yards:

Provided further that no such improvement, as is referred to in sub-clause (a) of clause (11) of section 5, shall be made, except with the sanction of the Tehsildar applied for and accorded in the prescribed manner, within the area which may be notified by the State Government from time to time restricting the making of such improvements in the public interest.

(2) Notwithstanding anything contained in sub-section (1), no sanction shall be necessary for the construction of temporary structures.

(3) Any improvement made in a holding shall form part of the holding.

37. *Right of other tenants to make improvements.*—Subject to the restrictions imposed by the first and second provisos to sub-section (1) of section 36, a Ghair Khatedar tenant or a sub-tenant may make any improvement but he shall not be entitled to any compensation on ejection unless for making such improvement he has obtained the previous orders of the Tehsildar, or the written permission of the Khatedar tenant, as the case may be.

38. *Detrimental acts prohibited.*—Nothing in this Chapter shall entitle a tenant or a sub-tenant to do anything which is detrimental to the land in the holding or diminishes its letting value or productive capacity.

39. *Liability to full rent.*—A tenant or a sub-tenant making an improvement shall continue to be liable to pay the full rent of the holding.

Trees.

40. *Tenant's right in trees existing at the commencement of Act 3 of 1955.*—Notwithstanding anything contained in this Act or any custom or contract to the contrary, scattered trees standing on the holding of a Khatedar tenant at the commencement of the Rajasthan Tenancy Act, 1955, (Act 3 of 1955) shall be deemed to have vested in such tenant:

Provided that where such trees were the property of any other person at the commencement of the aforesaid Act, such person shall be entitled to compensation in accordance with the provisions of the Rajasthan Tenancy Act, 1955 (Act 3 of 1955), and the rules framed thereunder; but the non-payment of compensation will not in any way affect the vesting of the property in the trees in the Khatedar tenant.

41. *Tenant's right to plant trees.*—A tenant or a sub-tenant may plant trees on his holding provided that such trees do not diminish the productive value of the land and such tenant or sub-tenant continues to pay the full rent of the holding.

42. *Trees not removable except as provided.*—(1) Notwithstanding anything to the contrary in any law, custom or contract, no trees standing on any land shall be removable therefrom except as provided hereinafter.

43. *When and by whom trees may be removed.*—(1) A Khatedar tenant of his own accord, and a Ghair Khatedar tenant with the previous permission of the Tehsildar, may remove, for his own domestic or agricultural use, any tree standing on his holding or the timber thereof.

(2) Notwithstanding anything contained in sub-section (1), a Khatedar tenant may remove and sell any tree standing on his holding or the timber thereof to any other tenant for the agricultural or domestic use of such other tenant.

(3) A sub-tenant, with the previous written permission of the person from whom he holds, may remove for his own agricultural or domestic use, any tree standing on his holding or the timber thereof.

44. *Removal of trees for other purposes.*—A Khatedar tenant may remove any tree for purposes other than those mentioned hereinbefore with the prior permission of the Village Panchayat which may grant such permission keeping in view the following matters namely—

(a) that the tree has become dry or dead; or

(b) that the removal of such tree is necessary for carrying on agricultural operations; or

(c) that the tree is of commercial value; or

(d) that the tenant has already planted or taken steps to plant a sufficient number of trees in his holding.

45. *Compulsory planting of trees.*—(1) The State Government may, in order to secure the object of planting trees in the State, make rules—

(a) making it obligatory for a tenant or a sub-tenant in any part of the State to reserve some land of his holding the area of which may vary in accordance with the total area of the holding for the purpose of planting trees thereon;

(b) specifying the kind of trees to be so planted;

(c) granting concessions, if necessary, in rent to such tenant; and

(d) specifying the measures to be adopted by such tenant for the preservation of the trees so planted.

(2) Subject to the rules made under sub-section (1), the tenant or sub-tenant shall have the right to remove any tree so planted or the timber thereof and to utilise such timber for any purpose whatsoever and the restrictions contained in section 43 shall not apply to such tree or the timber thereof.

46. *Existing trees on unoccupied land.*—A person who is at the commencement of this Act in lawful possession of any tree standing on any unoccupied land shall continue to remain in possession thereof and when the land is let out to any other person the tree shall vest in such other person subject to the payment of such compensation as may be determined in the prescribed manner by the prescribed authority.

47. *Planting of trees on unoccupied land.*—(1) The State Government may make rules permitting any person to plant trees on any unoccupied land subject to such terms, conditions and restrictions as may be prescribed.

(2) The produce of the tree so planted shall vest in the planter and shall continue so to vest.

(3) The interest in such tree shall be heritable and transferable in the same manner as the interest of a Khatedar tenant.

48. *Trees not transferable independently of land.*—All trees standing on any holding shall be deemed to be attached to the land and no interest therein shall, after the commencement of this Act, be transferable independently of the land but the owner of the trees may, with or without consideration, grant license for exploiting the produce of the trees on his holding.

49. *Power of the State Government to remove trees.*—Nothing in this Chapter shall affect the right or power of the State Government to remove, or cause to be removed, or order the removal of, any tree standing on any unoccupied land.

50. *Grove-holder.*—Notwithstanding anything hereinbefore contained, so long as the land of a tenant retains the

character of grove-land, such tenant may cut and sell trees and may replant trees without any restrictions.

51. *Penalties for unlawful removal.*—(1) Whoever contravenes any of the provisions hereinbefore contained shall be punishable with fine which may extend to fifty rupees and any tree or the timber thereof in respect of which such contravention shall have been committed shall be forfeited to the State Government.

(2) Such offence shall be triable by a Nyaya Panchayat and where there is no Nyaya Panchayat, by a competent criminal court on a complaint filed before it.

CHAPTER V

Rent

52. *Liability for payment of rent.*—Every tenant shall be liable to pay rent in accordance with the provisions of this Act.

53. *Liability of a Khatedar, Ghair Khatedar and Sub-tenant to pay rent.*—(1) A Khatedar tenant shall be liable to pay rent calculated, from time to time, in accordance with the rent-rates sanctioned and determined under the provisions of the Rajasthan Land Revenue Act, 1956 (Act 15 of 1956), or any other law for the time being in force, for the area in which such holding is situated and where rent-rate in respect of such land has not been determined and sanctioned, the rent-rate determined and sanctioned for similar cultivated land in the neighbourhood.

(2) Subject to the provisions of this Act or any other law for the time being in force, a Ghair Khatedar tenant shall be liable to pay rent as may be agreed upon; and if there is no such agreement, as is payable by a Khatedar tenant under sub-section (1).

(3) A sub-tenant shall be liable to pay rent in cash as may be agreed upon between the parties to the contract of sub-tenancy:

Provided that the maximum rent recoverable from the sub-tenant shall not exceed three times of the amount payable as rent by the tenant to the State Government except where the tenant falls in any of the categories (a) to (k) mentioned in sub-section (1) of section 23, in which case the rent recoverable shall not exceed four times the amount payable as rent by the tenant to the State Government.

54. *Determination of rent on partial ejectment or surrender.*—When a tenant or a sub-tenant is ejected from only a part of his holding under an order or decree of a court, or legally surrenders such part, he may, at any time, apply to the Tehsildar for the determination of the rent of the remainder and the Tehsildar may pass such order as he deems fit.

55. *Grounds for enhancement of rent.*—The rent of a tenant shall be liable to enhancement on one or more of the following grounds, namely—

(i) that the rent payable by the tenant is substantially less than the rent calculated at the sanctioned rent-rates appropriate to him; or

(ii) that the productive powers of the land held by the tenant have been increased by fluvial action; or

(iii) that the productive powers of the land held by the tenant have been increased by an improvement effected by, or at the expense of, the State Government; or

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

56. *Grounds for abatement of rent.*—The rent of a tenant shall be liable to abatement under this Act on one or more of the following grounds, namely:—

(i) that the rent payable by the tenant is substantially greater than the rent calculated at the sanctioned rent-rates appropriate to him; or

(ii) that the productive powers of the land held by the tenant have been decreased by an improvement made by the State Government or by any cause beyond the control of the tenant during the currency of the present rent; or

(iii) that the area of his holding has been decreased by diluvion or encroachment or by the taking up of land for a public purpose or for a work of public utility; or

(iv) that the rent payable by him is liable to abatement on some ground specified in a lease, agreement, decree or order under which he holds.

57. *Provisions of sections 55 and 56 to apply mutatis mutandis to sub-tenants.*—The provisions of sections 55 and 56 shall, *mutatis, mutandis*, apply to sub-tenants.

58. *Automatic enhancement or abatement of rent of a sub-tenant on enhancement or abatement of rent of a tenant.*—Where the rent of a tenant has been enhanced or abated under section 55 or section 56, the rent of his sub-tenant shall stand automatically enhanced or abated, as the case may be, in the same proportion.

59. *Method of enhancement and abatement.*—Such enhancement or abatement shall be made by an order of the Tehsildar in the case of a tenant holding land directly from the State Government; and in any other case, by a decree of a competent court.

60. *Enhancement or abatement when to take effect.*—Every order for the enhancement or abatement of rent shall take effect from the commencement of the agricultural year next following that in which such order is passed unless the court, for special reasons to be recorded, orders that it shall take effect from some earlier or later date to be specified.

61. *Remission or suspension of rent in agricultural calamities.*—(1) On the occurrence of famine or scarcity in any area, or of an agricultural calamity affecting the crops of any area, the State Government, or any authority empowered by it in this behalf, may, in accordance with the rules made by the State Government in that behalf, remit, or suspend for any period, the whole or any portion of the rent payable by a tenant or sub-tenant in such area.

(2) Where the remission or suspension of the rent of tenants in any area is ordered, the sub-tenant in such areas shall also be entitled to a similar relief.

62. *Period of suspension to be excluded in computing period of limitation.*—When the payment of any sum has been suspended in accordance with the provisions of section 61, the period during which the suspension continues shall be excluded in the computation of the period of limitation prescribed for a suit or application for the recovery of such sum.

63. *Rent how payable.*—The revenue or rent payable by person holding land directly from the State Government shall

be paid in such instalments to such persons and at such times and places and in such manner as may be prescribed, and any sum not so paid shall become an arrear of revenue or rent and the person responsible for it shall become a defaulter.

64. *Rent or revenue to be the first charge.*—Any arrear of rent or revenue payable in respect of a holding shall be the first charge thereon and on the rents, profits or produce thereof.

65. *Method of recovering arrears.*—Save as otherwise provided by this Act, an arrear of revenue or rent due to the State Government shall be recoverable in accordance with the provisions of the Land Revenue Act.

66. *Rent how payable by a sub-tenant.*—A sub-tenant may make payment of rent to his tenant either direct or by money-order; and where the payment is made direct, he shall be entitled to a written receipt for the amount so paid.

67. *Rent when in arrear.*—Any amount of rent not paid on or before the day when it falls due becomes an arrear on the day following the day on which it fell due, and the tenant shall thereupon become liable to pay interest on the arrear at the rate of six percent per annum simple interest.

68. *Right of co-tenant and sub-tenant to recover sums paid.*—(1) A co-tenant, who has paid arrears of rent on account of another co-tenant, may recover from such co-tenant the amount so paid.

(2) A sub-tenant who has paid arrears of rent on account of the tenant from whom he holds may deduct the amount so paid from the amount of rent payable by him to the tenant; but if he has not so deducted, he may recover from the tenant the amount so paid.

69. *Contract for the payment of irrigation dues or nalbat.*—Notwithstanding anything hereinbefore contained, any tenant may enter into a contract with any person for the payment of any amount in cash on account of irrigation dues or nalbat.

CHAPTER VI

Ejectment

70. *Ejectment to be in accordance with the Act.*—No tenant or sub-tenant shall be ejected from his holding otherwise than in accordance with the provisions of this Act.

71. *Lease or sub-lease for a fixed duration to determine by efflux of time.*—A lease or sub-lease for a fixed duration shall be determined by efflux of the time limited thereby.

72. *Ejectment for illegal transfer or sub-letting.*—If a tenant transfers or sublets the whole or any part of his holding otherwise than in accordance with the provisions of this Act and the transferee or sub-lessee has entered upon, or is in possession of, such holding or such part in pursuance of such transfer or sub-lease, both the tenant and any person who may have thus obtained or may thus be in possession of the whole or any part of the holding shall be liable to ejectment from the area so transferred or sub-let.

73. *Grounds of ejectment.*—A tenant or a sub-tenant may be ejected from his holding on all or any of the following grounds, namely—

(a) that he has committed any act or omission detrimental to the land in that holding or inconsistent with the purpose for which it was let or in contravention of the provisions of this Act; or

(b) that he or any person holding from him has broken a condition on the breach of which he is, by a special contract which is not contrary to the provisions of this Act, liable to be ejected; or

(c) that the tenancy has determined by efflux of time under section 71; or

(d) that the tenant or sub-tenant has become liable to ejectment under section 72;.

74. *Procedure for ejectment by the State Government.*—

(1) In case the State Government wants to eject a tenant or sub-tenant on any of the grounds mentioned in section 73, the procedure hereinafter laid down shall be followed.

(2) A notice in the prescribed form shall be served by the Tehsildar on the person sought to be ejected informing him that he has become liable to ejectment on the grounds mentioned in the notice and that if he desires to dispute his liability to ejectment, he must appear and contest the notice on the date specified therein.

(3) If the person on whom the notice has been served under sub-section (2) appears and admits his liability to ejectment, the Tehsildar shall pass an order for his ejectment.

(4) If such person does not appear on the date specified in the notice, the Tehsildar shall, after such enquiry as may be necessary, pass an order for his ejection, if he has incurred the liability for ejection under the provisions of this Act:

Provided that such person may, within thirty days from the date of such order, in case notice under sub-section (2) has been served upon him, or from the date of the knowledge of such order, apply for setting it aside, and if he satisfies the Tehsildar that either the notice was not served on him, or he had sufficient cause for non-appearance on the date mentioned in the notice, the Tehsildar shall set aside the order and shall proceed to deal with the matter as provided in sub-section (5) and pending the disposal of the application, the Tehsildar may stay the operation of the order of ejection.

(5) If such person appears and contests his liability to ejection, the Tehsildar shall proceed to hear his objection, and if he has incurred the liability for ejection under the provisions of this Act, pass an order for his ejection.

75. *Possession by the Tehsildar.*—If the order for ejection is passed, the Tehsildar, or any person authorised by him, shall take possession of the land in respect of which the order of ejection has been passed:

Provided that upon the payment of the revenue or rent for the whole year, the tenant shall have the right of tending, gathering and removing any standing crop.

76. *Appeal.*—An order passed by the Tehsildar under sub-sections (4) and (5) of section 74 shall be appealable to the Collector, who, while hearing the appeal, shall have the power, notwithstanding that the tenant has incurred the liability to ejection, to set aside the order of ejection on such terms and conditions as he thinks fit; and thereupon the tenant shall hold the land as if the tenancy has not determined.

77. *Suit by a tenant against a sub-tenant.*—A tenant may sue his sub-tenant for ejection in accordance with the provisions of this Act.

CHAPTER VII

Co-operative Farming.

78. *Formation of Co-operative Farming Societies.*—(1) Any ten or more Khatedar tenants holding lands in a village or

two or more contiguous villages or intending to acquire such land, may form themselves into a Co-operative Farming Society and may apply in writing, in the prescribed form, to the Registrar, Co-operative Societies, for the registration of such society under the Rajasthan Co-operative Societies Act, 1953, (Act IV of 1953), (hereinafter in this Chapter referred to as "the said Act").

(2) The Registrar may, after such enquiry as he may deem fit, register the society under the said Act and grant a certificate of registration and on such registration the provisions of the said Act, subject to the special provisions of this Act, shall apply to such a society and the society may enlist new members in accordance with the rules and bye-laws under the said Act for the time being in force.

(3) When a co-operative farming society has been registered under sub-section (2), all lands, excluding houses, belonging to the members thereof, whether held by them at the time when they became such members or acquired by them subsequently, shall vest in the society.

(4) When the lands belonging to a member of a co-operative farming society vest in such society, there shall be allotted to him shares the value of which will, as far as possible, be equal to the value of the lands of the member vested in the society.

79. *Restriction on transfer of shares in a co-operative farming society.*—(1) The shares held by a member of a co-operative farming society shall not be transferred to any person other than a member of the society or a Khatedar tenant or other person residing in the locality in which the society has been established.

(2) Subject to the restrictions mentioned in sub-section (1), the shares held by a member of a co-operative farming society shall be transferable and heritable in accordance with the relevant provisions relating to Khatedar tenants contained in Chapter III of this Act.

80. *Dissolution of a co-operative farming society.*—No co-operative farming society established in accordance with the provisions of this Act shall be wound up or dissolved except under the orders of the Collector.

81. *Right of members to withdraw from membership of society.*—(1) No member of a society formed under section 78

of this Act shall have the right to withdraw from the membership of the society before the expiry of the period of five years from the date of its registration.

(2) On a member exercising the right given by sub-section (1), he shall, as far as possible, be given back his land that had vested in the society on its registration, or, if this is not possible, such other land as can be given to him in accordance with the principles for the equitable distribution of the lands of a co-operative farming society on its dissolution.

82. *Transfer of lands on dissolution of a co-operative farming society.*—When a co-operative farming society is wound up or dissolved, the Collector shall allot to its members, in such manner and subject to such rules as may be prescribed, all the lands vested in the society, and the rules may provide for equitable allotment of lands to the members having regard to the area and the quality of lands belonging to them before the vesting of such lands in the society.

83. *Rent payable by a co-operative farming society.*—When a co-operative farming society is established under the provisions of this Act, the aggregate of the rent which would have been payable by its members for their lands if such lands had not vested in the society, shall be the rent payable by the society for the lands vesting in it, subject to such reduction as may be allowed under section 84.

84. *Concessions and facilities for a co-operative farming society.*—(1) A co-operative farming society established under this Act shall be entitled to such concessions and facilities from the State Government as may be prescribed.

(2) Without prejudice to the generality of the foregoing provisions, such concessions and facilities may include—

- (a) such reduction of rent as Government may allow;
- (b) free supply of seeds and manure for the first three years and thereafter at concessional rates;
- (c) free technical advice by the experts of the State Government;
- (d) financial assistance on such terms and conditions as may be prescribed; and
- (e) arrangements for better marketing.

CHAPTER VIII

*Constitution, jurisdiction, power and procedure of Revenue Courts.**Constitution of courts*

85. *Classes of Revenue Courts.*—Besides the Board of Revenue and the courts constituted under any other law for the time being in force, there shall be three classes of revenue courts in the State of Rajasthan namely:—

- I. Collectors,
- II. Assistant Collectors, and
- III. Tehsildars.

Jurisdiction of courts.

86. *Power to fix and alter jurisdiction.*—(1) The Government may by notification in the Official Gazette fix and alter the local limits of the jurisdiction of any revenue court under this Act.

(2) If the same local jurisdiction is assigned to two or more revenue courts, the Collector may assign to each of them such business cognizable by the revenue court as, subject to any general or special order of the Board, he thinks fit.

Power of courts.

87. *Place of sitting of revenue courts.*—(1) The Board may sit for the disposal of cases at any place in the State.

(2) A Collector may hold his court at any place within the district to which he is appointed.

(3) An Assistant Collector may hold his court at any place within the local area to which he is appointed.

(4) A Tehsildar may hold his court at any place within his Tehsil.

88. *Superior courts to have powers of inferior courts.*—A Collector shall have all the powers of an Assistant Collector and a Tehsildar; and an Assistant Collector shall have all the powers of a Tehsildar.

89. *Conferment of additional powers.*—(1) The State Government may confer—

(a) on a Naib Tehsildar, all or any of the powers of a Tehsildar;

(b) on a Tehsildar, all or any of the powers of an Assistant Collector; and,

(c) on an Assistant Collector, all or any of the powers of a Collector.

(2) In conferring powers under this section, the State Government may empower persons by name or classes of officers generally by their official designations.

(3) If an officer in any tehsil, district or other area who has been invested by name with any powers under this section is transferred to an equal office of the same nature in another tehsil, district or other area he shall, unless the State Government otherwise directs, be held to be invested with the same powers under this section in such other tehsil, district or area.

90. *Subordination of revenue courts.*—The general superintendence and control over all revenue courts shall be vested in, and all such courts shall be subordinate to, the Board; and subject to such superintendence, control, and subordination—

(a) all Additional Collectors, Assistant Collectors and Tehsildars in a district shall be subordinate to the Collector thereof; and

(b) all Additional Tehsildars and Naib Tehsildars in a Tehsil shall be subordinate to the Tehsildar thereof.

91. *Power of the Board to make rules.*—The Board may, from time to time, with the previous sanction of the State Government, and by notification in the Official Gazette, make rules regulating the practice and procedure of the Board and the procedure to be followed by the other revenue courts.

Procedure of revenue courts.

92. *Suits to be taken cognizance of by revenue courts.*—(1) The Revenue Courts shall have jurisdiction to decide, in accordance with the provisions of this Act, all suits of the following nature:—

(a) suit for the division of a holding;

(b) suit by a tenant against a sub-tenant for ejection;

(c) suit by a sub-tenant against a tenant for recovery of possession;

(d) suit by or against a tenant or sub-tenant for the recovery of arrears of rent or any other relief on the basis of the contract of sub-tenancy or any breach thereof;

(e) suit in which the plaintiff claims relief on the basis of the provisions of sub-section (2) of section 20, section 68, or section 69;

(f) suit regarding enhancement or abatement of rent.

(2) No court other than a revenue court shall take cognizance of any suit triable by a revenue court under sub-section (1).

(3) A suit of the nature mentioned in clause (a) of sub-section (1) shall be instituted within 12 years; a suit of the nature mentioned in clause (b) within six years; a suit of the nature mentioned in clause (c) within one year, and a suit of the nature mentioned in clauses (d), (e) and (f) within three years of the date when the cause of action arises.

(4) Nothing contained in sub-section (3) shall be deemed to curtail the period of limitation where the suit is filed by the State Government.

93. *Courts in which suits or proceedings to be instituted.*—The court of the Assistant Collector in whose jurisdiction the land is situated shall be the court of first instance to entertain hear and decide a suit specified under section 92.

Appeals.

94. *Appeals from original decree.*—An appeal against the decree of the Assistant Collector shall lie to the Collector of the district to whom the Assistant Collector is subordinate.

95. *Appeals from appellate decrees.*—(1) Save as otherwise provided in this Act, an appeal shall lie to the Board from every decree passed in appeal by any Collector on any of the following grounds:—

(a) the decision being contrary to law or to some usage having the force of law;

(b) the decision having failed to determine some material issue of law or usage having the force of law; and

(c) a substantial error or defect in the procedure provided by the Code or by any other law for the time being in force, which may possibly have produced error or defect in the decision of the case upon the merits;

(d) the decision being contrary to the weight of evidence on record where the lower appellate court has raised or revised any finding of the trial court on a question of fact.

(2) No second appeal shall lie except on the grounds mentioned in sub-section (1).

96. *Appeals from orders.*—An appeal shall lie from any final orders passed under this Act and from such orders as are mentioned in section 104 of the Code, to the Collector and from no other.

Review.

97. *Review.*—The Board or any other revenue court shall have the power of review under the conditions mentioned in Order XLVII, Rule 1, of the Code and a review application made shall be disposed of, as far as may be, in accordance with the provisions of that Order.

Revision.

98. *Power of the Board to call for cases.*—The Board may call for the record of any case decided by any subordinate revenue court in which no appeal lies thereto and if such court appears—

(a) to have exercised jurisdiction not vested in it by law; or

(b) to have failed to exercise jurisdiction so vested; or

(c) to have acted in the exercise of the jurisdiction illegally or with material irregularity;

the Board may pass such orders in the case as it thinks fit.

Transfer of cases.

99. *Transfer of cases by the Revenue Board.*—The Board may, on sufficient cause, being shown, transfer any suit.

proceeding, application, or appeal, or class of suits, proceedings, applications or appeals from any revenue court to any other revenue court competent to deal therewith.

100. *Transfer and withdrawal of cases by Collector.*—(1) A Collector may transfer any case or class of cases pending before himself to any subordinate revenue court competent to deal therewith.

(2) A Collector may withdraw any case or class of cases from any revenue court subordinate to him and may try such case or class of cases himself or transfer the same to any subordinate revenue court competent to deal therewith.

Code of Civil Procedure.

101. *Application of the Code.*—Unless otherwise expressly provided in this Act, the provisions of the Code shall, as far as they can be made applicable, apply to all suits, appeals, execution applications and other proceedings under this Act.

102. *Limitation for appeals.*—(1) No appeal to the Collector shall be brought after the expiration of thirty days from the date of the decree or order complained of.

(2) No appeal to the Board shall be brought after the expiration of ninety days from the date of the decree or order complained of.

103. *Provisions of Limitation Act to apply.*—Unless otherwise expressly provided in this Act, the provisions of the Indian Limitation Act, 1908 (Act IX of 1908) shall apply to suits, appeals, applications and proceedings under this Act:

Provided that if the period of limitation prescribed for filing any suit in the First Schedule of the aforesaid Act is longer than the period of twelve years, it shall be deemed to be curtailed to twelve years:

Provided further that the above proviso shall not apply when the suit is filed by the State Government.

Court-fees.

104. *Court fee payable.*—(1) Notwithstanding anything contained in the Rajasthan Court Fees Act, 1961, (Act 23 of

1961), the amount of court fee payable under this Act in suits, appeals and applications shall be computed as follows:—

- | | |
|--|----------------------|
| 1. Complaint, written statement pleading a set off or counter-claim, or memorandum of appeal presented to any Revenue Court, | Rupees five. |
| 2. Application to any court subordinate to the Board. | Fifty Naya
Paisa. |
| 3. Application to the Board. | Rupees two. |

Provided that no court fee shall be payable in any suit or on any application instituted or made by or on behalf of the State Government.

(2) No document of any of the kinds specified in sub-section (1) shall be filed, exhibited or recorded in any revenue court or shall be received by, or presented to, any revenue officer, unless in respect of such document there be paid a fee of an amount not less than that mentioned in sub-section (1).

CHAPTER IX

Summary jurisdiction of Assistant Collector and Tehsildar.

105. *“Tenant” defined.*—“Tenant” in this Chapter includes his mortgagee under sub-section (2) of section 18.

106. *Summary inquiry in disputes about right of way and other matters.*—(1) In the event of a dispute arising with regard to the right of way of a tenant or sub-tenant to his field or with regard to the source or course by which he has been availing himself of water, the Tehsildar may, on an application presented within six months of the commencement of the dispute and after making a summary inquiry and after being satisfied that the applicant is entitled to any relief in connection with that dispute, grant such relief as he thinks fit.

(2) If there is any dispute with regard to waste or pasture lands of the village which are used for agricultural purposes or for grazing cattle, any part to the dispute may apply to the Tehsildar within six months of the commencement of the dispute and the Tehsildar may, after making a summary inquiry and after

being satisfied that any person is entitled to any relief in connection with such dispute, pass such order as he thinks fit.

(3) Nothing contained in sub-sections (1) and (2) shall affect the rights of the State Government to take action under any law to remove any obstruction to the recognised roads, paths, or common lands, mentioned as such in the settlement record or to prevent the misuse of Government land.

107. *Summary eviction of a person unlawfully dispossessing a tenant.*—(1) If any tenant lawfully in possession of any land is dispossessed of such land without his consent otherwise than in due course of law, he may, within six months of the date of such dispossession, make an application to the Assistant Collector complaining of such dispossession.

(2) On receipt of the application under sub-section (1) the Assistant Collector shall, after making a summary inquiry and after being satisfied that the applicant has been unlawfully dispossessed, pass an order restoring possession of the land to him.

108. *Summary eviction of mortgagee on non-delivery of possession of land after expiry of the period of mortgage.*—(1) If the mortgagee does not deliver possession of the land as provided in sub-section (3) of section 18 the mortgagor may make an application within six months from the date of the expiry of the period mentioned in sub-section (2) of section 18, to the Assistant Collector for ejectment of the mortgagee, and the Assistant Collector shall, after making a summary inquiry and after being satisfied that the mortgagor is entitled to recover back possession of the land, pass an order for delivery of possession of the land to the mortgagor.

(2) While passing the order under sub-section (1), the Assistant Collector may also determine the amount of mesne profits payable by the mortgagee to the mortgagor for the period the mortgagee has remained in possession of the land beyond the period as provided in sub-section (2) of section 18 and the rate at which the mesne profits shall be payable in future till the mortgagee delivers possession of the land and order for the payment of the same.

109. *Procedure for summary inquiry.*—In making a summary inquiry the Assistant Collector or the Tehsildar, as the case may be, shall have the power to refer to any revenue record *suo moto*, to examine the parties and any other person, reducing to writing the substance of such examination, to inspect the site

of dispute and make an inspection note thereof, and generally to do anything which a court of law is empowered to do.

110. *Execution.*—(1) An order under sections 106, 107 and 108 shall be executed by the court which passed it.

(2) The provisions of the Code relating to the execution of decrees shall, as far as they can be made applicable, apply to the execution of such order:

Provided that an application for execution of such order shall not be entertained after three years from the date of its passing.

(3) All questions arising between the parties to the execution proceedings shall be determined by the executing court and any order passed by such court in execution proceedings shall be final and no appeal shall lie therefrom.

111. *Saving of suits to establish rights in competent court.*—No order passed under this Chapter shall preclude any person from establishing such rights as he may claim by means of a suit in a competent court; but if no such suit is filed within one year of the date of such order, the order shall be conclusive.

CHAPTER X

Miscellaneous.

112. *Production programme.*—(1) A tenant shall be bound to carry out any programme which may be set up in any area by such authority as may be prescribed for the efficient management, utilisation and cultivation of land, for conservation and improvement of soil, for production of any specified crop or crops, and for any other similar purpose, and all tenancies shall always be deemed to be made and granted with this condition incorporated in the terms of the tenancy.

(2) In case any tenant does not carry out the programme as aforesaid, his land shall be liable, under the order of the Collector, to be placed under the management of the State Government or Village Panchayat or any other authority prescribed in this behalf, for a limited period not exceeding three years.

(3) If at any time during this period the tenant satisfies the State Government, the Village Panchayat or the prescribed authority, as the case may be, that he will carry out the production programme, the management shall be withdrawn.

113. *Use of materials.*—Notwithstanding anything contained in this Act, or any other law for the time being in force, a tenant shall have the right to remove and utilise for any work in connection with his holding or residential house, stones or other materials obtainable from his holding.

114. *Authentication of leases in lieu of registration.*—(1) Notwithstanding anything contained in the Indian Registration Act, 1908 (Act XVI of 1908), the parties to a lease or sub-lease may, in place of getting it registered, make an application to the Tehsildar for the authentication of the same.

(2) Such application shall be presented and authenticated in the manner prescribed by the State Government:

Provided that no such instrument shall be accepted for authentication unless presented within one month of its execution:

Provided further that nothing contained in this sub-section shall apply in respect of leases granted by or on behalf of the State Government:

(3) An instrument so authenticated shall be deemed to be registered within the meaning of the Indian Registration Act, 1908 (Act XVI of 1908).

(4) The provisions of the Rajasthan Stamp Law (Adaptation) Act, 1952 (Act VII of 52) shall not apply to the instruments of lease of agricultural lands.

115. *Protection of action taken under the Act.*—(1) No suit or other legal proceedings shall lie against the State Government for anything done or ordered to be done under any of the provisions of this Act or of any rule made thereunder.

(2) No suit or other proceeding shall lie against any person for any thing in good faith done or intended to be done under this Act or any rule made thereunder.

116. *Recovery of costs etc.*—All rates, costs, interests, charges, fees, fines, penalties, compensation and other moneys payable to the State Government under this Act, or the rules made thereunder, shall, unless otherwise provided for specifically, be recovered as arrears of land revenue.

117. *Power of Government to make rules.*—(1) The State Government may from time to time by notification in the Official

Gazette, make rules for the purpose of carrying into effect the provisions of this Act.

(2) All rules made under sub-section (1) shall be subject to the condition of previous publication, and the date to be specified under clause (3) of section 26 of the Rajasthan General Clauses Act, 1955 (Act 8 of 1955), shall not be less than one month from the date on which the draft of the proposed rules is finally published.

(3) All rules made under this Act shall be laid, as soon as may be after they are so made, before the House of the State Legislature, while it is in session, for a period of not less than fourteen days which may be comprised in one session or in two successive sessions, and, if, before the expiry of the session in which they are so laid or of the session immediately following, the House of the State Legislature makes any modification in any such rules, or resolve that any such rules should not be made, such rules shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however that any such modification or annulment shall be without prejudice to the validity of anything previously done thereunder.

APPENDIX II
NOTES ON CLAUSES
OF
THE RAJASTHAN TENANCY BILL

Long title.—The Rajasthan Tenancy Act, 1955 (Rajasthan Act 3 of 1955), hereinafter referred to as “the existing Act” is a consolidating and amending law. The new Tenancy Act will be an Act to amend the law relating to tenancies of agricultural lands. Hence the long title.

2. *Preamble.*—There is no preamble to the existing Act. The preamble to the Bill makes it clear that, in consequence of the abolition of the intermediaries, it is intended to simplify the law and to provide for certain measures of land reforms.

3. *Clause 1 short title, extent and commencement.*—Except for the change in the short title of the Act, this clause reproduces section 1 of the existing Act.

4. *Clause 2-Repeal.*—This clause may please be compared with section 3 of the existing Act. In the clause as worded by the Revenue Laws Commission, the whole of the existing Act will not be repealed but only so much of it as relates to the matters covered by the provisions of the existing Act relating to tenants holding land directly from the State Government and the sub-tenants of such tenants, will stand repealed. In consequence, those provisions of the existing Act that are not covered by the new Act will be available for the disposal of pending suits and proceedings. In this connection, see paragraph 24 of Part I of the Report.

5. Apart from the provisions of the Rajasthan General Clauses Act, 1955 (Act 8 of 1955), the Commission considers it necessary by way of abundant precaution, specifically to provide that, appointments, notifications, notices, orders, rules or forms made or issued under the existing Act shall continue to be in force until superseded.

6. *Clause 3. Saving.*—This clause may be compared with section 260 of the existing Act. Besides the provisions of the Rajasthan Bhoodan Yagna Act, 1954 (Act XVI of 1954) mentioned in the said section, the provisions of the Rajasthan Gramdan Act, 1960 (Act 3 of 1960) have also been saved.

7. *Clause 4-Provisions for pending suits etc.*—This clause may be compared with section 206 of the existing Act. This is a clear provision to the effect that pending suits shall continue to be governed by the provisions of the existing Act.

8. *Clause 5. Definitions.*—Cf. section 5 of the existing Act.

9. *Item (1) "agricultural year"* (Cf. clause (1) of section 5 of the existing Act).—There is no change.

10. *Item (2) "agriculture"* (Cf. clause (2) of section 5 of the existing Act).—The existing definition which reads 'agriculture' shall include 'horticulture' is hardly a definition. We have consulted the definition of the term "agriculture" given in a number of Acts, both Indian and foreign. The definition proposed by us is in the main based on clause (a) of section 2 of the Rajasthan Relief of Agricultural Indebtedness Act, 1957 (Rajasthan Act 28 of 1957), which was passed by the Rajasthan Legislative Assembly after the passing of the Rajasthan Tenancy Act, 1955. In our opinion this definition is an improvement on the definition given in clause (2) of section 5 of the existing Act.

11. *Item (3) "agriculturist"*.—Cf. clause (3) of section 5 of the existing Act. Please also see clause (b) of section 2 of the Rajasthan Relief of Agricultural Indebtedness Act, 1957. The definition proposed by us after careful consideration is:—"agriculturist" means a person who earns his livelihood wholly or mainly from agriculture and includes an agricultural labourer or a village artisan.

12. *Item (4) "Assistant Collector"*.—The Rajasthan Territorial Divisions Ordinance, 1949, having been repealed, a reference to that Ordinance is not necessary. We have proposed that an Assistant Collector should mean an Assistant Collector appointed under any law for the time being in force and wherever Assistant Collector is mentioned with reference to any land, the Assistant Collector in whose jurisdiction the land is situate.

13. In view of the abolition of the ~~BISWEDARI~~ ~~ORDINANCE~~, we have omitted the definition of the term "Biswedari" given in clause (5) of section 5 of the existing Act.

14. *Item (5) "Board"*.—The Board of Revenue for Rajasthan was originally constituted under the Rajasthan Board of Revenue Ordinance 1949, but that Ordinance having been repealed, it is not necessary to refer to it now; and the Board should mean the Board of Revenue for Rajasthan established and constituted under any law for the time being in force.

15. For reasons given in paragraph 81 of Part I of the Report we have not included a definition of "Ceiling area" (of clause (6A) of the existing Act) in the definition clause.

16. *Item (6) 'Code'*.—As a reference to the Code of Civil Procedure, 1908 (Act V of 1908), occurs at a number of places in the Draft Bill, we have given a definition.

17. *Item (7) "Collector" (Cf. clause (7) of section 5 of the existing Act)*.—For reasons given in regard to item No. (4) the reference to the Territorial Divisions Ordinance has been omitted; and we have added that "wherever Collector is mentioned in this Act with reference to any land, the Collector in whose jurisdiction the land is situate." Under the present definition, Collector does not necessarily mean the Collector of the district in which the land is situate. We consider this clarification to be necessary.

18. Clause (9) of section 5 of the existing Act which contains a definition of the term "crop" has been omitted by us, as no such definition is required for purposes of the provisions embodied in the Draft Bill.

19. As all the Jagir lands have been resumed and the Zamindari and Biswedari estates have been abolished, the definitions of the terms "estate", "estate-holder" and "existing Jagir law"—given in clauses (10), (11) and (11A) of section 5 of the existing Act have been omitted by us.

20. *Item (8) "Fragment"*.—(Cf. clause (11-B) of section 5 of the existing Act). The definition proposed by us reads: 'fragment' means a plot of land of extent less than the standard area. See paragraph 49 below.

21. The provisions in the existing Act relating to "grant" as defined in clause (12) of section 5 and "grant at a favourable

rate of rent” as defined in clause (13) *ibid*, were practically not used during the period that the existing Act has been in force. We, therefore, consider it unnecessary to have any such provisions or to give the definitions of these terms.

22. *Item (9) “Grove-land”*.—Cf. clauses (14) and (15) of section 5 of the existing Act. We have given a combined definition of “grove-land” and “grove-holder”. We understand that there are very few; if any, groves properly so called in Rajasthan, and the provisions of the existing Act relating to grove-land and grove-holders have not been used. Our proposals regarding grove-lands and grove-holders will be found in clause 9 of the Bill

23. The term “High Court” has been defined in clause (36) of section 32 of the Rajasthan General Clauses Act, 1955 (Rajasthan Act 8 of 1955). We have, therefore, omitted clause (16) of section 5 of the existing Act.

24. *Item (10) “Holding”*.—Cf. clause (17) of section 5 of the existing Act. We have omitted the words “and shall include, in the case of an Ijaredar or Thekadar, the ijara or theka area,” because there are no provisions in our Draft Bill relating to Ijaredars or Thekadars. We have also omitted the proviso to clause (17) of section 5 of the existing Act, which gives an extended definition of the term “holding” for the purposes of the Chapter relating to the fixation of ceilings. For the disposal of pending cases relating to fixation of ceiling, the old definition will be available.

25. In view of the abolition of intermediaries and the disappearance of the class of Ijaredars and Thekadars—if there was any such class during the past 8 years that the existing Act has been in force—we have omitted clause (18) of section 5 of the existing Act, containing definitions of “ijara or theka”, “ijara or theka area” and “ijaredar or thekedar.”

26. *Item (11).—“Improvement”*.—Cf. clause (19) of section 5 of the existing Act. We have compared the definition of the term “improvement” given in the existing Act with the definitions of this term given in the tenancy laws of the other States of India; and in our opinion the existing definition is quite all right except that the planting of trees should be specifically declared to be an improvement. We have made the necessary addition. The provisions relating to improvements will be found in clauses 35 to 39 of the Draft Bill.

27. For reasons given in para 19 above, clauses (21) "Jagirdar", (22) "Jagir land" and (23) "Khudkasht" of section 5 of the existing Act have been omitted.

28. *Item (12) "Land".*—Cf. clause (24) of section 5 of the existing Act. This definition is somewhat defective. For instance, it does not cover unoccupied land. We have looked up the definition of the term "land" as given in a number of other Acts, both Indian and Foreign, and we propose that land should be defined as meaning "a portion of the earth's surface whether or not under water; and where land is referred to in this Act, it shall be deemed to include all things attached to, or permanently fastened to anything attached to, such land and shall also include benefits which arise out of the land; but shall not include Abadi land or State forest land."

If the definition of land were worded as we have proposed, it would include both occupied and unoccupied agricultural land but would not include Abadi land or Government forests.

29. The definition of "land cultivated personally" contained in clause (25) of section 5 of the existing Act has been the subject of a great deal of discussion and the suggestions made by the Planning Commission in regard to the definition were brought to our notice by Shri Kherie, Member-Secretary. In view of the total abolition of all classes of intermediaries and the impending fixation of ceilings on holdings of agricultural lands in Rajasthan, a specific definition of "land cultivated personally" is not necessary. To prevent absentee-landlordism through extensive sub-letting, we have included specific provisions in the Draft Bill (Cf. clauses 20, 21 and 22), where we have defined personal cultivation.

30. We have not used the term "landholder" in the Draft Bill and have hence omitted clause (26) of section 5 of the existing Act.

31. The definition of "landless person" given in clause (26A) of section 5 of the existing Act was coined for the purpose of Chapter III-B relating to fixation of ceilings. For reasons given in para 15 above, no definition of "landless person" is considered necessary.

32. For reasons given in paragraph 29 of Part I, clause (26AA) of section 5 of the existing Act giving a definition of the

term "Malik" has been omitted. There will be no such class of tenants under our scheme.

33. *Item (13) "Nalbat"*.—Cf. clause (47) of section 5 of the existing Act. We have not changed the definition which is quite suitable.

34. The definitions of "occupied land" and "unoccupied land" as given in clause (27) of section 5 of the existing Act have been omitted as we do not consider such definitions necessary.

35. *Item (14) "Nyaya Panchayat"*.—This definition has been coined because of the provisions contained in Cl. 51.

36. *Item (15) "Panchayat"*.—This definition has been inserted because of the provisions contained in clauses 22 and 44.

37. *Item (16) "Pasture land"*.—Cf. clause (28) of section 5 of the existing Act. The existing definition has been maintained.

38. *Item (17) "Pay"*.—Cf. clause (29) of section 5 of the existing Act. We have not proposed any change.

39. As the term "prescribed" has already been defined in clause (58) of section 32 of the Rajasthan General Clauses Act, 1955 (Rajasthan Act 8 of 1955) as meaning "prescribed by rules made under an enactment", we have omitted the definition of this term given in clause (30) of section 5 of the existing Act.

40. We also consider it unnecessary for purposes of our Draft Bill to give a definition of the term "registered" as given in clause (31) of section 5 of the existing Act.

41. *Item (18) "Rent or revenue"*.—Cf. clauses (32) and (34) of section 5 of the existing Act. In so far as payments to Government by the tenants holding agricultural land directly from the State Government are concerned, there is no material difference between "revenue" and "rent". We have, therefore, given a combined definition of rent and revenue based on the existing definitions of those terms.

42. We have omitted the definition of "Revenue Appellate Authority" given in clause (34A) of section 5 of the existing Act. The office of Revenue Appellate Authority was created by section (20A) of the Rajasthan Land Revenue Act 1956 (Rajasthan

Act 15 of 1956), which new section was inserted in the said Act by section 4, read with item (16) of the Schedule to the Rajasthan Divisional Commissioner (Office Abolition) Act 1962 (Rajasthan Act 8 of 1962) which was first published in the Official Gazette on the 23rd April 1962. Clause (34A) of section 5 of the existing Act was also inserted by the above mentioned section of the Divisional Commissioner (Office Abolition) Act. The term "Revenue Appellate Authority" has also been defined in clause (67A) of section 32 of the Rajasthan General Clauses Act 1955 (Rajasthan Act 8 of 1955), which clause was also inserted by the Divisional Commissioner (Office Abolition) Act. By reasons of section 5 of the said Act, the Revenue Appellate Authority took the place of the Divisional Commissioner for the purpose of hearing appeals, revisions or references. Under our scheme of the Bill (see paragraphs 217 and 218), the first appellate authority will be the Collector and there will be no need for a Revenue Appellate Authority. Hence, we have omitted clause (34A) of section 5 of the existing Act.

43. *Item (19) "Revenue Court".*—Cf. clause (35) of section 5 of the existing Act. We have omitted the words "and every member thereof" occurring after the word "Board" in the existing definition as we consider these words superfluous. We have also omitted the words "Revenue Appellate Authority", for reasons already given; otherwise there is no change in the existing definition.

44. The definition of "Revenue Officer" given in clause (36) of section 5 of the existing Act is not required for purposes of the Tenancy Act, and we have, therefore, not given a definition of that term.

45. *Item (20) "Sayar".*—Cf. clause (37) of section 5 of the existing Act. The existing definition has been maintained.

46. *Item (21) "Scheduled caste".*—Cf. clause (37A) of section 5 of the existing Act. We have maintained the existing definition.

47. *Item (22) "Scheduled tribe".*—Cf. clause (37B) of section 5 of the existing Act. No change has been proposed.

48. *Item (25) "Settlement".*—Cf. clause (38) of section 5 of the existing Act. The present definition has been maintained.

49. *Item (24) "Standard area".*—The existing Act contains no definition of the term "standard area". The provisions of

Chapter I of the Rajasthan Agricultural Holdings (Consolidation and Prevention of Fragmentation) Act, 1954 (Act XXIV of 1954) regarding determination of standard areas and treatment of fragments have not yet been brought into force. The term "standard area" has been used in clause 16 and 28 of the Draft Bill. The definition proposed by us is similar to that in clause 8 of section 2 of Rajasthan Act XXIV of 1954.

50. The definition of "State" given in clause (39) of section 5 of the existing Act is unnecessary, as this term has been defined in clause (74A) of section 32 of the Rajasthan General Clauses Act 1955 (Rajasthan Act 8 of 1955) which Act was passed subsequent to the passing of the existing Act.

51. The definition of "Sub-Divisional Officer" given in clause (40) of section 5 of the existing Act has been omitted as under the scheme of the DRAFT BILL the Revenue Court will be that of the Assistant Collector.

52. *Item (25) "Sub-tenant".*—Cf. clause (41) of section 5 of the existing Act. There is no change except for the inclusion of the words "or his mortgagee" after the words "from the tenant thereof."

53. *Item (26) "Survey number".*—The existing Act contains no such definition. In order to prevent fragmentation, the sub-division of fields into tiny plots of land has to be prohibited. We have sought to do so through the provisions of clauses 16, 17, 28 etc. of the, Draft Bill. Hence the definition of "survey number."

54. *Item (27) "Tehsildar".*—Cf. clause (42) of section 5 of the existing Act. For reasons given above, the reference to the Territorial Divisions Ordinance has been omitted. Under the definition as it stands at present, Tehsildar does not necessarily mean the Tehsildar of the Tehsil in which the land is situate. We have, therefore, proposed the addition of the words "and wherever Tehsildar is mentioned in this Act with reference to any land, the Tehsildar in whose jurisdiction the land is situate."

55. *Item (28) "Tenant".*—Cf. clause (43) of section 5 of the existing Act. Items (a), (b), (c) and (g) of the existing definition are no longer required to refer to the classes of tenants in the Abu, Ajmer and Sunel areas who were covered by the original definition of the term "tenant"; and, with the abolition of estates and the accrual of Khatedari rights to the estate-holders in their

Khudkasht areas there are no tenants of Khudkasht now. The reference to the grantees at a favourable rate of rent, ijaredar or thekedar is also not required. With the abolition of intermediaries, all tenants will now hold land directly from the State Government. Hence we have proposed that the term "tenant" should mean "a person holding land for agricultural purpose or purposes subservient thereto from the State Government by whom rent is, or but for a contract express or implied, would be payable."

56. We have omitted the definition of the term "trespasser" given in clause (44) of section 5 of the existing Act. In our opinion no specific definition of the word "trespasser" is necessary.

57. *Item (29) "Village-service-grant".*—Cf. clause (45) of section 5 of the existing Act. We have maintained the existing definition.

58. In view of the abolition of the Zamindari and Biswedari tenure and the acquisition of the estates of the Zamindars and Biswedars under the Rajasthan Zamindari and Biswedari Abolition Act 1959 (Rajasthan Act 8 of 1959), it is no longer necessary to give a definition of the term "Zamindar" in the Tenancy Act. We have, therefore, omitted the definition of this term.

59. *Clause 6-possessors of rights, etc. include their predecessors and successors.*—Cf. section 6 of the existing Act. The section has been maintained intact.

60. *Clause 7-Applicability of the Act to State Government.*—Cf. section 7 of the existing Act. It is a well settled principle of law that the Crown is not affected by a statute unless specifically named in it. Section 7 of the existing Act reads:—

"In respect of land held by tenants directly from the State Government the provisions of this Act shall apply, unless expressly provided otherwise, as if the State Government were the landholder acting through the Tehsildar."

In our opinion we should say clearly that the provisions of this Act shall, unless expressly provided otherwise, apply to the State Government in respect of land held by tenants from the State Government.

61. *Clause 8-Tehsildar to be the agent of the State Government.*—Cf. sections 7 and 8 of the existing Act. In view of the abolition of intermediaries, the provision about their agents is no longer required. At the same time as the State Government is now the land-holder, there should be a provision about the State Government's agent for dealing with the tenants of agricultural lands. We have suggested that, in the absence of any general or special order of the Government to the contrary, the Tehsildar shall be deemed to be authorised to exercise all the powers and functions of the landlord on behalf of the State Government under the new Act and to be authorised to act on behalf of Government in respect of any proceedings under the Act and to be the recognised agent by whom appearances, applications and acts under the Act may be made or done on behalf of the State Government; and that the Tehsildar shall be the agent of the State Government for purposes of receiving processes for the State Government issued by any court under this Act.

62. In view of the resumption of all jagir lands and the acquisition and abolition of all Zamindari and Biswedari estates, the whole of Chapter II "Khudkasht" (sections 9 to 13) has been omitted.

63. *Clause 9-Classes of tenants.*—Cf. section 14 of the existing Act. As pointed out in paragraph 29 of Part I of the Report, we have proposed only two classes of tenants, viz., (1) Khatedar tenants; and (2) Ghair Khatedar tenants. A person who immediately before the commencement of the new Act was a Khatedar tenant in accordance with the provisions of the existing Act or who was entitled to the rights and subject to the liabilities of a Khatedar tenant under the existing Act or under any other law for the time being in force, or who, after the commencement of the new Act, is granted Khatedari rights in accordance with the provisions of any law for the time being in force, shall be a Khatedar tenant. Under these provisions all persons who are now Khatedar tenants shall be Khatedar tenants under the new Act, but in future only those persons will get Khatedari rights to whom such rights are granted under the provisions of any law for the time being in force, e.g., the Rajasthan Colonisation Act, 1954 (Act XXVII of 1954), and the allotment rules made thereunder.

64. A tenant who is not a khatedar tenant will be Ghair Khatedar tenant. Through the "Explanation" we have made it clear that tenants holding land for temporary cultivation, or for a fixed term, or on specified conditions, or as a village service

grant, shall be Ghair Khatedar tenants. Under sub-section (2) of section 190 of the existing Act, a village servant is deemed to be a Ghair Khatedar tenant and so in the Explanation to clause 9 we have said that a village servant shall also be a Ghair Khatedar tenant. Under these provisions it will be open to the State Government to let out land to a Ghair Khatedar tenant instead of conferring full Khatedari rights straightway.

65. *Clause 10: Grove-holder to become Khatedar tenant on the commencement of the Act.*—The provisions in the existing Act relating to grove-lands and grove-holders were borrowed from the U.P. Tenancy Act; but we understand that there are very few, if any, groves in Rajasthan. In any case, we are told by some of our Members who worked as Members of the Board of Revenue that not a single case relating to groves came to the Board during the past 3 years. The existing Act contains a whole Chapter—Chapter XIII—sections 194 to 198A, relating to grove-holders. For reasons explained above, there is no need for having an elaborate provision relating to grove-lands; and we have, through clause 10, proposed that, from the date of commencement of the new Act, the grove-holders shall become Khatedar tenants and will have all the rights, and be subject to all the liabilities, of Khatedar tenants under that Act.

66. *Clause 11: Power of the State Government to grant Khatedari rights and leases.*—We consider that the State Government should have the power to grant Khatedari rights and to give leases in its discretion. Hence the provisions of clause 11.

67. The provisions at present embodied in sub-sections (2) to (5) of section 15 of the existing Act are no longer required.

68. We have omitted section 15A (*Khatedari rights not to accrue in Rajasthan Canal area*) of the existing Act. We would point out that this section was declared *ultra vires* by the Rajasthan High Court in July, 1962.

69. *Section 15AA (Non-accrual of Khatedari rights in Chambal Project Area in certain cases)* of the existing Act has also been omitted as no such provision need find a place in the new Act. Pending cases will, of course, be governed by the existing provisions.

70. *Section 15B (Khatedar tenants in Abu, Ajmer and Sunel areas)* of the existing Act has also not been included in the

Draft Bill because no such provisions are now required: as already mentioned, pending cases will be governed by the existing provisions.

71. *Clause 12: Lands in which Khatedari rights shall not accrue or be granted.*—Cf. section 16 of the existing Act. For the most part we have reproduced the provisions of the existing section, the changes made by us being:—

- (i) in clause (v) of section 16 of the existing Act, the word “and” occurring between the words “owned” and “maintained” has been substituted by the word “or”, so that Khatedari rights may not accrue in gardens owned by the State Government;
- (ii) in clause (ix) we have added the words “or the boundaries of an aerodrome or a landing strip”. These stand on the same footing as lands included within railway or canal boundaries and Khatedari rights should not accrue in such lands;
- (iii) the existing clause (x) of section 16 reads “land within the boundaries of any Government forest”. We understand that some entire villages are situated within the boundaries of certain Government forests and the tenants of those village have Khatedari rights. We have, therefore, omitted the words “within the boundaries.”
- (iv) The words “for purposes of instruction in agriculture or for playgrounds” that occur in the existing clause (xii) of section 16 of the existing Act have been omitted as in our opinion Khatedari rights should not accrue in agricultural lands held or occupied by educational institutions.
- (v) The words “within the boundaries” occurring between the word “land” and “of a Government Agriculture or Grass Farm” in clause (xiii) have been omitted.
- (vi) We have proposed a new clause reading: “(xv) land in any area which has been or may hereafter from time to time, be notified by the State Government as land in which Khatedari rights are not to accrue.” This will empower Government to prevent accrual of Khatedari rights, for instance, in areas that are reserved or are likely to be required for town improvement. In our opinion, such a provision is

necessary so as to prevent the payment of enhanced compensation when such lands are acquired for public purposes.

72. The proviso to clause 12 of the Draft Bill may be compared with the proviso to section 16 of the existing Act. The provision proposed by us would empower Government to declare, by a notification in the Official Gazette and subject to such terms and conditions as Government may impose that the restrictions mentioned in the section shall cease to be operative in respect of any land.

73. For reasons already given, the provisions such as those contained in section 16A (Tenants of Khudkasht) are no longer required.

74. The provisions contained in section 17 (Ghair Khatedar tenant) have already been embodied in sub-clause (3) of clause 9.

75. We have already said that there should be only two clauses of tenants in future, viz., Khatedar tenants and Ghair Khatedar tenants. We have, therefore, omitted section 17A containing provisions relating to Maliks. See paragraph 29 of Part I of the Report.

76. Chapter III-A of the existing Act which consists of sections 19, 20, 23, 24, 25, 26, 27, 30 and 30A, contains provisions about "Conferment of rights on certain sub-tenants and tenants of Khudkasht on payment of compensation. Section 19 which is the first section in this Chapter, contains the substantive provisions about accrual of Khatedari rights. The language of this section is very involved and the provisions contained in it have been challenged through writ applications. These provisions have achieved their object and no such provisions are required in the new Act. Pending cases will be disposed of under the existing provisions, which have been kept alive for that purpose.

77. Chapter III-B, which consists of sections 30B to 30J, contains provisions regarding "restrictions on holding land in excess of ceiling area." These provisions were passed by the State Legislature by the Rajasthan Tenancy (Amendment) Act, 1960, (Rajasthan Act 4 of 1960), which received the assent of the President on the 12th of March, 1960. That Amendment Act has not yet been brought into force as the State Government has not yet appointed a date as required by sub-section (2) of section 1

of the said Act, for its coming into force. The reason for this is that the ceiling areas for the whole of Rajasthan were being worked out. A draft of the rules—called the Rajasthan Tenancy (Fixation of Ceiling on Land) (Government) Rules, 1963—to give effect to the provisions of sections 30B to 30J sought to be inserted in the existing Act, was published on the 5th of June, 1963, for inviting objections and suggestions. Objections were invited by the 15th of July, 1963. The objections received are, it is understood, at present under the consideration of Government and that Government is going to fix an early date for the commencement of the Amendment Act, 1960, and of the ceiling rules. In the belief that the process of fixation of ceilings will have started before the new Tenancy Act is passed, we have not included provisions relating to fixation of ceilings in the Draft Bill. In this connection see paragraph 71 to 82 of Part I of the Report.

78. Section 31 of the existing Act contains provisions entitling a tenant to possess in the abadi of the village in which he holds land a site for a residential house. This concession has also been extended to agricultural workers and village artisans. Rules to give effect to these provisions are contained in Chapter III, (Rules 8 to 17) of the Rajasthan Tenancy (Government) Rules, 1955. All Government-owned Nazul lands have now been transferred to the Municipal Authorities and Village Panchayats, but, even before such transfer, Government was unable to discharge the obligation undertaken by it through the provisions of section 31 of the existing Act because no such land was available in the village abadies. After the transfer of Nazul lands to the local authorities the inability of the Government to discharge any such obligation has greatly increased. In the circumstances, we have not included in the Draft Bill a provision on the lines of section 31 of the existing Act. We shall deal with this matter when considering the provisions of the Land Revenue Act.

79. *Section 32 (Right to written lease and counterpart):—* A provision such as that contained in section 32 of the existing Act was essentially required when over fifty-nine per cent of the total area of Rajasthan was held by Jagirdars and there were some five thousand villages under the Zamindari or Biswedari tenure; but no such provision is now required when all Khatedar and Ghair Khatedar tenants will be holding directly from the

80. *Section 33 (Attestation of leases in lieu of Registration).*—We have included a provision for authentication of leases in clause 114 of the Draft Bill.

81. *Section 34 (Prohibition of premium or forced labour)* of the existing Act. The Constitution itself prohibits *Begar*. Moreover, there are no Jagirdars or Zamindars or Biswedars and no such provision as that embodied in section 34 of the existing Act is now required.

82. *Section 35 (Prohibition of payment other than rent)* of the existing Act. In view of the abolition of intermediaries, we have not considered it necessary to embody in the Bill a provision on the lines of section 35 of the existing Act. Moreover, subsequent to the passing of the existing Act, the State Legislature passed a separate Act for the discontinuance of cesses, called the Rajasthan Discontinuance of Cesses Act, 1959 (Rajasthan Act 21 of 1959).

83. *Section 36 (Use of materials)* of the existing Act gives the tenants the right to remove and utilise for any work in connection with their holdings or residential houses, stones or other materials lying on, or upto a depth of one yard from the surface of their holdings or obtained by digging during the course of making an improvement. We have made a similar provision in clause 113 of the Draft Bill.

84. *Section 36A (Acquisition of right to Nalbat)* of the existing Act has served its purpose and a fresh provision to the same effect is not required. Pending cases will be disposed of under the provisions of the present section 36A of the existing Act.

85. *Section 37 (Bar to seizure, attachment and sale by process of court)* of the existing Act provides that the rights of a tenant in a holding shall not be liable to seizure, attachment or sale by process of any civil court. In view of the protection granted to agriculturists under section 60 of the Code of Civil procedure and under the Rajasthan Relief of Agricultural Indebtedness Act, 1957, it is not, in our opinion, necessary to provide such a sweeping clause in the Draft Bill as section 37 of the existing Act. We may also point out that we have permitted mortgage of agricultural land by Khatedar tenants through recognised institutions, and in the decree for sale obtained by the aforesaid bodies, the property mortgaged should manifestly be liable to be sold.

86. *Clause 13; Interest of tenants.*—Cf. section 38 of the existing Act. Section 38 of the existing Act reads: "Save as provided in this Act, the interest of a tenant in his holding is heritable but not transferable". We have divided clause 13 into three sub-clauses. Sub-clause (1) relates to Khatedar tenants and provides that the interest of a Khatedar tenant in his holding is heritable and transferable in accordance with the provisions of the Act. Sub-clause (2) relates to Ghair Khatedar tenants. In their case we have proposed that the interest of a Ghair Khatedar tenant in his holding shall be heritable in accordance with the provisions of the new Act but not transferable except so far as provided in the Act. Sub-clause (3) provides that the interest of a sub-tenant shall be heritable in accordance with the personal law to which he is subject at the time of his death but not transferable.

87. *Section 39 (Bequest)* of the existing Act empowers a Khatedar tenant to bequeath his interest in his holding or part thereof in accordance with his personal law. As a bequest is also a transfer which takes effect on the death of the depositor, we have provided for bequests in clause 15 relating to sale, gift or bequest.

88. *Clause 14: Succession to tenants.*—Cf. section 40 of the existing Act. The question of succession to tenants has been the subject of prolonged discussion in the Tenancy Committee of the Commission as well as in the Commission itself. Prior to the commencement of the existing Act, there were prescribed orders of succession to tenants in some of the Covenanting States of Rajasthan, while succession to tenants in other States was governed by the personal law:

Under the Jaipur Tenancy Act of 1945 succession to Pattadar tenants was according to personal law, while for the other classes of tenants there were prescribed orders of succession for male and female tenants.

The Jodhpur State followed the Jaipur State in laying down a restricted order of succession, (except in one minor detail).

The Bundi, Kota and Tonk States had their own restricted orders of succession.

The prescribed order of succession in the Punjab was different from that in the U.P. The Bikaner State adopted the

Punjab order of succession for occupancy tenants and made certain changes therein in its application to Khatedar tenants.

With one exception, the order of succession in the Alwar and Bharatpur States was the same as that in the Punjab.

Succession to agricultural tenants in the Udaipur (Mewar), Kishangarh, Pratapgarh, Banswara, Jhalawar, Dholpur, Karauli, Jaisalmer, Shahpura and Dungarpur States was as in the C.F.—according to personal law.

89. The Rajasthan Madhya Bharat Jagir Enquiry Committee, presided over by Shri Venkatachar, I.C.S., made recommendations on this subject, to which there is a reference in paragraph 38 of Part I of the Report.

90. In the Rajasthan Tenancy Bill, 1952, a prescribed order of succession to male and female tenants was provided for but subsequently the provision relating to succession according to personal law was inserted. We understand that one of the reasons for this change was that it was suggested that succession, not according to personal law but almost according to the Hindu Law might be open to challenge under the constitution, which guarantees acquisition of immovable property according to personal law of the individual concerned and acquisition might include succession. We doubt the correctness of this view.

91. The question of inheritance was also considered by the Tenancy Reforms Committee of the Panel on Land Reform set up by the Planning Commission in June 1955. That Committee recommended as under:—

“Inheritance.—Inheritance is generally governed by personal law, but in some cases as, for instance, sirdars in U.P., a restricted table of devolution has been prescribed in order to prevent fragmentation of holdings. We consider that there is no need to make distinction between inheritance of land and inheritance of other forms of property. The measures necessary to prevent excessive fragmentation will be examined in the equal.

It was mentioned to us that with the change in the Hindu Law by which daughters will inherit an equal share with sons, a situation may arise which will lead to considerable leasing of land as the daughters may on their marriage leave for another village and it will not be

possible for them or their husbands to cultivate the land personally. The committee is of the view that this question may be considered subsequently in the light of experience but for the present it does not seem desirable to debar daughters from inheriting property in land."

92. The State Land Commission for Rajasthan also considered this question and proposed that there should be a specified order of succession in regard to agricultural tenancies and succession should not be governed by personal law but by a specified order of succession on the lines of those laid down in the old Jaipur Tenancy Act and the old Marwar Tenancy Act.

93. The Rajasthan Government did not, however, ultimately accept the recommendation of the Land Commission that succession to agricultural tenancies should not be governed by personal law but should be according to a restricted order of succession; and the provision that succession shall be according to the personal law has continued intact.

94. In this connection we have also looked up the provisions relating to succession in the post-Constitution Tenancy Laws of the other States of India. Prescribed orders of succession have been laid down in the Hyderabad Tenancy and Agricultural Lands Act, 1950, the Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950; the Himachal Pradesh Abolition of Big Landed Estates and Land Reforms Act, 1953; the Delhi Land Reforms Act 1954 and the Madhya Pradesh Land Revenue Code, 1959.

95. We have discussed the question of succession to agricultural tenancies at some length in paragraph 38 of Part I of the Report. Clause 14 as we have now drafted it reads as follows

"Succession to tenants.—When a Khatedar or Ghair Khatedar tenant dies intestate, his interest in his holding shall devolve in accordance with the personal law to which he is subject at the time of his death:

Provided that when there are male and female heirs succeeding simultaneously, the female heirs shall not be entitled to any land of the deceased, but shall be recompensed for their share in cash and such cash amount shall be a charge on the land in the hands of the male heirs

or such of them who have not paid their share of the cash amount.”

96. The provisions contained in section 41 of the existing Act regarding transferability of Khatedar's interest have already been embodied in clause 13 of the Bill.

97. *Clause 15-Sale, gift or bequest.*—Cf. section 42 of the existing Act. Section 42 of the existing Act is vaguely worded. This clause is a general clause giving Khatedar tenants the right, subject to the provisions of the new Act, to sell, make a gift or a bequest of his interest in his holding and any sale, gift or bequest in contravention of the provisions of the Act shall be void. Ghair Khatedar tenants and sub-tenants are not to have the power to sell gift or bequeath their interest in their holdings.

98. *Clause 16-General restrictions on sale, gift and bequest.*—Clause 16 of the Draft Bill reads as below:—

“*General restrictions on sale, gift and bequest.*—The sale, gift, or bequest by a Khatedar tenant under section 15 shall be void—

(a) if it is not of a survey number except when the area of the survey number so sold, gifted or bequeathed is in excess of the standard area, in which case also the area not transferred shall not remain a fragment;

Provided that this restriction shall not apply if the area so transferred becomes merged into a contiguous survey number;

Provided further that this restriction shall not apply if the sale, gift or bequest is of the entire undivided interest of a tenant in his survey number.

(b) if such sale, gift, or bequest is by a member of a scheduled caste in favour of a person who is not a member of the scheduled caste or by a member of a scheduled tribe in favour of a person who is not a member of the scheduled tribe.”

99. This is a new clause, but it embodies some of the provisions contained in section 42 of the existing Act. While section 42 of the existing Act does contain some restrictions on sale, gift etc., these have not proved effective for preventing fragmentation

of holdings; and we propose that division of a recognised survey number should not be allowed except when the field is a very large one and the splitting up will not result in fragmentation. See paragraphs 39-44 of Part I of the Report.

100. Under the existing provision, there is a restriction on transfer by members of the scheduled castes or scheduled tribes to persons who are not members of the scheduled castes or scheduled tribes. The language of the proviso is, however, not very clear and accurate. This restriction was inserted in order to protect the interests of the scheduled castes and scheduled tribes and to prevent their lands from passing into the hands of money-lenders or other moneyed classes but such a restriction may in some cases act to the disadvantage or detriment of the scheduled castes and scheduled tribes, who may not get a good price for their lands. However, this is a temporary phase and the restriction may continue till the safeguards allowed to the scheduled castes and scheduled tribes are in existence. We have omitted the further proviso to the existing section 42 as in our opinion the vires of the provision is open to challenge under the Constitution.

101. *Clause 17—Pre-emption.*—Some provisions about pre-emption are contained in section 54 and section 213 of the existing Act. Shri Kherie, Member-Secretary showed us the Rajasthan Pre-emption Bill, 1963. The provisions contained in clause 17 have been drafted by us mostly with a view to consolidation of holdings and prevention of fragmentation. We have discussed the matter in paragraphs 45 to 50 of Part I of the Report.

102. *Clause 18—Mortgage.*—Cf. section 43 of the existing Act. We have maintained the substance of the existing provisions and have tried to improve the language so as to remove ambiguities. We have explained the proposed provision in paragraph 51 of Part I of the Report. As we have provided for automatic redemption on the expiry of the period of mortgage or ten years, whichever is less, we do not consider it necessary to restrict the usufructuary mortgages by members of the Scheduled Castes and Scheduled Tribes to only those persons who belong to Scheduled Castes and Scheduled Tribes respectively.

103. *Clause 19—Provisions in relation to mortgages of agricultural holdings effected before the commencement of the Act.*—Cf. section 43A of the existing Act, whereunder the rights and liabilities of the parties to mortgages other than usufructuary

mortgages of a tenant's holdings effected before the commencement of the existing Act may be enforced by means of a suit instituted by the aggrieved person in the Court of the Assistant Collector. In place of this we have provided that a mortgage effected before the commencement of the new Act and the rights and liabilities of the parties to such a mortgage shall continue to be governed by the provisions of the existing Act; and in case of non-delivery of possession by the usufructuary mortgagee, we have given him the advantage of a summary remedy under clause 108.

104. *Clause 20—Crop sharing.*—(Cf. section 105 of the existing Act). This is a new clause. We have discussed this clause in paragraph 52 of Part I of the Report.

105. *Clause 21—Right to sub-let.*—Cf. section 44 of the existing Act. We have omitted the reference to holders of Khudkasht because of the abolition of intermediaries and the disappearance of this class of landholders and have added that sub-letting in contravention of the restrictions shall be void. The restrictions are mentioned in the succeeding clauses.

106. *Clause 22—Restrictions on sub-letting.*—Cf. section 45 of the existing Act. The question of sub-letting has been the subject of prolonged discussion in the Tenancy Committee of the Commission as well as in the Commission itself. A specific question about sub-letting was inserted in the questionnaire issued by the Commission. In view of the abolition of intermediaries and the impending fixation of ceilings on holdings of agricultural lands, there is not likely to be any large scale sub-letting in future. Widows, minors, disabled persons, students, members of the Defence Forces of the country and such others will, in any case, have to be given the right to sub-let. We have discussed this subject in paragraphs 54-56 of Part I of the Report.

107. *Clause 23—Sub-letting in exceptional cases.*—Cf. section 46 of the existing Act. The only changes proposed by us are the (i) deletion of the words "or separated from her husband" occurring in clause (d) of existing section 46; and (ii) insertion of "a village panchayat" at item (a) and of usufructuary mortgagee under section 18 (2) in case the land is sub-let to the mortgagor at item (j) and of a new item (k), reading "any other person or class of persons or any institution which Government may, by notification in the Official Gazette, exempt from such restriction." In our opinion the restriction on sub-letting should not apply to the Village Panchayats and the mortgagee

under section 18 (2) where the land is sub-let to the mortgagor. Item (k) will, we consider, enable the Government to grant exemption in suitable cases without the necessity of a formal amendment of the Act. For instance, Shri Kherie has brought to our notice the recent proposal received from the Government of India that persons serving in the Mercantile Marine may be granted exemption. This provision will enable the Government to grant such an exemption if considered necessary. We may, however, make it clear that even these classes of persons are entitled to realise only such rents as are permissible under clause 53 (3).

108. While we have retained the existing proviso to sub-section (1) of section 46 of the existing Act, and also sub-section (2) thereof, we propose that the condition mentioned in the said proviso should not apply to a person who is a member of the armed forces of the Union. This relaxation in favour of the soldiers, sailors and airmen is, in our opinion, justified and should serve as an encouragement to the tenants to enlist in the armed forces.

109. *Clause 24—Special provision for sub-letting by members of scheduled castes and scheduled tribes.—*Cf. section 46A of the existing Act. The provision contained in clause 46A of the existing Act was inserted in the interest of the scheduled castes and scheduled tribes; but there is a school of thought which feels that such a restriction actually acts to the disadvantage of the scheduled castes and scheduled tribes because if there were no such restrictions and they were free to sub-let to other persons, they may get more by way of rent than persons belonging to the scheduled castes and scheduled tribes can pay. However, this is a temporary restriction and we have retained the existing provision for the present but have permitted sub-letting in favour of the village panchayat.

110. *Clause 25—Successor bound by sub-lease.—*Cf. section 47 of the existing Act. We have not proposed any change in the existing provision.

111. *We have omitted section 47A.—*Provisions in relation to certain transfers in the Abu, Ajmer and Sunel areas—as the provision has already achieved its object, the pending cases will be governed by the existing provisions.

112. *Clause 26—Exchange of land.—*Cf. section 48 of the existing Act. In view of the abolition of intermediaries and the

fact that we are proposing only two classes of tenants holding directly from the State, Khatedar tenants and Ghair Khatedar tenants, and the fact that there is a separate Act for the consolidation of holdings, all the existing provisions are no longer required. The clause proposed by us reads as below:—

“Exchange of land.—(1) Subject to the provisions of section 16 a Khatedar tenant may exchange his holding or part thereof with any other Khatedar tenant;

(2) A Khatedar tenant may make an application to the prescribed authority for the grant of unoccupied Government land in exchange for his land and such prescribed authority may after such enquiry, as it may deem proper, grant any unoccupied Government land in exchange for the land surrendered by such Khatedar tenant.”

113. The provisions of sections 49 and 49A of the existing Act are not required. There is no fear of the interests of the scheduled castes and scheduled tribes suffering in any way under the provisions embodied in clause 26 of the Draft Bill.

114. *Clause 27—Rights and liabilities in the land allotted in exchange for other lands.—*Cf. sections 50 and 51 of the existing Act. Section 50 of the existing Act provides that on exchange of land under sections 49 and 49A a tenant shall have the same right in the land received in exchange as he had in the land given in exchange. Section 51 reads:—

*“51. Right in land allotted in exchange for other lands.—*Notwithstanding anything contained in any law for the time being in force, if the land allotted in exchange for other lands is burdened with any lease, mortgage or other encumbrance, such lease, mortgage or other encumbrance shall be transferred and shall attach to such other land to, or to such part of such other land as may be specified by the Assistant Collector and thereupon the lessee mortgagee or other encumbrancer shall cease to have any right in or against the land from which the lease, mortgage or other encumbrance was transferred:

Provided that no order shall be passed under this section without giving to the persons concerned a reasonable opportunity of being heard.”

This provision strikes us as somewhat unusual and not in conformity with the general law. Each party to an exchange

should have the right, and be subject to the liabilities of a seller as to that which he gives and the rights and liabilities of a buyer as to that which he takes. Hence, the wording of the clause proposed by us, which is on the lines of the relevant provisions of the Transfer of Property Act.

115. *Clause 28—Existing survey No. not to be divided on division of holding.*—This is a new provision which has been inserted in the Bill in order to prevent the splitting up of fields and the reduction of the size of fields to unduly small plots. See paragraph 57 of Part I of the Report. We have proposed that the land of a holding shall not be so divided as to result in the division of the land of an already existing survey number except when the land of the survey number which is intended to be divided is in excess of the standard area and each portion on division is also in excess of the standard area or if such portion is less than the standard area, it becomes merged into a contiguous survey number.

116. *We have omitted section 52.*—"entry of exchange in record of rights" of the existing Act as we consider that any instructions that on exchange of land under section 48 or section 49 the appropriate entry relating thereto shall be made in the record of rights, should find a place in the Land Record Rules.

117. *Clause 29—Division of holding how effected.*—Cf. section 53 of the existing Act. As the intermediaries have been abolished and all lands belong to the State, the language employed by us is somewhat different. Suits for division of holdings will continue to be triable by the Assistant Collector (Clause 92). The State Government need not be a party to every suit for division, but the Court should give notice to the Tehsildar who may apply to be made a party if necessary.

118. *Clause 30—Procedure for division in certain cases.*—Cf. section 54 of the existing Act. Also see paragraph 57 of Part I of the Report. The provision proposed by us is different from that of section 54.

119. *Clause 31—Surrender—clause 32—Surrender by sub-tenant.*—Cf. section 55 of the existing Act. The provision in clause 31 relates to the tenants holding directly from the State Government and that in clause 32 to sub-tenants of such tenants. There is no change of substance in clause 31. In the case of sub-tenants we have proposed that he shall not be held to have surrendered the land under sub-lease unless he has made an

application for such surrender to the Tehsildar and the Tehsildar has verified the same from him. This is to prevent pleas of bogus surrenders.

120. In consequence of the abolition of intermediaries, the other provisions contained in sections 56 to 62 of the existing Act—

Section 56—notice to land-holder;

Section 57—surrender on enhancement;

Section 58—suit to set aside surrender;

Section 59—taking possession of surrendered holding;

Section 60—abandonment;

Section 61—procedure before taking possession of a holding treated as abandoned;

Section 62—rights of tenants presumed to have abandoned their holdings;

Section 64—Vacation on extinction;

are no longer required.

121. *Clause 33—Tenancy when extinguished.*—Cf. section 63 of the existing Act. We have shortened the existing section a bit and the clause as drafted by us reads:—

“Tenancy when extinguished.—(1) The interest of a tenant or a sub-tenant, as the case may be, in his holding or a part thereof, shall be extinguished—

(i) when he dies leaving no heir entitled to inherit in accordance with the provisions of this Act;

(ii) when he surrenders it in accordance with the provisions of this Act;

(iii) when he has lost his right in the holding under the provisions of this Act or under any other law.

(2) The extinction of the interest of a tenant shall not operate to extinguish the interest of any sub-tenant holding under him and if, after the expiry of the term of the sub-lease, the land is reallocated, such sub-tenant may be given preference in allotment.”

Clauses (iii), (iv) and (v) of the existing section will be covered by the proposed item (iii) of sub-clause (1) of the

proposed clause. The concluding portion of sub-clause (2) of this clause is different from sub-section (2) of section 63 of the existing Act and the proviso thereto. Under sub-clause (2) of the clause the interest of the sub-tenant shall not be automatically extinguished and if the land is reallocated he may be given preference.

122. *Clause 34—Taking possession by the Tehsildar on extinction.*—This is a new provision. Section 63 of the existing Act does not include the manner in which possession is to be taken. We have proposed that the Tehsildar shall have the power to take possession of the holding of the tenant whose tenancy has extinguished.

123. *Clause 35—Right of Government to make improvements.*—This is the same provision as is contained in section 65 of the existing Act.

124. *Clause 36—Right of Khatedar tenant to make improvement.*—Cf. section 66 of the existing Act. The term 'improvement' has been defined in item (11) of clause (5). It includes erection of a dwelling house on the holding by the tenant for his own occupation or a cattle-shed or a store house or any other construction for agricultural purposes erected or set up by him on his holding. Section 66 of the existing Act lays down that no such construction shall be made within a radius of 10 miles of the Municipal limits of Jaipur City or five miles of any other city or two miles of any other Municipality without the sanction of the Tehsildar applied for and obtained in the prescribed manner, and that all or any such improvements shall not extend over such area not exceeding one-fiftieth of the total area of the holding as may be prescribed. Rules have been made to give effect to this provision. These are rules 25A to 25F of the Rajasthan Tenancy (Board of Revenue) Rules 1955. See paragraph 58 of Part I of the Report. As the section stands, if the radius in any case is to be raised or some new prohibited area is to be mentioned, the Act will have to be amended. We, therefore, propose that Government should have power, in the public interest, to direct that such improvements as dwelling houses, cattle-sheds or store-houses shall not be constructed in the areas to be notified from time to time except with the sanction of the Tehsildar applied for and accorded in the prescribed manner and the restriction about the extent of the area on which such improvements may be made remains the same, except that the minimum area shall not be less than 150 square yards. Normally, an improvement forms part of the holding, but

we consider that this should be clearly brought out. See paragraph 58 of Part I of the Report.

125. In view of the abolition of intermediaries, the provision contained in

section 67—right of landholder to make improvements;

section 68—when permission may be granted or refused by Tehsildar;

Section 69—provision when both landholder and tenant want to make the same improvement;

are no longer required.

126. *Clause 37—Right of other tenants to make improvements.*—Cf. section 70 of the existing Act. There will be no class of tenant called 'tenant of Khudkasht' in future. Besides the Khatedar tenant, the only other class of tenant holding agricultural land directly from the State Government will be the Ghair Khatedar tenant; and there will be sub-tenants of Khatedar or Ghair Khatedar tenants. The provisions of clause 37 will equally apply to Ghair Khatedar tenants and sub-tenants; and it is further proposed that if they want that they should be entitled to compensation on ejection for any such improvement, they should obtain the previous order of the Tehsildar or the written permission of the Khatedar tenant, as the case may be.

127. *Clause 38—Detrimental acts prohibited.*—Cf. section 71 of the existing Act. We have changed the language of the existing section and have merely said that nothing in this Chapter shall entitle or be deemed to entitle a tenant to do anything which is detrimental to the land in the holding or which diminishes its letting value or productive capacity.

128. *Clause 39—Liability to full rent.*—Cf. section 72 of the existing Act. In view of the abolition of intermediaries and reduction in the number of classes of tenants, all that is necessary is to say that a tenant making an improvement shall continue to be liable to pay the full rent of the holding.

129. In view of the abolition of intermediaries, we have omitted the provisions contained in the following sections of the existing Act, which are no longer required;—

Section 73 ("Compensation for loss");
 Section 74 ("Compensation for improvement");
 Section 75 ("Amount of compensation");
 Section 76 ("Works benefitting other lands");
 Section 77 ("Registration of outlay or improvement"); and
 Section 78 ("Disputes as regards improvements").

130. *Clause 40—Tenant's right in trees existing at the commencement of Act 3 of 1955.*—Cf. section 80 of the existing Act. The existing provisions about scattered trees standing on the holding of tenants at the time of the commencement of the existing Act have been reproduced; and it has been made clear that non-payment of compensation will not in any way affect the vesting of the property in the trees in the Khatedar tenant. This has been done to make the position abundantly clear in view of a judgement of the Board of Revenue to which our attention was drawn by Shri Kherie, Member-Secretary.

131. *Clause 41—Tenant's right to plant trees.*—Cf. section 79 of the existing Act. We have retained the language of sub-section (1) of section 79 of the existing Act. In the changed circumstances a provision such as that contained in sub-section (2) of section 79 of the existing Act is no longer required.

132. *Clause 42—Trees not removable except as provided.*—Cf. section 83 of the existing Act. We have made no change with the exception of substitution of the words "except as provided hereinafter" for the words "except as provided in section 84."

133. *Clause 43—When and by whom trees may be removed.*—Cf. section 84 of the existing Act. Section 84 of the existing Act has given rise to a lot of controversy and some of its provisions have been misused, particularly that contained in sub-section (5). We have heard conflicting views on this subject from the Chief Conservator of Forests, Rajasthan and the Director of Agriculture, Rajasthan, and other witnesses. Some have urged that all cutting of trees by tenants should be stopped, while others have urged that there should be no restriction at all and yet others have suggested that the movement of trees or timber should be restricted. After careful consideration of all aspects of the matter, we have maintained the existing right of Khatedar tenants, Ghair Khatedar tenants and sub-tenants in regard to the removal of trees for their own domestic or agricultural use. In this connection see paragraphs 62-64 of Part I of the Report.

134. *Clause 44—Removal of trees for other purposes.*— Cf. sub-sections (5) and (6) of section 84 of the existing Act. Paragraph 62-64 of Part I of the Report may please be seen. Formerly, it was the Tehsildar who was empowered to grant Licenses for the removal of trees under sub-section (5) of section 84 of the existing Act and the rules made thereunder but, because of the abuse of this power by some of the Tehsildars, the power was given to the Sub-Divisional Officer. We feel that it would be more convenient for tenants to obtain permission from the Village Panchayat, instead of having to go to the Sub-Divisional headquarters for the permission, and that the Village Panchayat may grant or refuse such permission having regard to the following matters:—

- (a) that the tree has become dry or dead; or
- (b) that the removal of trees is necessary for carrying on agricultural operations; or
- (c) that the tree is of commercial value; or
- (d) that the tenant has already planted or taken steps to plant a sufficient number of trees in his holding.

As the Village Panchayat consists of villagers who are in direct touch with the conditions containing in the villages and many of whom may have personal knowledge of the requirements of an applicant, the Panchayat as a body is not likely to abuse the power by granting permission in a haphazard manner.

135. *Clause 45—Compulsory plantation of trees.*—This is an entirely new provision. We have dealt with this matter in paragraph 60 of Part I of the Report. In a State such as Rajasthan of which 3/4th is desert and where the desert is expanding, it is necessary that there should be afforestation and the plantation of trees at a considerable scale. We think the Government should get power to compel tenants to reserve specified portion of their holdings, which portion may vary in accordance with the total area of the holding, for the purpose of planting specified varieties of trees, and that Government may give concessions, if necessary, in rent to such tenants and may specify the measures to be adopted by tenants for the preservation of the trees so planted. Such plantation of trees would surely be possible in canal irrigated lands and lands near about wells. The trees to be specified should be permanent trees and different varieties of trees will have to be specified with due regard to the nature of the soil and the kind of trees that can grow in that soil. The

tenants should have the right to remove any tree so planted, or the timber thereof and to utilise such timber for any purpose whatsoever and the restrictions proposed in clause 44 should not apply to such trees. If tenants are granted concessions for the plantation and preservation of such trees, they are not likely to remove green trees and would take every care to see that the trees are preserved. We hope that if the provisions proposed by us are passed and implemented properly, plantations of trees may spring up all over irrigated areas.

136. *Clause 46—Existing trees on unoccupied land.*—Cf. section 81 of the existing Act. We have not made any change in the existing provision except for the omission of the reference to the section of the existing Act.

137. *Clause 47—Planting of trees on unoccupied land.*—This is a new provision, for which we have given reasons in paragraph 61 of Part I of the Report. Under section 81 of the existing Act, the planting of trees on unoccupied land is not allowed. Shri Kherie, Member Secretary, has drawn our attention to a proposal which has been under the consideration of the Government for sometime past that permission should be granted for the planting of Mango and Mahuwa trees on Government lands almost without let or hindrance. Through clause 47 of the Bill, we have proposed that Government may make rules permitting any person to plant trees on any unoccupied land subject to such terms, conditions and restrictions as may be prescribed; that the produce of the trees so planted should vest in the planter and continue so to vest; and that the interest in such trees should be heritable and transferable in the same manner as the interest of a Khatedar tenant. If this sort of enabling clause is passed, Government may make elaborate rules for the planting of trees on unoccupied lands and may amend the rules from time to time without the necessity of amending the Act. The terms, conditions and restrictions etc may be decided upon by the Government.

138. *Clause 48—Trees not transferable independently of land.*—Cf. section 82 of the existing Act. We have made a slight change by omitting the words “for a period not exceeding one year at a time.” We see no need for restricting the period of the lease of the produce of trees to one year.

139. *Clause 49—Power of the State Government to remove trees.*—Cf. sub-section (7) of section 84 of the existing Act. For the words “entered in the name of the State in Revenue records for any purpose” occurring in sub-section (7) of section 84 of the

existing Act, we have substituted the words "on any unoccupied land", because after the abolition of intermediaries, unoccupied land belongs to the State Government,

140. *Clause 50—Grove-holder.*—Cf. sub-section (1) of section 194 of the existing Act. See paragraph 30 of Part I of the Report. As we have not kept a separate Chapter for grove-holders, for reasons already given we have inserted the spirit of the provision embodied in sub-section (1) of section 194 of the existing Act in this clause. The clause as proposed by us reads:—

"Notwithstanding anything hereinbefore contained so long as the land of a tenant retains the character of grove-land, such tenant may cut and sell trees and may replant trees without any restriction."

141. In view of the abolition of intermediaries and the simplification of the provisions, there is no need for a provision, such as that contained in section 85 of the existing Act.

142. *Clause 51—Penalties for unlawful removal.*—Cf. section 86 of the existing Act. Under section 86, the penalty for unlawful removal is in the case of a first contravention fine up to Rs. 100/- for each tree removed, and in the case of a second or subsequent contravention, the fine may extend to double the amount of fine that can be imposed under the first clause. The penalty in other cases is fine which may extend to one hundred rupees. In addition to the fine, the tree or timber thereof in respect of which contravention is committed may be forfeited to the State Government. It has been represented to us that these penalties are very severe. Persons who expressed this view pointed out that the Khatedar tenants have been given the right to sell or make a gift of the land included in their holdings and the trees are standing on their holdings and belong to them and so they should be at liberty to do what they like with the trees. While, under the present conditions, at least for some five or ten years more it is necessary to impose restrictions on the cutting of trees we feel that the penalty should not be so stiff as that in section 86 of the existing Act. We understand that there was some controversy as to the court that was to try offences under section 86 of the existing Act and the ambiguity was removed by an amendment of this section. We feel that it would be more convenient from the point of view of the villagers if cases relating to contravention of the provisions of the Tenancy Act relating to removal of trees were tried by the Nyaya Panchayats. The maximum

amount of fine that a Nyaya Panchayat can inflict is Rs. 50/- We, therefore, propose that whoever contravenes any of the provisions contained in the earlier clauses of the Bill should be punishable with fine which may extend to fifty rupees, and any tree or the timber thereof in respect of which such contravention should have been committed should be forfeited to the State Government; and that such offences be triable by a Nyaya Panchayat and where there is no Nyaya Panchayat, by a criminal court on a complaint filed before it. Our recommendation regarding the income from forfeiture being given to the Village Panchayats will be found in paragraph 65 of Part I of the Report

143. *Chapter VIII: (Declaratory suits)* of the existing Act consists of the following sections:—

Section 88 (“Suits for declaration of right”);

Section 89 (“Suits as to class of tenancy, etc.”);

Section 90 (“Suit for declaration of land as Khudkasht”);

Section 91 (“Suit for declaration of other rights”);

Section 92 (“Single suit in respect of several holdings”); and

Section 92A (“Suits for injunction”).

144. These provisions were made to meet the situation arising out of the frequent disputes between estate-holders viz. Jagirdars, Zamindars and Biswedars, and their tenants. With the abolition of intermediaries, no such provisions are now required. Moreover, a mere suit for a declaration without consequential relief is not ordinarily permissible. Further, there is already a provision in the Rajasthan Land Revenue Act, 1956 (Rajasthan Act 15 of 1956) for settlement of disputes regarding the class or tenure of any tenant, regarding the rent or revenue payable by him as also all other disputes regarding entries in the record-of-rights and the annual registers, *vide* sections 123, 124, 125 and 136 of the said Act. Similar provisions can be made in the revised Land Revenue Act.

145. For similar reasons there will be no need for suits for injunction (section 92A) of the existing Act. We have, therefore, omitted the whole of Chapter VIII.

146. *Clause 52—Liability for payment of rent.*—Cf. section 93 of the existing Act. We have retained the existing

provisions of section 93 of the existing Act but have omitted the proviso which has achieved its object and is no longer required.

147. *Clause 53—Liability of a Khatedar, Ghair Khatedar and sub-tenant to pay rent.*—This is a new provision under which a Khatedar tenant shall be liable to pay rent calculated from time to time in accordance with the rent-rates sanctioned and determined under the provisions of the Rajasthan Land Revenue Act, 1956 (Rajasthan Act 15 of 1956) or any other law for the time being in force, for the area in which such holding is situate, and where rent-rate in respect of such land has not been determined and sanctioned, the rent-rate determined and sanctioned for similar cultivated land in the neighbourhood, Cf. clause (1) of section 96 of the existing Act.

148. Subject to the provisions of the new Act or any other law for the time being in force, a Ghair Khatedar tenant shall be liable to pay rent as may be agreed upon, and if there is no such agreement, as is payable by a Khatedar tenant under sub-section (1). Under the law as it stands at present, the basis of rent for both Khatedar and Ghair Khatedar tenants is the same viz. cash rent calculated on the basis of 1/6th of the gross produce. We have in mind cases in which Government may give the lease of, say, Government garden, which also contains sufficient land for cultivation, to a person for a specified period on a Ghair Khatedari tenure. In such a case, Government should be at liberty to come to an agreement in regard to the rent payable by such a tenant.

149 Sub-clause (3) of clause 53 reads as below:-

“(3) A sub-tenant shall be liable to pay rent in cash as may be agreed upon between the parties to the contract of sub-tenancy; provided that the maximum rent recoverable from the sub-tenant shall not exceed three times of the amount payable as rent by the tenant to the State Government except where the tenant falls in any of the categories (a) to (k) mentioned in sub-section (1) of section 23, in which case the rent recoverable shall not exceed four times the amount payable as rent by the tenant to the State Government.”

150. Section 99 of the existing Act lays down that “in areas where rent has been settled and sub-tenants pay rent in cash, the maximum rent recoverable by a tenant from his sub-tenant shall be prescribed by the State Government so that it does not exceed

twice the amount payable by such tenant. Section 100 of the existing Act permits the charging of higher maximum in certain cases by widows, minors, disabled persons, students etc. It has been represented to us that the provision that a tenant whose rent has been determined in cash by settlement cannot charge more than twice the amount of cash-rent payable by him from his sub-tenant has not been acted upon and in practice, even where the tenant-in-chief is liable to pay cash-rent, he is charging kind-rent from his sub-tenant, and where he charges cash-rent such cash-rent is definitely more than double the amount of cash-rent payable by the tenant-in-chief. When a tenant holding land directly from the State Government sub-lets the whole or a part of his holding, such tenant continues to be liable to the Government for the payment of the fixed rent by the due date, whether or not his sub-tenant pays his rent to the tenant-in-chief. Some of the witnesses who appeared before us suggested that there should be no limit to the extent of rent to be charged from sub-tenants and they should be allowed to settle the matter by agreement. On the other hand, it was suggested by other witnesses that persons who accept sub-leases are almost always 'landless persons' who belong to the weaker section of society and who, therefore, need protection. Taking everything into consideration we consider that the maximum rent recoverable from a sub-tenant should not exceed three times of the amount of rent payable by the tenant-in-chief except where the tenant-in-chief falls in any of the exempted categories viz. widows, minors, disabled persons, students, etc., in which case the extent of rent recoverable from such sub-tenants may go up to four times the amount of rent payable by the tenant-in-chief.

151. In the changed circumstances resulting from the abolition of intermediaries, we do not find any need for the following provisions of the existing Act:—

Section 94 ("Initial rent");

Section 95 ("Presumption as to rent");

Section 96 ("Maximum cash rent recoverable" by Government");

Section 97 ("Authority to prescribe maximum cash rents");

Section 98 ("Maximum rent where land revenue is settled");

Section 99 ("Maximum rent in areas where rent has been settled");

Section 100 ("Higher maximum in certain cases");

Section 101 ("Maximum not to operate for increase over present rate of rent");

Section 101A ("Provisions as to maximum not to apply to lands under fruit trees on unsettled lands");

Section 102 ("Recovery of amount realised in excess");

Section 103 ("Conversion of kind-rent into cash-rents in certain cases");

Section 104 ("Maximum rate rent in kind");

Section 105 ("Higher rate of kind rent where landholder contributes to production");

Section 106 ("Rent how calculated");

152. As regards the provisions regarding rent rates and appointment of rent-rate Officer contained in:—

107 ("Determination of rent-rates in certain circumstances");

Section 108 ("Duration of rent-rates");

Section 109 ("Additional Powers of Rent-Rate Officer");

Section 110 ("Formation of circles and soil classification");

Section 111 ("Basis of rates");

Section 112 ("Applicability of proposed rates with or without modification");

Section 113 ("Provisions for rates in special cases");
and

Section 114 ("Procedure in publishing and sanctioning rent-rates");

we feel that these provisions should properly find a place in the Land Revenue Act. We have accordingly not included these provisions in the Draft Bill. The provisions contained in section 115—Fixation of rent—of the existing Act was also intended to benefit the tenants of the intermediaries. Such a provision is not required now.

153. *Clause 54—Determination of rent on partial ejectment or surrender.*—Cf. section 116 of the existing Act. The only addition made by us to the provisions contained in section 116 of the existing Act is the specific inclusion of sub-tenants

within the ambit of the section and the insertion of the words "and the Tehsildar may pass such orders as he deems fit" at the end.

154. Section 117 ("Disputes as to rent in certain cases") 118 ("Commutation of rent"), and 119 ("Period of currency of rent") of the existing Act were also intended to deal with disputes of certain nature between the estate-holders and their tenants. Many provisions of Chapter IX of the existing Act have been taken from some of the interim legislative measures taken by the Rajasthan Government, viz., the Rajasthan Produce Rents Regulating Act, 1951 (Rajasthan Act XVI of 1951) and the Rajasthan Agricultural Rents Control Act, 1954 (Rajasthan Act XI of 1954). In the changed circumstances, these provisions are no longer required.

155. *Clause 55—Grounds for enhancement of rent.*—Cf. section 121 of the existing Act. We have not made any change except for the substitution of "State Government" for "landholder" and the omission of the proviso to section 121 of the existing Act. This proviso is not necessary.

156. The provisions contained in sections 122 ("Limits of enhancement") and 123 ("Tenant's plea in enhancement suit or application") of the existing Act are also no longer required.

157. *Clause 56—Grounds for abatement of rent.*—Cf. section 124 of the existing Act. We have made no change except for the substitution of "State Government" for "landholder" and the omission of clause (v) of section 124 of the existing Act, which does not appear to be necessary.

158. *Clause 57—Provisions of sections 55 and 56 to apply to sub-tenants: Clause 58—Automatic enhancement or abatement of rent of sub-tenants.*—These clauses provide that the rent of a sub-tenant shall also be liable to enhancement or abatement, as the case may be, on the grounds mentioned in clauses 55 and 56; and, further, that where the rent of a tenant has been enhanced or abated under either of those sections, the rent of the sub-tenant shall stand automatically enhanced or abated, as the case may be, in the same proportion.

159. *Clause 59—Method of enhancement and abatement.*—Cf. section 120 of the existing Act. We have proposed that the enhancement or abatement should be made by an order of the Tehsildar in the case of a tenant holding directly from the State Government and in any other case by a decree of a competent court

160. *Clause 60—Enhancement or abatement when to take effect.*—Cf. section 125 of the existing Act. We have made no change except to omit the word “decree.”

161. *Clause 61—Remission or suspension of rent in agricultural calamities.*—Cf. section 126 of the existing Act. We have maintained the existing provisions; but have added a subsection specifically entitling sub-tenants to similar relief on the grant of relief of remission or suspension to tenants.

162. *Clause 62—Period of suspension to be excluded in computing period of limitation.*—Cf. section 127 of the existing Act. Here also, we have not made any change except for giving the correct number of the section of the new Act.

163. The provisions of section 128 of the existing Act regarding “Non-recovery of rent remitted or suspended” are no longer required in view of the abolition of intermediaries.

164. In our opinion, a provision such as that to be found in section 129 (Revision of rent in emergencies”) of the existing Act is not required. We understand that the power given by this section has not been used.

165. *Section 130—(“Hypothecation of produce towards payment of rent”).*—Of the existing Act reads as under:—

“The produce of a holding shall be deemed to be hypothecated for the rent payable in respect thereof and, until the demand for such rent has been satisfied, no other claim on such produce shall be enforced by sale in execution of a decree of any civil or revenue court or otherwise.”

This provision was apparently intended to safeguard the interests of the estate-holders. So far as the Government is concerned, the provisions of section 224 of the Rajasthan Land Revenue Act, 1956 (Rajasthan Act 15 of 1956) are quite sufficient. That section lays down that “the revenue or rent assessed on every estate or holding shall be the first charge thereon and on the rents, profits *or produce* thereof; and that the rents, profits *and produce* of such estate or holding shall not be applied in satisfaction of a decree or order of any civil or revenue court, until all arrears of the revenue or rent due in respect thereof have been paid.”

166. We have ourselves proposed a new clause to the effect that the arrears of rent or revenue payable in respect of a holding shall be the first charge thereon and on the rents, profits or produce thereof, (vide clause 64). In the changed circumstances, a provision such as that in section 130 of the existing Act is not required. See para 170 below.

167. Section 131 ("Presumption as to payment by tenant") and section 132 ("Application of rent payment") of the existing Act were intended to protect the interests of the tenants of the estate-holders. No such provision is now required.

168. *Clause 63—Rent, how payable*—Cf. section 133 of the existing Act. We have confined the present clause to the payment of revenue or rent to the State Government and so the language of the clause is somewhat different from that of section 133 of the existing Act. [Cf. section 226 of the Rajasthan Land Revenue Act, 1956, (Act 15 of 1956)].

169. The provision contained in section 134 ("Presumption as to the money order acknowledgement") of the existing Act was also intended to safeguard the interest of the tenants of the estate-holders. In the changed circumstances, no such provision is necessary. However, see clause 66 of the Draft Bill.

170. *Clause 64—Rent or revenue to be the first charge.*—Cf. section 224 of the Rajasthan Land Revenue Act, 1956 (Rajasthan Act 15 of 1956). The arrears of rent or revenue payable in respect of a holding shall be the first charge on the holding and on its rents, profits or produce. Hence only such a provision is necessary and it will obviate the necessity of a provision such as that contained in section 130 of the existing Act.

171. *Clause 65—Method of recovering arrears.*—Cf. section 154 of the existing Act. In so far as the arrears of rent or revenue due to the State Government are concerned, we consider that these should be recoverable in accordance with the provisions of the Land Revenue Act. Hence this clause.

172. *Clause 66—Rent how payable by a sub-tenant.*—Cf. section 133 of the existing Act. This clause is confined to the payment of rent by a sub-tenant to the tenant-in-chief. The sub-tenant may pay it either direct or send it by money order, and where the payment is made direct, he shall be entitled to a written receipt for the amount so paid.

173. In view of the abolition of intermediaries the provisions of section 135 of the existing Act, ("Right of tenant to receipt"), are no longer required. The interests of sub-tenants will be protected by the provisions of clause 66.

174. In view of the abolition of intermediaries and the fact that practically the whole of Rajasthan has been settled and cash rents have been fixed by settlement, we have omitted the following sections of the existing Act:—

Section 136: Particulars of receipt.

Section 137: Obligation of Government to print and supply books of receipts.

Section 138: Right of tenant to statement of account.

Section 139: Deposit of rent in the court of Tehsildar.

Section 140: Disposal of deposit by Tehsildar.

Section 141: Deposit of rent in court during pendency of suit.

Section 142: Bar of suits.

Section 143: sections 139 to 142 when inapplicable.

Section 144: Rights and liabilities in respect of produce.

Section 145: Rent in kind to be recoverable by actual division of the produce.

Section 146: No cartage allowed.

Section 147: Collector to publish return of current prices.

Section 148: Application for officer to make division, estimate or appraisalment.

Section 149: Procedure on such application.

Section 150: Suit for arrears of produce rent.

Section 151: Instalments how fixed.

175. *Clause 67 —Rent when in arrear.*—Cf. section 152 of the existing Act. The only change made by us is the substitution of the words "six per cent per annum simple interest" for the words "one anna per rupee per annum simple interest." After the disappearance of the anna coin, it is inappropriate to express the rate of rent in terms of anna.

176. A provision such as that contained in section 153 (Prohibition of arrest or detention for arrears) of the existing Act was necessary in 1955 because under some of the old laws a tenant could be arrested or detained in execution of a decree

for arrears of rent. No such specific provision is now necessary after the abolition of intermediaries.

177. *Section 154—Method of recovering arrears.*—This has already been covered by clause 65 of the Bill.

178. *Clause 68—Right of co-tenant and sub-tenant to recover sums paid.*—Cf. section 155 of the existing Act. This provision is a reiteration of the general law on the subject and will enable a co-tenant, or a sub-tenant, who has paid arrears of rent on account of another co-tenant, or on account of the tenant from whom he holds, to recover the amount, so paid.

179. In the changed circumstances, the provisions contained in sections 156 (Joinder of claim for arrears), and 157 (Remission for calamity by Court decreeing claim for arrears) of the existing Act are no longer required.

180. *Clause 69—Contract for the payment of irrigation dues or nalbat.*—Cf. section 158 of the existing Act. The language employed by us is somewhat different. The clause will permit a tenant to enter into a contract with any person for the payment of any amount in cash on account of irrigation dues or nalbat. Nalbat has been defined in item (13) of clause 5 of the Draft Bill.

181. *Section 159—Recovery of certain arrears as arrears of land revenue and section 160—(Recovery of arrears in the case of general refusal to pay)* of the existing Act were intended to help the estate-holders to recover their rent in certain circumstances notably in the event of a 'No-rent campaign'. As the estate-holders have ceased to exist, no such provision is necessary.

182. *Clause 70—Ejectment to be in accordance with the Act.*—Cf. section 161 of the existing Act. The existing provisions have been repeated.

183. *Clause 71—Lease or sub-lease for a fixed duration to determine by efflux of time.*—This is a new clause to the effect that a lease or sub-lease for a fixed duration shall determine by efflux of the time limited thereby. This is the general principle. The lease may be on a Ghair Khatedari tenure by the Government, and the sub-lease by the Khatedar or Ghair Khatedar tenants.

184. We have omitted the following sections of the existing Act:—

- Section 162: Arrear demand satisfied upon ejectment.
- Section 164: Compensation for improvement on ejectment.
- Section 165: Payment of compensation.
- Section 166: Right to crops and trees when ejectment takes effect.
- Section 167: Contents and service of notice.
- Section 168: Immunity from ejectment from residential houses.
- Section 169: Issue of notice for payment of arrears and for ejectment in default.
- Section 170: Procedure after issue of notice.
- Section 171: Consequences and cancellation of order passed under section 170.
- Section 172: Tenant's claim for compensation on appearance.
- Section 173: Bar to suits and applications in certain cases,
- Section 174: Ejectment in execution of decree for arrears of rent;

in view of the abolition of intermediaries and the simplified procedure proposed by us.

185. *Clause 72—Ejectment for illegal transfer or sub-letting.*—Cf. section 175 of the existing Act. The existing provisions have been simplified.

186. In view of the provisions proposed by us, there is no need for having a provision such as that in section 176 (decree or order under section 175) of the existing Act.

187. *Clause 73—Grounds of ejectment.*—Cf. section 177 of the existing Act. Under the clause as worded by us a tenant, including a sub-tenant, shall be liable to ejectment on four grounds (a) that he has committed any act or omission detrimental to the land in that holding or inconsistent with the purpose for which it was let; (b) that he or any person holding from him has broken a condition on the breach of which he is, by a special contract which is not contrary to the provisions of this Act, liable to be ejected; (c) that the tenancy has determined by efflux of time under section 71; or (d) that the tenant, or sub-tenant has become liable to ejectment under section 72. These provisions are on the lines of similar provisions in the Transfer of Property Act.

188. *Clause 74—Procedure for ejectment by the State Government.*—This is a new clause laying down the procedure to be adopted when Government wants to eject a tenant or sub-tenant on any of the grounds mentioned in the preceding clause. The Tehsildar will serve a notice in the prescribed form on the person sought to be ejected informing him that he has become liable to ejectment on the grounds which are to be mentioned in the notice and if he desires to dispute his liability to ejectment, he must appear and contest the notice. If the person on whom the notice is served appears and admits his liability to ejectment, or if he does not appear on the date specified in the notice, the Tehsildar will pass an order for ejectment, if he has incurred the liability for ejectment; but if the order is passed ex-parte, the person will have a right to apply to the Tehsildar for setting aside the order and if he satisfies the Tehsildar that either the notice was not served or he had sufficient cause for non-appearance on the date mentioned in the notice, the Tehsildar shall set aside the order and shall proceed to deal with the matter as provided in sub-clause (5) and pending the disposal of the application the Tehsildar may stay the operation of the order of ejectment. Under sub-clause (5), if the person contests his liability to ejectment, the Tehsildar shall proceed to hear his objection and will pass the order of ejectment only if the person has incurred such liability.

189. *Clause 75—Possession by the Tehsildar.*—This is a new clause, the provision of which would enable the Tehsildar to take possession of the land in respect of which an order of ejectment is passed. If there are standing crops, the tenant will have the right of tending, gathering and removing the standing crops upon the payment of the revenue for the whole year.

190. *Clause 76—Appeal.*—This is a new clause which provides that an order under sub-clauses (4) and (5) of clause 74 shall be appealable to the Collector, who, while hearing the appeal, shall have the power, notwithstanding that the tenant has incurred the liability to ejectment, to set aside the order of ejectment on such terms and conditions as he thinks fit, and thereupon the tenant shall hold the land as if the tenancy has not determined.

191. In the changed circumstances and in view of the modified procedure proposed by us the following sections of the Act:—

Section 178: Decree or order under section 177.

Section 179: Suit for compensation, etc.

Section 180: Additional provisions for ejectment of Khudkasht or Ghair-khatedar tenants or sub-tenants.

Section 181: Application and notice.

Section 182: Procedure subsequent to the issue of notice.

Section 182A: Limit of time for certain applications under section 180.

Section 182B: Restoration of land not brought under personal cultivation.

have been omitted.

192. *Clause 77—Suit by a tenant against a sub-tenant.*—This is a new clause which provides that a tenant may sue his sub-tenant for ejectment in accordance with the provisions of this Act. The grounds of ejectment are mentioned in clause 73 of the Draft Bill.

193. The provisions at present contained in:—

Section 183—“Ejectment of certain trespassers”;

Section 187—“Remedies for wrongful ejectment”;

Section 187A—“Availability of the provisions of section 187 to certain aggrieved tenants”; and

Section 187B—“Summary suit for reinstatement based on possession”,

were discussed at great length. We feel that in the changed circumstances resulting from the abolition of intermediaries, all these elaborate provisions are not required. We have provided for summary eviction of a person unlawfully dispossessing a tenant in clause 107 to which we shall refer later.

194. In view of the simplified procedure suggested by us, the provisions contained in the following sections of the existing Act are also not required: (1) Section 184—“Time of execution” and (2) Section 185—“Mode of execution of decree or order”

195. We also feel that a provision such as that contained in section 188—“Injunction against wrongful ejectment”—of the existing Act—which is in addition to the provision contained in section 92A—“Suits for injunction”—is also not required now. As the provisions of the Code of Civil Procedure are being

applied to suits and proceedings under the new Act, the relevant provisions of the said Code relating to injunction, appointment of receiver etc. can be made use of whenever required.

196. For reasons given in para 21, it is not necessary to have a separate Chapter now relating to 'grants of land' or 'grants at favourable rates of rent', on the lines of Chapter XII, section 189 ("Liability of grants at favourable rate of rent to enhancement"), section 189A ("Devolution and transfer of interest of grantees at favourable rates and other rights") and section 189B ("Extinction of interest of grantees at favourable rates") of the existing Act. These provisions were borrowed from the U. P. Act; but we understand that they were not made use of.

197. As regards sections 190 ("Rights and liabilities of a village servant") 191 ("Ejectment of a village servant"), 192 ("Power to place village servant or his successor in possession") and 193 ("Disposal of land when services are no longer required") of Chapter XII of the existing Act, we feel that provisions relating to village service grants may more suitably be made in the Land Revenue Act. As it is, the Rajasthan Land Revenue Act, 1956, contains a whole sub-division of a Chapter, viz., sub-division 'E'—"Village officers and Servants" of Chapter III relating to Village servants (Sections 41 to 50). We have, therefore, not included these provisions in the revised Tenancy Bill.

198. *Grove holders.*—See paras 22 and 140 above, which contain our remarks on clause (14) of section 5 of the existing Act and on clause 50 of the present Draft Bill, and paragraph 30 of Part I of the Report. For reasons given earlier, we have omitted the whole of Chapter XIII, relating to grove-holders, consisting of sections 194 to 198A of the existing Act.

199. See para 25 above. For reasons given therein, we have also omitted Chapter XIV relating to Ijaradars or Thekadars, consisting of sections 199 to 205 of the existing Act.

200. *Clause 78—Formation of Co-operative Farming Societies.*—Chapter VII relating to Co-operative Farming Societies is a new Chapter. We have explained our reasons for proposing these provisions in paragraphs 83-87 of Part I of the Report. Any ten or more Khatedar tenants holding lands in a village or in two or more villages, or intending to acquire such land will be enabled to form a Co-operative Farming Society and apply for registration to the Registrar of the Co-operative Societies. The Registrar may, after such enquiry as he may deem

fit, grant a certificate of registration. On registration, all lands, excluding houses, belonging to the members whether holding them at the time of becoming members or acquired subsequently, shall vest in the Society; and the members shall be allotted shares equal to the value of the pooled lands.

201. *Clause 79—Restriction on transfer of shares in a Co-operative Farming Society.*—While the shares held by a member of a Co-operative Farming Society shall be heritable and transferable, they can be transferred only to some other member of the Society or a Khatedar tenant or other person residing in the locality in which the society has been established. Such a restriction is considered necessary to ensure the successful working of such societies.

202. *Clause 80—Dissolution of a Co-operative Farming Society.*—Dissolution of a Co-operative Farming Society, established in accordance with the foregoing provisions, will only be under an order of the Collector.

203. *Clause 81—Right of members to withdraw from membership of Society.*—It is proposed that no member of a Co-operative Farming Society formed under this Chapter should have the right to withdraw from the membership of the Society before the expiry of 5 years from the date of its registration. This is necessary to ensure the continued working of the Societies formed under the Act. When a member withdraws, he will, as far as possible, be given back his land but if this is not possible, such other land as can be equitably given to him.

204. *Clause 82—Transfer of lands on dissolution of a Co-operative Farming Society.*—On the dissolution of a Co-operative Farming Society, the Collector shall allot to its members all the lands vested in the society, in such manner and subject to such rules as may be prescribed. The rules will have to provide for the allotment of lands to the members having regard to the area and the quality of lands belonging to them before the vesting of such lands in the society.

205. *Clause 83—Rent payable by a Co-operative Farming Society.*—On the establishment of a Co-operative Farming Society, the aggregate of the rent which would have been payable by the members for their lands if such lands had not vested in the society, shall be the rent payable by the society for lands vesting in it, unless the Government decides to grant some reduction as provided for in clause 84.

206. *Clause 84—Concessions and facilities for a Co-operative Farming Society.*—The clause provides that a Co-operative Farming Society established under the Act shall be entitled to such concessions and facilities as may be prescribed by rules. The facilities may include reduction of rent, free supply of seeds and manure for some years and thereafter at a concessional rate, free technical advice, financial assistance and arrangements for better marketing.

207. *Clause 85—Clauses of Revenue Courts.*—This is a new clause. While the existing Act gives a definition of Revenue Courts, vide clause (35) of section 5, and it also contains a Chapter about the procedure and jurisdiction of Revenue Courts and their powers etc., the existing Act contains no specific provision about the constitution of revenue courts. We have, therefore, by clause 85 of the Draft Bill, provided for three classes of revenue courts, besides the Board of Revenue, viz., (1) Collectors, (2) Assistant Collectors, and (3) Tehsildars. For reasons already given, in our comments on clause (34A) of section 5 of the existing Act, we have not provided for a Revenue Appellate Authority.

208. *Clause 86—Power to fix and alter jurisdiction of Courts.*—This is also a new clause which will enable the State Government to fix and alter the local limits of the jurisdiction of any revenue court by notification in the Official Gazette. If the same local jurisdiction is assigned to two or more revenue courts, the Collector will have power to assign to each of them such business cognisable by the revenue court, as he thinks fit. This power will be subject to any general or special order of the Board. We understand that at present, while an Assistant Collector who is placed in charge of one or more sub-divisions of a district and is thereupon called a Sub-Divisional Officer, has his territorial jurisdiction defined by the Government, the territorial jurisdiction of the Assistant Collector is, in practice, not actually defined by Government in all cases.

209. *Clause 87—Place of sitting of revenue courts.*—Except for the omission of sub-section (2), of section 216 of the existing Act, relating to the Revenue Appellate Authority, there is no change of substance.

210. *Clause 88—Superior courts to have powers of inferior courts.*—Cf. section 218 of the existing Act. The clause as drafted by us provides that a Collector shall have all the powers

of an Assistant Collector and a Tehsildar, and an Assistant Collector shall have all the powers of a Tehsildar.

211. *Clause 89—Conferment of additional powers.*—This is more or less a copy of section 219 of the existing Act.

212. *Clause 90—Subordination of revenue courts.*—Cf. section 221 of the existing Act. The Board of Revenue for Rajasthan must now be deemed to have been established under section 4 of the Rajasthan Land Revenue Act, 1956 (Rajasthan Act 15 of 1956). By virtue of section 8 of the said Act, the Board is, subject to the other provisions of the said Act or the provisions of the existing Act or of any other law in force, the highest revenue court of appeal, revision and reference in Rajasthan. Section 9 of the Land Revenue Act provides that, subject to the other provisions of that Act, the general superintendence and control over all revenue courts and over all revenue officers shall be vested in, and all such Courts and officers shall be subordinate to the Board. In a district all Additional Collectors, Assistant Collectors and Tehsildars should be subordinate to the Collector; while in a Tehsil, all Additional Tehsildars and Naib Tehsildars should be subordinate to the Tehsildar. Under our scheme there will be no Revenue Court designated as Sub-Divisional Officer.

213. *Clause 91—Power of the Board to make rules.*—Under section 258 of the existing Act, the Board has been given the powers to make rules; with the previous sanction of the Government, consistent with the provisions of the existing Act and with the rules made by the Government. We feel that a general provision without enumerating in detail the various matters for which the rules may be made is sufficient.

214. *Clause 92—Suits to be taken cognizance of by revenue courts.*—Section 207 of the existing Act lays down that all suits and applications of the nature specified in the Third Schedule shall be heard and determined by a revenue court, and that no court other than a revenue court shall take cognizance of any such suit or application or of any suit or application based on a cause of action in respect of which any relief could be obtained by means of any such suit or application; and there is an explanation to the effect that if the cause of action is one in respect of which relief might be granted by the revenue court, it is immaterial that the relief asked for from the civil court

is greater than, or additional to, or is not identical with, that which the revenue Court could have granted. In view of the simplification of the provisions and procedure brought out by us, we feel that it is not necessary to have a separate schedule, such as the Third Schedule to the existing Act. Clause 92 as worded by us provides that suits of the following nature will be exclusively triable by a Revenue Court:—

<i>Nature of suit.</i>	<i>Period of limitation.</i>
(a) suit for the division of a holding;	12 years.
(b) suit by a tenant against a sub-tenant for ejection;	6 years.
(c) suit by a sub-tenant against a tenant for recovery of possession;	1 year.
(d) suit by or against a tenant or sub-tenant for the recovery of arrears of rent or any other relief on the basis of the contract of sub-tenancy or any breach thereof;	} 3 years.
(e) suit in which the plaintiff claims relief on the basis of the provisions of sub-section (2) of section 20, section 68, or section 69;	
(f) suit regarding enhancement or abatement of rent.	

Where the suit is filed by the State Government, the provisions of sub-clause (3) will not be deemed to curtail the period of limitation. In this connection see paragraph 94 of Part I of the Report.

We also contemplate that the revenue courts shall have exclusive jurisdiction for granting any relief ancillary to the main relief claimed by a party.

215. *Clause 93—Courts in which suits or proceedings to be instituted.*—Cf. section 220 of the existing Act. Clause 93 provides that the court of the Assistant Collector in whose jurisdiction the land is situate shall be the court of first instance to entertain, hear and decide a suit specified in clause 92.

216. *Clause 94—Appeals from original decree.*—Cf. section 223 of the existing Act. Under section 223 of the existing Act, an appeal lies from an original decree:

(i) to the Collector if such decree is passed by a Tehsildar; and

(ii) to the Revenue Appellate Authority if such decree is passed by an Assistant Collector, a Sub-Divisional Officer or a Collector.

Originally, the appeals lay to the Divisional Commissioner from original decrees passed by an Assistant Collector, a Sub-Divisional Officer or a Collector; but, after the abolition of the office of Divisional Commissioner, these appeals lie to the Revenue Appellate Authority. As we are not proposing the retention of the court of the Revenue Appellate Authority, we propose that an appeal should lie to the Collector. Moreover, as things stand at present, the Collector is becoming, more or less, completely out of touch with the revenue-judicial work of his district, and now that there are no Divisional Commissioners, the Collectors must be made to hear appeals in revenue-judicial cases so that they may acquire adequate experience for eventual promotion of some of them to the Board of Revenue. In this connection see paragraph 90-92 of Part I of the Report.

217. *Clause 95—Appeals from appellate decrees.*—Cf. section 224 of the existing Act. Under section 224 of the existing Act an appeal lies to the Revenue Appellate Authority (originally it lay to the Divisional Commissioner) from a decree passed in appeal by a Collector. A second appeal lies to the Board from a decree passed in appeal by a Revenue Appellate Authority on any of the following grounds:—

“(i) the decision being contrary to law or to some usage having the force of law;

(ii) the decision having failed to determine some material issue of law or usage having the force of law;

(iii) a substantial error or defect in the procedure provided by or under this Act or by any other law for the time being in force, which may possibly have produced an error or defect in the decision of the case upon the merits; and

(iv) the decision being contrary to the weight of evidence on record where the lower appellate court has varied or reversed any finding of the trial court on a question of fact."

The question of second appeal in cases under the Tenancy Act has been discussed by us at great length. It was suggested that no second appeal should be allowed where the judgment or decree of the trial court is confirmed on first appeal. After careful consideration, we are of the opinion that an appeal should lie to the Board from every decree passed in appeal by the Collector on the grounds mentioned in section 224 of the existing Act. No second appeal shall lie except on the same ground.

218. *Clause 96—Appeals from orders.*—Cf. section 225 of the existing Act. Under section 225 of the existing Act, an appeal lies from an order:—

(i) to the Collector, if such order is passed by a Tehsildar;

(ii) to the Revenue Appellate Authority if such order is passed by an Assistant Collector a Sub-Divisional Officer or a Collector; and

(iii) to the Board if such order is passed by a Revenue Appellate Authority:

and by reason of sub-section (2) of section 225, there is no appeal against any order passed in appeal. As this section stands at present, it provides for appeals even against inter-locutory orders. This naturally leads to protraction of litigation and results in great delay in the final disposal of cases. We have provided that an appeal shall lie to the Collector from such orders as are mentioned in section 104 of the Code of Civil Procedure and from no other orders. This will stop frivolous appeals and expedite disposal of revenue judicial cases.

219. *Clause 97—Review.*—Cf. section 229 of the existing Act. The existing section reads as under:—

"229. *Power of review by Board and other revenue courts.*—Subject to the provisions of the Code of Civil Procedure, 1908 (Central Act V of 1908),—

(1) the Board of its own motion or on the application of a party to a suit or proceeding, may

review and may rescind, alter or confirm any decree or order made by itself or by any of its members; and

(2) every revenue court, other than the Board, shall be competent to review any decree, order or judgment passed by such court."

Under this provision, the Board has drastic powers of reviewing its own judgments which we do not favour. We have proposed that the Board or any other revenue court shall have the power of review under the conditions mentioned in Order XLVII, Rule I, of the Code of Civil Procedure, 1908 (V of 1908); and a review application made shall be disposed of, as far as may be, in accordance with the provisions of that Order." Such a provision appears to us to be more appropriate than the existing one.

220. *Clause 98—Power of the Board to call for cases.*—Cf. section 230 of the existing Act. Except for the omission of the words and figures "or to a civil court under section 239" we have maintained the present provisions of the existing Act.

221. *Clause 99—Transfer of cases by the Revenue Board.*—Cf. section 233 of the existing Act. We have maintained the existing provisions.

222. *Clause 100—Transfer and withdrawal of cases by Collector.*—Cf. sections 235 and 237 of the existing Act. Under the present sections, the power of transfer has been given not only to the Collector but also to the Sub-Divisional Officer. Under the clause, as drafted by us, a Collector will have power to transfer any case or class of cases pending before himself to any subordinate revenue court competent to deal therewith; and a Collector will also have power to withdraw any case or class of cases from any revenue court subordinate to him and try such case or class of cases himself or transfer the same to any subordinate revenue court competent to deal with it.

223. *Clause 101—Application of the Code.*—Section 208 of the existing Act reads as under:—

"208. *Application of Civil Procedure Code.*—The provisions of the Code of Civil Procedure, 1908 (Central Act V of 1908), except:—

(a) provisions inconsistent with anything in this Act, so far as the inconsistency extends,

List one of the Fourth Schedule to the existing Act specifies the sections and orders of the Code of Civil Procedure, 1908, which do not apply to suits or proceedings under the existing Act; and list two specifies the sections and orders of the Code of Civil Procedure, 1908, which apply subject to the modifications stated therein. We feel that it is not necessary to have such a Schedule and that a simple provision reading:

“Unless otherwise expressly provided in this Act, the provisions of the Code shall, as far as they can be made applicable, apply to all suits, appeals, execution applications and other proceedings under this Act.”

will do.

224. *Clause 102—Limitation for appeals: Clause 103: provisions of Limitation Act to apply.*—Section 214 of the existing Act reads as under:—

“214.—*Limitation in cases under this Act.*—(1) The suits and applications specified in the Third Schedule shall be instituted and made within the time prescribed therein for them and every such suit instituted or application made after the expiry of the period of limitation so prescribed shall be dismissed:

Provided that any such suit or application, for which the period prescribed by the said Schedule is shorter than the period prescribed by any law in force before the commencement of this Act, may be instituted or made within six months next after the commencement of this Act or within the period of limitation prescribed by the aforesaid law, whichever period expires first:

Provided further that any such suit or application for which a period of limitation is prescribed by the said Schedule but for which no period is prescribed by the aforesaid law may be instituted or made within the period

prescribed by the said Schedule computed from the date of the commencement of this Act.

(2) If the payment of rent has been suspended under the order of a competent authority on account of an agricultural calamity, the period of suspension shall be excluded in the computation of the period of limitation prescribed for a suit for the recovery of such rent.

(3) Subject to the provisions contained in sub-sections (1) and (2) the provisions of the Indian Limitation Act, 1908 (Central Act IX of 1908) shall apply to suits, appeals, applications and proceedings under or in pursuance of this Act.

By clause 102 of the Draft Bill, we have proposed that the limitation for appeals to the Collector should be thirty days from the date of the decree or order complained of, and that to the Board ninety days; and by clause 103, we have proposed that, unless otherwise expressly provided in the new Act, the provisions of the Indian Limitation Act, 1908 (Act IX of 1908) should apply to suits, appeals, applications and proceedings under the new Act, subject to two provisos (1) that the maximum period of limitation under the new Act shall be 12 years and (2) that the provisions of the first proviso shall not apply when the suit is filed by the State Government.

225. *Clause 104—Court-fee payable.*—Section 215 of the existing Act lays down that the court fees payable in suits and on applications under the existing Act shall be as specified in the sixth column of the Third Schedule and it is mentioned in the proviso that no “court fee shall be payable in any suit or on any application instituted or made by or on behalf of the State Government”. The sixth column of the Third Schedule gives the amount of proper court fees. As we are not having a separate Schedule such as the Third Schedule to the existing Act, we have specified the court-fee in clause 104. In this connection see paragraph 93 of Part I of the Report in which we have given reasons for our proposal.

226. *Clause 105—Tenant defined.*—For purposes of Chapter IX relating to summary jurisdiction of Assistant Collector and Tehsildar the term “tenant” shall include a tenant’s mortgagee under sub-clause (2) of clause 18 of the Draft Bill.

227. *Clause 106—Summary inquiry in disputes about right of way and other matters.*—Cf. section 251 of the existing Act. Section 251 of the existing Act as it appeared in the Act when first passed read as under:—

“251. *Rights of way and other private easement.*—

(1) In the event of a dispute arising as to the route by which a holder of land, shall have access to his fields otherwise than by the recognised roads, paths, or common land including roads and paths mentioned as such in the settlement records or as to the waste or pasture lands of the village or as to the course or source by which he may avail himself of water, to which he is entitled from a tank, well or other source, the Tehsildar, may, on application, after local enquiry decide the matter with reference to the previous custom in each case and with due regard to the convenience of all parties concerned.

(2) No order passed under this section shall debar any person from establishing such right or easement as he may claim by a regular suit in a competent civil court”.

228. Later on it was substituted by the following:—

“(1) In the event of any holder of land, in actual enjoyment of a right of way or other easement or right, having, without his consent, been disturbed in such enjoyment otherwise than in due course of law, the Tehsildar may, on the application of the holder of land so disturbed and after making a summary inquiry into the fact of such enjoyment and disturbance, order the disturbance to be removed or stopped and the applicant holder to be restored to such enjoyment, notwithstanding any other title that may be set up before the Tehsildar against such restoration.”

229. The powers conferred on the Tehsildar by the original section 251 were delegated to the Village Panchayats by the Government by a notification issued under section 260 of the Rajasthan Land Revenue Act, 1956 (Rajasthan Act 15 of 1956). The original notification was declared *ultra vires* by the Board of Revenue for Rajasthan, whereupon, after the amendment of section 260 of the Land Revenue Act, the State Government issued another notification delegating to the Village Panchayats

the power of deciding dispute as to the route by which a holder of land shall have access to his fields.

230. After careful consideration, we propose that the section should read as under:—

(1) In the event of a dispute arising with regard to the right of way of a tenant or sub-tenant to his field or with regard to the source or course by which he has been availing himself of water, the Tehsildar, may, on an application presented within six months of the commencement of the dispute and after making a summary inquiry and after being satisfied that the applicant is entitled to any relief in connection with that dispute, grant such relief as he thinks fit.

(2) If there is any dispute with regard to waste or pasture lands of the village which are used for agricultural purposes or for grazing cattle, any party to the dispute may apply to the Tehsildar within six months of the commencement of the dispute and the Tehsildar may, after making a summary inquiry and after being satisfied that any person is entitled to any relief in connection with such dispute, pass such order as he thinks fit.

(3) Nothing contained in sub-sections (1) and (2) shall affect the rights of the State Government to take action under any law to remove any obstruction to the recognised roads, paths, or common lands, mentioned as such in the settlement record or to prevent the misuse of Government land.

231. We have given the justification for these proposals in Paragraph 88-89 of Part I of the Report.

232. *Clause 107—Summary eviction of a person unlawfully dispossessing a tenant.*—Cf. section 187B of the existing Act. Please see our remarks on section 183..... of the existing Act. After careful consideration, we have provided that if any tenant who is lawfully in possession of any land is dispossessed of such land without his consent otherwise than in due course of law, he may, within six months of the date of such dispossession, make an application to the Asstt. Collector complaining of such dispossession; and on receipt of the application under sub-section (1), the Asstt. Collector shall, after making a summary inquiry and after being satisfied that the applicant has been unlawfully dispossessed, pass an order restoring

possession of the land to him. Instead of a suit, we have provided for an application and for a summary enquiry. We have dealt with this matter in paragraph 89 of Part I of the Report.

233. *Clause 108—Summary eviction of mortgagee on non-delivery of possession of land after expiry of the period of mortgage.*—See the explanatory note on clause 18. Sub-section (3) of section 43 of the existing Act lays down that if the mortgagee does not redeliver the land mortgaged, upon the expiry of the period mentioned in the mortgage-deed or twenty years from the date of execution thereof, whichever is earlier, he shall be deemed, to be a trespasser and be liable to ejection in accordance with clause (b) of sub-section (1) of section 183. The reference in sub-section (3) of section 43 of the existing Act is to section 183 *ibid* as it stood prior to its amendment. The section, as it originally appeared in the Act, read as under:—

“183. *Ejection of trespassers.*—(1) A trespasser shall, notwithstanding anything to the contrary in any provision of this Act, be liable,—

(a) if he has taken or retained possession of any land without lawful authority, to ejection on the issue of a notice by the Tehsildar in case of land held directly from the State Government and in other cases on the suit of the person or persons entitled to admit him as tenant and also to pay as penalty for each agricultural year during the whole or any part whereof he has been in such possession a sum which may extend to six times the annual rent, and

(b) if he has prevented any other person from occupying land duly let out to such person, to ejection on the suit of such person and also to pay damages which may extend to six times the annual rent.

(2) In either case such trespasser shall, upon payment of the penalty or damages, as the case may be, have the right of tending, gathering and removing any ungathered crops”.

234. It will be seen that clause (b) of sub-section (1) of the original section 183 provided that the trespasser would be liable to ejection on the suit of such person and also be liable to pay damages which may extend to six times the annual rent.

235. Section 183 as it now exists in the existing Act reads as under:—

“183. *Ejectment of certain trespassers.*—(1) Notwithstanding anything to the contrary in any provision of this Act, a trespasser who has taken or retained possession of any land without lawful authority shall be liable to ejectment, subject to the provision contained in sub-section (2), on the suit of the person or persons entitled to admit him as tenant, and shall be further liable to pay as penalty for each agricultural year, during the whole or any part whereof he has been in such possession, a sum which may extend to fifteen times the annual rent.

(2) In case of land which is held directly from the State Government or to which the State Government, acting through the Tehsildar, is entitled to admit the trespasser as tenant, the Tehsildar shall proceed in accordance with the provisions of section 91 of the Rajasthan Land Revenue Act, 1956 (Rajasthan Act 15 of 1956).”

Under the present section too the ejectment would be by a suit.

236. So far as re-delivery of possession by the mortgagee is concerned, we have granted a summary remedy to the mortgagor under clause 108. This will be in addition to the remedy available to him by a regular suit. In clause 108 we have provided that if the mortgagee does not re-deliver possession of the land as provided in sub-section (3) of section 18, the mortgagor may make an application within six months from the date of the expiry of the period mentioned in sub-section (2) of section 18, to the Assistant Collector for the ejectment of the mortgagee, and the Assistant Collector shall, after making a summary inquiry and after being satisfied that the mortgagor is entitled to recover back possession of the land, pass an order for delivery of possession of the land to the mortgagor; and while passing the order of ejectment under sub-section (1), the Assistant Collector may also determine the amount of mesne profits payable by the mortgagee to the mortgagor for the period the mortgagee has remained in possession of the land beyond the period as provided in sub-section (2) of section 18, and the rate at which such mesne profits shall be payable in future till the mortgagee delivers possession of the land.

237. *Clause 109—Procedure for summary inquiry.*—This is a new clause which we have drafted after careful consideration. In a summary inquiry the Assistant Collector or the Tehsildar would have the power to refer to any revenue record *suo moto*, to examine the parties and any other person, reducing to writing the substance of such examination, to inspect the site of dispute and make an inspection note thereof, and generally to do anything which a court of law is empowered to do. Under the proposed provision, the Assistant Collector or the Tehsildar would have the power to refer to the revenue records on his own, and he will not be bound to record the statements of witnesses in extenso. This will facilitate the disposal of cases.

238. *Clause 110—Execution.*—An order under the provisions contained in clauses 106, 107 or 108 will be executed by the court which passed the order; the provisions of the Civil Procedure Code relating to the execution of decrees shall, as far as they can be made applicable, apply to the execution of such order; but an application for execution shall not be entertained after three years; and all questions arising between the parties to the execution proceedings shall be determined by the executing court and any order passed by such court in execution proceedings shall be final and no appeal shall lie therefrom.

239. *Clause 111—Saving of suits to establish right in competent court.*—While giving the Assistant Collector or the Tehsildar summary jurisdiction under clauses 106, 107 and 108 we feel that the aggrieved person should have the right to establish his right in a competent court by a regular suit. Hence by clause 111 we have proposed that no order passed under the Chapter relating to summary jurisdiction “shall preclude any person from establishing such rights as he may claim by means of a suit in a competent court; but if no such suit is filed within one year of the date of such order, the order shall be conclusive”

240. *Clause 112—Production programme.*—This is a new clause. It reads as follows:—

“(1) A tenant shall be bound to carry out any programme which may be set up in any area by such authority as may be prescribed for the efficient management, utilisation and cultivation of land, for conservation and improvement of soil, for production of any specified crop or crops, and for any other similar purpose, and all tenancies shall always be deemed to be made and granted

with this condition incorporated in the terms of the tenancy.

(2) In case any tenant does not carry out the programme as aforesaid his land shall be liable under the orders of the Collector, to be placed under the management of the State Government or Village Panchayat or any other authority prescribed in this behalf, for a limited period not exceeding three years.

(3) If at any time during this period the tenant satisfies the State Government, the Village Panchayat or the prescribed authority as the case may be, that he will carry out the production programme, the management shall be withdrawn."

241. In this connection see paragraph 70 of Part I of the Report. The First Five Year Plan recommended that in the cultivation and management of lands individual owners should conform to standards of efficiency determined by law. The main recommendation of the Second Five Year Plan too emphasised the need for land management legislation, and it was suggested that land management legislation should provide the necessary incentives *and sanctions* for the performance of the obligations laid down on cultivators to maintain reasonable standards of production and the preservation and improvement of the soil. The Third Five Year Plan too has devoted attention to this matter.

242. We feel that such a provision will enable Government to prepare suitable production programmes for the various areas in Rajasthan and to make rules for the efficient management, utilisation and cultivation of land and for the conservation and improvement of the soil. Government will also be enabled to ensure the production of any specified crop or crops in any specified area. This would be a valuable power and if it is properly used, it would increase production and improve the land. We hope it will not be used to cause unnecessary harassment to a tenant.

243. *Clause 113—Use of materials.*—See para 83 above on section 36 of the existing Act. Shri Kherie, Member-Secretary, brought to our notice that some of the Collectors had proposed that the depth up to which a tenant may be allowed to dig for stones or other materials may be raised from one yard to 2 yards. We have slightly changed the language of that section and have

omitted the reference to the depth up to which the tenant may dig for material. If considered necessary, this could be regulated by rules.

244. *Clause 114—Authentication of leases in lieu of registration.*—Cf. section 33 of the existing Act. A provision such as that contained in section 33 of the existing Act was necessary when there were Jagirdars, Zamindars and Biswedars who leased out their lands for cultivation. Under the revised Draft Tenancy Bill, there will be only two classes of tenants holding directly from the State Government, but the khatedar tenants in particular may sub-let their lands. The provisions contained in clause 114 of this Bill will enable such sub-leases to be authenticated in place of their being registered under the Indian Registration Act, 1908. We have changed the language of the present section some what and have tried to improve it. These provisions will not apply to leases granted by or on behalf of the State Government. The provisions of the Rajasthan Stamp Law (Adaptation) Act, 1952 will not apply to the instruments of lease of agricultural lands. The Government will have to make rules to give effect to this provision.

245. *Clause 115—Protection of action taken under the Act.*—Cf. section 254 of the existing Act. We have maintained the language of the present section. The clause is self-explanatory and is intended to give protection to the State Government and its officers against suits or other proceedings for anything done or intended to be done under any provision of the new Act.

246. *Clause 116—Recovery of costs etc.*—Cf. section 255 of the existing Act. We have not proposed any change and have reproduced the present section.

247. *Clause 117—Power of Government to make rules.*—Cf. section 257 of the existing Act. This is the usual clause to enable Government to make rules to give effect to the provisions of the Act. In exercise of the powers conferred on it by section 257 of the existing Act, Government has made the Rajasthan Tenancy (Government) Rules, 1955, and now proposes to make the Rajasthan Tenancy (Fixation of Ceiling on Land) (Government) Rules, 1963. The rules to be made under the new Act will be subject to the condition of previous publication, and we have proposed that the date to be specified for the receipt of objections and suggestions against any draft rules shall be not less than one month from the date on which the draft of the

proposed rules is published. The rules will of course be laid before the House.

248. This brings us to the end of our explanatory notes on the clauses of the revised Draft Tenancy Bill. It remains for us to say a few words as to why we have omitted some of the other sections and Schedules to the Act to which we have not referred in the course of our notes on the clauses of the Draft Bill.

249. *Section 206 (Provision for pending cases etc.)* of the existing Act has already been given by us in an amended form in clause 4.

250. *Section 209 (Granting any relief to which plaintiff is entitled)* of the existing Act. In our view after the application of the provisions of the Code of Civil Procedure, no such provision is called for.

251. *Section 210 (Procedure when plea of payment in good faith to a third person is taken).*—In the changed circumstances such a provision is no longer required.

252. *Section 211 (Suits etc. by co-sharers).*—In our opinion such a provision is not necessary.

253. *Section 212 (Provisions for injunction and appointment of a receiver).*—See para 145 above containing our remarks on section 92A of the existing Act. No separate provision for temporary injunction and appointment of a receiver is necessary. The relevant provisions of the Code of Civil Procedure should be made use of whenever required.

254. *Section 213 (Sale of Khateaar tenant's interest in execution of decree for arrears of rent).*—In view of the modified provisions proposed by us, such a provision as that of section 213 of the existing Act is not necessary.

255. *Section 217 (Orinary powers of different grades of revenue courts).*—As we are not giving a separate schedule and have embodied the provisions in the clauses themselves, a provision such as that contained in section 217 of the existing Act is not required.

256. *Section 222 (Appeal not to lie unless allowed by this Act).*—There is no such specific provision in the Code of Civil Procedure. The right to appeal is conferred by a statute and as

the Draft Bill contains specific provisions about appeals, no such provisions as that contained in section 222 of the existing Act is required .

257. *Section 226 (Power of Board to reject an appeal summarily).*—No such provision appears to be called for. The ordinary provisions of the Code of Civil Procedure would apply.

258. *Section 227 (No decree or order to be reversed or modified for error or irregularity).*—This is based on section 99 of the Code of Civil Procedure, 1908. No such specific provision is now necessary.

259. *Section 231 (Power of High Court to call for cases).*—This section has reference to section 239 (“procedure when plea of proprietary right is raised”). As section 239 has been omitted, section 231 is also not necessary.

260. *Section 232 (Power to call for record and refer to the Board).*—The existing section reads as under:—

“The Collector may call for and examine the record of any case or proceeding decided by or pending before any revenue court subordinate to him for the purpose of satisfying himself as to the legality or propriety of the order passed and as to the regularity of the proceeding, and, if he is of opinion that the order passed or the proceeding taken by such court should be varied, cancelled or reversed, he shall refer the case with his opinion thereon for the orders of the Board and the Board shall, thereupon, pass such orders as it thinks fit:

Provided that the power conferred by this section shall not be exercised in respect of suits or proceedings falling within the purview of section 239.”

Before the word “Collector” the words “the Commissioner or the” as these originally appeared in the section were omitted by the Rajasthan Divisional Commissioner Office (Abolition) Act, 1962 (Rajasthan Act 8 of 1962). The provision contained in section 232 of the existing Act is different from the provisions relating to references contained in the Code of Civil Procedure. Under the revised Draft Tenancy Bill, the Board has been given both appellate and revisional jurisdiction, and no such provision as that contained in section 232 of the existing Act is, in

our opinion, required. This is a very unusual provision and we are not in favour of retaining it.

261. *Section 238 (Transfer of revenue appeals by High Court).*—This section has reference to section 239. As that particular section has been omitted, section 238 also been omitted.

262. *Section 239 (Procedure when plea of proprietary right raised).*—With the resumption of Jagirs and the abolition of the Zamindari and Biswedari tenure, there are no proprietors in so far as agricultural lands are concerned, and all agricultural lands now belong to the Government. No such provision as that contained in section 239 of the existing Act is, therefore, now necessary. Pending cases, if any, will be governed by the present provision. We contemplate that if the revenue court is competent to decide a matter, it should decide it on all the points, irrespective of the nature of the controversy raised before it.

263. *Section 240 (Limitation and court-fee for appeal under section 239).*—In view of the omission of section 239, section 240 has also been omitted.

264. *Section 241 (Procedure in appeals when material for determining question of proprietary right not on record).*—For the same reason this section has also been omitted.

265. *Section 242 (Procedure when plea of tenancy raised in civil courts).*—As a corollary to the omission of section 239 and in the changed circumstances, no such provision as is contained in section 242 of the existing Act is required.

266. *Section 243 (Power to refer question of jurisdiction to High Court).*—In view of the omission of the provisions contained in sections 239 and 242 of the existing Act, section 243 *ibid* has also been omitted.

267. *Section 244 (Plea in appeal that suit was instituted in wrong court) and section 245 (Procedure when objection was taken in the court of first instance).*—These provisions are not necessary.

268. *Section 246 (Arrears of revenue, profit etc.).*—In the changed circumstances and in view of the modified provisions, this provision is also not required now.

269. *Section 247 (Suits for arrears of revenue paid).*—The estates having been abolished, such a provision is not required now. Pending suits will be governed by the present provision.

270. *Section 248 (Suits by or against ijaredars or thekadars).*—As the entire chapter relating to ijaredars and thekadars has been omitted, in view of the abolition of intermediaries, no such provision has been made in the revised Draft Bill.

271. *Section 249 (Suits for settlement of accounts).*—As the estate holders have disappeared, provision for suits by co-sharers against the estate-holders for a settlement of accounts is no longer required.

272. *Section 250 (Joinder of parties in certain cases).*—This section has relation to sections 246, 247 and 248. All those sections having been omitted, section 250 has also been omitted.

273. *Section 252 (Tenant entitled to compensation for illegal exactions).*—The provisions contained in this section were made to protect the interest of tenants of estate-holders. As there are no estate-holders now, a provision such as that in section 232 is not required.

274. *Section 253 (Failure to give receipt).*—For reasons given above, this section has also been omitted.

275. *Section 256 (Bar to jurisdiction of civil courts).*—In view of the modified provisions of the Draft Bill no such provision as that contained in section 256 of the existing Act is required.

276. *Section 259 (Rules subject to the condition of previous publication).*—The condition of previous publication has already been inserted in clause 117 of the Draft Bill and a separate section is not necessary.

277. *The First Schedule (List of enactments repealed). The Second Schedule (Tenures of Jagir land); The Third Schedule (Suits, applications and appeals under the Act); and The Fourth Schedule (Application of the Code of Civil Procedure, 1908).*—These Schedules are no longer required.

APPENDIX III

[First published in Rajasthan Rajpatra, Extraordinary,
Part III-B, dated 25-9-62.]

कार्यालय सदस्य-सचिव, राजस्थान
राजस्व विधि आयोग

Office of the Member-Secretary,
Rajasthan Revenue Laws
Commission

प्रश्नावली

QUESTIONNAIRE

राजस्थान राजस्व-विधि आयोग नियुक्त
गया है जिसके लिए पार्श्वीकृत* निर्देश
नियत किये गये हैं।

The Rajasthan Revenue Laws
Commission having been appointed
with the marginally noted *terms of
reference.

१. राजस्थान की मौजूदा मू-धारण और
टिनेन्सी पद्धति की जांच करना और निम्न-
लिखित बातों के बारे में रिपोर्ट पेश करना—

(क) राजस्थान में अब तक किये गये
मूमि सुधारों एवं बनाये गये टिनेन्सी
कानूनों का कारतकारों पर क्या
असर पडा है,

(ख) क्या मौजूदा मू धारणाधिकार
(मूमि पर अधिकार के नियम)
(Tenures) और टिनेन्सियां
उपयुक्त हैं, यदि नहीं, तो उन्हें
मू धारणाधिकार और टिनेन्सी
सम्बन्धी आधुनिक विचारों के
अनुकूल बनाने के लिये उनमें क्या
क्या परिवर्तन जरूरी हैं? और

(२) वर्तमान अधिनियमों, अध्यादेशों
और सहायक कानूनों का इस विचार
से पुनर्विलोकन, पुनरीक्षण, संशोधन
अथवा सरलीकरण करना कि जिससे
सिर्फ उनकी जटिलताओं, उनमें
निहित अनावश्यक तत्वों और
उनकी कमियों को ही, यदि कोई

*1. To examine the existing sys-
tem of land tenures and tenancy in
Rajasthan and to report on—

(a) what has been the impact on
the peasantry of land reforms
and tenancy legislation so far
under-taken in Rajasthan,

(b) whether the existing tenures and
tenancies are suitable, and if
not, what changes are required
to bring them more in confor-
mity with modern notions of
tenures and tenancies; and

2. To examine the existing Acts,
Ordinances and subsidiary legislation
in order to review, revise, amend and
simplify the laws, with a view not
only to remove their complexities,
superfluities and lacunae, if any, but
also to make them more effective

हों, दूर नहीं किया जाय अपितु उन्हें भारतीय संविधान के भाग ४ में निहित तथा पंचवर्षीय योजनाओं में निश्चित किये गये सामाजिक ध्येयों को प्राप्त करने के लिये अधिक प्रभावकारी साधन बनाया जा सके।

instruments for the achievement of the social objectives embodied in Part IV of the Constitution of India and set out in the Five Year Plans.

आयोग जन साधारण से विशेषतः कृषकों एवं आसामियों (Tenures) विधायकों, जिला परिषदों, पंचायत समितियों और ग्राम पंचायतों के सदस्यों तथा वकीलों से वर्तमान कानूनों के प्रभाव के सम्बन्ध में तथा विद्यमान जटिलताओं, अनावश्यक तत्वों और कमियों, यदि कोई हों, को उचित परिवर्तनों तथा संशोधनों के जरिये दूर करने के लिये सुझाव आमन्त्रित करता है।

the Commission invites suggestions from the general public, specially agriculturists and tenants, legislators, members of the Zila Parishads, Panchayat Samitis and Village Panchayats and members of the Bar, both in regard to the impact of the existing legislation and the removal of existing complexities, superfluities and lacunae if any, through suitable modifications and amendments.

२. खास तौर पर निम्नलिखित मुद्दों पर राय आमन्त्रित की जाती है :—

2. Opinion is invited in particular on the following specific points :—

भाग-क

PART-A.

प्रश्न: १. आपकी राय में राजस्थान में—

(१) जागीर पुनर्ग्रहण तथा जमींदारी और बिस्वेदारी मू-संपदाओं के उन्मूलन के जरिये मध्यवर्तियों के उन्मूलन का, और

Q.1. What, in your opinion, has been the impact, on the peasantry in Rajasthan, of the (i) abolition of intermediaries through the resumption of Jagirs and the abolition of Zamindari and Biswedari estates, and (ii) conferment of the rights, privileges and concessions embodied in the Rajasthan Tenancy Act, 1955 (Rajasthan Act 3 of 1955) as it stands at present ?

(२) राजस्थान टिनेन्सी अधिनियम, १९५५ (राजस्थान अधिनियम संख्या ३ सन् १९५५), जैसा कि इस समय है, में निहित अधिकारों, विशेषाधिकारों और सुविधाओं के दिये जाने का,

किसानों पर क्या प्रभाव पडा है ?

२. क्या मध्यवर्तियों के उन्मूलन से तथा रणाधिकारों और टिनेन्सियों के सुधार

Q.2. Whether the abolition of intermediaries and the improvements

से आसामियों (Tenants) का हित सुरक्षित हो गया है; यदि नहीं, तो क्यों नहीं? कृपया अपने कारण बतलाइये।

३. (१) क्या आसामी राजस्थान टिनेन्सी अधिनियम, १९५५ द्वारा उनको दिये हुए अधिकारों, विशेषाधिकारों और सुविधाओं का उपभोग कर रहे हैं; यदि नहीं, तो क्यों नहीं? कृपया अपने कारण बतलाइये।

(२) खासतौर पर निम्न मुद्दों पर सूचना चाही जाती है :—

(क) क्या आसामी (Tenants) टिनेन्सी एक्ट की धारा १५ और १९ द्वारा उनको दिये गये खातेदारी अधिकारों का वास्तविक उपभोग कर रहे हैं और उनके नाम पर दाखिल खारिज (नामान्तरण) कर दिया गया है; यदि दाखिल खारिज (नामान्तरण) अभी तक मंजूर नहीं किये जा सके हैं तो देरी के क्या कारण हैं; तथा ऐसे कौन से कदम उठाये जायें जिनसे सम्बन्धित आसामी अपने दाखिल खारिज जल्दी मंजूर करा सकें और इस काम में अधिक देर न हो?

(ख) आया आसामियों, कृषि-श्रमिकों और गांवों के दस्तकारों को रहने के मकानों के लिये बिना कीमत जमीन देने सम्बन्धी प्रावधानों से, जो कि धारा ३१ में किये गये हैं, सभी सम्बन्धित व्यक्ति वास्तव में लाभान्वित हुए हैं और वे उस धारा में निहित प्रावधानों से और उनके अन्तर्गत बने हुए नियमों से लाभ उठा रहे हैं। क्या वे रहने के मकानों के लिये जमीन आसानी से तथा शीघ्रता से प्राप्त कर रहे हैं अथवा कुछ कठिनाई से और देरी के साथ और यदि वास्तव में जमीन प्राप्त करने में कुछ कठिनाई होती हो अथवा देरी लगती हो तो इसके क्या कारण हैं?

of the tenures and tenancies has ensured to the benefit of the tenants; and if not, why not? Please give your reasons.

Q.3. (1) Whether the tenants are in the enjoyment of the rights, privileges and concessions conferred on them by the Rajasthan Tenancy Act, 1955; and if not, why not? Please give your reasons.

(2) Information is required in particular on the following specific points :—

(a) Whether the tenants are in the actual enjoyment of the Khatedari rights conferred upon them by sections 15 and 19 of the Tenancy Act and mutations have been effected in their names, and if mutations have not yet been sanctioned, what are the causes for the delay, and what steps should be taken to enable the tenants concerned to get mutations sanctioned without further delay?

(b) Whether the provisions contained in section 31, about the provision of free house-sites to tenants, agricultural workers and village artisans have actually benefitted all the persons concerned, who are taking advantage of the provisions contained in that section and the rules made thereunder; whether they are able to secure the house-sites easily and quickly or with difficulty and after some delay, and if the latter is the case, what are the causes of the same?

- (ग) क्या आसामी लिखित पट्टा प्राप्त करने के अधिकार का, जो कि धारा ३२ द्वारा दिया गया है, वास्तव में उपभोग कर रहे हैं; और भूमि-धारी लिखित पट्टे दे रहे हैं तथा लिखित कबूलियत प्राप्त कर रहे हैं?
- (घ) क्या खातेदारी अधिकार देने के प्रतिफलस्वरूप अधि-शुल्क (प्री-मियम) या नजराना वसूल न किये जाने सम्बन्धी प्रावधानों का, जो कि धारा ३४ में निहित है, पालन किया जाता है?
- (ङ.) क्या उप-करों (अब्बाव) और लाग-बाग की वसूली पर धारा ३५ द्वारा लगाई गई रोक का वास्तव में पालन किया जाता है और कोई लाग-बाग वसूल नहीं की जाती है?
- (च) क्या हस्तान्तरणों पर धारा ४२ तथा ४३ के परन्तुकों द्वारा लगाये गये निषेध और प्रतिबन्ध [अनुसूचित जातियों और अनुसूचित जन जातियों के सदस्यों द्वारा उन लोगों को जो अनुसूचित जातियों और अनुसूचित जन जातियों के सदस्य नहीं हैं बिक्री, उपहार, बन्धक इत्यादि द्वारा हस्तान्तरण नहीं किया जाना; गंग नहर, भाकरा, चम्बल, जवाई और राजस्थान नहर परियोजना क्षेत्रों में हस्तान्तरणों का निषेध] वास्तव में प्रभाव में लाये जा रहे हैं?
- (छ) आया धारा ४५ द्वारा पट्टे या उप-पट्टे पर जमीन दिये जाने पर, पट्टे या उप-पट्टे की अधिकतम अवधि ५ वर्ष से अधिक न होने और प्रत्येक पट्टे या उप-पट्टे के बीच दो वर्ष का फासला होने, तथा अनुसूचित जातियों व अनुसूचित जन जातियों के लोगों द्वारा ऐसे लोगों को जो अनुसूचित जाति या
- (c) Whether the right conferred by section 32 of having a written lease is actually being enjoyed by the tenants, and the land-holders are giving written Pattas and obtaining written Qabuliats?
- (d) Whether the provisions of section 34 about the non-recovery of premium, or Nazrana, for the conferment of Khatadari rights are being enforced?
- (e) Whether the prohibition on the levy of cesses, or Lag-Bag, imposed by section 35 has actually been enforced and no Lag-Bag is being collected?
- (f) Whether the prohibitions and restrictions on transfers imposed by the proviso to sections 42 and 43 [non-transfer by sale, gift, mortgage etc. by members of the Scheduled castes and Scheduled tribes to persons who are not members of the scheduled castes and scheduled tribes; prohibition against transfers in the Gang Canal, Bhakra, Chambal, Jawai or Rajasthan Canal Project Areas] are being actually enforced?
- (g) Whether the restrictions imposed on letting and sub-letting by section 45, about the maximum period of leases or sub-leases not exceeding 5 years and there being an interval of 2 years between each lease or sub-lease, and against letting or sub-letting by members of the scheduled castes or scheduled tribes to persons

अनुसूचित जन जाति के नहीं हैं, मृदु या उप-मृदु पर जमीन बिये जाने के विरुद्ध लगाये गये प्रतिबन्ध व्यवहार में आ रहे हैं ?

who are not members of the scheduled castes and scheduled tribes are being observed in practice ?

(ज) क्या कृषि भूमियों (Agricultural holdings) की धारा ५३ और उसके अन्तर्गत बनाये गये नियमों के अधीन निर्धारित न्यूनतम क्षेत्रफल से भी, छोटे छोटे टुकड़ों में विभाजित किया जा रहा है ?

(h) Whether agricultural holdings are being sub-divided below the minimum area prescribed by section 53 and the rules made thereunder ?

(झ) आया धारा ५५ के प्रावधान यह कि समर्पण के साथ तहसीलदार अथवा म्युनिसिपल बोर्ड के चैयरमैन द्वारा प्रमाणित लेख-पत्र होने चाहिये, व्यवहार में आ रहे हैं ?

(i) Whether the stipulation in section 55 about the surrenders being accompanied with a writing attested by the Tehsildar, or by the Chairman of the Municipal Board, is being acted upon ?

(ञ) क्या भूमि-धारियों (अर्थात्-जागीरदारों, जमींदारों, बिस्वेदारों और उप-आसामियों की दशा में मुख्य आसामियों) ने किसी विशेष सीमा तक तथाकथित "स्वेच्छया समर्पण" या बेदखली अनुचित दबाव या प्रभाव से प्राप्त की है अथवा आसामियों की अनभिज्ञता तथा पिछड़ेपन के कारण ?

(j) Have the land-holders (viz. Jagirdars, Zamindars, Biswedars and tenants-in-chief *vis-a-vis* the sub-tenants) secured so called "voluntary surrenders", or effectments, through undue pressure and influence, or on account of the ignorance and backwardness of the tenants, to any appreciable extent ?

(ट) क्या अधिनियम के अध्याय ६ द्वारा दिये गये सुधार करने सम्बन्धी अधिकारों का व्यापक प्रयोग होता है, और क्या टिनेन्सी अधिनियम लागू होने के पश्चात् खोदे गये कुओं और बनाये गये तालाबों और बन्दों की संख्या में पर्याप्त वृद्धि हुई है ?

(k) Whether the right to make improvements conferred by Chapter VI of the Act is being widely exercised and whether there has been an appreciable increase in the number of wells dug, or tanks or bunds constructed, since the commencement of the Tenancy Act ?

(ठ) क्या अधिनियम लागू होने के समय भूमियों (Holdings) पर यत्र-तत्र खड़े हुए वृक्षों पर अधिकार देने सम्बन्धी धारा ८० के प्रावधानों से आसामियों को लाभ हुआ है, अथवा क्या वे इस प्रावधान को अपने लिये अलामकारी समझते हैं

(l) Whether the provisions of section 80 about the vesting of scattered trees standing on their holdings at the time of the commencement of the Act have benefitted the tenants, or whether they look with disfavour upon this provision

और मुआवजा देने के लिये तैयार नहीं है अथवा क्या वे मुआवजे की दरों को अधिक समझते हैं?

and are not willing to pay the compensation, or regard the rates of compensation as excessive?

(ड) क्या भूमि-धारियों और आसामियों को धारा ८४ के अधीन घरेलू और कृषि कार्यों के लिये पेड़ काटने सम्बन्धी दिये गये अधिकारों का दुरुपयोग किया गया है; यदि हाँ, तो, ऐसे दुरुपयोग का भार तथा सीमा क्या है; और क्या भूमि-धारी और आसामी इस अधिकार का पूर्ण लाभ उठाने में असमर्थ रहे हैं; यदि हाँ, तो इस सुविधा का लाभ उठाने में उनकी असमर्थता के क्या कारण हैं?

(m) Whether the right given to land-holders and tenants by section 84 of removing trees for their domestic or agricultural use has been misused; and if so, what is the incidence or extent of such misuse; or whether the land-holders and tenants have not been able to make full use of this right; and if so, what are the reasons for their inability to avail themselves of this concession?

(ढ) राजस्थान लैंड रेवेन्यू (कंट्रोल एण्ड मैनेजमेंट आफ फारेस्ट ग्रोथ) रूलस, १९६०, जैसे कि वे सरकारी विज्ञप्ति संख्या एफ. १५ (८५) रेव. ए. १५७, दिनांक २४ मई, १९६० के अन्तर्गत राजस्थान राज-पत्र, विशेषांक, भाग (४) ग दिनांक २४ मई, १९६० में प्रकाशित हुए हैं, का क्या प्रभाव पड़ा है? और जो कि खैजडा, खैजडी तथा बम्बूल के वृक्षों को फलवट्टर से प्राप्त लाइसेन्स के अतिरिक्त अन्यथा हटाने का निषेध करते हैं।

(n) What has been the impact of the Rajasthan Land Revenue (Control and Management of Forest Growth) Rules, 1960, as published under Government Notification No. F.15(85)Rev. A/57, dated the 24th May, 1960 in Part IV-C of the Rajasthan Gazette, Extraordinary, bearing even date, and which rules prohibit the removal of Khejara, Khejri and Bambool trees except under a licence obtained from the Collector?

(ण) क्या अधिकतम नकदी लगान के बारे में धारा ९८ और ९९ तथा उनके अन्तर्गत बनाये गये नियमों के प्रावधानों को वास्तव में लागू कर दिया गया है; अथवा निर्धारित अधिकतम लगान से अधिक लगान वसूल किया जा रहा है; यदि हाँ, तो, इस प्रकार के अधिक लगान का भार क्या है?

(o) Whether the provisions of sections 98 and 99, and the rules made thereunder, about the maximum cash rents, have actually been enforced; or whether rents in excess of the prescribed maxima are being charged; and if so, what is the incidence of such excess rents?

(त) क्या राजस्थान में जिन्स के रूप में लगान वसूल करने की प्रथा अब भी

(p) Whether kind-rents are still prevalent in Rajasthan, and

जारी है तथा क्या जिन्सी लगान को नकदी लगान में परिवर्तित करने सम्बन्धी अधिनियम के प्रावधानों का किसी पर्याप्त सीमा तक उपयोग नहीं किया गया है ?

the provisions of the Act relating to commutation of kind-rents into cash rents have not been utilised to any appreciable extent ?

(थ) क्या-भूमि धारी मुद्रित रसीद-बुकों का प्रयोग कर रहे हैं और अपने आसामियों को लिखित रसीदे दे रहे हैं जैसा कि धारा १३५ द्वारा अपेक्षित है ? यदि नहीं, तो, इन प्रावधानों के मंग होने का भार क्या हुआ है ?

(g) Whether, the land-holders are using printed receipt-books and giving written receipts to their tenants as required by section 135; and if not, what is the incidence of the breach of these provisions ?

(द) भूमि-धारियों से लेखा ब्यौरा प्राप्त करने हेतु आसामियों के अधिकार के सम्बन्ध में धारा १३८ के प्रावधान किस सीमा तक उपयोग किये जा रहे हैं ?

(r) What is the extent to which the provisions of section 138 regarding the right of tenants to receive a statement of accounts from their land-holders are being used ?

(व) क्या गाडी (कार्टेज) भत्तों का भुगतान न करने सम्बन्धी धारा १४६ के प्रावधानों का पालन किया जा रहा है ?

(s) Whether the provisions of section 146 about non-payment of cartage allowance are being acted upon ?

(न) (१) क्या स्वेच्छापूर्वक तथा अवैधानिक रूप में आसामियों की बेदखली बन्द कर दी गयी है और बेदखली केवल रेवेन्यू कोर्ट्स की मारफत ही की जा रही है; अथवा प्रावधान अपने उद्देश्यों की प्राप्ति में असफल रहे हैं और आसामियों को बड़ी तादाद में बेदखल किया गया है; और यदि ऐसा किया गया है तो अब समस्या का क्या विस्तार है ?

(t) (i) Has arbitrary and unlawful ejectment of tenants been stopped and ejectment is being done only through the Revenue Courts; or have the provisions failed to achieve their object and there has been wholesale ejectment of tenants; and if the latter is the case, what is the magnitude of the problem now ?

(२) क्या आसामियों की (१) बेदखली और (२) पुनः अधिष्ठापन (Re-instatement) सम्बन्धी मौजूदा प्रावधानों में किसी रूपान्तरण या परिवर्तन की आवश्यकता है ?

(ii) Do the existing provisions about (1) ejectments and (2) reinstatement of tenants require any modification or change ?

- (३) क्या धारा १८० के प्रावधानों का, जिनमें कि गैर खातेदार आसामियों खुदकाश्त आसामियों या शिकमी आसामियों को उस हालत में जबकि भूमिधारियों को उनकी निजी कृषि के लिये भूमि की जरूरत हो, बेदखल किये जाने की व्यवस्था है ?
- (iii) Have the provisions of section 180 for ejection of Ghair Khatedar tenants, tenants of Khudkasht and sub-tenants, for providing land to land-holders for their personal cultivation, been misused to any great extent ?

किसी अधिक सीमा तक दुरुपयोग किया गया है ?

- (प) (१) निम्नलिखित के सम्बन्ध में ग्राम पंचायतों को जो शक्तियाँ दी गई हैं उनका वस्तुतः क्या प्रभाव पड़ा है—
- (u) (1) What has been the actual impact of the powers conferred upon the village Panchayats of—

(क) नामान्तरणों (mutations) की स्वीकृति;

(a) sanctioning mutations;

(ख) राजस्थान भू-राजस्व अधिनियम, १९५६ की धारा १२८ में अंकित प्रकार के सीमा विवादों का निर्णय; और

(b) deciding boundary disputes of the nature indicated in section 128 of the Rajasthan Land Revenue Act, 1956; and

(ग) राजस्थान टिनेन्सी एक्ट, १९५५ की धारा २५१ के अधीन सुविधा अधिकारों (easements) के सम्बन्ध में विवादों का निपटारा ?

(c) disposing of disputes relating to easements under section 251 of the Rajasthan Tenancy Act, 1955 ?

(२) ग्राम पंचायतों को जो चरागाह भूमियाँ तथा आबादी भूमियाँ हस्तान्तरित की गई हैं उसका क्या प्रभाव पड़ा है ?

(2) What has been the impact of the transfer of pasture lands and Abadi lands to the Village Panchayats ?

(फ) क्या अवैध बेदखलियों के लिये दिये जाने वाले मुआवजे के बारे में धारा २५२ के प्रावधानों से आसामी किसी हद तक लाभान्वित हुए हैं ?

(v) Have the provisions of section 252 about compensation for illegal exactions benefitted the tenants to any extent ?

(ब) इस समय गांवों में किस हद तक लोग ऋणी हैं; तथा क्या खातेदारी अधिकार देकर भूधारणाधिकारों की अवधि निश्चित करने, और राजस्थान भू-राजस्व अधिनियम, १९५६ तथा राजस्थान टिनेन्सी एक्ट, १९५५ में अन्तर्विष्ट प्रावधानों के द्वारा उचित भाटक-राशियां सुनिश्चित करदी जाने से कृषकों की आर्थिक स्थिति में सुधार नहीं हुआ है और उनकी प्रत्योग्यता (Credit-worthiness) नहीं बढ़ी है तथा उनकी ग्रामीण ऋणिता को कम करने में मदद नहीं मिली है ?

(w) What is the present extent of rural indebtedness; and has not the conferment of fixity of tenure through the grant of Khatedari rights, and the fairness of rentals ensured by the provisions embodied in the Rajasthan Tenancy Act, 1955 and the Rajasthan Land Revenue Act, 1956, improved the economic condition of the peasants, enhanced their credit-worthiness and helped to reduce rural indebtedness ?

४. (क) राजस्थान के जागीरदारी, जमींदारी तथा बिस्वेदारी क्षेत्रों के आसामी वास्तव में जागीरों के पुनर्ग्रहण तथा जमींदारी तथा बिस्वेदारी के उन्मूलन से किस हद तक लाभान्वित हय है ?

Q. 4 (a) To what extent have the tenants of the Jagirdari, Zamindari and Biswedari areas of Rajasthan actually benefitted through the resumption of the Jagirs and the abolition of the Zamindari and Biswedari estates ?

(ख) क्या आसामी पहिले की अपेक्षा अब अच्छी स्थिति में है ?

(b) Are the tenants better off now than they were in the past ?

(ग) क्या वे अब अपने आप को अधिक सुरक्षित अनुभव करते हैं, और क्या उनको अब पहिले की अपेक्षा भाटक के रूप में कम भुगतान करना पडता है ? कृपया यह बतलाइये कि आसामियों को वास्तव में क्या क्या राहत मिली है ?

(c) Do they feel more secure, and do they now have to pay less by way of rent than before ? Please explain the relief which the tenants actually received.

(घ) जागीरदारी, जमींदारी, तथा बिस्वेदारी के उन्मूलन से प्रभावित व्यक्तियों को किस हद तक फिर से बसा दिया गया है; अथवा क्या पहिले के मध्यवर्तियों को खुदकाशत का आवण्टन करने सम्बन्धी प्रावधानों का दुरुपयोग किया गया है ? कृपया कारणों सहित उत्तर दीजिये ।

(d) How far have the persons affected by the abolition of Jagirdari, Zamindari and Biswedari been rehabilitated; or have the provisions for the allotment of Khudkasht to the former intermediaries been misused ? Please give reasons for your answer.

५. भूमि के स्वामित्व के बारे में आपके क्या विचार हैं—क्या ऐसी समस्त भूमियाँ, जो एक एक व्यक्ति की या सम्पत्ति को वैयक्त रूप से धारण कर लिये समर्थ व्यक्तियों के निकाय की संपत्ति नहीं हैं (राजस्थान भू-राजस्व अधिनियम, १९५६ की धारा ८८) राज्य की संपत्ति बनी रहनी चाहिये अथवा भूमि व्यक्तिशः आसामियों में निहित रहनी चाहिये या भूमि सम्पूर्ण रूप में ग्राम समुदाय में निहित रहनी चाहिये ?

६. (क) आया वर्तमान भूमि-धारण करने के अधिकार (Tenures) और आसामी की हैसियत से कृषि करने की व्यवस्था (tenancy) उपयुक्त है और यदि नहीं, तो उनमें क्या दोष हैं तथा उनमें ऐसे कौन से परिवर्तन अपेक्षित हैं ताकि उनको भू-धारणाधिकार तथा भूमि धारण करने के सम्बन्ध में आधुनिक विचारों के अधिक अनुकूल बनाया जा सके ?

(ख) आया सम्पूर्ण राजस्थान में एक ही वर्ग के आसामी होने चाहिये या भिन्न भिन्न वर्गों के ?

(ग) यदि एक ही वर्ग के आसामी होने चाहिये तो उनके अधिकार और उत्तरदायित्व क्या होने चाहिये और भूमि (holdings) का विखण्डन रोकने के लिये (१) अन्यक्रामण (alienations) तथा (२) उत्तराधिकार के हकों पर क्या प्रतिबन्ध लगाये जाने चाहिये ?

(घ) आया आसामी को (१) समस्त कृषि-योग्य भूमि पर काश्त करने तथा/या निर्दिष्ट फसलें पैदा करने के लिये; और (२) अपनी पैदावार, सारी की सारी या उसका

Q. 5. What are your views about the ownership of land—whether all lands which are not the property of individuals or of bodies of persons legally capable of holding property (of section 88 of the Rajasthan Land Revenue Act, 1956) should continue to be the property of the State; or whether the land should vest in individual tenants, or whether the land should vest in the village community as a whole.

Q. 6 (a) Whether the existing tenures and tenancies are suitable and if not, what are their defects and what changes are required to bring them more in conformity with the modern notions of tenures and tenancies ?

(b) Whether there should be only one class of tenants in the whole of Rajasthan or different classes ?

(c) If there should be only one class of tenant, what should be his rights and liabilities and what restrictions should be imposed on the rights of (1) alienations and (2) successions so as to prevent fragmentation of holdings ?

(d) Whether the tenant should be compelled to (i) bring all cultivable land under cultivation and/or to grow specified crops; and (ii) part with his produce, in whole or in part, to the State or to the co-operative societies ?

कुछ भाग, सरकार अथवा सहकारी संस्थाओं को देने के लिये बाध्य किया जाना चाहिये ?

(ड) (१) काश्त की गई भूमि पर वृक्ष लगाने, तथा

(२) अधिक फल और सब्जियां उगाने के लिये, किस प्रकार प्रोत्साहन (impetus) दिया जा सकता है ?

(e) How can impetus be given to the (1) planting of trees on the land under cultivation

(2) growing of more fruits and vegetables ?

७. क्या राजस्थान टिनेन्सी एक्ट, १९५५ की धारा १६ में, उन भूमियों के बारे में जिनमें खातेदारी अधिकार प्राप्त नहीं किये जा सकते, निहित प्रावधानों के विषय में आपको कोई राय देनी है ?

Q.7. Have you any views to offer on the provisions contained in section 16 of the Rajasthan Tenancy Act, 1955, about lands in which Khatadari rights cannot accrue ?

८. (क) क्या आप सहकारी खेती के पक्ष में हैं, और यदि हां, तो आपकी राय में उसका वास्तविक रूप क्या होना चाहिये; और सरकार द्वारा सहकारी खेती को प्रोत्साहित करने के लिये क्या कदम उठाये जाने चाहिये ?

Q.8. (a) Are you in favour of co-operative farming; and if so, what, in your opinion, should be its exact form; and what steps should be taken by the Government to encourage co-operative farming ?

(ख) (१) सामूहिक (collective) खेती और (२) राज्य कृषि-करण (राज्य की ओर से खेती की जाने) के बारे में आपके क्या विचार हैं ?

(b) What are your views about (i) collective farming, and (ii) State farming ?

९. (क) राजस्थान में ग्राम पंचायतों को गांवों में कृषि भूमियों के प्रबन्ध और उनका उपयोग करने (utilisation) से संबद्ध करने के लिये आपकी राय में क्या कार्यवाही की जानी चाहिए ?

Q.9. (a) What steps should, in your opinion, be taken to associate the Village Panchayats in Rajasthan with the management and utilisation of agricultural lands in the villages ?

(ख) क्या आप की राय में, लगान वसूल करने का काम ग्राम पंचायतों के सुपुर्द कर देना चाहिये या लगान सरकार द्वारा सीधे ही वसूल किया जाता रहना चाहिये ?

(ग) आया ऐसी भूमि जिस पर काश्त नहीं की गई हो, का प्रबन्ध ग्राम पंचायतों द्वारा किया जाना चाहिये ?

(घ) (१) ग्राम वन उगाने, और (२) बंजड़ भूमियों का विकास करने का काम किसके हाथ में दिया जाना चाहिये ?

१०. अधिनियम के वर्तमान प्रावधानों के अधीन कृषि भूमि-धारण करने का उत्तराधिकार ऐसे व्यक्तिगत कानून द्वारा प्रशासित होता है जो उक्त आसामी पर उसकी मृत्यु होने के समय लागू होता था। क्या आप इस प्रावधान में कोई परिवर्तन विशेष करके भूमियों का विखण्डन रोकने की दृष्टि से किया जाने की सिफारिश करते हैं? कृपया अपना उत्तर कारण सहित दीजिये ?

११. (क) राजस्थान में कृषि भूमियों (holdings) की अधिकतम सीमा निर्धारण संबंधी प्रावधान, जैसे वे राजस्थान टिनेन्सी (संशोधन) अधिनियम, १९६० (राजस्थान अधिनियम ४ सन् १९६०) में दिये गये हैं, अभी तक क्रियान्वित नहीं किये गये हैं, क्योंकि अभी अधिकतम सीमा के क्षेत्रों का हिसाब लगाया जा रहा है। सामान्यरूप से भूमि की अधिकतम सीमा आरोपित करने और विशेष रूप से निम्नलिखित मुद्दों के सम्बन्ध में मौजूदा प्रावधानों के विषय में आपकी क्या राय है:—

(b) Should the collection of rent, in your opinion, be entrusted to Village Panchayats, or should rents continue to be collected directly by the State Government ?

(c) Whether the uncultivated land should be managed by the Village Panchayats ?

(d) Who should undertake the (i) growth of village forests and (ii) development of waste lands ?

Q.10. Under the existing provisions of the Act succession to agricultural tenancies is governed by the personal law to which the tenant was subject at the time of his death. Do you recommend any change in this provision, specially with a view to prevent fragmentation of holdings? Please give reasons for your answer.

Q.11. (a) The provisions relating to the imposition of ceilings on holdings of agricultural lands in Rajasthan as embodied in the Rajasthan Tenancy (Amendment) Act, 1960 (Rajasthan Act No. 4 of 1960) have not yet been enforced as the ceiling areas are still being worked out. What are your views about the imposition of ceilings in general, and in particular about the existing provisions regarding:—

(१) भूमि की अधिकतम सीमा का निर्धारण

(i) determination of ceiling areas.

२) भूमि की अधिकतम सीमा निश्चित होने पर समर्पित की जाने वाली अतिरिक्त भूमि के मुआवजे की राशि, और

(ii) quantum of compensation for the surplus land to be surrendered on the imposition of ceilings, and

(३) छूट (exemptions)

(iii) exemptions.

(ख) आया, अधिकतम सीमा आरोपित करने के बाद, अवशिष्ट अधिक भूमि समूचे ग्राम को सामूहिक रूप से दे देनी चाहिये अथवा उसे भूमिहीन व्यक्तियों में बांट दिया जाना चाहिये ?

(b) Whether, on the imposition of ceilings, the excess land should be given to the village community as a whole, or it should be allotted to individual landless persons ?

(ग) क्या राज्य सरकार द्वारा विज्ञप्ति जारी किये जाने के बावजूद और धारा ३०-घ में निहित प्रावधानों के होते हुए भी, भूमि की अधिकतम सीमा सम्बन्धी कानून को विफल करने की दृष्टि से कृषि-भूमि का बड़ी संख्या में हस्तान्तरण किया गया है; और यदि ऐसा है तो क्या आप इस प्रकार के हस्तान्तरणों को मान्यता नहीं देने के लिये मौजूदा प्रावधानों को पर्याप्त समझते हैं ?

(c) Whether, inspite of the issue of communiques by the State Government and of the provisions contained in section 30-D, there have been large-scale transfers of agricultural land with a view to defeating the law relating to ceilings; and if so, do you consider the existing provisions about the non-recognition of such transfers adequate ?

१२. क्या राजस्थान टिनेन्सी एक्ट, १९५५ (राजस्थान एक्ट सं० ३ सन् १९५५) की धारा ५ के खण्ड (२३) में अन्तर्विष्ट "खुद-काश्त" की परिभाषा, आपकी राय में, संतोषजनक है; और यदि नहीं तो आप इस परिभाषा में क्या परिवर्तन किये जान का प्रस्ताव करेंगे ?

Q.12. Is the definition of 'Khud-kasht' contained in clause (23) of section 5 of the Rajasthan Tenancy Act, 1955 (Rajasthan Act No. 3 of 1955), in your opinion, satisfactory; and if not, what change would you propose in this definition ?

१३. क्या आप "भूमि जिसमें खुद ने कृषि की हो" की परिभाषा, जैसी वह टिनेन्सी एक्ट की धारा ५ के खण्ड (२५) में समाविष्ट है, में और संशोधन किया जाने के पक्ष में है ताकि उससे भूमि-धारी (landholder)

Q.13. Are you in favour of further amending the definition of "land cultivated personally", as contained in clause (25) of section 5 of the Tenancy Act, so as to make it obligatory on the part of the land-

या आसामी या उसके कुटुम्ब के किसी सदस्य के लिये—

holder or the tenant or a member of his family to—

(क) उस गांव जिसमें कि उक्त भूमि स्थित हो या उसके किसी निर्धारित घेरे के भीतर निवास करना; और

(a) reside in the village in which the land is situated or within a prescribed radius thereof; and

(ख) कम से कम कुछ शारारक परिश्रम करना,

(b) put in a minimum amount of manual labour ?

अनिवार्य कर दिया जाय ?

१४. "भूमि जिसमें खुदने कृषि की हो" की मौजूदा परिभाषा के अन्तर्गत फसल के बंटवारे की इजाजत नहीं है। क्या फसल के बंटवारे की प्रथा अब भी प्रचलित है; और यदि हां, तो इसे रोकने के लिये क्या उपाय किये जाने चाहिये ?

Q.14. Under the existing definition of "land cultivated personally" crop-sharing is not allowed. Is crop-sharing still prevalent; and if so, what measures should be adopted to stop it ?

१५. क्या आप राजस्थान में शिकभी-पट्टे (sub-lease) के लिये कोई कम से कम अवधि निर्धारित की जाने के पक्ष में हैं, और यदि हां, तो वह कम से कम अवधि क्या होनी चाहिये; तथा क्या ऐसी शर्त लागू करना सम्भव होगा ?

Q.15. Are you in favour of prescribing a minimum period of sub-lease in Rajasthan; and if so, what should that minimum period be; and would it be possible to enforce such a condition ?

१६. क्या आप इस बात के पक्ष में हैं कि समस्त पट्टे तथा उप-पट्टे ग्राम पंचायतों के माध्यम से दिये जाय, या आप नावालिगों, विधवाओं, निर्योग्य (disabled) व्यक्तियों इत्यादि द्वारा उप-पट्टे पर भूमि दी जाने को छोड़कर, उप-पट्टे देने पर पूरी तरह रोक लगा दी जाने के पक्ष में हैं? कृपया अपने उत्तर के कारण बतलाइये।

Q.16. Are you in favour of all leases and sub-leases being made through the agency of the Village Panchayats, or are you in favour of completely banning, sub-letting except by minors, widows, disabled persons etc.? Please give full reasons for your answer.

१७. क्या कृषि भूमि के निर्धारित न्यूनतम क्षेत्र के विभाजन का निषेध करने सम्बन्धी टिनेन्सी एक्ट की धारा ५३ में निहित मौजूदा प्रावधान अभ्रभावी सिद्ध हुए हैं; कृषि-भूमि के टुकड़े होने से बचाने के लिये आप क्या संशोधन या नये प्रावधान किये जाने की सिफारिश करते हैं ?

Q.17. If the existing provisions contained in section 53 of the Tenancy Act, prohibiting the division of holdings below the prescribed minimum area, have proved ineffective, what modifications, or fresh provisions, would you recommend so as to prevent fragmentation of holdings ?

१८. (क) क्या आप राजस्थान में कृषि भूमियों पर लगान निर्धारण

Q.18. (a) Are you satisfied with the existing provisions relating to

सम्बन्धी वर्तमान प्रावधानों से, जैसे वे राजस्थान लैंड रेवेन्यू एक्ट, १९५६ (राजस्थान एक्ट सं० १५ सन् १९५६) तथा राजस्थान लैंड रेवेन्यू (अधिकर) अधिनियम, १९६० (राजस्थान अधिनियम १६ सन् १९६०) में समाविष्ट हैं, संतुष्ट है; या आप उनमें कोई परिवर्तन किये जाने का प्रस्ताव करते हैं? कृपया अपने उत्तरों के पक्ष में कारण दीजिये।

assessment of agricultural lands in Rajasthan as contained in the Rajasthan Land Revenue Act, 1956 (Rajasthan Act No. 15 of 1956), and the Rajasthan Land Revenue (Surcharge) Act, 1960 (Rajasthan Act No. 16 of 1960); or do you propose any change? Please give reasons for your answers.

(ख) कृषि आय-कर आरोपित किया (लगाया) जाने के बारे में आपकी क्या राय है?

(b) What is your opinion about the imposition of agricultural income-tax?

१९. (क) क्या राजस्थान में कृषि भूमियों पर आरोपित करामार (incidence of taxation) आपकी राय में, आसामियों के हित में उचित है; यदि नहीं तो उसमें आप क्या रूपान्तरण या परिवर्तन करने का प्रस्ताव करेंगे?

Q.19. (a) Is the incidence of taxation of agricultural lands in Rajasthan, in your opinion, fair to the tenant; if not, what modifications, or changes, would you propose?

(ख) क्या आप किसी स्लाइडिंग स्केल (sliding scale) में लगान निर्धारित किये जाने के पक्ष में हैं, और यदि हां, तो क्या आप ऐसी जोतों को जो अलासप्रद हों (uneconomic holdings) लगान मुक्त रखने के पक्ष में सिफारिश करेंगे; और यदि हां, तो आपके विचार में अलासप्रद जोत कितनी बड़ी (क्षेत्रफल तक की) होनी चाहिये?

(b) Are you in favour of a sliding scale of assessment; and if so, would you recommend complete exemption in favour of uneconomic holdings; and if you would, what would you consider to be the size of an uneconomic holding?

(ग) क्या आप राजस्थान में भू-राजस्व तथा लगान की दरों के एकीकरण (unification) के सम्बन्ध में कोई ठोस सुझाव रखते हैं?

(c) Have you any concrete suggestions to make regarding unification of the rates of land revenue and rents in Rajasthan?

२०. बन्दोबस्त :—(क) प्रत्येक बन्दोबस्त के बीच की समयावधि क्या होनी चाहिये ?

(ख) बन्दोबस्त के समय तथा प्रति-वर्ष कौन कौन से अभिलेख तैयार किये जाने चाहिये ?

(ग) इस प्रकार तैयार किये गये अभिलेखों का क्या मूल्य होना चाहिये ?

(घ) वार्षिक अभिलेख तैयार करने का काम किसके सुपुर्द किया जाना चाहिये ?

(ङ.) अधिकार-अभिलेख (मिसल हकियत) में परिवर्तन या संशोधन किस प्रकार किया जाय ?

(च) इसके लिये क्या प्रक्रिया होनी चाहिये और ऐसे संशोधन करने का काम किसको सुपुर्द किया जाना चाहिये ?

२१. (क) क्या गोचर भूमियों (pasture lands) के संबंध में मौजूदा (१) कानून के प्रावधान और (२) व्यवस्थाएं संतोषजनक हैं; और यदि नहीं, तो आप उनमें क्या रूपान्तरण या संशोधन करने का सुझाव देंगे ?

(ख) क्या ऐसे व्यक्ति जिन्हें ऐसी भूमियों पर जो गोचर भूमियों के रूप से अभिलिखित की गई थी, अवैध कब्जा कर लिया है और उन पर काश्त कर ली है, बेदखल किये जा सकते हैं या बेदखल किये जाने चाहिये; और यदि नहीं, तो उनके कब्जे को नियमानुकूल बनाने और या उक्त भूमियों को उसी

Q.20. *Settlement.*

(a) What should be the interval between each settlement ?

(b) What records should be prepared at the time of settlement, and also annually ?

(c) What value should be attached to the records so prepared ?

(d) Who should be entrusted with the preparation of annual records ?

(e) How should changes or amendments be made in the record of rights ?

(f) What should be the procedure and who should be entrusted to make such amendments ?

Q.21. (a) Are the existing (i) provisions of the law, and (ii) arrangements, regarding pasture lands satisfactory; and if not, what modifications or amendments would you suggest ?

(b) Can, or should, persons who have taken unlawful possession of lands that were recorded as pasture lands and have brought these under cultivation be ejected; and if not, what action would you propose to regularise their possession and/or secure the restoration of the lands for the purpose for which these were originally set apart ?

प्रयोजन जिसके लिये वे मूलतः पृथक रखी गई थीं, के निमित्त पुनः प्रयोग किया जाना सुनिश्चित करने के लिये आप क्या कार्यवाही करने का प्रस्ताव रखेंगे ?

२२. राजस्थान लैंड रेवेन्यू एक्ट, १९५६ (राजस्थान एक्ट सं० १५ सन् १९५६) की धारा ९०-का और राजस्थान लैंड रेवेन्यू (कनवर्सन आफ एग्रीकल्चरल इन्डू नान-एग्रीकल्चरल लैंड) रूल्स, १९६१ में अन्तर्विष्ट कृषि भूमियों को कृषि-मिन्न भूमियों के रूप में परिवर्तित करने के लिये प्रावधानों के संबंध में आपके क्या विचार हैं ? क्या खती करने के प्रावधान के लिये भूमि धारण करने वाले व्यक्तियों द्वारा उक्त भूमि को आवादी भूमि में परिवर्तित करने के निमित्त अनुमति प्राप्त करने में किन्हीं कठिनाइयों का अनुभव करना पड़ता है ; यदि हां, तो इसके लिये कानून में संशोधन करने के लिये या कोई बिलकुल ही नया कानून बनाये जाने के बारे में आप क्या सुझाव देंगे ?

२३. (क) क्या भूमिहीन व्यक्तियों में अनधिकृत (बिना कब्जा) सरकारी भूमि के आवण्टन के संबंध में कानून के मौजूदा प्रावधान उचित हैं (adequate) और क्या व्यवहारिक तौर पर यह व्यवस्था सतोपजनक रूप से कार्य कर रही है ; और यदि नहीं, तो आप ऐसी भूमि को भूमिहीन व्यक्तियों को आवण्टित (अलॉटमेंट) करने और उन्हें फिर से बसाने का कार्य शीघ्रता से किया जाने के लिए किन रूपान्तरणों या संशोधनों का प्रस्ताव करेंगे ?

(ख) क्या भूमि आवण्टन संबंधी मौजूदा नियम और व्यवस्थाएं भूमिहीन व्यक्तियों की समस्या को हल करने में असफल रही हैं ? समस्या का विस्तार (magnitude) कितना है,

Q.22. What are your views regarding the provisions for the conversion of agricultural land into non-agricultural land contained in section 90-A of the Rajasthan Land Revenue Act, 1956 (Rajasthan Act No. 15 of 1956) and the Rajasthan Land Revenue (Conversion of Agricultural into Non-Agricultural Land) Rules, 1961 ? Are any difficulties being experienced by the persons holding land for the purpose of agriculture in getting permission for conversion of such land into abadi; if so, what remedies would you suggest by way of amendment in the law, or the enactment of some entirely new law ?

Q.23. (a) Are the existing provisions of law relating to the allotment of unoccupied Government land to landless persons adequate, and are these arrangements working satisfactorily in practice; and if not, what modifications or amendments would you propose to expedite the allotment of such land to, and the rehabilitation of landless persons?

(b) If the existing rules for allotment of land and the present arrangements have failed to solve the problem of landless persons, what is the magnitude of the problem, and how can their rehabilitation be effected ?

और उनका पुनःस्थापन किस प्रकार किया जा सकता है ?

२४. क्या आबादी भूमियों के बारे में मौजूदा प्रावधान पर्याप्त है; और यदि नहीं, तो आबादी भूमि का विस्तार करने के काम में सुविधा पैदा करने के लिये आप क्या रूपान्तरण या संशोधन किये जाने का प्रस्ताव करेंगे ?

२५. क्या अतिक्रमणकारियों (Tres-passers) के बेदखल करने के संबंध में कानून के मौजूदा प्रावधान संतोषप्रद एवं पर्याप्त है; और यदि नहीं, तो आप—(१) अनधिकृत सरकारी भूमियों पर अतिक्रमण को रोकने और या (२) अतिक्रमण करने या वालों को बेदखल करना सुनिश्चित करने के लिये क्या रूपान्तरण या संशोधन किये जाने का प्रस्ताव करेंगे ?

२६. लम्बरदारी के संबंध में आपके क्या विचार हैं? क्या आपकी राय में यह जगह तोड़ दी जानी चाहिये; यदि ऐसा करने दिया जाय तो सरकार को देय भू-राजस्व अथवा लगान (Rent) की वसूली के लिये उसके बजाय अन्य क्या एजन्सी प्रस्तावित करते हैं ?

२७. राजस्थान एग्रीकल्चरल लैंडस् यूटीलाइजेशन एक्ट, १९५४ (राजस्थान एक्ट संख्या २२, सन् १९५४) जो कि एक ऐसा एक्ट है जिसके जरिये अकृष्य कृषि-भूमियों को उपयोग में लाने तथा निर्दिष्ट फसलें उगाने का नियमन करने की व्यवस्था की गई है, के प्रावधानों के विषय में आपकी क्या राय है? क्या आप कोई संशोधन अथवा रूपान्तरण प्रस्तावित करते हैं? क्या जिस रीति से यह अधिनियम लागू किया जा रहा है उससे आप संतुष्ट हैं? कृपया अपने उत्तरों के लिये कारण भी दीजिये।

२८. (क) क्या आपको राजस्थान होल्डिंग्स (कंसोलिडेशन एण्ड प्रिवेन्शन आफ फ्रैगमेंटेशन

Q.24. Are the existing provisions regarding Abadi lands adequate; and if not, what modifications or amendments would you propose to facilitate the expansion of Abadi?

Q.25. Are the existing provisions of law relating to the ejection of tres-passers satisfactory and adequate; and if not, what modifications or amendments would you suggest to (i) prevent encroachment on Government unoccupied lands and/or (ii) secure eviction of the tres-passers?

Q.26. What are your views regarding the institution of lambar-dars? Should this institution be abolished, in your opinion; and if so, what alternative agency would you propose for the collection of land revenue or rent due to the Government?

Q.27. What is your opinion about the provisions of the Rajasthan Agricultural Lands Utilisation Act, 1954 (Rajasthan Act No. XXII of 1954), which is an Act to provide for the utilisation of uncultivated agricultural lands and for regulating the cultivation of specified crops? Do you propose any amendments or modifications? Are you satisfied with the way in which this Act is being enforced? Please give reasons for your answers.

Q.28. (a) Have you any views to offer on the provisions of the Rajasthan Holdings (Consolidation and Prevention of Fragmentation)

एक्ट, १९५४ (राजस्थान एक्ट संख्या २५, सन् १९५४) के प्रावधानों पर कोई विचार प्रकट करना है ?

Act, 1954 (Rajasthan Act No. XXIV of 1954);

(ख) क्या जिस रीति से कृषि-भूमियों के एकीकरण का कार्य किया जा रहा है, उससे आप संतुष्ट हैं और क्या आप कोई ठोस सुझाव प्रस्तुत करना चाहते हैं ?

(b) Are you satisfied with the manner in which the work of consolidation of agricultural holdings is proceeding and have you any concrete suggestions to offer ?

(ग) क्या आसामी लोग इस समय कोई कठिनाइयाँ अनुभव कर रहे हैं ?

(c) Are the tenants experiencing any difficulties at present ?

(घ) इस आन्दोलन को और अधिक उत्साहपूर्वक चलाने के लिये, आपकी राय में, क्या उपाय किये जाने चाहिये ?

(d) What steps should, in your opinion, be taken to give an impetus to the movement ?

२९. राजस्थान भू-दान यज्ञ एक्ट, १९५४ (राजस्थान एक्ट सं० १६, सन् १९५४) और तदन्तर्गत निर्मित नियमों, तथा राजस्थान ग्रामदान अधिनियम, १९६० (राजस्थान अधिनियम सं० ३, सन् १९६०) और तदन्तर्गत निर्मित नियमों में निहित प्रावधानों के विषय में आपके क्या विचार हैं ? तथा क्या आपको इन दोनों अधिनियमों में से किसी एक में अथवा दोनों में कोई संशोधन प्रस्तावित करना है ? और आया राजस्थान में भूदान एवं ग्रामदान आन्दोलन की गति को बढ़ाने के लिये आप कोई उपाय सुझाना चाहते हैं ?

Q.29. What are your views regarding the provisions contained in the Rajasthan Bhoodan Yagna Act, 1954 (Rajasthan Act No. XVI of 1954) and the rules made thereunder, and the Rajasthan Gramdan Act, 1960 (Rajasthan Act No. 3 of 1960) and the rules made under the said Act; and have you any amendments to propose in either or both of these Acts; and what steps would you recommend for accelerating the pace of the Bhoodan and Gramdan movement in Rajasthan ?

३०. राजस्थान में उपनिवेशन संबंधी विधियों (Colonisation Laws) के बारे में आपके क्या विचार हैं ? उनमें सुधार करने के लिये क्या आप कोई सुझाव पेश करना चाहते हैं ?

Q.30. What are your views about the existing Colonisation laws of Rajasthan? Have you any suggestions for their improvement ?

३१. राजस्थान लैंड्स स्पेशल इर्रिगेशन चार्जज एक्ट, १९५३ (राजस्थान एक्ट संख्या २५ सन् १९५३) तथा तदन्तर्गत

Q. 31. What are your views about the recovery of betterment charges under the Rajasthan Lands Special Irrigation Charges Act, 1953

निर्मित नियमों के अधीन सुधार-कर (betterment levy) की वसूली के बारे में आपकी क्या राय है? सुधार-कर का निर्धारण करने तथा उसको उगाहने की प्रक्रिया तथा प्रणाली में क्या आप कोई संशोधन किया जाने का प्रस्ताव करते हैं?

(Rajasthan Act No. XXV of 1953) and the rules made thereunder? Have you any amendment to propose in the procedure and method of assessment and collection of the betterment charges?

३२. क्या तालाब-भूमियों (Tank-Bed Lands) को खेती के लिये दिये जाने संबंधी वर्तमान नियम, अर्थात् राजस्थान लैंड रेवेन्यू (अलॉटमेंट ऑफ टैंक-बैड लैंड्स) रूल्स, १९६१ जैसाकि वे राज्य सरकार की विज्ञप्ति संख्या एफ. ६ (२५६) रेवाबीगु. १५४, दिनांक ७ अगस्त, १९६१ के अधीन राजस्थान गजट भाग ४ (ग), दिनांक १४ दिसम्बर, १९६१ में प्रकाशित हुए, संतोषजनक हैं अथवा आप उनमें कोई रूपान्तरण या संशोधन किया जाने का प्रस्ताव करते हैं?

Q.32. Are the existing rules for the allotment of tank-bed lands for cultivation viz. the Rajasthan Land Revenue (Allotment of Tank-Bed Land) Rules, 1961, as published under Government Notification No. F.6 (256) Rev/B/Gr. I/54, dated the 7th of August, 1961, in Part IV-C of the Rajasthan Gazette, dated 14th December, 1961, satisfactory; or would you propose any modifications or amendments?

३३. क्या राजस्थान अफैक्टेड एरियाज (सस्पेन्शन ऑफ प्रोसीडिंग्ज) एक्ट, १९५२ (राजस्थान एक्ट संख्या २१ सन् १९५२) तथा राजस्थान फैमिन कोड में अन्तर्विष्ट प्रावधान, अकालग्रस्त तथा अभावग्रस्त क्षेत्रों में राहत पहुंचाने के लिये पर्याप्त है यदि नहीं, तो आप किन रूपान्तरित या बिल्कुल नये प्रावधानों को अन्तर्विष्ट किये जाने का सुझाव देते हैं?

Q.33. Are the provisions contained in the Rajasthan Affected Areas (Suspension of Proceedings) Act, 1952 (Rajasthan Act No. XXI of 1952) and the Rajasthan Famine Code adequate for relieving distress in areas affected with famine or scarcity; and if not, what modified, or altogether fresh, provision would you suggest?

भाग-ग

PART-C

३४. (क) आया राजस्व न्यायालयों द्वारा ही पक्षकारों के सिविल अधिकार तय किया जाना जारी रहे अथवा यह कार्य सिविल न्यायालयों के अधिकार-क्षेत्र के भीतर लाया जाना चाहिये?

Q.34. (a) Whether the Revenue Courts should continue to decide the civil rights of parties, or the Civil Courts should be given jurisdiction?

(ख) आया मामले राजस्व न्यायालयों द्वारा सरकारी तौर से (summarily) तय किये जाने चाहिये और पक्षकारों के अधिकारों के संबंध में अन्तिम निर्णय सिविल न्यायालयों के ऊपर छोड़ दिया जाना चाहिये?

(b) Whether cases should be decided summarily by the Revenue Courts and final decision of the rights of parties should be left to the Civil Courts?

(ग) सरकारी मामलों को तय करने की क्या प्रणाली होनी चाहिये ?

(घ) राजस्व संबंधी विधियों को किस प्रकार सरल बनाया जाय ताकि मामले शीघ्रता से निबटारे जा सकें ।

(c) What should be the procedure for the decision of summary cases ?

(d) How are the revenue laws to be simplified so as to ensure speedy disposal of cases ?

३५. आपकी राय में (१) राजस्व मंडल, राजस्थान और (२) "राजस्व अपील प्राधिकारियों" का मविष्य में किस प्रकार गठन किया जाना चाहिये तथा मंडल के अध्यक्ष और सदस्य के रूप में अथवा राजस्व अपील प्राधिकारी के रूप में नियुक्त किये जाने वाले व्यक्तियों की योग्यताएं क्या होनी चाहिये ?

Q.35. What should, in your opinion, be the future constitution of the (i) Board of Revenue for Rajasthan and (ii) Revenue Appellate Authorities; and what should be the qualifications of the persons appointed as the Chairman and Members of the Board or as Revenue Appellate Authority ?

३६. आया आपकी राय में मौजूदा मूमि सुधार तथा टिनेन्सी संबंधी कानूनों तथा तत्संबंधी सहायक कानूनों के प्रावधानों जरूरत से ज्यादा बेचीदा हैं, यदि हां तो आप इन कानूनों में क्या रूपान्तरण या संशोधन किये जाने का अथवा उनको किस प्रकार सरल बनाये जाने का सुझाव देते हैं ?

Q.36. Whether the provisions of the existing land reforms and tenancy legislation and the subsidiary legislation are, in your opinion unduly complex and complicated; and if so, what modifications, amendments and simplifications would you propose ?

३७. (क) क्या राजस्थान टिनेन्सी एक्ट, १९५५ और राजस्थान लैंड रेवेन्यू एक्ट, १९५६ के अन्तर्गत की जाने वाली अपीलों के संबंधों में मौजूदा प्रावधान संतोषप्रद हैं, यदि नहीं, तो आप क्या संशोधन प्रस्तावित करते हैं ?

Q.37. (a) Are the existing provisions regarding appeals in cases under the Rajasthan Tenancy Act, 1955, and the Rajasthan Land Revenue Act, 1956, in your opinion satisfactory; and if not, what modifications would you propose ?

(ख) क्या राजस्व संबंधी ऐसे मामलों में जिनमें प्रथम अपील न्यायालय ने जांच (ट्रायल) न्यायालय के निर्णय की पुष्टि की है दूसरी अपील का प्रावधान किया जाना चाहिये ?

(b) Should a second appeal be allowed in revenue cases where the first appellate court confirms the trial court's decision ?

३८. क्या आप किसी ऐसे विषय पर, जो पूर्वोक्त प्रश्नों के अन्तर्गत न आया हो, कोई प्रस्ताव या सुझाव पेश करते हैं ?

Q.38. Have you any proposal or suggestions to make on any other matter not covered by the foregoing questions ?

३. यह आवश्यक नहीं है कि प्रत्येक प्रश्न का उत्तर दिया जाय । प्रश्नावली का उत्तर देने वाले सज्जन केवल उन्हीं प्रश्नों के उत्तर भेज सकते हैं जिनमें वे रुचि रखते

3. It is not necessary that each and every question must be answered. Persons answering the questionnaire may send their replies to only those questions in which

हैं, किन्तु राजस्व विधि आयोग प्रश्न संख्या ६ (घ), ८, ९, १० तथा १६ पर कृषकों तथा आसामियों की राय जानने में विशेष रुचि रखता है ।

४. पूर्वोक्त प्रश्नों के उत्तर और समस्त प्रस्ताव तथा सुझाव नीचे हस्ताक्षरकर्ता के पास भेजे जायें जो कि दिनांक ३० नवम्बर, १९६२ तक पहुंच जायें ।

ए० ए० खैरी,
विशेषाधिकारी, राजस्व विधान-
निर्माण तथा सदस्य-सचिव,
राजस्व विधि आयोग ।

राजस्थान सचिवालय,

जयपुर, दिनांक २५ सितम्बर, १९६२ ।

they are interested; but the Revenue Laws Commission would be particularly interested to receive the views of the agriculturists and tenants on questions No. 6(d), 8, 9, 10 and 16.

4. Answers to the above questions and all proposals and suggestions may please be sent to the undersigned so as to reach him by the 30th November, 1962.

A. A. KHERIE,
*Officer on Special Duty
for Revenue Legislation
and Member-Secretary,
Revenue Laws Commission.*

Rajasthan Govt. Secretariat

Jaipur,

Dated the 25th September, 1962.

APPENDIX IV

List of persons to whom copies of the Questionnaire were sent.

1. All Members of Parliament from Rajasthan.
2. All Members of the Rajasthan Legislative Assembly.
3. All Members of the Rajasthan Revenue Laws Commission.
4. The Pramukhs of all Zila Parishads in Rajasthan (26)
5. The Pradhans of all Panchayat Samitis in Rajasthan (232).
6. All Village Panchayats in Rajasthan, to be sent through the Development Commissioner (7393).
7. All Political Parties in Rajasthan recognised by the Election Commission.
8. All recognised Associations of farmers and tenants.
9. All recognised Associations of land-holders viz., Jagirdars, Zamindars and Biswedars.
10. All Bar Associations at District Headquarters.
11. The Rajasthan State Co-operative Union, Jaipur.
12. The Rajasthan Bhoodan Yagna Board.
13. The Bharat Sewak Samaj.
14. All Judges of the Rajasthan High Court.
15. The Vice-Chancellor of the Rajasthan Agriculture University, Udaipur.
16. The Heads of the Economics Departments of the Universities of Rajasthan and Jodhpur.
17. The Principals of all Law Colleges in Rajasthan.
18. The Principals of all Officers' Training Colleges and Schools in Rajasthan.

19. All Former Revenue Ministers of Rajasthan; all retired Chairmen and Members of the Board of Revenue, Rajasthan; all retired Divisional Commissioners.
20. The present Chairman and Members of the Board of Revenue; all Revenue Appellate Authorities; and all Collectors.
21. Union Ministers of Planning and Agriculture, Members of the Planning Commission; and Prof. Dandekar, and Prof. Dantewala, Members of the Panel on Land Reform of the Planning Commission—through the Planning Commission.
22. Shri S. D. Singh, Judge of the Allahabad High Court.
22. Dr. Dool Singh, Department of Commerce, Birla College, Pilani.
24. The Director of Public Relations for wide publicity through the Staff Correspondents of the Hindustan Times, the Statesman, The Times of India, The Indian Express and the local Hindi Dailies of Rajasthan.

APPENDIX V

List of persons from whom replies to Questionnaire have been received.

Sl. No. 1	Name of Person 2	Designation 3	Address 4
1.	Shri Hari Singh		P. O. Hariadana, Teh. Bilara, District Jodhpur.
2.	Shri Mangal	Sarpanch	Gram Panchayat Bhansol, Garwara.
3.	Shri Panna Ram	-do-	Gram Panchayat, Ghasipura, Tehsil Nim-ka-Thana, Dist- trict Sikar
4.	Shri Arjun Singh	-do-	Gram Panchayat Roopsi, Tehsil Jaisalmer.
5.	Shri Jawahar Singh	-do-	Gram Panchayat Nagar, Panchayat Samiti Bari, Distt. Bharatpur.
6.	Shri Samirmal Gokhru	-do-	Gram Vikas Panchayat Kadisahna Panchayat Samiti Shahpura, Distt. Bhilwara.
7.	Shri Bachan Singh	-do-	Gram Panchayat Goven, P. S. Kumher, Distt. Bharatpur.
8.	Shri Birbal Singh	-do-	Gram Panchayat 24-G. B. Tehsil Anupgarh.
9.	Shri Umaid Ram Singh	-do-	Village Jhadisara, Tehsil, Nagaur, Distt. Nagaur.
10.	Shri Uttam Singh	-do-	Gram Panchayat Soddha Koyar, Distt. Jaisalmer.
11.	Shri Mathura Lal	-do-	Gram Panchayat Piplya, Tehsil Pachpahar, Distt Jhalawar.
12.	Shri Thakur Udai Singh	-do-	Gram Panchayat Board, Khamnor, Distt. Bhilwara.

1	2	3	4
13.	Shri Ram Singh	Sarpanoh	Gram Panchayat, Tehsil Ratangarh, Distt. Churu.
14.		-do-	Gram Panchayat Khotra Ramsiya, Tehsil Parbatsar Distt. Nagaur.
15.	Shri Gopal Chand	-do-	Gram Panchayat Kanpur Mena, Teh. Bari, Distt. Bharatpur.
16.	Shri Ramji Kumar	do.	Gram Panchayat Misarodhi Operi, P. S. Kha iyal, Distt. Udaipur.
17.	Shri Girdhari Lal	-do-	Gram Panchayat Rajzarh Piprain P. S. Suratgarh Distt. S. Ganganagar
18.	Shri Madan Lal	-do-	Gram Panchayat Ulala, P. S., Jhahapur, Distt. Bhilwara.
19.	Shri Ganpat Lal Pandya	-do-	Gram Panchayat Swaliy, P. S. Sarwara, Distt. Dungarpur.
20.	Shri Girraj Prasad Vakil	-do-	Gangapur City, Distt. Sawai Madhopur.
21.	Shri Jhamanlal	-do-	Gram Panchayat Balawas, Bansur, Distt. Alwar.
22.	Shri Dhanna Lal	-do-	Gram Panchayat.
23.	Shri Moti Ram	-do-	Gram Panchayat Ra-ula-Kalan P.S. Sojat, Distt. Pali.
24.	Shri Devi Singh	-do-	Gram Panchayat Piprawas, Vishnu Khurd, Kumbher Distt. Bharatpur.
25.	Shri	-do-	Gram Panchayat Rarhab, Vikas Khurd Kumbher, District Bharatpur.
26.	Shri Bhagwan Singh	-do-	Gram Panchayat Kunara, Teh. Gangdhar, District Jhalawar.
27.	Shri Narain Singh	-do-	Gram Panchayat Kolila, Chotan, Distt. Alw.

1	2	3	4
28.	Shri Ram Gopal	Sarnanah	Gram Panchayat Atru, District Kotah
29.	Shri Rodulal	-do-	Gram Panchayat Gopalpura, Teh. Aklera, Distt. Jhala- war.
30.	Shri Gopilal	-do-	Gram Panchayat Hathivana Distt. Chittor.
31.	Shri Onadaram	-do-	Gram Panchayat Bnukrew.
32.	Shri Bhagwat Singh	-do-	Gram Panchayat Bhagega, Nim-ka-Thana (Sikar).
33.	Shri Ajitmal	-do-	Gram Panchayat Kathori.
34.	Shri Lakhmichand	-do-	Gram Panchayat Andelgarhi Teh. Rupwas, Distt. Bharat- pur.
35.	Shri Ram Prashad	-do-	Gram Panchayat Sherpur, Teh. Behror, Distt. Alwar.
36.	Shri Baijnath	-do-	Gram Panchayat Jepla, Teh. Chhabra.
37.	Shri Bijaisingh	-do-	Gram Panchayat Kotkirana, Teh. Medara.
38.	Shri Ramachaya Gupta	-do-	Gram Panchayat Behror, Distt. Alwar.
39.	Shri Homjiyadi	-do-	Gram Panchayat Sallopat, Teh. Bagidora (Banswara).
40.	Shri Raghunath Shan- kar Sharma	-do-	Gram Panchayat Hajipura, Distt. Alwar.
41.	Shri Dungaram	-do-	Gram Panchayat Lalamiya, Teh. Nohar, Distt. Ganga- nagar.
42.	Shri Hiralal	-do-	Gram Panchayat Nirauli, Distt. Sawai Madhopur.
43.	Shri Pyarelal	-do-	Gram Panchayat Bagar Rajput (Alwar).
44.	Shri	...	Gram Panchayat Munda- kiya (Kotah).

1	2	3	4
45.	Shri Narpal Singh	Sarpanch	Gram Panchayat Bhainsawat Khurd, Distt. Jhunjhunu.
46.	Shri N. S. Chauhan	Pradhan	Panchayat Samiti Aspura, Distt. Dungarpur.
47.	Shri Ganpat Singh Yadav	Sarpanch	Gram Panchayat Ballubas, Teh. Mandawar Distt. Alwar.
48.	Shri Umrao Singh	-do-	Gram Panchayat Ullahe-ri, Teh. Mandawar, Distt. Alwar.
49.	Shri Kishore Singh	-do-	Gram Panchayat Asawat Pratapgarh, Distt. Chittor- garh.
50.	Shri Munshi Khan Mewati	-do-	Gram Panchayat Nikach, Alwar.
51.	Shri Bhura Ram	Secretary	Pashu Palak Sangh, Bali, Distt. Pali.
52.	Shri Surajmal	Sarpanch	Gram Panchayat Dadiya, Teh. Arayin, Ajmer.
53.	Shri Bhagirath Singh	-do-	Gram Panchayat Jhalri, Distt., Sikar.
54.	Shri Ama	-do-	Gram Panchayat Paparda, Teh. Dausa.
55.	Shri Pyaresingh	-do-	Gram Panchayat Khutgahliya, Bagidora, Banswara.
56.	Shri Indrajit	..	Gram Panchayat Kherti- ganj, Teh. Atru, Distt. Kotah.
57.	Shri Roopsingh	Sarpanch	Gram Panchayat Bargaon.
58.	Shri Gopal	-do-	Gram Panchayat Lankai, Bagidora.
59.	Shri Bhanwarlal Sharma	-do-	Gram Panchayat Bari, Bargaon.
60.	Shri Bhopji	-do-	Gram Panchayat Handi, Bagidora (Banswara).
61.	Shri Ramnarayan	-do-	Gram Panchayat Titarwasa Teh. Jhalrapatan.

1	2	3	4
62.	Shri Mangu Singh	Sarpanch	Gram Panchayat Maharoli.
63.	Shri Durgadutt Sharma	-do-	Gram Panchayat Jijot, Nagaur.
64.	Shri Ranglal	-do-	Gram Panchayat (Sindsar) Kalan Railmagra. (Alwar).
65.	Shri Gulharam	-do-	Gram Panchayat Chula, Teh. Bansur (Alwar).
66.	Shri Lakshmi Narayan	-do-	Gram Panchayat Teh. Bassi (Jaipur).
67.	Shri Nemichand	Upsarpanch	Gram Panchayat Bherunda, Distt. Nagaur.
68.	Shri Achaldas	Sarpanch	Gram Panchayat Shri-mohangarh.
69.	Shri Hakniya,	-do-	Gram Panchayat Jhajhar-wakla, Bagidora.
70.	Shri Panchuran	do.	Gram Panchayat Nanghi-megha, Ramgarh (Alwar)
71.	Shri Suphed Khan	-do-	Gram Panchayat Sahdoli Alwar.
72.	Shri Dhano Singh	-do-	Gram Panchayat Dhansiya (Ganganagar).
73.	Shri Chhotunath	-do-	Gram Panchayat Ararki, Ganganagar.
74.	Shri Kanwar Char	-do-	Gram Panchayat Mubarak-pur, Alwar.
75.	Shri Ganesh Dutta Chhangani R.A.S.		Asstt. Settlement Officer Betterment Levy, Irrigation Deptt. Jaipur.
76.	Shri Pratap Singh	Sarpanch	Gram Panchayat Parihara (Churu).
77.	Shri Kesar Singh	-do-	Gram Panchayat Kumdi-khera, Pachpahar (Jhalawar).
78.	Shri Malsingh	-do-	Gram Panchayat 35 B.B. Ganganagar.

1	2	3	4
79.	Shri Gangaram	Sarpanch	Gram Panchayat Delana, (Bhilwara).
80.	Shri Ganesha Ram	-do-	Gram Panchayat Balod Chhoti Sikar.
81.	Shri U. Mumet	-do-	Gram Panchayat Umand (Kapasin).
82.	Shri Chatar Singh	-do-	Gram Panchayat Chakuda (Kapasin).
83.	Shri J. Singh	-do-	Gram Panchayat 5 E. E. (Sanwatsar), District Ganga- nagar.
84.	Shri Ramsingh	-do-	Gram Panchayat Dantri Teh. Dudu (Jaipur).
85.	Shri Gurbachan Singh	-do-	Gram Panchayat 3 F. F. B. Thandowala Teh. Raisingh- nagar Ganganagar.
86.	Shri Bherunlal	-do-	Gram Panchayat Sapotiya (Udaipur).
87.	Shri Kartar Singh	-do-	Gram Panchayat Khayaliwal, Teh. Raisinghnagar (Ganga- nagar).
88.	Shri R.R. Mehta		Vikas Adhikari Panchayat Samiti Pali.
89.	Shri Harkharam	-do-	Gram Panchayat Dhamoor- wali, Padampur, Ganga- nagar.
90.	Shri Shriniwas	-do-	Gram Panchayat Tanyi (Jhunjhuna).
91.	Shri Hanuman Saini	-do-	Gram Panchayat Bhenta Bhinda (Jaipur).
92.	Shri Nahar Singh Chauhan.	-do-	Gram Panchayat Nonliya.
93.	Shri Suyamdas Swami	-do-	Gram Panchayat Jaitusar (Shrimadhopur).
94.	Shri Joharilal	-do-	Gram Panchayat Bhim (Udai- pur).

1	2	3	4
95.	Shri Jiwrāj	Secretary	Gram Panchayat Kherikalan.
96.	Shri Malaram	Sarpanch	Gram Panchayat Hardiya, Khetri, (Jhunjhunu).
97.	Shri Ramjilal	-do-	Gram Panchayat Bhajit (Ramgarh).
98.	Shri Kalyanmal	-do-	Gram Panchayat Lamba (Ajmer).
99.	Shri Ganga Singh	-do-	Gram Panchayat Madhoni (Bharatpur).
100.	Shri Bhonrilal	-do-	Gram Panchayat Rashidpura (Sawai Madhopur).
101.	Shri L. Chand	-do-	Gram Panchayat Dasula (Alwar).
102.	Shri Keshuaram	-do-	Gram Panchayat Ramwasar Teh. Lunkaransar.
103.	Shri Netram	-do-	Gram Panchayat Doomroli (Alwar).
104.	Shri Pratap Singh	-do-	Gram Panchayat Ralawata (Ajmer).
105.	Shri Dhanna Ram	Upsarpanch	Gram Panchayat..... (Jhunjhunu).
106.	Shri Fateh Singh	Sarpanch	Gram Panchayat Tonda (Jhunjhunu).
107.	Shri Raimal	-do-	Gram Panchayat Gangdhar (Jhalawar).
108.	Shri Shambhu Singh	-do-	Gram Panchayat Adu.
109.	Shri Partiraj	-do-	Gram Panchayat Narakhera (Chhittorgarh).
110.	Shri		Gram Panchayat Mohana.
111.	Shri Niranjan Singh	Sarpanch	Gram Panchayat Murwara (Bharatpur).
112.	Shri Gordhanlal	-do-	Gram Panchayat Atela, (Bairath).

1	2	3	4
113.	Shri Kallu	Sarpanch	Gram Panchayat Khanua Teh., Roopwas (Bharatpur).
114.	Shri Udai Singh	-do-	Gram Panchayat Godan (Jalore).
115.	Shri Bhoormal Sharma	-do-	Gram Panchayat Khori Milk (Sambhar).
116.	Shri Ranjeet Singh	-do-	Gram Panchayat Raghunathgarh (Ramgarh) Alwar.
117.	Shri Hemraj	-do-	Gram Panchayat Palthan Chittorgarh.
118.	Shri Mohanlal	-do-	Gram Panchayat Kolinda, Jhunjhunu.
119.	Shri Bhairundan	-do-	Gram Panchayat Kalu.
120.	Shri Roop Singh	-do-	Gram Panchayat Auli (Bharatpur).
121.	Shri Santa	-do-	Gram Panchayat Pata, Alwar.
122.	Shri M. Lal Shringi	-do-	Gram Panchayat Badora.
123.	Shri Tulcharam	Upsarpanch	Gram Panchayat Mahadev wali, Lunkaransar.
124.	Shri Diwan Singh	Sarpanch	Gram Panchayat Namda, (Bharatpur).
125.	Shri	-do-	Gram Panchayat, Pali, Bari (Banswara).
126.	Shri Prithvi Singh Nathawat	-do-	Gram Panchayat Naugaon Teh. Gangapur (Amargarh Chaur) Distt. Sawai Madhopur.
127.	Shri Jiwanram	-do-	Gram Panchayat Tyod Jobner.
128.	Shri	-do-	Gram Panchayat Kalijra Bagirdama (Banswara).
129.	Shri Ramchand	Ward Panch	Gram Panchayat Lohariya Bara Kushalgarh (Banswara)

1	2	3	4
130.	Shri Ganpat Lal	Sarpanch	Gram Panchayat Ghardana Kalan.
131	Shri Shri Ram	-do-	Gram Panchayat Gothara (Udaipur).
132	Shri Jagannathrai Kamdar	-do-	Gram Panchayat Ghatwa (Nagaur).
133	Shri Durjakumar Sharma	-do-	Gram Panchayat Daulatpura, Teh. Lalsot (Jainur).
134	Shri Bhagwansingh	-do-	Gram Panchayat Tamrer.
135.	Shri Sangram Singh	-do-	Gram Panchayat Bali (Udaipur).
136.	Shri Onkar Singh	-do-	Gram Panchayat Baragaon Udaipurwati (Jhunjhunu).
137	Shri Jawaharlal	-do-	Gram Panchayat Suniliya Teh. Daga (Kota).
138	Shri Rameshchand	-do-	Gram Panchayat Shahabad.
139	Shri Prasadilal	-do-	Gram Panchayat Shobhghara (Kotah).
140	Shri Roopsingh	-do-	Gram Panchayat Ramjipura Kalan (Jobner).
141.	Shri Medisingh	-do-	Gram Panchayat Dautlothi Deeg (Bharatpur).
142	Shri Nathulal	-do-	Gram Panchayat Rili Sajjangarh (Banswara).
143.	Shri Champalal	-do-	Gram Panchayat Barlan Teh. Atru (Kotah).
144.	Shri Chanachand Gupta	-do-	Gram Panchayat Patna Atru (Kotah).
145.	Shri Gokulram	-do-	Gram Panchayat Chhotin-dei, Gangapur (Sawai-Madhampur).
146.	Shri Onkar Singh	-do-	Gram Panchayat Lakhn Kumher (Bharatpur).
147.	Shri Laxmichand	Upsarpanch	Gram Panchayat Nukde (Sawai Madhopur).

1	2	3	4
148.	Shri Bhanwarlal ¹	Upsarpanch	Gram Panchayat Nanam Bakani (Jhalawar).
149.	Shri Surajmal Jain	Sarpanch	Gram Panchayat Boraj Teh. Dudu (Jaipur).
150.	Shri Sohanlal	-do-	Gram Panchayat Bani Kalan Jahazpur (Bhilwara)
151.	Shri Dumaramji	-do-	Gram Panchayat Redi, Taranagar (Churu).
152.	Shri Dadhiman Sharma	-do-	Gram Panchayat
153.	Shri Bhagwansahai	-do-	Gram Panchayat Asopa Deeg (Bharatpur).
154.	Shri Jwala Prashad Gupta	-do-	Gram Panchayat Kotkasim (Alwar).
155.	Shri Maliram	Upsarpanch	Gram Panchayat Madhogarh, Khetri (Jhunjhunu).
156.	Shri Kalusingh	Sarpanch	Gram Panchayat Gundiya Jhala (Jhalawar).
157.	Shri Purnamal Sharma	-do-	Gram Panchayat Jusari Parbatsar (Nagaur).
158.	Shri Baluram Purohit	Upsarpanch	Gram Panchayat Agnucha Hurda (Bhilwara).
159.	Shri Nawla	Sarpanch	Gram Panchayat Singhatpara Sarada (Udaipur).
160.	Shri Kanda Shankar Sharma	Upsarpanch	Amlabadi (Pratapgarh).
161.	Shri Gangaprasad	Sarpanch	Gram Panchayat Tuhiya (Bharatpur).
162.	Shri Mahendrapal Singh	-do-	Gram Panchayat Gandhari (Jhalawar).
163.	Shri Susram Gamot	-do-	Gram Panchayat Anjana.
164.	Shri Krishak Samraj		Gram Panchayat Ganeshpura.
165.	Shri Motisingh.	Sarpanch	Gram Panchayat Suliya Pachpalar (Jhalawar).

1	2	3	4
166.	Shri	Sarpanch	Gram Panchayat Udwala, Tehsil Sujangarh (Churu).
167.	Shri Shival	-do-	Gram Panchayat Bahaj.
168.	Shri	-do-	Gram Panchayat Kheran.
169.	Shri Asgar Ali	-do-	Gram Panchayat Birpur Sarada, (Udaipur).
170.	Shri Udmiram.	-do-	Gram Panchayat Karanpura Bhadra (Ganganagar).
171.	Shri Ramsingh	-do-	Gram Panchayat Bachhrara Ratangarh.
172.	Shri Prithvi Singh.	-do-	Gram Panchayat Sisroi Tehsil Nathdwara, Distt. Udaipur.
173.	Shri Shankar Singh.	-do-	Gram Panchayat Luhara Rai- singhnagar (Ganganagar).
174.	Shri Taru Ram	-do-	Gram Panchayat Nariyasar Nohar (Ganganagar).
175.	Shri Devilal Dangi.	-do-	Gram Panchayat Bilota.
176.	Shri Jhunjhar Singh Jhala	-do-	Gram Panchayat Negariya (Nathdwara).
177.	Shri Nahar Singh Jhala	-do-	Gram Panchayat Dilwara (Udaipur)
178.	Shri Bhanwar Singh Chandawat.	-do-	Gram Panchayat Kaliwas Nathdwara (Udaipur).
179.	Shri	-do-	Gram Panchayat Mahuwa (Bharatpur).
180.	Shri Ram Baksh.	-do-	Vikas Panchayat Taswariya.
181.	Shri		Vikas Panchayat Dohaniya.
182.	Shri Udailal.	Upsarpanch	Gram Panchayat Rood.
183.	Shri	Sarpanch	Gram Panchayat Jhansari Distt. Chittor.
184.	Shri Kaluram.	-do-	Gram Panchayat Manohar- garh, Chittorgarh.

1	2	3	4
185.	Shri Lalji	Sarpanch	Grampanchayat Bazar (Pratapgarh).
186.	Shri Ratanlal	-do-	Grampanchayat Khoriya.
187.	Shri	-do-	Grampanchayat Kajlan Khetri (Jhunjhunu).
188.	Shri Madanlal	-do-	Grampanchayat Kha-khanda.
189.	Shri Gangaram	-do-	Grampanchayat Luhara Sujangarh (Churu).
190.	Shri Ghasilal Sharma	-do-	Roopgarh, Dantaramgarh, (Sikar).
191.	Shri Kriparam	-do-	Grampanchayat, Ganesh- pur, (Jhalawar).
192.	Shri Jasraj Jain	-do-	Grampanchayat Tantol Nathdwara.
193.	Shri Bhunilal.	-do-	Grampanchayat Napawali P.S.Bhadesar.
194.	Shri Laxman Singh	-do-	Grampanchayat Akola Kalan (Bhilwara).
195.	Shri Jaikrishan	-do-	Grampanchayat Luhari Kalan.
196.	Shri Kishanlal.	-do-	Grampanchayat Bahariya.
197.	Shri Jagannath	-do-	Grampanchayat Gangishyam- pura (Sawai Madhopur).
198.	Shri Hazari Ram.	-do-	Grampanchayat Jahrasar (Ganganagar).
199.	Shri Ramchandra.	-do-	Grampanchayat Borala (Jhunjhunu).
200.	Shri Shyamlal	-do-	Grampanchayat Dahinagaon (Bharatpur.)
201.	Shri Shyanilal.	-do-	Grampanchayat Barahmori Roopbas (Bharatpur).
202.	Shri Shivsid Verma.	-do-	Grampanchayat Saidpur Roopbas (Bharatpur).
203.	Shri Kurdaram	-do-	Grampanchayat Bhatiwad, (Udaipurwati).

1	2	3	4
204.	Shri Heni	Sarpanch	Grampanchayat Badla Tehsil Sarada (Udaipur).
205.	Shri Ganga Singh	-do-	Grampanchayat Mangeriya.
206.	Shri Devilal	-do-	Grampanchayat Rudhara, Bari (Dholpur).
207.	Shri Bhararam	-do-	Grampanchayat Balera; Sujangarh, Distt. (Churu).
208.	Shri Surjandas	-do-	Grampanchayat Kalota Khetri (Jhunjhunu).
209.	Shri Somji	-do-	Grampanchayat Motibassigarhi (Banswara).
210.	Shri Lenidas	-do-	Grampanchayat Kor (Nagaur).
211.	Shri Kurdaram	-do-	Grampanchayat Dalpatpura Nohar, (Ganganagar).
212.	Shri Maluram	-do-	Grampanchayat Barbirana (Ganganagar).
213.	Shri Ratan Singh	-do-	Grampanchayat Rudawel (Bharatpur).
214.	Shri Mahabir Singh	-do-	Grampanchayat Sirohi Kalan (Dudu) Jaipur.
215.	Shri Harisingh	-do-	Grampanchayat Badhana, Kotkasim (Alwar).
216.	Shri Nangram Yadav	-do-	Grampanchayat Ladpura, Kotkasim (Alwar).
217.	Shri Lalluram Gupta	-do-	Grampanchayat Khanpur Kotkasim (Alwar).
218.	Shri Amar Singh.	-do-	Grampanchayat Biladeri Kotkasim (Alwar).
219.	Shri Chaudhri Lala Ghisalal.	Pradhan	Panchayat Samiti Masooda (Alwar).
220.	Shri Sahiram Sheikhsar	Sarpanch	Grampanchayat Lunkaransar (Bikaner).
221.	Shri Narayanlal	-do-	Grampanchayat Khara Barh Ramgarh(Sawai Madhopur).

1	2	3	4
222.	Shri Rameshwar Shastri	Sarpanch	Grampanchayat Haudawal Lalsot (Jaipur).
223.	Shri Rajuram	-do-	Grampanchayat Garbdesar (Lunkaransar).
224.	Shri Modh Singh	-do-	Grampanchayat Bali Tehsil Girvi (Udaipur).
225.	Shri		Grampanchayat Bhetonda, Tehsil Jodhpur.
226.	Shri Nanagram	Sarpanch.	Grampanchayat Sotwara Udaipur (Jhunjhunu).
227.	Shri Banwarilal	-do-	Grampanchayat Puhaniya Khetri (Jhunjhunu).
228.	Shri Kalyandutt Sharma	-do-	Grampanchayat Sowa Teh. Dudu (Jaipur).
229.	Shri Hansraj	Pradhan	Panchayat Samiti Bhadra (Ganganagar).
230.	Shri Bhanwar Singh	Sarpanch	Grampanchayat Fatehgarh Teh. Sarwar (Ajmer).
231.	Shri Naththo Singh	-do-	Grampanchayat Bolkhara Teh. Kama (Bharatpur)
232.	Shri Sultan Singh	-do-	Grampanchayat Manchal (Alwar)
233.	Shri Ramchandra	do	Grampanchayat Kankar Dopa.
234.	Shri Umraomal	do	Grampanchayat Bawari, (Jahas jpur) (Bhilwara).
235.	Shri Bhura Singh	do	Grampanchayat Kodia (So- jat).
236.	Shri Kachru	do	Grampanchayat Karada, Sag- wara (Dungarpur).
237.	Shri Suraram	do	Grampanchayat Hingawas, (Sojat).
238.	Shri Ramswarup	do	Grampanchayat Nawali.
239.	Shri Jagdish Chandra Sharma	do	Grampanchayat Samod, Tehsil, Amer (Jaipur).

1	2	3	4
240.	Shri Devilal Dave	Sarpanch	Grampanchayat Unwas Nathdwara (Udaipur).
241.	Shri Kanhiyalal	-do-	Grampanchayat Jaliya Masooda (Ajmer).
242.	Shri Ramsingh	-do-	Grampanchayat Kotari, Desuri (Pali).
243.	Shri Shyamlal	-do-	Grampanchayat Anadra.
244.	Shri R.C. Bhandary		Grampanchayat Mandawar.
245.	Shri Madanlal	Sarpanch	Grampanchayat Rooporal, Jhalrapatan.
246.	Shri Kalyan Sahai	-do-	Grampanchayat Rajwas Dausa (Jaipur.)
247.	Shri Bichitar Singh	-do-	Grampanchayat Tepu, Bap, (Jodhpur).
248.	Shri Balram Yadav	-do-	Grampanchayat Bhokar Kishangarh (Alwar).
249.	Shri Hira Singh	-do-	Grampanchayat Mumha (Bharatpur).
250.	Shri Bhanwar Singh	-do-	Grampanchayat Rawaghmandi Teh. Gangdhar (Jhalawar).
251.	Shri Jujar Singt	-do-	Grampanchayat Ranlyra Gangadhar (Jhalawar).
252.	Shri Ramnath	-do-	Grampanchayat Malanwara (Jhalawar).
253.	Shri Bindraban Singh	-do-	Grampanchayat Bargha Roopbas (Bharatpur).
254.	Shri Margal Singh	-do-	Grampanchayat Fatehpuriya Doyum (Beawar).
255.	Shri Ramaya Vijaivargia	-do-	Grampanchayat Burhadawal Malpura (Tonk).
256.	Shri Nahar Khan	-do-	G.P.Untra.
257.	Shri Kishori Lal	-do-	G.P.Dadagawa Teh. Bayana (Bharatpur).

1	2	3	4
258.	Shri Mohan Singh	Sarpanch.	G.P. (Asind). Tiloli,
259.	Shri Trilokchand	-do-	G.P. Karji Bagidora (Banswar)
260.	Shri Jagmal	-do-	G.P. Chak 9 M.L. Sadulshahar, (Ganganagar).
261.	Shri Pirulal	-do-	G.P. Babak Teh. Ajmer.
262.	Shri Nawalkishore	-do-	G.P. Jateri Deeg (Bharatpur).
263.	Shri Chunnilal	-do-	G.P. Kalseiya (Jhunjhunu).
264.	Shri Baluram	-do-	G.P. Nareda Phagi (Jaipur).
265.	Shri Indrajit	-do-	G.P. Khedliganj Teh. Atru (Kotah).
266.	Shri	-do-	G.P. Sironj Teh. Kishangarh (Ajmer).
267.	Shri Mangilal	-do-	G.P. Bamroi Sultanpura (Kote).
268.	Shri	-do-	G.P. Delwas Boheda (Chittorgarh).
269.	Shri Zalimsingh	-do-	G.P. Jaipahari (Jhunjhunu).
270.	Shri Hariram	-do-	G.P. Salasar Sujangarh (Churu).
271.	Shri Silram Bhardwaj	Secretary	G.P., Sundiya.
272.	Shri S.R. Arya		Gram Panchayat, Ramgarh Dist. Ganganagar, Teh., Nohar.
273.	Shri Kalyan Singh		Gram Panchayat Tamlore Distt. Barmer.
274.	Shri Deva Ramchaudhary		Gram Panchayat Dindarpura Distt. Nagaur.
275.	Shri Jeth Mal		Gram Panchayat Kikurwali Tehsil Raisingh Nagar, Distt. Ganganagar.
276.	Shri Hari Singh Rathore	Secretary	Gram Panchayat, Basani.
277.	Shri Roop Lal		Gram Panchayat, Lalgarh Tehsil Achmera, Distt. Chittorgarh.

1	2	3	4
278.	Shri Hemraj Jain.		Gram Panchayat Soorkhamd ka Kheda, Tehsil Sarda, Distt. Udaipur.
279.	Shri Birdi Chand.		Gram Panchayat Arnod, Tehsil Sub-Division Pratapgarh.
280.	Shri Baldas.		Gram Panchayat Sakhtli Khurd Distt. Chittorgarh.
281.	Shri Hamid Khan.		Gram Panchayat, Nogama, Sub-Dn. Pratapgarh.
282.	Shri Madho Lal.		Gram Panchayat, Gordhanpura Jhalapatan.
283.	Shri Raghunath.		Gram Panchayat Paniharvas P.S.Khandela, Distt. Sikar.
284.	Shri Sambhusingh.		Gram Panchayat Amargarh.
285.	Shri Juhar Mal.		Gram Panchayat Morsoog, Distt. Sikar.
286.	Shri Moti Rawat.		Gram Panchayat, Barigama Distt., Banswara.
287.	Shri Bakhtawar Singh.		Gram Panchayat 5, B.B.A. Bootaisar, Ganganagar.
288.	Shri Ganga Ram		Gram Panchayat, Netadvas, Distt. Sikar.
289.	Shri Rend Singh.		Gram Panchayat, Motasar, Bikaner.
290.	Shri Kishan Lal.		Gram Panchayat Richanda P.S. Atru, Kotah.
291.	Shri Lalu.		Gram Panchayat Achalpura, Pratapgarh.
292.	Shri Karni Singh.		Gram Panchayat Khestra Jatwansi, Distt. Bharatpur.
293.	Shri Laxmi Narain		Gram Panchayat Mandola, Distt. Kota.
294.	Shri Sandar		Gram Panchayat, Moti Tembi P.S. Bagidora.

1	2	3	4
295.	Shri Kani Ram.		Gram Panchayat Manpasar, Akleta. Jhalawar.
296.	Shri Salagram		Gram Panchayat Kolukhedi Distt. Jhalawar.
297.	Shri Kaacharia.		Gram Panchayat Dhalar, P.S. Bagidora; Distt. Banswara.
298.	Shri Sambhu Mal.		Gram Panchayat Harpaliya, Barnier.
299.	Shri Ram Chandra		Gram Panchayat, Tasook, P.S. Arani. Ajmer.
300.	Shri Sawant Singh		Gram Panchayat, Sirsala.
301.	Shri Khem Chand.		Gram Panchayat, Nava, Nagaur.
302.	Shri Bansilal		Gram Panchayat Amarvas, Distt. Bhilwara.
303.	Shri Hiralal		Gram Panchayat, Narauli, Distt. Sawai Madhopur.
304.	Shri Bhanwar Lal		Gram Panchayat Ghanoda Kalan, Tehsil Khanpur.
305.	Shri Gokaran Singh		Gram Panchayat Bhadholav, Teh. Kishangarh, Distt. Ajmer.
306.	Shri Birja		Gram Panchayat Khoh, Distt. Bharatpur.
307.	Shri Jokha		Gram Panchayat Khudlim P.S. Bagidora, Distt. Banswara
308.	Shri Kana.		Gram Panchayat Saliyan, P.S. Bagidora, Distt. Banswara
309.	Shri Mool Chand.		Gram Panchayat Karansar Tehsil Phulera.
310.	Shri Ratna.		Gram Panchayat, Nagavada, Distt. Banswara.
311.	Shri Suwa.		Gram Panchayat Godavada Narang P.S. Sajjangarh, Tehsil Kushalgarh, Distt. Banswara.

1	2	3	4
312.	Shri Galia.		Gram Panchayat Shergarh, Distt. Banswara.
313.	Shri Janram		Gram Panchayat Thitodi, Bhilwara.
314.	Shri Shankar Lal		Gram Panchayat Bichooh,P.S. Nadoti, Bamanwas.
315.	Shri Ghisa.		Gram Panchayat Amarpura Raniwada Kalan
316.			Gram Panchayat Bhinmal Jalore.
317.	Shri Devi Dan.		Gram Panchayat Lodhasar P.S. Sujangarh Distt. Churu
318.	Shri Ratan Ram	Sarpanch	Gram Panchayat Gong. (Jalore).
319.	Shri Rewa Shanker Dube	-do-	Gram Panchayat Varli, Sirohi.
320.	Shri Mam Chandra	-do-	Gram Panchayat Budhivaval, Alwar.
321.	Shri Nanu Ram	-do-	Gram Panchayat Bhalotan Ki-Khedi, Chittorgarh.
322.	Shri Choga Lal	-do-	Gram Panchayat, Devdan, Chittorgarh.
323.	Shri Nathu	-do-	Gram Panchayat, Gangad Talai, Banswara.
324.	Shri Ram Lal	-do-	Gram Panchayat Chhoti Sarwan, Banswara.
325.	Shri Ghisa Lal	-do-	Gram Panchayat, Karalgaon Jha'awar.
326.	Shri Chittar Lal	-do-	Gram Panchayat, Salavad Jhalawar.
327.	Shri Srikishan	-do-	Gram Panchayat, Badbad, Jhalawar.
328.	Shri Badri Parasad	-do-	Gram Panchayat, indoli, Alwar.

1	2	3	4
329.	Shri Prabhu Dayal	Sarpanch	Gram Panchayat, Hathora, Sikar.
330.	Shri Balu Ram	Pradhan	Gram Panchayat Samiti, Nohar,(Ganganagar).
331.	Shri Khetpal	Sarpanch	Gram Panchayat, Netabala, Ganganagar.
332.	Shri Nagji	-do-	Gram Panchayat, Achalavada, Chittorgarh.
333.	Shri Hanuman Singh	-do-	Gram Panchayat, Nathawada, Nagaur.
334.	Shri Kesri Singh	M. L. A. Pradhan	Panchayat Samiti, Pali.
335.	Shri	Vikas-Adhi kari	Panchayat Samiti, Jhajpur.
336.	Shri Baney Singh	Sarpanch	Gram Panchayat, Jakhdi, Teh., Bhinmal.
337.	Shri Dr. Shankar	-do-	Gram Panchayat, Gidana, Jaipur.
338.	Shri	-do-	Gram Panchayat, Karnisar, Bikaner.
339.	Shri Sirajudeen	-do-	Gram Panchayat, Jodiya.
340.	Shri Hazari Mal	-do-	Gram Panchayat, Pan.
341.	Shri Hazari Mal	-do-	Gram Panchayat, Dhiranya.
342.	Shri Ganpat Ram Sharma	-do-	Gram Panchayat, Satda, Churu.
343.	Shri Asha Ram	-do-	Gram Panchayat, Jhasal, Ganganagar.
344.	Shri Vijai Singh	-do-	Gram Panchayat, Madoli, Bharatpur.
345.	Shri Rewat Singh	-do-	Gram Panchayat, Santara.
346.	Shri L. Ram	-do-	Gram Panchayat, Lohavat.
347.	Shri Rawat Ram	-do-	Gram Panchayat, Kapurisar.

1	2	3	4
348.	Shri Chanda Lal	Sarpanch	Gram Panchayat, Devrikalan.
349.	Shri Gauri Shankar	-do-	Gram Panchayat, Seva.
350.	Shri Jai Singh	-do-	Gram Panchayat, Vichana, (Bharatpur).
351.	Shri Chwand Singh	-do-	Gram Panchayat, Purshotampura, (Jaipur).
352.	Shri Mohan Lal	-do-	Gram Panchayat, Pipli, (Udaipur).
353.	Shri H. N.	-do-	Gram Panchayat, Jandva, (Churu).
354.	Shri Ram Swaroop	-do-	Gram Panchayat, Mindoliya.
355.	Shri G.	V. A.	P. S. Nadbai.
356.	Shri Nathu	Sarpanch	Gram Panchayat, Gangadatalai.
357.	Shri Mohan Lal	Up-sarpanch	Vikas Panchayat, Adana.
358.	Shri Panna Lal	Sarpanch	Gram Panchayat, Nolakhi, Ganganagar.
359.	Shri Hem Raj Jain	-do-	Gram Panchayat, Surkhmdka-Kheda, (Udaipur).
360.	Shri Jabar Khan	-do-	Gram Panchayat, Jhilana, (Alwar).
361.	Shri Keshri Mal	-do-	Gram Panchayat, Bharev, (Udaipur).
362.	Shri Gordhan Singh	-do-	Gram Panchayat, Moroli, (Bharatpur).
363.	Shri Sohan Lal Modi	-do-	Gram Panchayat, Jotara.
364.	Shri Mohan Singh Chohan	-do-	-do- Bhagodia, (Pali).
365.	Shri Bansi Lal	-do-	-do- Dolatpur, (Bhilwara)
366.	Shri Hanuman Pd.	-do-	-do- Bhainsiana, (Jaipur)
367.	Shri Raghunath Singh	-do-	-do- Mandavariya, (Ajmer)
368.	Shri Prem Chand Jain	-do-	-do- Sallada, (Udaipur).

1	2	3	4
369.	Shri Hem Raj	Sarpanch	Gram Panchayat, Farat.
370.	Shri Kana Ram	-do-	-do- Gothiyana.
371.	Shri	-do-	-do- Tikad.
372.	Shri Ram Gopal	-do-	-do-' Polai Kalan.
373.	Shri Ganpat Ram	-do-	-do-' Lakhrana, (Alwar).
374.	Shri Jai Naran	-do-	-do-' Samleti, (Sawai Madhopur).
375.	Shri Narain Singh	-do-	-do-' Jandoli, (Tonk).
376.	Shri Kalu Ram	-do-	-do-' (Badi).
377.	Shri Devi Lal	-do-	-do-' Bakani, (Jhalawar).
378.	Shri Hari Shankar	-do-	-do-' Padri, (Banswara).
379.	Shri Mohan Ram	-do-	-do-' Bhanida.
380.	Shri Manohar Lal	-do-	-do-' Wadabujurg.
381.	Shri Amrit	-do-	-do-' Galiyakot.
382.	Shri Balu Lal	-do-	-do-' Kalibhit, (Udaipur).
383.	Shri Lachman Singh	-do-	-do-' Loha, (Churu).
384.	Shri Jadu Ram	Up-Sarpanch	-do-' Nadol.
385.	Shri Deenu	Sarpanch	-do-' Kasba Rajavas, (Dausa)
386.	Shri Bajrang Singh	-do-	-do-' Khochpuri, Sawai Madhopur).
387.	Shri Sagar Mal	-do-	-do-' Ajitgarh.
388.	Shri Shaitan Singh	-do-	-do-' Jodi.
389.	Shri Paras Ram	-do-	-do-' Lakhepura, (Bharatpur).
390.	Shri Shankar Lal	-do-	-do-' Lathi.
391.	Shri Raghubeor Singh	-do-	-do-' Badi.
392.	Shri Birbal Ram	-do-	-do-' Sundriya Bada
393.	Shri Ach Ram	-do-	-do-' Bardiya.
394.	Shri Parthivi Singh	-do-	-do-' Kokri.
395.	Shri Gulab Chand Jain	-do-	-do-' Gated Shren (Udaipur).
396.	Shri	-do-	-do-' Bantori (Post Patan).
397.	Shri Ishwar Singh	-do-	-do-' Jasvantavadi, Nagor.

1	2	3	4
398.	Shri Ufa Ram	Sarpanch	Gram Panchayat, Narani.
399.	Shri Raghuver Dayal	-do-	-do-' Dangawas.
400.	Shri Jadveer Singh	-do-	-do-' Kumber.
401.	Shri Keshri Mal	-do-	-do-'Khandevala, (Bharatpur).
402.	Shri Peetha	-do-	-do-' Ramkabhuna, Bagidara.
403.	Shri Ram Narain	-do-	-do-' Koyal, (Kotah).
404.	Shri Chaman	-do-	-do-' Maroth.
405.	Shri Nand Lal Kethan	-do-	-do-' Islampur.
406.	Shri Ram Chandra	-do-	-do-' Para.
407.	Shri Kalu Singh	-do-	-do-' Mogra, (Jhalawar).
408.	Shri Bhuri Lal	-do-	-do- Badgaon, Sarada, Udaipur.
409.	Shri Raghunath Mal	-do-	-do- Gudhasand.
410.	Shri Jas Raj	-do-	-do- Dholi, Jodhpur.
411.	Shri Madhoda	-do-	-do- Narnadi, (Jodhpur).
412.	Shri Rehman Khan	-do-	-do- Malkpur Turk.
413.	Shri Durga Datt	-do-	-do- Makhar (Ratanshahar)
414.	Shri Arjun Singh	-do-	-do- Maharadasi.
415.	Shri Jagannath Kakkad, Krishi Visbarad, Bharatpur through the P. A. to Minister of Shipping, Government of India, Jaipur.		
416.	Shri Kishan Lal	Sarpanch	Gram Panchayat, Silehgarh, (Jhalawar).
417.	Shri Babu Lal	-do-	-do- Shyampura.
418.	Shri	Vikas Adhikari	P. S. Hanumanga-h.
419.	Shri Bhanwar Singh	Sarpanch	Gram Panchayat, Nahar Gattha
420.	Shri Kalu Singh	-do-	-do- Sarod, (Jhalawar).
421.	Shri Jahwar Singh	-do-	-do- Sultana (Jaisalmer).
422.	Shri Punja	-do-	-do- Itala, (Banswara).
423.	Shri Lichman Ram	-do-	-do- Meghana, P. S. Nohar.
424.	Shri Badri Parasad	Member	Bhoodan Board, Dunganura. (Jainur).

1	2	3	4
425.	Shri Rawat	Sarpanch	Gram Panchayat, Bhagunagar.
426.	Shri Bhinwa Ram	-do-	-do- Dinwa, Laddkhani.
427.	Shri Rama Ram	-do-	-do- Nanda Kalan, (Mandai).
428.	Shri Jandel Singh	-do-	-do- Sohan, (Bharatpur).
429.	Shri Rud Mal Sharma	-do-	-do- Girudi.
430.	Shri Hardu Bhai	-do-	-do- Senawasa, Ghantol.
431.	Shri Gheera Ram	-do-	-do- Dungri.
432.	Shri Deva Ram	-do-	-do- Indoka.
433.	Shri Lachman Ram Jat	-do-	-do- Dantda.
434.	Shri Sobhag Singh	-do-	-do- Mimoli.
435.	Shri Ram Lal Jain	-do-	-do- Javaja, Ajmer.
436.	Shri Deva Lal	-do-	-do- Manoharpura.
437.	Shri Simbhu Ram	-do-	-do- Gadhatkahet.
438.	Shri Man Singh	-do-	-do- Barosi.
439.	Shri Bhagwan Singh	-do-	-do- Pidawali.
440.	Shri Gyarsi Ram	-do-	-do- Januthar, Deeg.
441.	Shri M. B. Sukla	-do-	-do- Sanwa.
442.	Shri Gordhan Lal	-do-	-do- Bhagwanpura.
443.	Shri Khatu	-do-	-do- Kutambi.
444.	Shri Mool Chand	-do-	-do- Hoondla (Sawai Madhopur).
445.	Shri Chandu Singh	-do-	-do- Sanju.
446.	Shri Indar Singh	-do-	-do- Danyawas.
447.	Shri Durga Ram	-do-	-do- Pitawas.
448.	Shri Lichaman Ram	-do-	-do- Ranasar.
449.	Shri Pema Ram ji	-do-	-do- Khatiyasni.
450.	Shri C. Singh	-do-	-do- Thada, (Pratapgarh).
451.	Shri Veer Singh	-do-	-do- Ratanpura. (Jaswantpura).
452.	Shri Ram Singh	-do-	-do- Ladhithana (Ajmer).
453.	Shri Pyare Lal	-do-	-do- Jadhina, (Bharatpur).
454.	Shri Ram Lal	-do-	-do- Chattarganj.

1	2	3	4
455.	Shri Rikta Ram	Sarpanch	Gram Panchayat, Jasrasar, Nokha, (Bikaner).
456.	Shri Hamir Singh	-do-	-do-' Chohatan, (Barmer).
457.	Shri Hari Krishan	-do-	-do-' Adore, (Banswara).
458.	Shri Jeewan	-do-	-do-' Kubaniya, (Banswara).
459.	Shri Mukat Krishan	-do-	-do-' Baghpura, (Udaipur).
460.	Shri Chotu Lal	-do-	-do-' Bahad, Tonk.
461.	Shri Durjan Singh	-do-	-do-' Malwada.
462.	Shri Ganga Vishan	-do-	-do-' Kakelaw.
463.	Shri Hurji	-do-	-do-' Metali, (Dungarpur).
464.	Shri Pem Chand	-do-	-do-' Gudli, Girwa, (Udaipur).
465.	Shri Mangi Lal	-do-	-do-' Gorda, Kekri, (Ajmer).
466.	Shri Jeev Raj	-do-	-do-' Sanwad, Rajsamand.
467.	Shri Ram Kumar	-do-	-do-' Dungarpur, Lalsot, (Jaipur).
468.	Shri Nathu Patel	-do-	-do-' Semal, Udaipur.
469.	Shri Hari Singh	-do-	-do-' Borimada, Pali.
470.	Shri Ladu Lal	-do-	-do-' Kereda.
471.	Shri Amba Lal	-do-	-do-' Kekri, (Ajmer).
472.	Shri Ghisi Lal	-do-	-do-' Ladpura, (Kotah).
473.	Shri Jugat Singh	-do-	-do-' Thapar, Barmer.
474.	Shri Sohan Raj	-do-	-do-' Jethantari Sewana, (Barmer).
475.	Shri G. K. Bhagat	Collector	Banswara.
476.	Shri Hukam Chand	Sarpanch	Gram Panchayat, Pipda.
477.	Shri Kishan Singh	Sarpanch	Gram Panchayat, Roopwas, (Bharatpur).
478.	Shri Bala Sahai	Principal	All purposes, Revenue Training School, Tonk.
479.	Shri Hari Ram	Sarpanch	Gram Panchayat, Rojjia, (Ghatol).
480.	Tehsildar (Land Records),		Tehsil Toda Bhim.
481.	Shri Gyan Chand	Sarpanch	Vikas Panchayat, Basu, (Chittorgarh).

1	2	3	4
482.	Shri Kishen Singh	Sarpanch	Gram Panchayat, Milansa, (Bharatpur).
483.	Shri Mangal Singh	-do-	-do-' Doyam, Beawar.
484.	Shri Iswari Pd. Gaur	President	Rajasthan Patwar Sangh, Jaipur.
485.	Shri Niranjan Singh	Principal	Officers Training School, Jaipur.
486.	Shri Sharaf Ali, I.A.S.	Collector & D. M.	Chittorgarh.
487.	The Chief Conservator of Forests,		Rajasthan, Jaipur.
488.	Shri Deva Lal	Up-Sarpanch	Gram Panchayat, Manoharpura.
489.	Shri Nag Singh	Sarpanch	Gram Panchayat, Dovendi, (Barmer).
490.	Shri Bijay Singh	-do-	-do-' Gandhar, (Pratapgarh).
491.	Shri		Secretary, Zila Parishad, Tonk.
492.	Shri Paras Ram	Sarpanch	Gram Panchayat, Palthan, (Pratapgarh).
493.	Shri Umrao Mal	Collector,	Pali.
494.	Shri	Collector,	Jaisalmer.
495.	Shri R. L. Mishra	Collector,	Jalore.
496.	Shri Lichma Ram	Pramukh	Zila Parishad, Nagore.
497.	Shri Prem Singh	Sarpanch	Gram Panchayat, Kiardakalan, (Sawai Madhopur).
498.	Shri Chandra Singh	Pradhan	Panchayat Samiti, Rohat.
499.	Shri G. M. Bhandari	Vikas Adhikari,	Rohat.
500.	Shri Ganga Sahai	Sarpanch	Gram Panchayat, Pancholi.
501.	Shri Nathu Khan	Sarpanch	Gram Panchayat, Gadol (Pratapgarh).
502.	Shri A. L. Roongta	Collector,	Dungarpur.
503.	Shri	Sarpanch	Gram Panchayat, Nangal, (Jaipur).

1	2	3	4
504.		Vikas Adhikari,	Panchayat Samiti, Beseri-
505.	Shri Kishan Lal Jain	Sarpanch	Vikas Panchayat, Banedia.
506.	Shri Hari Ram	Up-Sarpanch	Gram Panchayat, Charana.
507.	Shri Gulab Chand	Sarpanch	-do-, Nindar.
508.	Shri Vishnu Dutta	Registrar	Co-operative Deptt.
509.	Shri G. K. Dutta	Pramukh	Zila Parishad, Bundi.
510.	Shri Achal Singh	Addl. Collector,	Jaipur.
511.		Sarpanch	Gram Panchayat, Pilu, (Pratapgarh).
512.	Shri Narain Das	Collector,	Bundi.
513.	Shri R. N. Madhok	Member	Board of Revenue, Ajmer.
514.	Shri Durga Dutta		
515.	Shri Ram Pal	Sarpanch	Gram Panchayat, Bhanpur.
516.	Shri M. U. Menon	Chairman	Board of Revenue, Ajmer.
517.	Shri Gajendra Singh	Member	Board of Revenue, Ajmer.
518.	Shri Chaneshar	Up-Sarpanch	Gram Panchayat, Sujia.
519.	Shri	Secretary	Zila Parishad, Churu.
520.	Shri Rodu Mal	Sarpanch	Gram Panchayat,
521.	Shri Ghisa Lal	Sarpanch	Vikas Panchayat, Karol Gaon (Jhalawar).
522.	Shri Rambilas Gupta	-do-	-do-' Badaya, Bikani.
523.	Shri Purilal Sharma	-do-	-do-' Kushalpara, (Jhalawar).
524.	Shri Kesar Singh	-do-	-do-' Gothbihari, (Sawai Madhopur).
525.	Shri Laxmi Narain	-do-	Gram Panchayat, Gandawar.
526.	Shri H. N. Sharma	-do-	Gram Panchayat, Board Kuredi, (Sawai Madhopur).
527.	Shri Vijai Singh	-do-	-do-' Chandhan.
528.	Shri Motilal	-do-	-do-' Blueri Pahari, (Sawai Madhopur).
529.	Shri G. K. Bhagat	Collector,	Banswara.
530.	Shri Moti Ram	Sarpanch	Gram Panchayat, Mator, (Alwar).

APPENDIX VI

List of Witnesses Examined.

1. Rao Dhir Singh, Pradhan, Panchayat Samiti, Shahpura, District Jaipur.
2. Shri Madan Mohan Tiwari, Advocate, Jaipur.
3. Shri Banshi Lal Luhadia, Advocate, Jaipur.
4. Shri V. N. Kak, Adviser to the Government of Rajasthan in Agriculture.
5. Shri Niranjan Singh, Principal, Officers' Training School, Jaipur.
6. Shri Tara Chand Kala, Director of Agriculture.
7. Shri Khem Chand, Secretary to the Government of Rajasthan, Agriculture Department.
8. Shri Vishnu Dutt, Registrar, Co-operative Societies, Jaipur.
9. Shri Iswari Prasad Gaur, Chairman, Rajasthan Patwar Sangh.
10. Shri G. L. Mehta, Collector, Jaipur.
11. Shri Achal Singh, Additional Collector, Jaipur.
12. H. G. Mehra, Additional Collector, Jaipur.
13. Shri L. C. Gupta, Sub-Divisional Officer, Jaipur.
14. Shri P. D. Kudal, Government Advocate, Board of Revenue.
15. Shri K. Mohan Lal, Chief Conservator of Forests, Jaipur.
16. Shri M. L. Jain, Manager, Rajasthan Central Co-operative Land Mortgage Bank Ltd., Jaipur.
17. Shri M. U. Menon, Chairman, Board of Revenue.
18. Shri I. S. Mehta, Revenue Appellate Authority, Jaipur.

19. Shri Bal Krishna Pareek, Government Advocate, Board of Revenue.
20. Shri Hari Narain Sarpanch, Gram Panchayat, Govindgarh, District Jaipur.
21. Shri Amraji Meena, Panchayat Bhonrai, Tehsil Sarada, District Udaipur.
22. Shri Panna Lal Pancholi, Advocate, Salumbar, District Udaipur.
23. Shri Modaji Meena, P. O. Saria, Tehsil Salumber, District Udaipur.
24. Shri Kripa Dayal Mathur, Advocate, Alwar.
25. Shri Kishori Lal Sharma, Pradhan, Panchayat Samiti, Salumbar, District Udaipur.
26. Shri Kurda Ram, Pradhan, Panchayat Samiti, Neemka-Thana.
27. Shri Keshari Singh, Pradhan, Panchayat Samiti, Pali.
28. Shri Gajendra Singh, Member Board of Revenue.

APPENDIX VII

Minute of Dissent to the First Report of the Rajasthan Revenue Laws Commission on Rajasthan Tenancy Act, 1955.

Terms of Reference.

The Rajasthan Revenue Laws Commission was entrusted with the task of—

1. examining the existing system of land tenures and tenancy in Rajasthan and to report on—

(a) what has been the impact on the peasantry of Land Reforms and tenancy legislation so far undertaken in Rajasthan;

(b) whether the existing tenures and tenancies are suitable, and if not, what changes are required to bring them more in conformity with modern notions of tenures and tenancies;

2. examining the existing Acts, Ordinances, and subsidiary legislation in order to review, revise, amend and simplify the laws with a view not only to remove their complexities, superfluities and lacunae, if any, but also to make them more effective instruments for the achievement of the social objectives embodied in Part IV of the Constitution of India and set out in the Five Year Plans; and

3. examining the effect of all existing laws and regulations affecting tribals and specially the provisions of laws which prevent transfer of lands of tribals to non-tribals.

Stage not mature to submit report.—In view of the above asks, I feel, the proper method of investigation for the Commission was first to study the impact of the Land Reforms and Tenancy Legislation so far undertaken in the State and find out how far the same have been able to fulfil the objectives for which they were undertaken and how far they have failed

to achieve those objectives. In order to arrive at correct conclusion, the Commission must make an objective appraisal of the agrarian situation as obtaining in the State today, along-with its course of development. Only after this correct appraisal had been made it would have been possible for the Commission to point out the loopholes and lacunae in the legislation, and thus lay a theoretical base for suggesting further changes in the existing laws or new piece of legislation to meet the newly discovered exigencies.

That would be the proper stage for investigation and study of individual legislative measures as envisaged in the second term of reference to the Commission. Without having completed the first tasks, it is well-nigh impossible to do justice to the second task. Any attempt to do this will fall in the same pitfall of confining merely to simplifying the existing laws or to removing their complexities or superfluousities, as has been pointed out in the second term of reference itself.

Our Commission has not so far been able to devote its energies to the study of the impact of various land reforms and tenancy legislation in the State. Only some preliminary steps have been taken in this direction and no general conclusions can possibly be drawn from the same. Therefore, I am of the view that with the present work done the stage has not matured for the Commission to submit any report—preliminary or otherwise—on the Rajasthan Tenancy Act, 1955.

To make myself more explicit, in my opinion, it will be presumptuous on our part, to submit a report and a draft for a new bill on Tenancy Legislation without knowing, through objective study, whether the intermediaries still persist and to what extent; whether the sub-tenants and tenants of Khudkashf were able to secure Khatedari rights under Section 19 of the existing law and to what extent; whether the tenants enjoy security of tenure and to what extent; whether the provisions for regulation of rent are adhered to and to what extent; whether there has been malafide transfers and partitions of land to evade ceiling and to what extent; and so on and so forth. These are all relevant inquiries to grasp the exact nature of the tenancy problems of the State today; and any attempt to suggest changes in the existing law—as the present report and draft do—is superficial and unreal. Therefore, I am not in favour of submitting this report, as it will do more harm than good. There already prevails a sense of complacency in certain quarters to the need

for radical tenancy reforms. I am afraid, the present effort will only help this attitude to continue rather than remove it.

Background to appointment of Commission.—If we look at the background in which this Commission was appointed, perhaps my point will stand further emphasised. The land reforms in our country, for some time past have been subjected to severe criticism from friends here and abroad. The Planning Commission itself had openly begun to complain against the attitude of the State Governments for not implementing the programme of Land Reforms as envisaged under the Five Year Plans. In the third Five Year Plan Chapter XIV, para 5, this fact is recorded as follows:—

“As legislation has been enacted in one State after another, there has been greater understanding of the need for land reform and the purposes it is intended to achieve. The Bhoodan and the Gramdan movements have greatly helped to create a favourable atmosphere for implementing progressive measures of land reforms. *Yet, the total impact of land reform has been less than had been hoped for.* For this there are several reasons. In the first place, there has been too little recognition of land reform as a positive programme of development, and it has been only too often regarded as extraneous to the scheme of community development and the effort to increase agricultural production. Secondly, there has been insufficient attention to the administrative aspects of land reform. Frequently at the lower levels of the administration collusion and evasion have gone unchecked and there has been failure also to enlist the support and sanction of the village community in favour of effective enforcement of legal provisions. In the third place, it has not been sufficiently recognised that the reforms of land tenures and the early enforcement of ceilings are an essential foundation for the building up of the co-operative rural economy. While removing such shortcomings in the legislation or the rules as may come to notice, it is important that the land reform programme should be completed with the least delay, so as to eliminate any feeling of uncertainty arising from delays in implementation.”

In addition to this, several States got the measures of their land reforms and its impact studied objectively. The light that

such studies throw on the implementation of all these, so-called progressive reforms, revealed a very alarming picture. For example Dr. Khusre, Director of the Research Scheme to study the economic and social effects of the Jagirdari Abolition and Land Reforms in Hyderabad State, working for the Research Programme Committee of the Planning Commission says in his report:

“A significant degree of evasion is noticeable with respect to tenancy legislation and the law regarding ceilings on land. It appears that out of the originally created protected tenants in 1951 only 45 per cent still remain to enjoy their protected status while 12 per cent have purchased their lands and become owner-cultivators thus fulfilling the intention of the law. 2½ per cent have been legally evicted, 22 per cent have been illegally thrown out while 17 per cent have voluntarily surrendered”.

(Economic and Social Effects of Jagirdari Abolition and Land Reforms in Hyderabad P. 169).

Similarly the research team of the Gokhale Institute of Politics and Economics, also working for the Research Programme Committee of the Planning Commission came to almost similar conclusions with regard to the Bombay Tenancy Act, said to be the model law. The Report says:

“The investigation reveals a general failure of the Act to promote its principal objectives. A part of this failure is ascribable to inherent weakness of the original Act. The Government had also felt these shortcomings and has recently amended the original Act by means of comprehensive amendment.”

(Working of Bombay Tenancy Act 1948—Report of Investigation P. 2).

So it was in this atmosphere of doubts and suspicion regarding the efficacy of the present land reforms and tenancy legislation hovering all around that the Rajasthan Government has appointed this Commission—I believe, not to get homilies for its achievements, but to know the hard facts—the bare truth.

The shortfall on the agriculture front throughout the country during the Third Five Year Plan; its discussion in the National Development Council recently and open attribution by the Prime Minister of this shortfall to failure of Land Reforms;

and the discussion going on now in the Parliament over the mid term appraisal of the Third Five Year Plan achievement and serious setback to farm production in it; have highlighted the seriousness of the problem and must make the most credulous to sit up, ponder, doubt and feel the necessity of checking up the land reforms and allied legislation.

The present report of the Commission does not pinpoint any of such shortcomings which are at the root of our failure today, giving the impression as if none exists, which is far from truth.

Draft Tenancy Bill a misnomer

Perhaps it is a misnomer to name this Report and Draft Bill as has been done giving an impression as if it deals with the tenancy problems of the State. Truly speaking, it has been prepared on the assumption that the tenancy problems, in the strict sense of the term, as envisaged in the report of the Panel on Land Reforms of the Planning Commission do not exist in the State; or if the same exist they are of such insignificant magnitude that they do not require any special attention. The Panel on land reforms in its report in para 4 says:

“Tenancy Reforms concerns generally the following classes of tenants:

- (1) tenants of home-farm lands in the intermediary areas;
- (2) sub-tenants in the intermediary areas;
- (3) tenants holding lands from raiyats in the raiyatwari areas;
- (4) share-croppers who are in same areas not included in the definition of the term ‘tenant’ though they have all the characteristic features of a tenant”.

The Planning Commission in the First Five Year Plan had suggested conferment of rights on all these classes of tenants in the nature of (a) security of tenure irrespective of period of possession; (b) right of purchase ownership rights, and (c) regulation of rent.

Therefore it will be noticed from the above that the concept of tenancy reforms according to the Planning Commission mainly concerns tenants who hold land under some private land-holders and not from the State directly. That is to say, the tenancy problems concern mainly with regulating the relations between the

tiller of the soil and the private superior title-holder in land through whom the actual tiller holds the land.

The present report and the draft bill of the Commission mainly deals with the relation between the State and persons holding land directly from the State, viz., Khatedars and Ghair-Khatedars. The 'sub-tenant' about whose rights the Panel on land reforms has shown so much concern and around whom the whole edifice of tenancy reform is asked to be built, has been completely ignored in the present draft to the extent of not recognising him even one of the categories of 'tenant' as the classes of tenant in clause 9 of the draft bill clearly indicates.

The reasons for this are not obscure. The report in its para 26 frankly admits that "the bill has been drafted on the assumption that the intermediaries have been totally abolished and all the tenants in Rajasthan hold land directly under the State".

I emphatically refute this assumption. How far this assumption is correct and what are the far-reaching implications of such an assumption I will deal with later on. But the aims and objectives of this report and draft bill must be clear that this is not in the least an attempt towards tenancy reform as the Planning Commission has posed before the nation but is an attempt to gloss over such problems—nay to deny their existence altogether in Rajasthan. To be more exact, it is not an attempt to suggest more radical tenancy reforms to plug the loopholes and lacunae in the existing law but is an attempt to stabilise the existing position.

Real nature of Tenancy problems.—This immediately poses the question—then what is the real nature of tenancy problems in Rajasthan that need immediate attention and the solution of which must be the basis of any future tenancy reform? As I have stated earlier we can arrive at correct conclusions only after objective study of the agrarian situation in the State, collecting data and material to give a correct appraisal of the socio-economic changes that have been brought about by action and interaction of the various forces unleashed by different legislative measures. But, however, on the basis of the material available direction of these problems can certainly be indicated which can later on be verified on the basis of full facts available. I wanted to restrain myself from doing so at this stage, as an objective participant in the deliberations of the Commission, but I consider it my duty to pose the directions of those problems in this note even at the risk of being charged of subjectivism at the

hands of those who do not agree with my views, simply because a report on behalf of the Commission is being submitted, which, to my mind, poses an incorrect picture of the tenancy problems in our State.

To my mind, the simplest method of understanding the tenancy problems of our State is (a) to recall the programme of tenancy reforms indicated by the Planning Commission in the three Five Year Plans as part of the overall land policy (b) study the results achieved in our State through various measures taken in implementation of this programme (c) grasp the general appraisal and criticism which the Planning Commission or its Panel on Land Reforms has made of the implementation of this programme throughout the country and (d) apply those conclusions of appraisal and criticism to the agrarian conditions in our State and find out which of them are correctly applicable to us. This, in a nutshell, gives us clue to our tenancy problems.

Agrarian Programme of the Planning Commission.—Applying this method first I take the agrarian programme which the Planning Commission had asked the various States to implement in the three Five Year Plans. Broadly speaking this programme as is relevant to our present discussion can briefly be stated as follows:—

1. Abolition of intermediaries.
2. Security of tenure to tenants.
3. Regulation of rent.
4. Right of purchase for the tenants and bringing them to the status of owners,
5. Fixation of ceiling on land holding and the distribution of the surplus land.

Implementation of the Programme in Rajasthan and its effects.—It is an undeniable fact that steps have been taken in our State in the direction of implementation of all this programme, although the most crucial of these, fixation of ceiling on landholdings—which could really break the monopoly of land and give land to the landless is still passing through a zigzag path and has to see the day of its implementation which has now been announced as 15th December, 1963. After abolition of various conventional intermediary tenures a uniform law for the whole State was framed in the shape of the Rajasthan Tenancy Act,

1955 which defined the relations between State and the tenants and the tenants *inter se*.

The over all effects of those legislations of land reforms and tenancy Law may be enumerated as follows:—

(a) *Abolition of intermediaries*.—Although all conventional intermediaries were abolished bringing majority of the tillers in direct relationship of the State it will be wrong to presume, as the report of the Commission does, that all the intermediaries were completely wiped out. If that were so, it would mean that the feudal order was completely smashed and tillers of the soil came into direct touch with the State. This is far from truth. As a matter of fact the system of intermediaries was allowed to exist and it still exists in the following manner.

(i) The laws abolishing Jagirdari and Zamindari systems allowed these persons to retain land as Khudkasht; not only that land which was under their personal cultivation but even such land which was being cultivated by the tenants. They were allotted further lands as Khudkasht if the area retained by them remained below a prescribed level.

Although no reliable data is available but whatever figures have been made available by the Government to the Commission is telling. The figures are as follows:—

<i>District</i>	<i>Allotment of Khudkasht</i>	<i>Total Khud kasht</i>
1. Jhalawar	324 acres	5084 acres
2. Alwar	2639 bighas	19947.10 Bighas
3. Jalor	2550 bighas	1359630 „
4. Ganganagar	104403 acres	100209 acres
5. Banswara	822 acres	31650 „
6. Udaipur	1961 „	173326 „
7. Jhunjhunu	18155 „	42857 „
8. Sirohi	346 „	42813 „
9. Dungarpur	36.82	26956 „
10. Bharatpur	85	56854 „

It is common knowledge that in majority of the areas those Jagirdars never cultivated the land personally. There fore this was the area which ran into several lacs of acres which still remained with the intermediaries although their nomenclature was changed from Jagirdars to Khatedars under new dispensation of the Rajasthan Tenancy Act.

Although a portion of the tenants of this Khudkasht land who were in possession as tenants at the commencement of the tenancy Act and coming of this amendment in 1959, were conferred Khatedari rights on payment of compensation, yet its advantage could be reaped only by those whose names were recorded in the Khasra Girdawari. In a large number of cases the Jagirdars got their own names entered and such people though legally entitled could not secure those rights as they could not afford to go to a court of law.

It was here that a large scale evictions took place in the shape of voluntary surrenders or otherwise. In most of the areas no records were maintained or were maintained by the Jagirdars themselves, and so it was easy for them to grab land from the cultivating tenants. In areas where records were generally maintained, where the tenants were weak and unorganised, their cultivatory possession was not recorded. Although no records are available but some of the witnesses which were examined by the Commission have testified these facts.

(ii) The intermediaries exist in the shape of Khatedars leasing out their lands to the sub-tenants. This system prevailed even when the conventional intermediaries in the shape of Jagirdars and Biswedars existed. The Rajasthan Tenancy Act 1955 did not give Khatedari rights to all persons in cultivatory possession of land and such tenants remained under their tenants-in-chief as intermediaries. Although a certain percentage of those were conferred Khatedari rights under Section 19 on payment of compensation like tenants of Khudkasht but only those who were recorded could get advantage of this provision. But this advantage was only for those sub-tenants who were in possession on the 15th October, 1955. All sub-tenants later in date even if recorded do not get any Khatedari rights.

Now this is the most prevalent form of intermediary tenure. The law authorises the Khatedars to sublet but does not allow the sub-tenant to acquire Khatedari rights even though his possession may be of any duration.

The more shrewed Khatedars do not allow recording of the name of their sub-tenants in Khasra Girdawari. In this connection evidence of Shri Ishwari Prasad Gaur, Chairman, Rajasthan Patwar Sangh, before the Commission is revealing. He deposed before the Commission that this practice is widespread. The sub-tenants would not like his name to be entered because of the pressure of the Panch and Sarpanch and the Khatedar himself.

(iii) This intermediary tenure is also prevalent very commonly in the shape of the actual cultivator taking the position of a share-cropper. But his name is never recorded in the Khasra Girdawari and he is subjected to severe exploitation. So many witnesses that were examined by the Commission corroborate this fact.

It is very necessary to find out the magnitude of this problem. At present no data is available. The witnesses that were examined by the Commission placed this figure from 10 to 15 percent. In Ganganagar District where the sub-lease exists in the form of Nokarnamas is said to be more than 20%.

So the main tenancy problems of the State concerns these tillers of the soil who are still subjected to feudal exploitation in whatever shape they exist today. The existence of this class of sub-tenants cannot be disputed. Its magnitude may vary according to different estimates. There is no law to give them Khatedari rights of whatever duration their cultivation may be.

In many of the States measures were adopted to protect such sub-tenants in the early third and fourth decades. But in our State the tenants-in-chief themselves being unsecured in majority of the areas, protection to their sub-tenants could not be thought of. As indicated earlier the panel on land reforms have unambiguously pointed out that the real tenancy reforms have to concern this class of tenants. In Rajasthan the advocates of feudal order who want to continue this feudal exploitation as long as they could, appear in the garb of saviours of poor Khatedar

tenants, who have recently been conferred Khatedari rights, and in their name want to conceal their nefarious aim of parasitic living by exploiting the real tiller of the soil. A real tenancy reform in Rajasthan will have to break through this organised resistance

(b) *Security of tenure*.—The security of tenure as envisaged by the Planning Commission is security against eviction to all kind of tenants as well as sub-tenants subject to the right of resumption of the landowners to a certain extent. The Panel on Land Reforms had made the following two important recommendations:—

(1) A tenant who has already held any land continuously for a period of 12 years or is in possession of land which has not been cultivated by the land owner personally at any time during a period of 12 years should have permanent and heritable rights in the land and should not be liable to ejection on any ground whatsoever, not even on the ground that the landlord requires the land for personal cultivation

(2) All other tenants should have security of tenure subject to the landlord's rights to resume land bona fide for personal cultivation on terms and conditions described.

The panel had also recommended as interim measure, (a) stay of all ejections of tenants and sub-tenants, (b) restoration of land to those who had been illegally ejected under the pretext of voluntary surrenders etc.

Judging in the light of the above recommendations it must be said that the present Tenancy Act of the State has miserably failed to achieve these objectives.

Apart from the fact, that apprehension of land reforms was a cause of incitement to the landlords to drive away as many tenants as they could; and there being no land records in most of the areas it provided a further incentive to the landlords to indulge freely in illegal evictions; and like other parts of India mass evictions took place in Rajasthan in the initial stages; it cannot be denied that the tenancy law itself openly allows evictions and the State have not taken any steps to remedy the same in spite of so many directives of the Centre. The weakness of the present law may be enumerated as follows:—

(i) The law does not give security of tenure even to tenants holding land directly from the State. Thus the

Ghair-Khatedar tenants are liable to ejectment without any ground if they hold land as tenant from year to year (Sec. 180 (1) (b) of the Rajasthan Tenancy Act, 1955). Even if such tenant is in possession for a longer period with the tacit consent of the State—the State authorities accepting normal rent and recording the same in Khasra Girda wari—his original status is not altered—he remains a tenant from year to year all the same—liable to ejectment under the same provision (Proviso to Section 180 (1) (b) Rajasthan Tenancy Act, 1955).

Taking advantage of this provision of the law the State is maintaining a large number of tenants on year to year basis on its land. So in this State—Sector of land a vast multitude of tenants-at-will exist with all its dire consequences on the agrarian economy. I have no statistics to show its magnitude but the existence of this state of affair cannot be denied and it pertains more vastly in project areas.

(ii) The State tenancy law did not recognise only cultivatory possession for grant of Khatedari rights on a particular date but insisted upon this possession as a 'tenant' both under Section 15 as well as under Section 19 with the result that real tillers of the soil in actual cultivatory possession were not only deprived from getting Khatedari rights but were driven away from the lands as tres-passers in the absence of technical proof which they could not possibly produce. Such evictions on a large scale took place even recently in the year 1960-61 and 1961-62 as an Advocate from Udaipur District deposed in his evidence before the Commission (see statement Shri Pannalal Pancholi Salumber Witness No. 22).

(iii) Similarly the law provides for unrestricted ejectment of sub-tenants holding from year to year (same section of R. T. Act). A tenant holding over is in no better a position.

(iv) A sub-tenant for a fixed term is liable to ejectment after the expiry of period of sub-tenancy if the land owner wants to resume land for self-cultivation. This provision practically has come to give unrestricted right of ejectment of the sub-tenant whether the landowner wants to cultivate the land himself or not. The poor sub-tenant cannot afford to go to a court of law to get himself restored

to possession and thus displease the landowner and mar his future chances of getting land on sub-lease.

(v) The uncharitable limits to which the present law has gone as far as the sub-tenants are concerned can be gauged from the provisions of the tenancy law that if the Khatedar tenant continues sub-lease for a period more than allowed—say 6 years, when the permitted limit is 5 years—then the Khatedar can be ejected and alongwith him the poor sub-tenant who has continuously cultivated the land for six years will also be ejected. The law does not envisage to protect this sub-tenant even from ejection leaving aside the talk of conferring Khatedari rights upon him as recommended by panel on land reforms?

(vi) The present law provides for ejection of even Khatedar tenants for non-payment of rent (Section 169) or for detrimental use of land or for breach of any condition of lease. The power to decide and take action vests in the Tehsildar who can at any moment declare that a particular tenant has used the land in detrimental manner. It is not that these provisions are not used. A large number of allottees of land in Ganganagar District were evicted simply because they were not able to pay third or fourth instalment of the price of land on account of adverse circumstances. Notices of evictions are being issued to the refugee allottees and Pattedars of Alwar and Bharatpur Districts for non-payment of some instalment even when they have become entitled to become Khatedars on payment of the first instalment.

This chaotic state of affairs deserves serious consideration and foolproof security of tenure for tenants and sub-tenants is the second important tenancy problem of the State.

(c) *Regulation of Rent.*—The Panel on Land reforms had suggested 1/6th of the gross produce as maximum rent and also commutation of kind rents into cash rents. It has also suggested that the State should directly collect rent from the sub-tenants and pay to the landowners after deducting the collection charges.

The present Tenancy Act provides 1/6th of the gross produce as maximum rent but has not made provision for banning payment rent in cash instead of kind.

As far as the State is concerned all areas have been settled and cash rents have been fixed, which, mostly in the newly settled old Jagirdari areas are based on 1/6th of the gross produce principle.

But these provisions of the tenancy law are not being followed and kind rent is still in vogue at the rate of 1/3rd to 1/2 of the gross produce. The various witnesses which were examined by the Commission had the same story to tell. So the present law has completely failed to protect the sub-tenants from extortionate rents.

It is wonderful that the State instead of enforcing the provisions of the law effectively itself is indulging in charging high rents from its tenants. Auction of land for yearly leases is being held on a vast scale in Ganganagar District. In Alwar District also the Government is auctioning Government lands for temporary leases. The land hungry peasants have to pay extortionate rents and have to bid high.

The burden of rent on the tenants as determined in settlement rates is also heavy. The rates of Chahi lands go upto Rs. 25/8/9 per Bigha and that of Barani upto Rs. 3/12/- per Bigha in Jaipur District (See Appendix I Report of the Committee for fixation of ceilings in Rajasthan). As already stated, in most of the jagir areas the settlement was made on the basis of commutation of 1/6th of the gross produce into cash rents; and the Jagirdars in order to get more compensation were interested in having rent-rates still higher. There is no scientific basis for such settlement of rent rates. Therefore the rent-rates need to be revised in such areas and reduced to bring in conformity with other areas.

So regulation of rents and through it lessening the burden from the actual tiller of the soil is still a serious tenancy problem in Rajasthan.

(d) *Ownership rights for the tenants.*—The planning Commission envisages the conversion of present land relations in rural areas on peasant-proprietorship-pattern, with turning the whole rural population in co-operative village community as the ultimate goal. For this purpose all the three Five Year Plans have stressed the direct relationship of the State with the tiller of the soil and conferment of right of ownership on such tenants.

Thus in the Third Five Year Plan in para 19 it has been stressed in the following words:—

“Security of tenure and reduction of rents are the first stage in tenancy reform; the goal is to confer rights of ownership on as large a body of tenants as possible.”

The highest type of rights which the Rajasthan Tenancy Act, 1955 has conferred upon tenants are Khatedari rights. Although these rights being heritable and transferable with a right to make improvements and sublet, make a semblance of ownership rights, essentially they fall short of it. The essential ingredients of the right of ownership (a) complete control over corpus and (b) undisturbed right of user, are not available to the Khatedar tenant and these rights are circumvented by so many provisions in the Act that in real life the sanctity of these rights much depend upon the discretion of a Tehsildar. The following provisions may be cited to illustrate my point:—

(a) A Khatedar tenant has no right to use the agricultural land for any purpose he likes. If he uses it for any other purpose than agriculture he is liable to ejection (Section 177 of the Rajasthan Tenancy Act).

In Uttar Pradesh, however, the Bhumidar does not suffer from any such disability. According to Section 142 of the U. P. Zamindari Abolition and Land Reforms Act, 1950, he has the exclusive possession of land in respect of which he is a Bhumidar and to use it for any purpose whatsoever.

(b) A Khatedar tenant has no unrestricted right of improvement (Section 66 of the same Act).

(c) He has no foolproof security against eviction. He is liable to ejection for non-payment of rent (Section 169) for detrimental act or breach of condition (Section 177)

(d) He has no unrestricted right of sale over the trees on his land (Section 84 (5)).

I think the above points are sufficient to show the real nature of Khatedari rights and how they fall short of the right of ownership.

The Planning Commission has suggested that a uniform pattern should be evolved for rights of ownership throughout the country and I think it is desirable that the present Khatedari rights should be improved so as to give de-facto ownership to the cultivators if not de-jure.

When I advocate ownership rights for the cultivators I am not enamoured of it from the point of view of sacrosanct notions about private property and its uninterfered enjoyment by its holders but because of the idea to save the tiller of the soil from oppression of the beauracracic state machinery and its corrupt practices; these rights under the present set-up, will prove more beneficial for unleashing the latent energies of the peasants and increasing agricultural production.

Besides this Khatedari rights being something short of ownership rights, I have to say that the present Tenancy Act has a very conservative approach and has not been able to confer even this right to the tenants. To whatever number of tenants this right was conferred mutations have not been effected in the favour of a large number upto this day. I am not incorrect, if I may say so that the scheme of the tenancy law has pegged the accrual of Khatedari rights after 1958 when such rights were conferred upon sub-tenants and tenants of Khudkasht by amendment of Section 19. That was done under the instructions of the Planning Commission. Otherwise after coming into force of the Rajasthan Tenancy Act 1955 the law has moved in the reverse gear. To illustrate my point the following facts are noteworthy:—

(i) Restrictions were placed in the Project Areas on accrual of these rights (Sections 15A and 15AA of the R. T. Act).

(ii) Restrictions were placed upon accrual of such rights on land allotted by Government under Grow More Food Campaign or otherwise Section 15 (2) R. T. Act or under Section 101 of the Rajasthan Land Revenue Act, 1956 (Section 15 (1) Amended vide Act No. 33 of 1957).

Thus whereas the original Act seemed to give Khatedari rights to all prospective tenants of Government lands the step was retreated through the various above mentioned provisions.

This Act is inherently conservative as I have stated earlier. The weaknesses of the law in this respect may be enumerated as follows:—

(i) It has not made the cultivatory possession of a person on a particular date as the basis of conferring this right. Therefore those who were the real tillers were deprived of this right and those who were intermediaries were given this right.

(ii) It insisted upon the possession to be in the status of tenant and therefore all those who could not prove their original admission to land as authorised were termed 'tres passers' and deprived of their right.

(iii) It does not provide for automatic accrual of these rights in future for the sub-tenants or the Ghair Khatedar tenants.

Therefore the objective placed by the Third Five Year Plan to directly connect all tenants with the State is not being fulfilled and some fundamental steps are necessary to move the situation forward. This again is the fourth important tenancy problem of the State.

(e) *Fixation of ceiling on land holdings and Distribution of surplus land.*—The Planning Commission from the very beginning has been stressing the need for fixation of ceiling on Agricultural land holdings and distribution of surplus land to the landless. The basis on which the ceiling should be fixed were indicated as under:—

(i) Ceiling may be fixed on the basis of a family or individual according to the circumstances of a State.

(ii) Ceiling should be fixed at three family holdings for a family of five, with the increase in the number of family members the ceiling can go to six family holdings.

(iii) Compensation should be paid for the surplus land acquired.

(iv) Surplus land should be distributed among the landless.

(v) Exemptions should be given from ceilings to certain kinds of farms, and gardens and plantations.

(vi) Bogus partitions and transfers should be banned.

Although this proposal about ceiling was made in the First Five Year Plan it was only in 1960 that provisions regarding imposition of ceilings on land holdings were incorporated in the Rajasthan Tenancy Act as Chapter III-B. According to this land ceiling has been fixed at 30 standard acre for a family with an increase of 5 standard acre for every increase of member of family with 60 standard acres as the maximum. Compensation has to be paid 30 times the rent rates for the first 25 acres; 25 times for the next 25 acres; and 20 times for the remaining area. Exemptions have been given

on the same basis as had been suggested by the Planning Commission.

But the State law has made one important deviation which is noteworthy. In disregard of the suggestions of the Planning Commission the State allows partitions even after passing of this law though transfers after 25th February, 1958 have been banned. Only such transfers as have been effected in favour of genuine landless persons between 25th February, 1958 and 9th December, 1959 have been recognised.

It may be mentioned here that the Rajasthan Government had appointed a special Committee, as early as November, 1953, under the Chairmanship of the present Chief Minister, Shri Mohan Lal Sukhadia to make recommendations for fixation of ceilings. This Committee submitted its report on 5th September, 1957 in which the ceiling suggested was at a lower level on the basis of two family holdings and the rate of compensation suggested was at lower rates than provided under the present law.

Even after passing of the law it has not been implemented even up to this day. Now 15th of this month is said to have been fixed as the date on which this law will come into force.

Now since 1953 when the ceiling Committee was appointed and 15th December, 1963 when the law is to come into force full 10 years have elapsed. Between 1953 and 25th February, 1958 for full five years there was no check on legal transfers and after that date there has been no effective check to stop illegal transfers. Partitions even to this date are legal. One can well imagine the fate of surplus land? The memorandum submitted on behalf of the District Congress Committee Ganganagar for recognising the illegal transfers made (to defeat the ceiling law) after the prohibited date i.e. 25th February, 1958, admitted that such transfers ran into more than Rs. 8 crores worth of land in Ganganagar District alone. With this an idea of the situation in Rajasthan as a whole can be gauged.

It is interesting to note that inspite of warnings by the Planning Commission to take interim measures to check such transfers as early as 1955 no steps were taken in our State in this direction.

To my mind, imposition of ceiling on land holdings is the sheet-anchor of genuine land reforms because it is only through this measure the landless hope to get some land and unleash their energies for greater production. All other measures whether of land reform or Tenancy Reforms, whatever their good points from the point of view of the landless in all their totality—they have been effective in making more and more persons landless and increasing this Army of unemployed in the rural population instead of decreasing it.

The votaries of the feudal order have tried to present a fait-accompli and say from house tops that now not much land will be available for distribution. But if distribution of land to the landless is an urgent problem land has to be found out. It may be that partitions have to be annulled or exemptions have to be scrapped. In any case it is too important a problem to be ignored.

Draft Bill vis-a-vis Tenancy Problems of Rajasthan.

I have tried to indicate above the main tenancy problems of our State as they emerge out keeping the programme of Land Reform and Tenancy Legislation enunciated by the Planning Commission as my measuring rod. In this, I have tried to keep away my own view, as best as I could, even where I differ from the Planning Commission. It is because the terms of reference are not for stating our own views but it is to make an assessment of the laws of the Rajasthan Government *vis-a-vis* the objectives put before the country by the Planning Commission.

Now let us examine the draft Bill prepared by our Commission in the light of these tenancy problems which are posing immediate solution. Does the draft Bill recognise the existence of feudal exploitation of the actual tillers of the soil through intermediary tenures even today and offer any relief to the exploited? Does the draft Bill recognise the insecure position of sub-tenants and Ghair-Khatedar tenants against eviction and offer to make their position more secure? Does the draft Bill recognise the continued exploitation of the tiller of the soil through extortionate rents in spite of regulation of rent by law and suggest some steps to lower this burden? Does the draft Bill recognise the need of conferring Khatedari rights upon certain category of tenants and made any provision for accrual of such rights?

And in the end, does the draft bill recognise the need of satisfying the land hunger of lacs of landless peasants lying idle in the rural areas wasting the national wealth in term of human energy, and has offered any solution to meet their need ?

To my mind, the reply to all these questions is an emphatic 'No'. If the draft Bill has something positive to say on these questions it is this: That the Tenancy and sub-tenancies will determine by efflux of time (clause 71 of the draft) giving free hand to the State and the Khatedars to eject the Ghair-Khatedar tenants and sub-tenants; that the sub-tenants will have to pay three times instead of twice the assessed rates as rent to their land owners (Clause 53(3)) thus increasing the burden of rent on the actual tiller of the soil by 50%; that the Ghair-Khatedar tenants will pay rent not at assessed rates as hitherto done (Section 96 Rajasthan Tenancy Act) but as may be agreed upon (Clause 53(2) of the draft) thus making him legally liable to pay the extortionate rent decided by auction; that immunity available to the tenants from arrest or detention for arrears of rent (Section 153 R. T. Act) will go; that the present bar to seizure attachment and sale of his rights in a holding by a civil court (Section 37 R. T. Act) will be removed;

The draft has shown great concern for increasing agricultural production. But what is the incentive offered to the peasant for the same ? Sword of Democles in the shape of ejection (Clause 112 of the draft) ?

If that is the attitude of this Draft Bill to all these important tenancy questions then what is its worth ? Are we going to usher in a new era in agrarian economy by abolishing the Revenue Appellate Authority and transferring the appellate work to the Collectors; or by changing the period of limitation from 20 to 12 years; or by changing the court fees by a rupee or 50 naya paisa ? I wish the Commission could give second thoughts to its report.

I should think my colleagues will forgive me for the sharp remarks here and there, but this is how I feel; and this is the feeling that prompted me to submit this note.

Sd/- Rama Nand Agarwal

Date : 8-12-63.

(Rama Nand Agarwal)