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Rare, section

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A COLLECTION

OF

THE ACTS

PASSED BY

THE GOVERNOR GENERAL OF INDIA IN COUNCIL

IN THE YEAR

1898.

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CALCUTTA:

OFFICE OF THE SUPERINTENDENT OF GOVERNMENT PRINTING, INDIA.

1898.

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CALCUTTA:

GOVERNMENT OF INDIA CENTRAL PRINTING OFFICE,  
8, HASTINGS STREET.

# TITLES OF ACTS

PASSED BY

## THE GOVERNOR GENERAL OF INDIA IN COUNCIL IN THE YEAR 1898.

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- I. An Act to amend the Stage-Carriages Act, 1861.
- ✓ II. „ to provide for the issue of currency notes on the security of gold received in England.
- III. „ to provide for the segregation and medical treatment of pauper lepers and the control of lepers following certain callings.
- IV. „ to amend the Indian Penal Code.
- V. „ to consolidate and amend the law relating to Criminal Procedure.
- ✓ VI. „ to consolidate and amend the law relating to the Post Office in India.
- VII. „ to further amend the Petroleum Act, 1886.
- VIII. „ to amend the Indian Paper Currency Act, 1898.
- IX. „ to make better provision for the regulation of the importation of live-stock.
- X. „ to make provision for certain matters connected with Insolvency.
- ✓ XI. „ to consolidate and amend the law relating to Agricultural Tenancies in the Central Provinces.
- ✓ XII. „ further to amend the Central Provinces Land-revenue Act, 1881.
- XIII. „ to declare the Regulations of the Bengal Code and Acts of the Governor General in Council now in force in Upper Burma and to make certain provisions regarding the law in Burma and other matters.

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# ACT No. III OF 1898.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 4th February, 1898.)

An Act to provide for the segregation and medical treatment of pauper lepers and the control of lepers following certain callings.

WHEREAS it is expedient to provide for the segregation and medical treatment of pauper lepers and the control of lepers following certain callings; It is hereby enacted as follows:—

1. (1) This Act may be called the Lepers Act, 1898. Title, extent and commencement.

(2) It extends to the whole of British India, inclusive of Upper Burma, British Baluchistan, the Santal Parganas and the Pargana of Spiti; but

(3) It shall not come into force in any part thereof until the Local Government, as hereinafter provided, has declared it applicable thereto.

(4) The Local Government may, by notification in the official Gazette, apply this Act or any part thereof to the whole or any portion of the territories for the time being under its administration, and may in like manner amend or cancel any such notification.

2. In this Act, unless there is anything repugnant in the subject or context,— Definitions.

(1), "leper" means any person suffering from any variety of leprosy in whom the process of ulceration has commenced;

(2) "pauper

[Price three annas.]

(2) "pauper leper" means a leper—

(a) who publicly solicits alms or exposes or exhibits any sores, wounds, bodily ailment or deformity with the object of exciting charity or of obtaining alms, or

(b) who is at large without any ostensible means of subsistence;

(3) "leper asylum" means a leper asylum appointed under section 3;

(4) "Board" means a Board constituted under section 5; and

(5) "District Magistrate" includes a Chief Presidency Magistrate.

Appointment of leper asylums by Local Government.

3. The Local Government may, by notification in the official Gazette, appoint any place to be a leper asylum for the purposes of this Act and specify the local areas from which lepers may be sent to such asylum, and may, in like manner, alter or cancel any such notification.

Appointment of Inspectors of Lepers and Superintendents of Asylums.

4. Subject to any rules which may be made under section 16, the Local Government may appoint any Medical Officer of the Government or other qualified Medical man to be an Inspector of Lepers and any person to be a Superintendent of a Leper Asylum, with such establishment as may, in its opinion, be necessary, and every Inspector or Superintendent so appointed shall be deemed to be a public servant.

Constitution of Board.

5. The Local Government shall constitute for every leper asylum appointed under section 3 a Board consisting of not less than three members, one of whom at least shall be a Medical Officer of the Government.

Arrest of pauper lepers.

6. (1) Within any local area which has been specified under section 3 any police-officer may arrest without a warrant any person who appears to him to be a pauper leper.

(2) Such police-officer shall forthwith take or send the person so arrested to the nearest convenient police-station.

7. Every

7. Every person brought to a police-station under the last foregoing section shall, without unnecessary delay, be taken before an Inspector of Lepers, who,—

Person arrested how to be dealt with.

- (a) if he finds that such person is not a leper within the meaning of section 2, shall give him a certificate in Form A set forth in the schedule, whereupon such person shall be forthwith released from arrest;
- (b) if he finds that such person is a leper within the meaning of section 2, shall give to the police-officer, in whose custody the leper is, a certificate in Form B set forth in the schedule, whereupon the leper shall, without unnecessary delay, be taken before a Magistrate having jurisdiction under this Act.

8. (1) If it appears to any Presidency Magistrate or Magistrate of the first class or to any other Magistrate authorised in this behalf by the Local Government, upon the certificate in Form B set forth in the schedule, that any person is a leper, and if it further appears to the Magistrate that the person is a pauper leper, he may, after recording the evidence on the above-mentioned points, and his order thereon, send the pauper leper in charge of a police-officer, together with an order in Form C set forth in the schedule, to a leper asylum, where such leper shall be detained until discharged by order of the Board or the District Magistrate:

Procedure with regard to pauper lepers.

Provided that, if the person denies the allegation of leprosy, the Magistrate shall call and examine the Inspector of Lepers, and shall take such further evidence as may be necessary to support or to rebut the allegation that the person is a leper, and may for this purpose adjourn the enquiry from time to time, remanding the person for observation or for other reason to such place as may be convenient, or admitting him to bail:

Provided

Provided also that if any friend or relative of any person found to be a pauper leper shall undertake in writing to the satisfaction of the Magistrate that such pauper leper shall be properly taken care of and shall be prevented from publicly begging in any area specified under section 3, the Magistrate, instead of sending the leper to an asylum, may make the leper over to the care of such friend or relative, requiring him, if he thinks fit, to enter into a bond with one or more sureties, to which the provisions of section 514 of the Code of Criminal Procedure shall be applicable.

X of 1892.

(2) If the Magistrate finds that such person is not a leper, or that, if a leper, he is not a pauper leper, he shall forthwith discharge him.

Power to prohibit lepers from following certain trades and doing certain acts.

9. (1) The Local Government may, by notification in the official Gazette, order that no leper shall, within any area specified under section 3,—

- (a) personally prepare for sale or sell any article of food or drink or any drugs or clothing intended for human use ; or
- (b) bathe, wash clothes or take water from any public well or tank debarred by any municipal or local bye-law from use by lepers ; or
- (c) drive, conduct or ride in any public carriage plying for hire other than a railway carriage ; or
- (d) exercise any trade or calling which may by such notification be prohibited to lepers.

(2) Any such notification may comprise all or any of the above prohibitions.

(3) Whoever disobeys any order made pursuant to the powers conferred by this section shall be punishable with fine which may extend to twenty rupees ;

Provided that, when any person is accused of an offence under this section, the Magistrate before whom he is accused shall cause him to be examined by an Inspector of Lepers, and shall not proceed with the

case

case unless such Inspector furnishes a certificate, in Form B set forth in the schedule, in respect of such person.

10. (1) Whenever any leper who has been convicted of an offence punishable under the last foregoing section is again convicted of any offence punishable under that section, the Magistrate may, in addition to, or in lieu of, any punishment to which such leper may be liable, require him to enter into a bond, with one or more sureties, binding him to depart forthwith from the local area specified under section 3 in which he is, and not to enter that or any other local area so specified until an Inspector of Lepers shall have given him a certificate in Form A set forth in the schedule.

Conviction  
after previous  
conviction.

(2) If any such leper fails to furnish any security required under sub-section (1), the Magistrate may send him in charge of a police-officer, with an order in Form D set forth in the schedule, to a leper asylum, where such leper shall be detained until discharged by order of the Board or the District Magistrate.

(3) The powers conferred by this section shall only be exercised by a Presidency Magistrate or Magistrate of the first class.

11. Any person who, within any area specified under section 3, knowingly employs a leper in any trade or calling prohibited by order under section 9 shall be punishable with fine which may extend to fifty rupees :

Penalty on  
person em-  
ploying  
lepers in pro-  
hibited trade.

Provided that the alleged leper shall be produced before the Magistrate and the Magistrate shall cause him to be examined by an Inspector of Lepers, and shall not proceed with the case unless such Inspector furnishes a certificate in Form B set forth in the schedule in respect of such alleged leper.

\* 12. Whoever, having been sent to a leper asylum under an order of a Magistrate in Form C or Form D set forth in the schedule, escapes from, or leaves, the asylum without the permission in writing of the Superintendent thereof, may be arrested by any police-

Re-arrest of  
escaped  
lepers.

officer



officer without a warrant, and upon arrest shall be forthwith taken back to the leper asylum.

Inspection by Board.

13. Two or more members of the Board, one of whom shall be the Medical Officer, shall, once at least in every three months, together inspect the leper asylum for which they are constituted, and see and examine (a) every leper therein admitted since the last inspection, together with the order for his admission, and (b), as far as circumstances will permit, every other leper therein, and shall enter in a book to be kept for the purpose any remarks which they may deem proper in regard to the management and condition of the asylum and the lepers therein.

Order of discharge by Board.

14. Any two members of the Board, one of whom shall be the Medical Officer, may at any time, by an order in writing in Form E set forth in the schedule and signed by them, direct the discharge from the leper asylum of any leper detained therein under the provisions of this Act.

Appeals.

15. Any person, other than a pauper leper, in respect of whom an Inspector of Lepers has issued a certificate, in Form B set forth in the schedule, declaring him to be a leper, or has refused to issue a certificate in Form A set forth in the schedule, may appeal against the issue or refusal of any such certificate to such officer as may be appointed by the Local Government in this behalf, and the decision of such officer shall be final.

Power of the Local Government to make rules.

16. The Local Government may, by notification in the official Gazette, make rules generally for carrying out the purposes of this Act, and in particular—

(a) for the guidance of all or any of the officers discharging any duty under this Act; and

(b) for the management of, and the maintenance of discipline in, a leper asylum.

Power to local authorities to expend funds

17. Notwithstanding anything in any enactment with respect to the purposes to which the funds or other

other property of a local authority may be applied, any local authority may—

and appropriate property to asylums.

(a) establish or maintain, or establish and maintain, or contribute towards the cost of the establishment or maintenance of the establishment and maintenance of, a leper asylum either within or without the local limits of such local authority ;

(b) with the previous sanction of the Local Government and subject to such conditions as that Government may prescribe, appropriate any immoveable property vested in, or under the control of, such body, as a site for, or for use as, a leper asylum.

18. No suit, prosecution or other legal proceeding shall lie against any officer or person in respect of anything in good faith done or intended to be done under, or in pursuance of, the provisions of this Act.

Protection to persons acting *bonâ fide* under Act.

19. When any part of this Act has been applied under sub-section (4) of section 1 to the whole or any portion of the territories administered by the Lieutenant-Governor of Bengal, the Lieutenant-Governor may, by notification in the official Gazette, direct that the whole or any part of the Lepers Act, 1895, shall, except as regards anything done or any offence committed or any fine or penalty incurred or any proceedings commenced, cease to have effect in the portion of the said territories to which this Act has been so applied.

Power to Lieutenant-Governor of Bengal to notify cessation of Bengal Act V of 1895 in certain areas.

Beng. Act V of 1895.

SCHEDULE.

A.—CERTIFICATE.

(Section 7.)

I, THE undersigned (*here enter name and official designation*), hereby certify that I on the \_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ personally examined (*here enter name of person examined*) and that the said \_\_\_\_\_ is not a leper as defined by the Lepers Act, 1898.

Given under my hand this \_\_\_\_\_ day of \_\_\_\_\_ 189 .

(*Signature.*)

*Inspector of Lepers.*

B.—CERTIFICATE.

SCHEDULE—*contd.*

B.—CERTIFICATE.

(Section 7.)

I, THE undersigned (*here enter name and official designation*), hereby certify that I on the \_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ personally examined (*here enter name of leper*), and that the said \_\_\_\_\_ is a leper as defined by the Lepers Act, 1898, and that I have formed this opinion on the following grounds, namely,—

(*Here state the grounds.*)

Given under my hand this \_\_\_\_\_ day of \_\_\_\_\_ 189 .

(*Signature.*)

*Inspector of Lepers.*

C.—WARRANT OF DETENTION.

(Section 8.)

To

THE SUPERINTENDENT OF THE LEPER ASYLUM AT \_\_\_\_\_ .

WHEREAS it has been made to appear to me that (*name and description*) is a pauper leper as defined in the Lepers Act, 1898 :

This is to authorise you, the said Superintendent, to receive the said \_\_\_\_\_ into your custody together with this order and  $\frac{\text{him}}{\text{her}}$  safely to keep in the said asylum until  $\frac{\text{he}}{\text{she}}$  shall be discharged by order of the Board or the District Magistrate.

Given under my hand and the seal of the Court this \_\_\_\_\_ day of \_\_\_\_\_ 189 .

(*Signature.*)

*Magistrate.*



D.—WARRANT

1898.]

*Lepers.*

SCHEDULE—*concl'd.*

D.—WARRANT OF DETENTION.

(Section 10.)

To

THE SUPERINTENDENT OF THE LEPER ASYLUM AT

WHEREAS (*name and description*) has this day been convicted by me of an offence punishable under section 9 of the Lepers Act, 1898, and whereas it has been proved before me that the said (*name and description*) was previously convicted of an offence punishable under the same section :

This is to authorise you, the said Superintendent, to receive the said \_\_\_\_\_ into your custody together with this order and  $\frac{\text{him}}{\text{her}}$  safely to keep in the said asylum until  $\frac{\text{he}}{\text{she}}$  shall be discharged by order of the Board or the District Magistrate.

Given under my hand and the seal of the Court this  
day of \_\_\_\_\_ 189 .



(Signature.)

*Magistrate.*

E.—ORDER OF DISCHARGE BY BOARD.\*

(Section 14.)

To

THE SUPERINTENDENT OF THE LEPER ASYLUM AT

WHEREAS (*name and description*) was committed to your custody under an order dated the \_\_\_\_\_ day of \_\_\_\_\_ 189 and there have appeared to us sufficient grounds for the opinion that  $\frac{\text{he}}{\text{she}}$  can be released without hazard or inconvenience to the community :

This is to authorise and require you forthwith to discharge the said (*name*) from your custody.

Given under our hands this \_\_\_\_\_ day of  
189 .

(Signatures.)

*Members of the Asylum Board.*

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\* A corresponding form may be used by the District Magistrate for orders of discharge issued under section 10 (2).

# ACT NO. IV OF 1898.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 18th  
February, 1898.)

## An Act to amend the Indian Penal Code.

**XLV of 1860.** WHEREAS it is expedient to amend the Indian Penal Code; It is hereby enacted as follows:—

1. (1) This Act may be called the Indian Penal Code Amendment Act, 1898; and Short title and commencement.

(2) It shall come into force at once.

**XLV of 1860.** 2. Section 4 of the Indian Penal Code is hereby repealed, and the following section is substituted therefor, namely:— Substitution of new section for section 4, Act XLV, 1860. Extension of Code to extra-territorial offences.

“4. The provisions of this Code apply also to any offence committed by—

(1) any Native Indian subject of Her Majesty in any place without and beyond British India;

(2) any other British subject within the territories of any Native Prince or Chief in India;

(3) any servant of the Queen, whether a British subject or not, within the territories of any Native Prince or Chief in India.

*Explanation.*—In this section the word ‘offence’ includes every act committed outside British India which, if committed in British India, would be punishable under this Code.

### *Illustrations.*

(a) A, a coolie, who is a Native Indian subject, commits a murder in Uganda. He can be tried and convicted of murder

[ Price one anna nine pies. ]

murder in any place in British India in which he may be found.

(b) B, a European British subject, commits a murder in Kashmir. He can be tried and convicted of murder in any place in British India in which he may be found.

(c) C, a foreigner who is in the service of the Punjab Government, commits a murder in Jhind. He can be tried and convicted of murder at any place in British India in which he may be found.

(d) D, a British subject living in Indore, instigates E to commit a murder in Bombay. D is guilty of abetting murder."

3. After section 108 of the Indian Penal Code XLV of 1860. the following section shall be added, namely :—

"108A. A person abets an offence within the meaning of this Code who, in British India, abets the commission of any act without and beyond British India which would constitute an offence if committed in British India.

*Illustration.*

A, in British India, instigates B, a foreigner in Goa, to commit a murder in Goa. A is guilty of abetting murder."

4. Section 124A of the Indian Penal Code is here- XLV of 1860. by repealed, and the following section is substituted therefor, namely :—

"124A. Whoever by words, either spoken or written, or by signs, or by visible representation, or otherwise, brings or attempts to bring into hatred or contempt, or excites or attempts to excite disaffection towards, Her Majesty or the Government established by law in British India, shall be punished with transportation for life or any shorter term, to which fine may be added, or with imprisonment which may extend to three years, to which fine may be added, or with fine.

*Explanation 1.*—The expression 'disaffection includes disloyalty and all feelings of enmity.

*Explanation 2.*—Comments expressing disapprobation of the measures of the Government with a view to obtain their alteration by lawful means, without

Insertion of new section after section 108, Act XLV, 1860. Abetment in British India of offences outside it.

Substitution of new section for section 124A, Act XLV, 1860. Sedition.

without exciting or attempting to excite hatred, contempt or disaffection, do not constitute an offence under this section.

*Explanation 3.*—Comments expressing disapprobation of the administrative or other action of the Government without exciting or attempting to excite hatred, contempt or disaffection do not constitute an offence under this section.”

XLV of 1860.

5. After section 153 of the Indian Penal Code the following section shall be inserted, namely :—

Addition of new section after section 153, Act XLV, 1860. Promoting enmity between classes.

“153A. Whoever by words, either spoken or written, or by signs, or by visible representations, or otherwise, promotes or attempts to promote feelings of enmity or hatred between different classes of Her Majesty’s subjects shall be punished with imprisonment which may extend to two years, or with fine, or with both.

*Explanation.*—It does not amount to an offence within the meaning of this section to point out, without malicious intention and with an honest view to their removal, matters which are producing, or have a tendency to produce, feelings of enmity or hatred between different classes of Her Majesty’s subjects.”

XLV of 1860.

6. Section 505 of the Indian Penal Code is hereby repealed and the following section is substituted therefor, namely :—

Substitution of new section for section 505, Act XLV, 1860.

“505. Whoever makes, publishes or circulates any statement, rumour or report,—

Statements conducing to public mischief.

(a) with intent to cause, or which is likely to cause, any officer, soldier or sailor in the army or navy of Her Majesty or in the Royal Indian Marine or in the Imperial Service Troops to mutiny or otherwise disregard or fail in his duty as such ; or

(b) with intent to cause, or which is likely to cause, fear or alarm to the public, or to any section of the public whereby any person may be induced to commit an offence against

*Indian Penal Code.* [ACT IV, 1898.]

against the State or against the public tranquillity ; or

- (c) with intent to incite, or which is likely to incite, any class or community of persons to commit any offence against any other class or community ;

shall be punished with imprisonment which may extend to two years, or with fine, or with both.

*Exception.*—It does not amount to an offence, within the meaning of this section, when the person making, publishing or circulating any such statement, rumour or report has reasonable grounds for believing that such statement, rumour or report is true and makes, publishes or circulates it without any such intent as aforesaid."



# ACT No. VIII OF 1898.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

*Received the assent of the Governor General on the  
15th July, 1898.*

## An Act to amend the Indian Paper Currency Act, 1898.

II of 1898. **WHEREAS** it is expedient to amend the Indian Paper Currency Act, 1898; It is hereby enacted as follows:—

1. (1) This Act may be called the Indian Paper Currency Act Amendment Act, 1898; and Short title and commencement.

(2) It shall come into force at once.

II of 1898. 2. Sub-section (3) of section 1 of the Indian Paper Currency Act, 1898, is hereby repealed and the following is substituted therefor, namely:— Amendment of section 1, Act II, 1898.

“(3) It shall remain in force for two years and six months from the commencement thereof.”

[Price one anna.]

# ACT NO. IX OF 1898.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the  
12th August, 1898.)

**An Act to make better provision for the regulation of the importation of live-stock.**

**WHEREAS** it is expedient to make better provision for the regulation of the importation of live-stock which is liable to be affected by infectious or contagious disorders; It is hereby enacted as follows:—

1. (1) This Act may be called the Live-stock Importation Act, 1898.

Short title,  
local extent  
and com-  
mencement.

(2) It extends to the whole of British India; and

(3) It shall come into force at once.

2 In this Act, unless there is anything repugnant in the subject or context,—

Definitions.

(a) the expression "infectious or contagious disorders" includes tick-pest, anthrax, glanders, farcy, scabies and any other disease or disorder which may be specified by the Governor General in Council by notification in the Gazette of India; and

(b) "live-stock" includes horses, kine, camels, sheep and any other animal which may be specified by the Governor General in Council by notification in the Gazette of India.

3. (1) The Governor General in Council may, by notification in the Gazette of India, regulate, restrict or prohibit, in such manner and to such extent as he may think fit, the bringing or taking, by sea or land, into British India or any specified place therein, of

Power to  
regulate im-  
portation of  
live-stock.

any

[Price one anna three pies.]

*Live-stock Importation.* [ ACT IX, 1898.

any live-stock which may be liable to be affected by infectious or contagious disorders, and of any fodder, dung, stable-litter, clothing, harness or fittings appertaining to live-stock or that may have been in contact therewith.

(2) A notification under sub-section (1) shall operate as if it had been issued under section 19 of the Sea Customs Act, 1878, and the officers of customs at every port shall have the same powers in respect of any live-stock or thing, with regard to the importation of which such a notification has been issued, and the vessel containing the same, as they have for the time being in respect of any article the importation of which is regulated, restricted or prohibited by the law relating to sea customs and the vessel containing the same; and the enactments for the time being in force relating to sea customs or any such article or vessel shall apply accordingly.

VIII of 1878.

Power for  
Local Gov-  
ernment to  
make rules,

4. (1) The Local Government may, subject to the control of the Governor General in Council, make rules for the detention, inspection, disinfection or destruction of imported live-stock, and of fodder, dung, stable-litter, clothing, harness or fittings appertaining to imported live-stock or that may have been in contact therewith, and for regulating the powers and duties of the officers whom it may appoint in this behalf.

(2) In making any rule under this section the Local Government may direct that a breach thereof shall be punishable with fine which may extend to one thousand rupees.

Protection to  
persons act-  
ing under  
Act.

5. No suit, prosecution or other legal proceeding shall lie against any person for anything in good faith done or intended to be done under this Act.

2 •

# ACT No. X OF 1898.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 2nd September, 1898.)

An Act to make provision for certain matters connected with Insolvency.

WHEREAS doubts have arisen as to the extent of the power to make rules conferred by sections 15 and 76 of the Indian Insolvency Act, 1848, and whereas it is expedient to remove those doubts and to confirm certain rules which were made by the High Court of Judicature at Bombay on the thirty-first day of July, 1878; It is hereby enacted as follows:—

11 & 12  
Vict., c. 21.

1. (1) This Act may be called the Indian Insolvency Rules Act, 1898; and

Short title and commencement.

(2) It shall come into force at once.

11 & 12  
Vict., c. 21.

2. The power to make rules conferred by sections 15 and 76 of the Indian Insolvency Act, 1848, shall be deemed to include, and to have included, a power to make rules for the audit of the accounts of the official assignee, and for paying for the costs of such audit and for paying the reasonable costs, charges and allowances of the official assignee, out of the funds in the hands of the official assignee.

Extent of power to make rules under the Indian Insolvency Act, 1848.

3. The rules made, in exercise of the aforesaid power, by the High Court of Judicature at Bombay on the thirty-first day of July, 1878, are hereby confirmed.

Confirmation of rules made on the 31st July, 1878, by the Bombay High Court. Official assignee's allowance for pension.

4. The Chief Justice of the said Court may, with the previous sanction of the Governor General in Council, pay to the present official assignee, out of the interest on the Unclaimed Dividend Account, such sum by way of pension on retirement, or bonus in lieu thereof, as may be reasonable and proper having regard to the length, nature and conditions of his service.

[Price one anna.]

THE CENTRAL PROVINCES TENANCY ACT,  
1898.

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# ACT NO. XI OF 1898.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 21st October, 1898.)

An Act to consolidate and amend the Law relating to Agricultural Tenancies in the Central Provinces.

WHEREAS it is expedient to consolidate and amend the law relating to agricultural tenancies in the Central Provinces; It is hereby enacted as follows:—

## CHAPTER I.

### PRELIMINARY.

1. (1) This Act may be called the Central Provinces Tenancy Act, 1898. Short title, extent and commencement.

(2) It extends to all the territories for the time being administered by the Chief Commissioner of the Central Provinces; and

(3) It shall come into force at once.

2. In this Act, unless there is anything repugnant in the subject or context,— Definitions.

(1) the expressions “agricultural year,” “málik-mákbúzá,” “sír-land,” “survey-number,” “record-of-rights” and “village” have the meanings assigned to them, respectively, in the Central Provinces Land-revenue Act, 1881, as from time to time amended:

(2) “arrear” means an instalment or part of an instalment of rent which is not paid on or before the date on which it is payable:

(3) “holding” means a parcel of land held by a tenant of a landlord under one lease or one set of conditions:

(4) “improvement” means, with reference to a holding, any work which adds to the letting-value of the

XVIII of  
1881.

(Chapter I.—Preliminary.—Section 2.)

the holding, which is suitable to the holding and consistent with the purpose for which it was let, and which, if not executed on the holding, is either executed directly for its benefit, or is, after execution, made directly beneficial to it:

*Explanation I.*—It includes the reclaiming, enclosing or clearing of lands for agricultural purposes; but it does not include such embankments, temporary wells and water-channels as are made by tenants in the ordinary course of agriculture; and no work executed by the tenant of a holding is an improvement if it substantially diminishes the value of any other part of the estate of his landlord:

*Explanation II.*—A work which benefits several holdings may be deemed to be, with respect to each of them, an improvement:

(5) "land" means land which is let or occupied for agricultural purposes or for purposes subservient to agriculture, and includes the sites of buildings appurtenant to such land:

(6) "landlord" means the person of whom a tenant holds land, and to whom the tenant is, or, but for special contract, would be, liable to pay rent for that land:

(7) "pay," "payable" and "payment," used with reference to rent, include "deliver," "deliverable" and "delivery":

(8) "rent" means whatever is paid, delivered or rendered, in money, kind or service, by a tenant on account of the use or occupation of land let to him:

(9) "Revenue-officer" and "Settlement-officer," in any provision of this Act, mean, respectively, such Revenue-officer or Settlement-officer appointed under the Central Provinces Land-revenue Act, 1881, as from time to time amended, as the Local Government may, by notification in the local official Gazette, direct to discharge the functions of a Revenue-officer or Settlement-officer (as the case may be) under that provision: and

(10) "tenant"

(Chapter II.—Of Tenants generally.—Secs. 3-5.)

(10) “tenant” means a person who holds land of another person, and is, or, but for a special contract, would be, liable to pay rent for that land to that other person. But it does not include a farmer, mortgagee or thikádár of proprietary rights :

*Explanation I.*—An inferior proprietor is not, as such, a tenant :

*Explanation II.*—The holder of a survey-number in a village let in farm by the Government, or held by a gaontia in the Sambalpúr District, is a tenant of the farmer or gaontia for the time being.

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## CHAPTER II.

### OF TENANTS GENERALLY.

#### *A.—Classification of Tenants.*

3. There shall be five classes of tenants, namely :— Classes of tenants.
- (1) absolute occupancy-tenants ;
  - (2) occupancy-tenants ;
  - (3) village-service-tenants ;
  - (4) sub-tenants ; and
  - (5) ordinary tenants.

#### *B.—Provisions relating to Rent.*

4. In all suits and proceedings between landlord and tenant, the rent payable for any agricultural year by a tenant in respect of his holding shall be presumed, until the contrary is proved, to be the rent payable in respect of the holding in the agricultural year immediately preceding that year. Presumption as to amount of rent payable.

5. Save as provided in sections 66 and 78, an order fixing, altering or commuting the rent of a holding on an application under this Act may, as the officer making the order thinks fit, take effect from the commencement of the agricultural year next following the Date from which order fixing rent operates.  
date

(Chapter II.—Of Tenants generally.—Secs. 6-8.)

date of the application, or from any subsequent day, or, if it is made on the ground of increase, diminution or deterioration of the holding, from the date of that increase, diminution or deterioration, or from any subsequent day.

Time for  
payment of  
rents.

6. Rent shall be payable in such instalments and on such dates as the Local Government may, by notification in the local official Gazette, prescribe, and, in the absence of any such notification applicable to the case, according to the contract between the parties, or, where there is no such contract, according to local usage.

Rents pay-  
able to a  
number of  
landlords.

7. When two or more persons are landlords of a tenant in respect of the same holding, the tenant, subject to any rule which the Local Government may, by notification in the local official Gazette, make in this behalf, and to any contract between the parties, shall not be bound to pay part of the rent of his holding to one of those persons and part to another or others; and, subject as aforesaid, those persons shall, if the tenant so desires, appoint one of their number or some other person to receive the rent.

Power to  
deposit rent  
in certain  
cases with  
Revenue-  
officer.

8. (a) When a landlord refuses to accept any instalment of rent payable in money when tendered to him by a tenant,

(b) when a tenant, in the case mentioned in section 7, desires the appointment of a person to receive rent payable in money and the appointment is not made within a reasonable time, and,

(c) when a tenant in any case is doubtful as to the person entitled to receive rent payable in money,

the tenant may apply to a Revenue-officer for permission to deposit in his Court the amount of rent which he believes to be due; and that officer shall receive the deposit, if it appears to him, after examining the applicant, that he had reasonable grounds for making the application, and that it was made in good faith, and if the applicant pays the fee (if any)

chargeable

*(Chapter II.—Of Tenants generally.—Secs. 9-12.)*

chargeable for the issue of the notice next hereinafter referred to.

9. (1) When a deposit has been so received it shall be deemed to be a payment made by the tenant to his landlord in respect of rent due. Effect of depositing rent.

(2) The officer receiving the deposit shall give notice of the receipt thereof to every person who he has reason to believe claims, or is entitled to, the deposit, and may pay the amount thereof to any person appearing to him to be entitled to the same, or may, if he thinks fit, retain the deposit pending the decision of a Civil Court as to the person so entitled.

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

10. A landlord who, except under any special enactment for the time being in force, levies from a tenant anything in excess of the rent legally payable shall, on the application of the tenant, be liable under the order of a Revenue-officer, not below the class of Deputy Commissioner, to pay as penalty such sum as the Revenue-officer thinks fit, not exceeding five hundred rupees, or, when double the amount or value of what is so levied exceeds five hundred rupees, not exceeding double that amount or value. Such sum shall be awarded to the tenant as compensation. Penalty for levy of anything in excess of rent by landlord.

11. Where rent is due, every payment by a tenant to his landlord shall, unless the tenant otherwise agrees, be presumed to be a payment on account of rent. Presumption as to payments by tenant to landlord.

12. A landlord who refuses to grant a receipt for rent paid by a tenant, or grants a receipt but refuses or neglects to specify therein the holding, and the period or crop, in respect of which the payment is Penalty for refusing receipt or giving defective receipt.

made,

(Chapter II.—Of Tenants generally.—Secs. 13-15.)

made, or the amount paid, shall, on the application of the tenant, be liable, under the order of a Revenue-officer, to pay as penalty such sum, not exceeding double the amount or value of the rent so paid, as the Revenue-officer thinks fit. Such sum shall be awarded to the tenant as compensation.

Enhancement of rent when productive power of holding increased by landlord.

13. Notwithstanding anything in the record-of-rights, but subject to any contract in writing between the parties, the rent payable in money by any tenant may, on the application of his landlord, be enhanced by a Revenue-officer on the ground that an improvement has been made since the present rent was fixed and in accordance with this Act by or at the expense of the landlord whereby the productive power of the holding has been increased.

Reduction of rent when effect of improvement ceases.

14. When the rent of any tenant has been enhanced under section 13 or was fixed at the current settlement with regard to an improvement made by or at the expense of the landlord, a Revenue-officer may at any time, on the application of the tenant, modify or cancel the order for enhancement, or reduce such rent, on the ground that the effect of the improvement in increasing the productive power of the holding has diminished or ceased since the date of the order for enhancement or of the last modification of such order made under this section, or since the rent was fixed by the Settlement-officer, as the case may be.

Power to alter rent when holding is increased, diminished or deteriorated.

15. When the area of a holding the rent of which is payable in money is increased or diminished by the encroachment of the tenant or the landlord, or by fluvial action or otherwise, or the soil of a holding is, without the fault of the tenant, permanently deteriorated by a deposit of sand or by any other calamity, a Revenue-officer may, notwithstanding anything in the record-of-rights or any contract between the parties, by order, on the application of the landlord or of the tenant, alter the rent with reference to that increase, diminution or deterioration.

16. When

(Chapter II.—Of Tenants generally.—Secs. 16-17.)

16. When a landlord grants a lease, or makes any other contract fixing the rent of any holding, and, while the lease or contract is in force,—

Power to alter rent in case of new assessment.

- (a) land-revenue is for the first time made payable in respect of the holding, or
- (b) land-revenue having been previously payable in respect of it, the revenue payable when the lease or other contract was granted or made is increased or diminished,

a Revenue-officer may, notwithstanding anything in the record-of-rights or any contract between the parties, by order, on the application of the landlord or of the tenant, alter the rent with reference to the revenue.

17. (1) In all cases in which a tenant, other than an ordinary tenant whose holding consists entirely of sir-land, or than a sub-tenant, pays rent for a holding in kind, or on the estimated value of a portion of the crop or at rates varying with the crop, or partly in one of those ways and partly in another or others, the landlord or tenant may, notwithstanding anything in the record-of-rights or any contract between the parties, other than a contract whereby waste-land is let for the purpose of reclamation, apply during the progress of a settlement to a Settlement-officer, or at any other time to a Revenue-officer, to commute the rent to a fixed money-rent.

Commutation of rent payable in kind.

(2) On the receipt of the application, the officer, after giving notice of the application to the other party and hearing him, if he appears, may fix the sum to be paid as money-rent, and may, for reasons to be recorded by him in writing, order that the tenant shall, in lieu of paying his rent in kind, or otherwise as aforesaid, pay the sum so fixed.

(3) If the application is opposed, the officer may, for reasons to be recorded by him in writing, refuse to grant the same.

18. (1) Whenever



(Chapter II.—Of Tenants generally.—Sec. 18.)

Remission and suspension of rent consequent on like treatment of land-revenue.

18. (1) Whenever from any cause the payment of the whole or any part of the land-revenue payable in respect of any land is remitted or suspended, a Revenue-officer may, by general or special order, remit or suspend, as the case may be, the payment of the rent of that land to an amount which may bear the same proportion to the whole of the rent payable in respect of the land as the land-revenue of which the payment has been remitted or suspended bears to the whole of the land-revenue payable in respect of the land, and may distribute the amount so remitted or suspended amongst the tenants holding such land as may seem to him to be equitable, having regard to the effect on their holdings of the cause which has led to the remission or suspension of the land-revenue:

Provided that, where the rent is taken by actual division of the produce, no portion of it shall be suspended under this section.

(2) An order passed under sub-section (1) shall not be liable to be contested by suit in any Court.

(3) No suit shall lie for the recovery of any rent of which the payment has been remitted, or, during the period of suspension, of any rent of which the payment has been suspended, and, so long as a suit does not lie, such rent shall not be legally payable within the meaning of section 10.

(4) Where the payment of rent has been suspended, the period of suspension shall be excluded in the computation of the period of limitation prescribed for bringing a suit for the recovery of the rent.

(5) The provisions of this section relating to the remission and suspension of the payment of rent may be applied, as far as may be, to land of which the land-revenue has been wholly or in part released, compounded for or redeemed, in any case in which, if the land-revenue in respect of the land had not been released, compounded for or redeemed, the whole or any part of it might, in the opinion of the Revenue-officer, have been remitted or suspended.

(6) The

(Chapter II.—Of Tenants generally.—Secs. 19-21.)

(6) The provisions of this section relating to rent shall apply also, as far as may be, to revenue payable by *málik-mákbúzás*, to revenue and *málikáná* payable by inferior proprietors, and to *thíká-jamás* payable by *thíkádárs* of proprietary rights, and the provisions of section 10 apply in cases where revenue, *málikáná* or *thíká-jamá* has been collected in contravention of this section.

*C.—Commissions for dividing or estimating Crops.*

19. Whenever rent is taken by division of the produce, or by estimate or appraisement of the crop, if either the landlord or the tenant neglects to attend, either personally or by agent, at the proper time for making the division, estimate or appraisement, or if there is a dispute about the division of the produce or the quantity or value of the crop, a Revenue-officer may, on the application of either party, issue a commission to such person as the officer thinks fit, directing him to divide, estimate or appraise the crop.

Commission for dividing or estimating crops.

20. (1) When a Revenue-officer appoints a commissioner for any of the purposes mentioned in section 19, the officer may, in his discretion, direct the commissioner to associate with himself any other persons as assessors, and may give him instructions regarding the number, qualifications and mode of selecting those assessors (if any), and the procedure to be followed in making the division, estimate or appraisement.

Appointment of assessors, etc.

(2) The commissioner so appointed shall make the division, estimate or appraisement in accordance with those instructions.

21. (1) If in any division under the foregoing provisions either party receives less than the share to which he is entitled, he may, within three months from the date on which the division is completed, institute a suit against the other party to recover the

Remedy for error in division.

value

(Chapter II.—Of Tenants generally.—Secs. 22-24.)

value of the additional portion of the crop due to him at the price which prevailed on that date.

(2) If no such suit is instituted within the said period of three months, the division shall for all purposes be deemed as between the parties thereto to have been rightly made.

Procedure when crop has been estimated or appraised.

22. (1) When a crop has been estimated or appraised under the foregoing provisions, the estimate or appraisal shall be reduced to writing and signed by the commissioner making the same, and shall be submitted to the Revenue-officer by whom the commission was issued.

(2) The Revenue-officer shall consider the commissioner's report, and, after such hearing and inquiry (if any) as he may think necessary, shall pass an order thereon either confirming or varying the estimate or appraisal, and that order shall be final.

*D.—Of the Landlord's Lien on the Produce of a Holding.*

Definition of "produce of a holding."

23. In sections 24 to 30 (both inclusive) the produce of a holding means—

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

(b) crops and other products of the earth which have been grown on the holding and have been reaped or gathered and are deposited on the holding or on a threshing-ground, or are stored, by a tenant of the land on which they have been grown, within the village in which the holding is situate or the tenant resides.

Power of landlord, by notice, to prohibit removal of produce.

24. Where an arrear of rent is due in respect of a holding, the landlord may, by notice served as hereinafter provided, prohibit the removal of the produce of the holding :

Provided that—

*first*, such a prohibition shall not be made on account of an arrear which has been due for a longer period

(Chapter II.—Of Tenants generally.—Secs. 25-28.)

period than one year, or in respect of any produce which is under attachment by order of any Civil Court ; and

*secondly*, such a prohibition shall not be made more than once in respect of the same produce on account of the same arrear.

25. If, while the notice is in force, the landlord institutes a suit for the recovery of the rent, the notice shall continue in force until the Court trying the suit otherwise directs ; and, if the landlord obtains a decree in the suit, the amount of that decree shall be the first charge upon the produce. Effect of instituting suit for rent while notice is in force.

26. A notice under section 24 shall not prevent any person from reaping, gathering or storing any produce, or doing any other act necessary for its due preservation. Right to reap, etc., produce not affected.

27. (1) Every notice under section 24 shall be in writing, and shall specify the amount of the arrear claimed, the period for which, and the holding in respect of which, it is claimed, and, when an amount in excess of the rent payable by the tenant in the last preceding agricultural year is claimed, the decree, order or agreement, as the case may be, for the payment of that amount. Contents and service of notice ; time for which it remains in force.

(2) The notice shall be served on the person in charge of the produce, and shall, subject to the provisions of section 25, remain in force until the expiration of thirty-five days from the date of service of the notice, or, if the rent specified in the notice is paid previously to the expiration of such thirty-five days, until such rent is paid.

28. (1) If the produce of the holding on which the arrear is due is under attachment by order of a Civil Court, the landlord may apply to the Court to sell the produce and pay to him out of the proceeds of the sale thereof the amount or value of— Procedure when produce is under attachment.

(a) any rent which has fallen due to him in respect of the holding within the year immediately preceding the application ; and

(b) the

(Chapter II.—Of Tenants generally.—Secs. 29-31.)

(b) the instalment of rent falling due next after the time at which in the ordinary course of agriculture the produce would be harvested.

And the Court, if on inquiry it finds the landlord's claim to the whole or any part of the rent to be proved, shall sell the produce or such portion thereof as it may deem necessary, and shall apply the proceeds of the sale, in the first instance, to satisfy the claim.

(2) The finding of a Court on an inquiry under this section shall have the force of a decision in a suit between the parties.

Conflict between rights of superior and inferior landlord.

29. Where land is sublet and any conflict arises under sections 24 to 28 (both inclusive) between the rights of a superior and of an inferior landlord, the right of the superior landlord shall prevail.

Penalty for illegal distraint by landlord, and for illegal removal of produce.

30. (1) Any landlord of a holding who distrains or attempts to distrain the produce of the holding, or prevents or attempts to prevent, otherwise than in accordance with this Act, any person from reaping, gathering, storing, removing or otherwise dealing with any produce of the holding, and,

where a notice in respect of the produce of a holding has been served under section 27 and is in force, any person who, knowing or having reason to believe that the notice is in force, removes, attempts to remove or abets the removal of the produce, except for any of the purposes mentioned in section 26,

shall, on the application of either landlord or tenant, be liable under the order of a Revenue-officer to fine which may extend to five hundred rupees.

(2) Nothing in this section, and, except as provided in section 546 of the Code of Criminal Procedure, 1898, no proceeding under this section, shall affect the right of any person to recover compensation in a civil suit. V of 1898. 0

*E.—Of Improvements and Compensation therefor.*

Right to make improvements.

31. (1) In respect of the holding of an absolute occupancy-

(Chapter II.—Of Tenants generally.—Sec. 32.)

occupancy-tenant or occupancy-tenant, or of the holding of an ordinary tenant which does not consist entirely of sîr-land, the tenant shall be entitled to make improvements.

(2) If the landlord of any such holding as is referred to in sub-section (1) desires that any improvement be made in respect of the holding, he may deliver, or cause to be delivered, to the tenant a request in writing calling upon him to make the improvement within a reasonable time, and, if the tenant is unable or neglects to comply with that request, may, subject to such rules of procedure as the Local Government may, by notification in the local official Gazette, prescribe in this behalf, make the improvement himself.

(3) In respect of the holding of an ordinary tenant which consists entirely of sîr-land, the landlord shall be entitled to make improvements.

32. (1) If a tenant, or the person under whom he claims, has made an improvement in respect of his holding in accordance with this Act or with the landlord's consent otherwise than in accordance with this Act, he shall not be ejected until he has received compensation for the improvement, unless the improvement was begun by him after the institution of the proceedings which resulted in the decree or order for his ejection.

Liability to pay to tenant on ejection compensation for improvements.

(2) A Civil Court making a decree for the ejection of a tenant, or a Revenue-officer ordering ejection in execution of a decree for arrears or otherwise, shall determine the amount of compensation (if any) due to him under this section, and shall stay execution until the landlord deposits the amount less any arrears of rent or costs that have been ascertained by the proceedings for such ejection to be due to him from the tenant.

(3) No compensation shall be claimable under this section for an improvement where the tenant has

(Chapter II.—Of Tenants generally.—Sec. 33.)

has made the improvement in pursuance of a contract binding him, in consideration of some substantial advantage to be obtained by him, to make the improvement without compensation, and has obtained that advantage.

(4) Improvements made by a tenant before the commencement of this Act, in lands other than sirdland, shall be deemed to have been made in accordance with this Act, unless it is shown that the landlord forbade the tenant to make the improvement, and was ready to make it himself.

Assessment  
of compensa-  
tion.

33. (1) The Local Government may, by notification in the local official Gazette, make rules requiring the Civil Court to associate with itself, for the purpose of estimating the compensation to be awarded under section 32 for an improvement, such number of assessors as the Local Government thinks fit, and determining the qualifications of those assessors and the mode of selecting them.

(2) In estimating the compensation to be awarded under section 32 for an improvement, regard shall be had—

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

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

(c) to any reduction or remission of rent or other advantage given by the landlord to the tenant in consideration of the improvement.

(3) When the amount of the compensation has been assessed, the landlord and tenant may, if they think fit, agree that, instead of being paid wholly in money, it shall be made wholly or partly in some other way.

34. An

(Chapter II.—Of Tenants generally.—Secs. 34 35.)

34. An entry in the record-of-rights of any village or a stipulation in a contract providing—

Avoidance of provisions barring right to make, or be compensated for, improvements.

(a) that a landlord shall be entitled to prevent a tenant from making, or to eject him for making, such improvements on his holding as he is entitled to make under this Act,

or  
(b) that a tenant ejected from his holding shall not be entitled to compensation for improvements in any case in which he would, under this Act, be entitled to such compensation,

shall be void.

*Miscellaneous.*

35. (1) Any tenant not bound by a lease or other agreement for a fixed period may, at the end of any agricultural year, surrender his holding:

Surrender of holdings.

Provided that, notwithstanding such surrender, the tenant shall continue to be liable for the agricultural year next following the date of the surrender for the rent of the holding, unless he gives to his landlord, at least thirty days before he surrenders, notice of his intention to surrender.

(2) In the following cases the Court shall presume that notice was duly given as required by the proviso to sub-section (1), that is to say:—

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

(b) if the tenant ceases, at least thirty days before the end of the agricultural year at the end of which the surrender is made, to reside in the village in which the surrendered holding is situate; and

(c) if the landlord himself, at any time during the agricultural year next following the

surrender,



(Chapter II.—Of Tenants generally.—Sec. 36.)

surrender, cultivates or lets to another tenant the holding or any part thereof.

(3) A tenant of a survey-number in a village let in farm by the Government, or held by a gaontia in the Sambalpúr District, shall be deemed to have surrendered his holding if he refuses to agree to the rent fixed under this Act for the holding, but shall not continue liable under sub-section (1) for the rent of his holding.

(4) Any tenant other than an absolute occupancy-tenant who leaves his holding uncultivated and the rent of it unpaid for a period of two years shall, at the expiration of that period, be deemed to have surrendered the holding :

Provided that, in reckoning that period, any time during which, owing to an inundation or any other accident to the land beyond the tenant's control, it may have been impossible to cultivate the land shall be excluded.

Surrender of  
occupancy-  
tenant's hold-  
ing.

36. (1) If an occupancy-tenant surrenders his holding under section 35, any such person as would be entitled to inherit his right in the holding in the event of his death without nearer heirs may, on application to a Revenue-officer, made at any time within two years after the date of the surrender, be placed in possession of the holding, subject, so far as the Revenue-officer may, in accordance with rules made by the Local Government, determine, to his acceptance of the liabilities of the surrendering tenant for arrears of rent and for advances made by the landlord or other persons for the necessary expenses of cultivation.

(2) As among several persons so entitled and desirous of being placed in possession of the holding, the right to be so placed shall accrue in the order in which such persons would have inherited the right of the tenant in the holding if the tenant had died.

(3) When

(Chapter II.—Of Tenants generally.—Secs. 37-38.  
Chapter III.—Of Absolute Occupancy-tenants.—  
Sec. 39.)

(3) When any such application as aforesaid is made, the Revenue-officer shall issue a notice to all persons who seem to him *prima facie* to have a right equal or prior to that of the applicant, and shall also cause local proclamation to issue in the village in or from which the holding was cultivated, inviting all persons claiming to be heirs of the tenant who made the surrender to appear before him on a date to be fixed; and shall, after hearing such of the persons to whom notice was issued as may appear, and any other persons who may apply to be heard in the matter, decide who from among such of them as desired to be placed in possession is first entitled to be so placed.

(4) Sub-sections (1), (2) and (3) shall not apply in cases where, subject to any rules made by the Local Government in this behalf, a Revenue-officer has decided, after an enquiry made on the application of either landlord or tenant, that the surrender is *bona fide* and has not been made with the object of evading the provisions of section 45 or section 46.

37. When a person, at the time of taking a thiká or farm, is a tenant of any land comprised therein, his interest as tenant shall not be affected by reason only of his taking the thiká or farm. Tenant taking thiká or farm.

38. Nothing in this Act regarding the rights of an absolute occupancy-tenant, an occupancy-tenant or an ordinary tenant shall be deemed to apply to the tenant of any land situate within the limits of any forest-land or waste-land which has been declared to be reserved forest. Provisions regarding tenant-right not applicable to tenant of land in reserved forests.

VII of 1878. a reserved forest under the Indian Forest Act, 1878.

### CHAPTER III.

#### OF ABSOLUTE OCCUPANCY-TENANTS.

39. Every person who, at the commencement of this Act, is the tenant of any holding in respect of which Definition of "absolute occupancy-tenant"

(Chapter III.—Of Absolute Occupancy-tenants.—  
Secs. 40-41.)

which he, or a person whose rights he has acquired, had been recorded in any record-of-rights made before the first day of January, 1884, as an "absolute occupancy-raiyat," or in terms equivalent thereto, shall, unless he has parted with his rights, be deemed to be an absolute occupancy-tenant of that holding.

Rents fixed  
for period of  
settlement.

40. (1) The rent of the holding of every absolute occupancy-tenant shall be fixed by the Settlement-officer at each settlement of the area in which the holding is comprised, and the rent so fixed shall not be altered during the currency of the settlement, except under the provisions of section 13, section 14, section 15 or section 17.

(2) The rent payable by any such tenant in respect of his holding at the commencement of this Act shall be deemed to have been fixed at the current settlement of the area in which his holding is comprised.

Right  
heritable and  
transferable  
after notice  
to landlord,  
who may  
claim to  
purchase.

41. (1) The right of an absolute occupancy-tenant in his holding shall on his death devolve as if it were land, and shall be transferable subject to the conditions contained in this section.

(2) If an absolute occupancy-tenant intends to transfer any right in his holding by sale or gift, or by mortgaging the same for a sum which, together with the interest payable thereon during the five years immediately succeeding the mortgage and the previous sums (if any) secured by mortgage of it, would exceed eight times the annual rent of the holding, or by sub-letting the same in consideration of a fine or premium exceeding five times that rent, he shall give to his landlord a written notice of his intention, and shall defer proceeding with the transfer for a period of one month from the date on which the notice is given.

(3) If the intended transfer is by sale or gift, the landlord may, within the said period of one month—

(a) claim to purchase the absolute occupancy-right at such value as a Revenue-officer  
may,

(Chapter III.—Of Absolute Occupancy-tenants.—  
Sec. 41.)

may, on application made to him in this behalf, fix; or

(b) permit the sale or gift, in which case he shall be entitled to a sum equal to the rent for one year, and that sum shall be a first charge on the holding.

(4) If the intended transfer is by mortgage or sub-lease, the landlord may, within the said period of one month, claim to purchase the absolute occupancy-right at such value as a Revenue-officer may, on application made to him in this behalf, fix.

(5) When the right of an absolute occupancy-tenant in his holding is sold or is foreclosed by order of a Civil Court in execution of a decree other than a decree obtained by his landlord, the landlord shall have the same right of pre-emption as is given in the case of a sale by clause (a) of sub-section (3).

(6) When an application is made to a Revenue-officer under this section to fix the value of an absolute occupancy-right which is already mortgaged, he shall fix the value of the right as if it were not mortgaged; and, if the landlord purchases the right, the mortgage-debt shall be a charge on the purchase-money in exoneration of the land.

(7) Any transfer made in contravention of this section shall be voidable at the instance of the landlord.

(8) If a person to whom an absolute occupancy-tenant has transferred possession of his holding in contravention of the provisions of this section be ejected by the landlord, the tenant may apply to a Revenue-officer within one year of the ejection of such person to be reinstated in possession of the holding, and the Revenue-officer may order him to be reinstated in possession on his depositing within a stated period, for payment to the landlord, the costs incurred by the landlord in procuring the ejection.

If

(Chapter III.—Of Absolute Occupancy-tenants.—  
Secs. 42-43. Chapter IV.—Of Occupancy-tenants.—Sec. 44.)

If the tenant fails to make such application within one year of the ejection, or if he fails to deposit such costs within the period stated, his tenancy shall be deemed to have lapsed.

Absolute  
occupancy-  
tenant not  
liable to  
ejection.

42. Notwithstanding any contract to the contrary, or any provision of a record-of-rights, an absolute occupancy-tenant shall not be ejected from his holding by his landlord as such for any cause.

Rent first  
charge on  
holding and  
holding sale-  
able in exe-  
cution of  
decree for  
arrears of  
rent.

43. The rent of the holding of an absolute occupancy-tenant shall be the first charge on that holding, which shall, subject to the other provisions of this Act, be liable to sale in execution of a decree for arrears of the rent thereof.

#### CHAPTER IV.

##### OF OCCUPANCY-TENANTS.

Definition of  
"occupancy-  
tenant."

44. Every tenant who, on the first day of January, 1884, had held the same land continuously for twelve years, otherwise than as an absolute occupancy-tenant or a sub-tenant, and every person who is at the commencement of this Act, or thereafter becomes, a tenant (not being an absolute occupancy-tenant or a sub-tenant) of land in the districts of Chánda, Nimár and Sambalpúr, shall be deemed to be an occupancy-tenant of that land :

Provided that the land is not—

- (a) sár-land, or
- (b) held in lieu of wages, or
- (c) held, in any district other than Sambalpúr, under a written lease in which it is expressly agreed that a right of occupancy in the land shall not be acquired or that the tenant shall quit the land at the termination of the lease.

*Explanation I.*

(Chapter IV.—Of Occupancy-tenants.—Sec. 45.)

*Explanation I.*—The occupation of any person from whom the tenant inherited or lawfully acquired his holding shall, for the purposes of this section, be deemed to be the occupation of the tenant.

*Explanation II.*—Where, by the custom of any village, the holdings of tenants are, or have been, liable to periodical re-distribution, land which a tenant or any person under whom he claims has, in accordance with that custom, from time to time, received in exchange for land previously held by him, is, for the purpose of calculating, under this section, the period of twelve years, deemed to be the same land as the land which he held before the exchange.

45. (1) Notwithstanding any agreement to the contrary and save where sanction has been given under sub-section (2), a proprietor who, after the commencement of this Act, temporarily or permanently loses (whether under decree or order of a Civil Court or a Revenue-officer or otherwise) or transfers his right to occupy *sir-land* as a proprietor, shall at the date of such loss or transfer become an occupancy-tenant of that *sir-land*, and the rent payable by him as such shall be the sum determined at the current settlement as the rental value of such land, unless and until, on the application of either landlord or tenant, the rent is fixed by a Revenue-officer.

Accrual of occupancy-tenant-right in *sir-land* on transfer of right to occupy as proprietor.

(2) An application by a proprietor for sanction to transfer his *sir-land* without reservation of the right of occupancy provided for in sub-section (1) may be made to such Revenue-officer, not being below the class of Deputy Commissioner, as the Local Government may appoint for this purpose. Such officer shall sanction transfer in cases in which he is satisfied that the transferor is not wholly or mainly an agriculturist or that the property is self-acquired or has been acquired otherwise than by inheritance within the twenty years last preceding. In other

Grant of sanction in certain cases to transfer of the right to occupy *sir-land*.

cases

(Chapter IV.—Of Occupancy-tenants.—Sec. 45.)

cases he shall transmit the application to the Local Government, which may sanction the transfer in whole or in part, on the ground that—

- (a) the transferor, though wholly or mainly an agriculturist, will have other permanent means of subsistence after transferring the right to occupy his sîr-land, or
- (b) that the area of the sîr-land is too large for the transferor to manage after he has transferred his proprietary rights, or
- (c) that for any other reason the transfer ought to be permitted.

The Local Government may make rules for the guidance of Revenue-officers dealing with applications under this sub-section.

Prohibition in certain cases of registration of documents transferring right to occupy sîr-land.

(3) Notwithstanding anything contained in the Indian Registration Act, 1877, no officer empowered to register documents under that Act shall admit to registration any document which purports to transfer or surrender the rights of a proprietor in his sîr-land, without reservation of the right of occupancy provided for in sub-section (1), or to be an agreement for such transfer or surrender, unless sanction to such transfer or surrender has been endorsed on the document in such manner and by such authority as the Local Government may direct.

III of 1877.

Partition of undivided share in sîr-land.

(4) If there are two or more sharers in any sîr-land, and one of them becomes an occupancy-tenant in it under this section, his previous share in such sîr-land shall, on application made by him or by his landlord, be divided off by a Revenue-officer, and his rights as occupancy-tenant shall be limited to the land comprised in such share.

Saving of rights of ordinary tenants.

(5) The accrual of occupancy-tenant-right under sub-section (1) shall not affect the rights of an ordinary tenant holding any part of the sîr-land at the time of such accrual.

(6) Nothing

## (Chapter IV.—Of Occupancy-tenants.—Sec. 46.)

(6) Nothing in this section shall affect a document expressly providing for the transfer of the right to occupy sîr-land as a proprietor, and duly registered before the commencement of this Act or shall apply to a surrender or a transfer made, decreed or ordered in pursuance of such a document.

Saving of prior registered documents.

(7) No Civil Court shall question the validity of an order passed under this section granting or refusing sanction to the transfer of the right to occupy sîr-land as a proprietor.

Bar of jurisdiction of Civil Courts.

(8) Nothing in this section shall apply to "bhogra" land.

Exception of bhogra.

*Explanation.*—For the purposes of this section a transfer includes a mortgage and a lease.

46. (1) When an occupancy-tenant dies his right in his holding shall devolve as if it were land :

Devolution of occupancy-right.

Provided that, except in the districts of Chánda, Nimár and Sambalpúr, a collateral relative of the tenant shall not be entitled to inherit that right, unless at the death of the tenant he was a co-sharer in the holding or unless, failing any such co-sharer, he held land, or was permanently resident, in the village in or from which the holding is cultivated, and is in the male line of descent from an ancestor who occupied the holding.

(2) Save in pursuance of a document duly registered before the commencement of this Act, no decree or order shall be passed for the sale of the right of an occupancy-tenant in his holding, nor shall such right be sold in execution of any decree or order.

Exemption of occupancy-rights from Court sales.

(3) No occupancy-tenant shall be entitled to sell, make a gift of, mortgage, sub-let (except for a period not exceeding one year) or otherwise transfer his right in his holding or in any portion thereof, and every such sale, gift, mortgage, sub-lease (other than for a period not exceeding one year) or transfer shall be voidable in the manner and to the extent provided by the two next following sections :

Prohibition of transfer of occupancy-rights.

Provided



(Chapter IV.—Of Occupancy-tenants.—Sec. 47.)

Provided that an occupancy-tenant may transfer his right of occupancy to any person who, if he survived the tenant, would inherit the right of occupancy, or to any person in favour of whom as a co-sharer the right of occupancy originally arose, or who has become by succession a co-sharer therein :

Provided, also, that nothing in this section shall affect the right of the Government to sell the right of an occupancy-tenant in his holding for the recovery of an advance made to him under the Land Improvement Loans Act, 1883, or the Agriculturists' Loans Act, 1884, or the right of the purchaser at such sale to succeed to the holding. XIX of 1883. XII of 1884.

Prohibition of contracts for future sub-leases.

(4) No contract for the sub-lease of a holding or any portion thereof shall be entered into or made during the currency of a sub-lease of such holding or such portion thereof; and every such contract shall be voidable in the manner and to the extent provided by the two next following sections.

Prohibition of registration of documents transferring occupancy-rights.

(5) Notwithstanding anything contained in the Indian Registration Act, 1877, no officer empowered to register documents shall admit to registration any document which purports to transfer the right of an occupancy-tenant in his holding or in any portion thereof, unless the document recites that the transferee is a person who, if he survived the tenant, would inherit the right of occupancy, or is a person in favour of whom as a co-sharer the right of occupancy originally arose or who became by succession a co-sharer therein. III of 1877.

Rights of certain persons to apply to set aside transfers.

47. (1) If an occupancy-tenant transfers any portion of his right in any land in contravention of the provisions of the last foregoing section, any such person as would be entitled to inherit his right in the holding in the event of his death without nearer heirs, or the landlord from whom the tenant held the land, may, on application to a Revenue-officer, made within two years from the date on which in pursuance of

the

(Chapter IV.—Of Occupancy-tenants.—Sec. 48.)

the transfer the tenant parted with possession of the land, be placed in possession, subject, so far as the Revenue-officer may, in accordance with rules made by the Local Government, determine, to his acceptance of the liabilities of the transferring tenant for arrears of rent and for advances made by the landlord or other persons for the necessary expenses of cultivation.

(2) As among several persons so entitled and being desirous of being placed in possession, the right to be so placed shall accrue in the order in which such persons would have inherited the right of the tenant in the subject of the transfer if the tenant had died. Failing any such persons, the right shall accrue to the landlord.

48. When any such application as aforesaid is made, the Revenue-officer shall issue a notice to all persons who seem to him *primâ facie* to have a right equal or prior to that of the applicant, and shall also cause local proclamation to issue in the village in or from which the holding was cultivated, inviting all persons claiming to be heirs of the tenant who made the transfer to appear before him on a date to be fixed; and shall, after hearing such of the persons to whom notice was issued as may appear, and any other persons who may apply to be heard in the matter, decide who from among such of them as desire to be placed in possession is first entitled to be so placed:

Procedure on application.

Provided that in the case of a sub-lease, if the tenant who made the sub-lease appears and pays within such period as the Revenue-officer may determine the amount of the consideration, if any has passed, for which the sub-lease was made and the costs of the applicant if he would otherwise have been successful, the Revenue-officer may replace the tenant himself in possession of the land, if he is satisfied that the tenant made the sub-lease in ignorance of the law and is able and willing to cultivate the holding.

49. The

(Chapter IV.—Of Occupancy-tenants.—Secs. 49-51.)

Rent of occupancy-tenant to be fixed at settlement. 49. The rent of the holding of every occupancy-tenant shall be fixed by the Settlement-officer at each settlement of the area in which the holding is comprised.

Fixation of rents during currency of settlement in Chánda, Nimár and Sambalpúr. 50. (1) In the districts of Chánda, Nimár and Sambalpúr, the rent fixed under section 49 shall not be altered during the currency of any settlement except under section 13, section 14, section 15 or section 17.

(2) The rent payable in respect of his holding by a tenant in any of those districts at the commencement of this Act shall be deemed to have been fixed at the current settlement of the area in which that holding is comprised.

(3) Subject to the provisions of sections 13, 14, 15 and 17, the rent payable by any such tenant in respect of a holding acquired by him after the commencement of this Act shall, pending the recurrence of the settlement of the area in which that holding is comprised, be the rent fixed by agreement between him and his landlord at the time he acquired that holding, or, in the absence of any such agreement, or on the expiration of the term for which any such agreement has been made, a rent fixed by a Revenue-officer on the application of either party at the following rate, that is to say:—

(a) in the districts of Chánda and Nimár, the rate which the Local Government has prescribed for occupancy-tenants and caused to be entered in the record-of-rights at the current settlement;

(b) in the district of Sambalpúr, the average rate at which at the current settlement the rents of other lands in the same village of similar quality and possessing similar advantages were fixed.

Enhancement during settlement in other districts. 51. The rate of rent payable in money by an occupancy-tenant in any other district may, during the currency

(Chapter IV.—Of Occupancy-tenants.—Secs. 52-53.)

currency of a settlement on the application of the landlord to a Revenue-officer, be enhanced, subject to any rules made under this Act for the local area in which the holding is situate and for the time being in force :

Provided that—

- (a) an application under this section shall not be entertained when, within the ten years immediately preceding the application, the rent of the holding has been fixed at any settlement or under any of the other provisions of this Act, except those of sections 13, 14 or 15, or a suit or application to enhance it has been dismissed on the merits; and
- (b) no order shall be made on any such application which is inconsistent with any contract made after the current settlement and still in force, such contract being consistent with this Act.

52. Notwithstanding any contract to the contrary or any provision of a record-of-rights, an occupancy-tenant shall not be ejected from his holding by his landlord as such except—

Grounds for  
ejection.

- (a) as hereinafter provided for arrears of rent; or
- (b) in execution of a decree of a Civil Court passed on the ground of his having diverted the land to non-agricultural purposes or being chargeable with some other act or omission which, by custom not inconsistent with this Act or with any other enactment for the time being in force, renders him liable to be ejected.

53. A tenant having a right of occupancy in land situate in a village in which the holdings of tenants are by custom liable to periodical re-distribution, and exchanging

Tenant  
changing  
land in accord-  
ance with  
village-cus-  
tom.

(Chapter IV.—Of Occupancy-tenants.—Sec. 54.  
Chapter V.—Of Village-service-tenants.—Secs. 55-56.)

exchanging that land in accordance with the custom for other land situate in the same village, shall be deemed to have a right of occupancy in the land so taken in exchange.

Tenant  
changing land  
in other cases.

54. If a tenant having a right of occupancy in any land ceases to hold that land, and thereupon commences to hold other land of the same landlord, under circumstances from which it may be inferred that the tenant has accepted that other land in lieu of, and on the same conditions as, the land which he has ceased to hold, he shall, in the absence of a written agreement to the contrary, be deemed to have a right of occupancy in the land which he so commences to hold.

## CHAPTER V.

### OF VILLAGE-SERVICE-TENANTS.

Definition of  
"village-ser-  
vice-tenant."

55. A tenant of a holding who is recorded in the papers of the current settlement of the area in which the holding is comprised as holding his land rent-free or on favourable terms on condition of rendering village-service is a village-service-tenant.

Devolution  
and transfer  
of village-ser-  
vice-tenant's  
right.

56. (1) When a village-service-tenant dies, resigns or is lawfully dismissed, his right in his village-service-holding shall pass to his successor in office :

Provided that the Local Government may, by general or special order, direct that, where, on the resignation, dismissal or death of a village-watchman or patwari, his successor in office is not his heir, the village-service-tenure shall cease, in which case the holding shall be retained in occupancy-tenant-right by the late village-service-tenant or shall devolve in occupancy-tenant-right on his heir, as the case may be, at a rent which for the remainder of the term of the

(Chapter V.—Of Village-service-tenants. Secs. 57-58.)

the current settlement shall be that determined at such settlement as the rental value of the holding.

(2) A transaction by which a village-service-tenant attempts to effect a transfer of his interest in his village-service-holding by sale, gift, mortgage, sub-lease or otherwise except by a sub-lease for a period not exceeding one year shall be void, and the village-service-tenant shall be liable to be ejected for such attempt.

(3) The right of a village-service-tenant shall not be sold in execution of a decree.

57. If a village-service-tenant is unable to render the service which he is bound to render, he shall provide a competent person to render it for him.

Obligation of village-service-tenant to provide substitute.

58. (1) A village-service-tenant shall not be ejected from his holding except in execution of an order for ejection passed by a Revenue-officer on one of the following grounds, namely:—

Grounds on which a village service-tenant may be ejected.

- (a) that the tenant has attempted to effect a transfer of his holding in contravention of section 56, sub-section (2);
- (b) that the tenant has ceased to render the service which he is bound to render, or has failed to render it properly, or, being unable to render it himself, has failed to provide a competent person to render it as required by section 57;
- (c) that the tenant has diverted his land to non-agricultural purposes or is chargeable with some other act or omission which, by local custom or the provisions of the village wajib-ul-arz, renders him liable to be dismissed from office;
- (d) that the tenant has resigned, or been dismissed from, his office.

(2) When a village-service-tenant is ejected from his holding under this section, or when he dies or

resigns

(Chapter VI.—Of Sub-tenants.—Secs. 59-61.)

resigns or is dismissed from his office, a Revenue-officer may, subject to any order issued under the proviso to section 56, sub-section (1), place his successor in office in possession of the holding; and when a village-service-tenant is ejected from, or loses possession of, his holding otherwise than in accordance with this section, a Revenue-officer may reinstate him in the possession of his holding and eject any transferee or trespasser who may be in wrongful possession thereof.

CHAPTER VI.

OF SUB-TENANTS.

Definition of "sub-tenant." 59. A tenant who is not an absolute occupancy-tenant or an occupancy-tenant and who holds land from another tenant, or from a málik-mákbúzá, or from the holder of a survey-number, is a sub-tenant of that land.

Tenure according to agreement. 60. A sub-tenant shall, subject to the provisions of sections 6, 15 and 16, hold on such terms as may be agreed upon between him and his landlord:

Provided that, notwithstanding any agreement to the contrary, a lease granted to a sub-tenant by an occupancy or an ordinary tenant shall not be valid for a period exceeding one year.

Power to declare sub-tenants in certain cases to have rights of ordinary tenants. 61. (1) In any local area in which the Local Government may by notification in the local official Gazette declare this section to be in force, a sub-tenant holding from a tenant who is proved to the satisfaction of a Revenue-officer or Settlement-officer to habitually sub-let the land held by the sub-tenant and to manage it solely with a view to the obtaining of rent may, subject to such rules as the Local Government may prescribe, be declared by such Revenue-officer or Settlement-officer to have all the rights conferred

(Chapter VII.—Of Ordinary Tenants.—Sec. 62.)

conferred by this Act on an ordinary tenant, and shall thereupon be deemed to have such rights both as against the sub-letting tenant and as against the landlord from whom the latter holds :

Provided that no such declaration shall be made within one year after the commencement of this Act or in the case of a sub-tenant holding under a lease registered before the commencement of this Act or until an opportunity has been given to the sub-letting tenant to show cause against it.

(2) When a sub-tenant has been declared under this section to have the rights of an ordinary tenant, so much of the rent payable by him as is equal to the rent payable to the proprietor by the tenant from whom he holds on account of the land sub-let to him shall be rendered by him to the proprietor direct, and the balance shall be rendered by him to the tenant from whom he holds.

(3) If a tenant regarding whose land a declaration under this section has been made dies without heirs or surrenders his holding, the sub-tenant shall be deemed to hold direct from the landlord at the total rent paid by him for the land at the time of such death or surrender.

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CHAPTER VII.

OF ORDINARY TENANTS.

62. (1) Every tenant who is not an absolute occupancy-tenant, or an occupancy-tenant, or a village-service-tenant or a sub-tenant, is an ordinary tenant. Definition of "ordinary tenant."

(2) In any local area in which the Local Government may, by notification in the local official Gazette, declare that the provisions of this sub-section are in force, where a person cultivates land not being sir-land under an agreement made with the proprietor of the



(Chapter VII.—Of Ordinary Tenants.—Sec. 63.)

the land and purporting to be an agreement for the cultivation of the land by such person and such proprietor in partnership, such person is an ordinary tenant of the land so cultivated by him, and, notwithstanding any contract to the contrary, the rent payable by him for the land shall be fixed by a Revenue-officer on application made by him or his landlord.

Landlord's right to recover rents determined at settlement as payable by ordinary tenants.

63. (1) A Settlement-officer shall, unless the Local Government otherwise directs, fix the rents payable by the ordinary tenants of a mahál other than ordinary tenants whose holdings consist entirely of sár-land, and, on and from the date on which the land-revenue assessment takes effect, the landlord shall be entitled to recover only the rents so fixed.

(2) The rents fixed under sub-section (1) shall be recorded in the proceedings of the Settlement-officer, and a copy of the record shall be granted free of expense to the landlord.

(3) When by reason of the receipt by the landlord of any consideration, whether in money or otherwise, a tenant is holding at a rent lower than that fixed by the Settlement-officer under sub-section (1), the Settlement-officer may, notwithstanding anything in this Act, declare him to be entitled to hold at such lower rent,—

- (a) if the term is fixed by contract, for the term so fixed or for any shorter period;
- (b) in other cases, for such term as the Settlement-officer, having regard to the circumstances, fixes as fair and equitable;

and the term for which the tenant is declared to be so entitled shall be entered in the record made under sub-section (2):

Provided that in no case shall the tenant be entitled to hold at such lower rent for a period longer than that for which the settlement is being made, and, at the expiry of the settlement, he shall not be entitled to a continuance of the privilege.

64. When

*(Chapter VII.—Of Ordinary Tenants.—Secs. 64-66.)*

64. When a landlord wishes to enhance the rent of an ordinary tenant whose holding does not consist entirely of sir-land and whose rent is not fixed by an agreement in writing, and the tenant does not agree to the enhancement, the landlord may cause to be served on the tenant through a Revenue-officer a notice of the enhancement not less than six months or more than twelve months before the commencement of the agricultural year in which the landlord desires the enhancement to take effect.

Notice of enhancement to be served through Revenue-officer.

65. (1) If, within the period of one month from the service of a notice under the last foregoing section, the tenant on whom the notice has been served presents to the Revenue-officer issuing the notice a statement in writing declaring his willingness to pay the enhanced rent, he shall be deemed to have agreed to pay that rent from the commencement of the agricultural year next following.

Liability of tenant to ejectment in default of his agreeing to enhancement.

(2) If the tenant does not, within the said period of one month, present to the Revenue-officer a statement as aforesaid, the landlord may, not less than ten weeks before the commencement of the agricultural year next following, apply to the Revenue-officer to eject the tenant.

66. (1) If, when an application has been made under sub-section (2) of the last foregoing section, the tenant appears and agrees to pay the enhanced rent demanded, his agreement shall thereupon be recorded, and he shall not be ejected but shall be liable to pay that rent from the commencement of the agricultural year next following the date of the landlord's application under section 65, sub-section (2).

Procedure in ejectment-suit.

(2) If the tenant fails to appear, or if, on appearing, he does not agree to pay the enhanced rent demanded, the Revenue-officer shall determine what rent is fair and equitable for the holding: Provided that, save where in the Revenue-officer's opinion the

existing

*(Chapter VII.—Of Ordinary Tenants.—Secs. 67-68.)*

existing rent is merely nominal, the rent so determined shall not exceed the existing rent by more than thirty-three per cent.

(3) If the tenant agrees to pay the rent so determined, he shall be entitled to remain in occupation of the holding at that rent from the commencement of the agricultural year next following the date of the landlord's application under section 65, sub-section (2).

(4) If the tenant does not agree to pay the rent determined under sub-section (2), the Revenue-officer may make an order for his ejection, subject to the provisions of sections 88 and 89 and subject to the deposit by the landlord, within a month from the date of the order, of the amount of compensation (if any) determined as due to the tenant under section 32. If such amount is not so deposited, the order for ejection shall become void.

Rent of ordinary tenant regulated by agreement.

Fresh proceedings not to be taken for seven years.

67. An ordinary tenant shall, subject to the provisions of sections 13, 14, 15, 16, 63, 66 and 78, pay such rent as may, from time to time, be fixed by agreement between him and his landlord.

68. When the rent of a tenant has been fixed by a Settlement-officer under section 63, or where a tenant has agreed to pay an enhanced rent for his holding under section 65, or when a tenant is holding at a rent fixed as fair and equitable under section 66 or section 78, or when a rent has been agreed upon by contract or consent between the landlord and his tenant in respect of any holding, or when an order under section 66 to eject a tenant from his holding has become void from failure of the landlord to deposit the amount of compensation (if any) determined as due to the tenant under section 32, no notice of enhancement under section 64 shall be served on such tenant in respect of such holding, nor shall any further enhancement, by contract or consent or otherwise, in respect of such holding be permissible, for a period

*(Chapter VII.—Of Ordinary Tenants.—Secs. 69-70.)*

period of seven years from the date on which the settlement made by the Settlement-officer took effect, or from the date of such fixation, agreement, contract or consent, or from the date of such order for ejectment becoming void, as the case may be :

Provided that, where a tenant is holding land under a special contract with his landlord at a favourable rent for a term of years in consideration of temporary deterioration, or of the labour or expense involved in the reclamation by such tenant of the land from waste, nothing in this section shall be construed to prevent a fair rent being fixed or agreed upon after the expiration of the term of such contract.

69. Notwithstanding any contract to the contrary or any provision of a record-of-rights, an ordinary tenant shall not be ejected from his holding by his landlord as such except—

Grounds on which an ordinary tenant may be ejected.

- (a) as provided in the case of an occupancy-tenant by section 52;
- (b) in accordance with the provisions of section 66;
- (c) in execution of a decree for ejectment passed on the ground that his holding consists entirely of sîr-land.

70. (1) When an ordinary tenant dies, his right in his holding shall devolve as if it were land :

Devolution of ordinary tenancy.

Provided that a collateral relative of the tenant shall not be entitled to inherit his right unless at the death of the tenant he was a co-sharer in the holding.

(2) Save in pursuance of a document duly registered before the commencement of this Act, no decree or order shall be passed for the sale of the right of an ordinary tenant in his holding, nor shall such right be sold in execution of any decree or order.

Exemption of ordinary tenant-rights from Court sales.

(3) No ordinary tenant shall be entitled to sell, make a gift of, mortgage, sub-let (except for a period not exceeding one year) or otherwise transfer his right or holding or any portion thereof; and every such sale,

Prohibition of transfer of ordinary tenant-rights.

gift,

(Chapter VII.—Of Ordinary Tenants.—Sec. 71.)

gift, mortgage, sub-lease (other than for a period not exceeding one year) or transfer shall be voidable in the manner and to the extent provided by the two next following sections :

Provided that nothing in this sub-section shall affect the right of the Government to sell the right of an ordinary tenant in his holding for the recovery of an advance made to him under the Land Improvement Loans Act, 1883, or the Agriculturists' Loans Act, XIX of 1883 & 1884, or the right of the purchaser at such sale to succeed to the holding. XII of 1884

Prohibition of contracts for future sub-leases.

(4) No contract for the sub-lease of a holding or any portion thereof shall be entered into or made during the currency of a sub-lease of such holding or such portion thereof ; and every such contract shall be voidable in the manner and to the extent provided by the two next following sections.

Prohibition of registration of documents transferring ordinary tenant-rights.

(5) Notwithstanding anything contained in the Indian Registration Act, 1877, no officer empowered to register documents under that Act shall admit to registration any document which purports to transfer the right of an ordinary tenant in his holding or in any portion thereof. III of 1877

Right of certain persons to apply to set aside transfers.

71. (1) If an ordinary tenant transfers any portion of his rights in any land in contravention of the provisions of the last foregoing section, any such person as would be entitled to inherit his right in the holding in the event of his death without nearer heirs, or the landlord from whom the tenant held the land, may, on application to a Revenue-officer made within two years from the date on which, in pursuance of the transfer, the tenant parted with possession of the land, be placed in possession, subject, so far as the Revenue-officer may, in accordance with rules made by the Local Government, determine, to his acceptance of the liabilities of the transferring tenant for arrears of rent and for advances made by the landlord or other persons for the necessary expenses of cultivation.

(2) As

(Chapter VII.—Of Ordinary Tenants.—Secs. 72-73.)

(2) As among several persons so entitled and being desirous of being placed in possession, the right to be so placed shall accrue in the order in which such persons would have inherited the right of the tenant in the subject of the transfer if the tenant had died. Failing any such persons, the right shall accrue to the landlord.

72. When any such application as aforesaid is made, the Revenue-officer shall issue a notice to all persons who seem to him *prima facie* to have a right equal or prior to that of the applicant, and shall also cause local proclamation to issue in the village in or from which the holding was cultivated, inviting all persons claiming to be heirs of the tenant who made the transfer to appear before him on a date to be fixed; and shall, after hearing such of the persons to whom notice was issued as may appear, and any other persons who may apply to be heard in the matter, decide who from among such of them as desire to be placed in possession is first entitled to be so placed:

Procedure on application.

Provided that in the case of a sub-lease, if the tenant who made the sub-lease appears and pays within such period as the Revenue-officer may determine the amount of the consideration, if any has passed, for which the sub-lease was made, and the costs of the applicant if he would otherwise have been successful, the Revenue-officer may replace the tenant himself in possession of the land, if he is satisfied that the tenant made the sub-lease in ignorance of the law and is able and willing to cultivate the holding.

73. (1) Notwithstanding any contract to the contrary, the landlord of any holding held by an ordinary tenant shall, at the request of the tenant and on the tender by the tenant to him of a sum equal to two-and-a-half times the annual rent payable in respect of the holding, together with the cost of preparing any instrument required for this purpose, confer upon the tenant the rights of an occupancy-tenant in respect of

Obligation of landlord to confer occupancy-rights on ordinary tenant.

the

*(Chapter VII.—Of Ordinary Tenants.—Sec. 73.)*

the holding ; and, when those rights have so been conferred, the rent of the tenant shall be deemed to be fixed under this Act, within the meaning of section 51, at the rate at which rent was payable by the tenant at the date of the request and tender :

Provided that the tenant may, for the purposes of any such request and tender, and the landlord may, upon any such request and tender being made to him, apply to a Revenue-officer, or during the progress of settlement-operations to a Settlement-officer, to fix the rent of the holding for the purposes of this section ; and, if it is proved to the satisfaction of the officer that the rate of rent payable in respect of the holding is greater or less than the rate usually paid by ordinary tenants of holdings situate in the village or vicinity for land of similar quality with like advantages, the officer may fix the rent at the latter rate, and the rent so fixed shall for the purposes of this section be deemed to be, and to have been at the date of the request and tender, the rent payable by the tenant :

Provided, further, that, if the application is made otherwise than during the progress of settlement-operations, nothing in this section shall be construed to empower a Revenue-officer to alter a rent within seven years of its having been fixed under any of the provisions of this Act, except on the ground that some such change as is described in section 15 has since occurred so as to render the rent so fixed no longer a fair rent.

(2) If a landlord to whom a request and tender are made by a tenant under sub-section (1), refuses or neglects for a period of one month to confer the rights of an occupancy-tenant on the tenant, the tenant may deposit the sum aforesaid in the Court of a Revenue-officer, or, during the progress of settlement-operations, of a Settlement-officer, and apply to that officer to confer upon him the rights of an occupancy-tenant in respect of the holding.

(3) The

(Chapter VIII.—*Jurisdiction and Procedure.*—  
Secs. 74-75.)

(3) The officer so applied to, after giving notice of the application to the landlord and hearing him, if he appears, and after making such inquiry as he thinks necessary, may execute any instrument required for conferring the rights of an occupancy-tenant in respect of the holding upon the tenant, and the execution shall have the same effect as an execution by the landlord.

(4) Every person upon whom the rights of an occupancy-tenant are conferred under this section shall be deemed to be an occupancy-tenant for the purposes of this Act.

(5) Nothing in this section shall apply to a holding consisting entirely of sîr-land.

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CHAPTER VIII.

JURISDICTION AND PROCEDURE.

XIV of 1882. 74. The Local Government may direct that all suits, or any specified class of suits, between landlords and tenants as such, shall not be registered in the registers of civil suits kept under the Code of Civil Procedure, but in such other registers as it may prescribe. Power to direct that suits between landlords and tenants be entered in separate registers.

XIV of 1882. 75. (1) In suits between landlords and tenants as such, the plaint shall, in addition to the matters mentioned in section 50 of the Code of Civil Procedure, specify the area of the land to which the suit relates, and, where the fields comprised in that land have been numbered in a Government survey, the number of each such field; and, in the case of suits for an arrear, the amount of the yearly rent and the instalments in which it is payable. Plaint in such suits.

(2) When the land to which the suit relates comprises parts of numbered fields or has not been divided into



(Chapter VIII.—Jurisdiction and Procedure.—  
Secs. 76-78.)

into numbered fields, an accurate and sufficient description of the land and its boundaries shall be given in the plaint.

Legal practitioners' fees not allowed unless for special reasons.

76. In suits between landlords and tenants as such, the fees of a legal practitioner shall not be allowed as costs unless the Court considers, for reasons to be recorded by it in writing, that those fees ought to be allowed.

Set-off when allowed in suits for arrears.

77. No set-off shall be allowed in any suit for arrears unless the amount claimed as a set-off has been determined by a decree or order of a competent Court or of a Revenue-officer or Settlement-officer.

Procedure when ordinary tenant in suit pleads excessive rent.

78. (1) If in any suit in which the defendant is an ordinary tenant whose holding does not consist entirely of sîr-land the tenant appears and, at any time before a decree is passed, pleads that his rent is excessive, the Court shall inquire into the circumstances of the rent.

(2) If the Court finds that the rent payable by the tenant has been enhanced by contract or consent above the rent determined by a Settlement-officer at the current settlement or by a Revenue-officer under this Act, or, when not so determined, above the rent at which the holding was first taken up by the tenant, or, if the rent payable was determined by a Settlement-officer in proceedings taken before the commencement of this Act only after the landlord had refused to comply with the request of the Settlement-officer to reduce it, the Court may stay proceedings and refer the case to a Revenue-officer, who shall thereupon fix what rent is fair and equitable for the holding. If the rent so fixed is equal to or more than the rent previously payable, the Court shall decree the arrears claimed and proved. If the rent so fixed is less than the rent previously payable, the Court shall decree against the tenant arrears of rent on account of any year only to the extent of the amount

(if

(Chapter VIII.—*Jurisdiction and Procedure.*—  
Sec. 79.)

(if any) by which his payments for that year fell short of the rent so fixed. The tenant shall be entitled to remain in occupation at a rent fixed under this sub-section from the commencement of the agricultural year next following the date of the institution of the suit.

(3) If the Court finds that the rent, in respect of which the plea is made by the tenant, was not enhanced or determined in the manner described in sub-section (2) but was the rent at which the tenant first took up the holding from the landlord, the Court shall pass a decree for such sum as may be due at the rent so payable, but may, before or after passing the decree, refer the case to a Revenue-officer, who shall thereupon fix what is a fair and equitable rent for the holding, and, if the tenant pays the amount decreed within one month of the date on which the rent is so fixed, he shall be entitled to remain in occupation of his holding at the rent so fixed with effect from the commencement of the agricultural year next following the date of the institution of the suit.

*Explanation I.*—Nothing in this section shall be construed to authorize a Revenue-officer to determine a rent higher than that payable by the tenant at the date of the institution of the suit except from the commencement of the agricultural year next following the date of the institution of the suit, and on the formal application of the landlord.

*Explanation II.*—A statement made during the progress of settlement-operations by the Settlement-officer, and contained in any return or report prescribed by the Local Government, to the effect that a landlord refused to reduce any rent, shall be conclusive proof of such refusal.

79. When the land in respect of which an applica-  
tion is made under section 50 or section 51, or for which

Tenants' im-  
provements  
how to be

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(Chapter VIII.—Jurisdiction and Procedure.—  
Secs. 80-82.)

treated in fixing rents. a fair rent is to be determined under section 66 or section 78, has been improved, in accordance with the provisions of this Act, by the agency, or at the expense, of the tenant, and such improvement was made during the term of the current settlement or the term of the settlement immediately preceding it, the quality and advantages of the land, as cultivated land, shall, notwithstanding anything contained in any contract or record-of-rights to the contrary, be deemed, for the purposes of any such section as aforesaid, to be the quality and advantages which the land would have had and enjoyed if the improvement had not been made.

Interest on arrears. 80. In suits for arrears, interest on the arrears may be allowed up to the date of institution, at such rate, not exceeding twelve per cent. per annum, as the Court thinks fit.

No appeal in certain suits for arrears. 81. A decree or order passed in a suit for arrears, whether on appeal or otherwise, by a Judge of a Civil Court exercising powers not less than those of an Assistant Commissioner of the first class as defined in the Central Provinces Civil Courts Act, 1885, shall not be subject to appeal, unless—

- (a) the amount or value of the subject-matter of the suit exceeds one hundred rupees ; or
- (b) a question relating to a title to land or some interest in land, has been determined as between parties having conflicting claims thereto.

Application for execution by sale of holding or by ejectment. 82. An application for the execution of a decree for an arrear of rent by sale of the holding in respect of which the arrear accrued or by ejectment of the tenant shall contain a statement showing the tahsil and village in which the holding is situate, the numbers borne in the village rent-roll by the fields constituting the holding, the rent annually payable, and the years in which the decreed arrears accrued.

83. No

1898.]

*Central Provinces Tenancy.*

*(Chapter VIII.—Jurisdiction and Procedure.—  
Secs. 83-85.)*

83. No such application as is referred to in the foregoing section shall be admitted until after the expiration of the year in which the arrear, or any part of the arrear, accrued.

Arrears decreed not to be on current year's account.

XIV of 1882. 84. (1) A decree for arrears of rent due in respect of an absolute occupancy-holding shall, if sale of such holding be ordered in execution, be executed as if it ordered sale in pursuance of a contract specifically affecting the holding, and shall under section 320 of the Code of Civil Procedure be transferred to the Collector for execution.

Procedure in execution by sale of holding.

(2) The Collector executing the decree may, notwithstanding anything contained in section 305 of the Code of Civil Procedure, allow the tenant time in which to pay the amount due: Provided that any period, or the aggregate of any periods, so allowed shall, subject to any general or special orders which may be issued by the Local Government, not exceed two months.

XIV of 1882. 85. (1) A decree for an arrear of rent due in respect of an occupancy or ordinary holding or a holding held by a sub-tenant may be executed by the ejection of the tenant: Provided that, notwithstanding anything contained in the Code of Civil Procedure, an order for the ejection of a tenant in execution of such a decree shall be transferred to a Revenue-officer for execution.

Procedure in execution by ejection.

(2) The Revenue-officer on receiving the decree shall cause a notice to be served upon the tenant stating the date of the decree, the amount due thereunder and the numbers borne in the village rent-roll by the fields constituting the holding, and informing him that if he does not pay into Court within a month from date the amount due he will be ejected from his holding.

(3) If the amount due is not paid within the period appointed, the Revenue-officer may, subject to the

(Chapter VIII.—Jurisdiction and Procedure.—  
Sec. 86.)

the provisions of sections 32, 88 and 89, eject the tenant or may, after such enquiry as he deems necessary, postpone ejectment in order to allow the tenant time for payment: Provided that any period, or the aggregate of any periods, so allowed shall, subject to any general or special orders which may be issued by the Local Government, not exceed in the case of an occupancy-holding or an ordinary holding not consisting entirely of sîr-land four months, or in the case of an ordinary holding consisting entirely of sîr-land or a holding held by a sub-tenant one month.

(4) The Local Government may make rules for the guidance of Revenue-officers executing decrees under this section.

Power of Court to deal with cases of drought or other calamity in suits for arrears.

86. (1) Where, in answer to a suit for an arrear, the tenant admits that the arrear is due, but pleads that the produce of his holding during the period in respect of which the arrear is claimed has been diminished or destroyed by drought, hail or other extraordinary calamity beyond his control, the Court in its discretion may, notwithstanding any contract to the contrary, allow in its decree any deduction from the arrear, and direct payment of the amount decreed (if any) in such instalments (if any) as it thinks fit.

(2) In any such case the Court may order that the provisions of sections 84 and 85 shall not apply to the decree.

(3) In making a decree under this section the Court shall have regard to—

- (a) the value of the produce of the holding for the whole agricultural year in respect of which the arrear accrued; and
- (b) the proportion which the amount of rent payable for that year by the tenant bears to that value.

(4) If

(Chapter VIII.—*Jurisdiction and Procedure.*—  
Sec. 87.)

(4) If in any such suit it appears that the land-revenue of the village in which the holding is situate has been, wholly or in part, suspended or remitted on account of drought, hail or other extraordinary calamity in respect of the period for which the arrear is claimed, the Court shall presume, until the contrary is shown, that the diminution or destruction alleged by the tenant has taken place.

87. (1) A suit for the ejection of a tenant on the ground that he has done or omitted to do something for doing or omitting to do which he is liable to ejection, or that he has broken a condition on breach of which he is, under the terms of a contract between him and the landlord, liable to ejection, shall not be entertained unless the landlord has requested the tenant, where the damage or breach is capable of remedy, to remedy the same, and, in any case, to pay reasonable compensation for the damage or breach, and the tenant has failed to comply within a reasonable time with that request.

(2) A decree passed in favour of a landlord in any such suit shall declare the amount of compensation which would reasonably be payable to the plaintiff for the damage or breach, and whether, in the opinion of the Court, the damage or breach is capable of remedy, and shall fix a period during which it shall be open to the defendant to pay that amount to the plaintiff, and, where the damage or breach is declared to be capable of remedy, to remedy the same.

(3) The Court may, from time to time, extend a period fixed by it under sub-section (2) for remedying a damage or breach.

(4) If the defendant, within the period or extended period (as the case may be) fixed by the Court under this section, pays the compensation mentioned in the decree, and, where the damage or breach is declared by the Court to be capable of remedy, remedies the

damage

(Chapter VIII.—Jurisdiction and Procedure—  
Secs. 88-89.)

damage or breach to the satisfaction of the Court, the decree shall not be executed.

Rights of  
ejected ten-  
ants in re-  
spect of crops  
and land pre-  
pared for sow-  
ing.

88. The following rules shall be applicable in the case of every tenant ejected from a holding:—

(1) When the tenant has, before the date of his ejection, sown or planted crops in any land comprised in the holding, he shall be entitled, at the option of the landlord, either to retain possession of that land and to use it for the purpose of tending and gathering in the crops, or to receive from the landlord the estimated value of the labour and capital expended by the tenant in preparing the land and sowing, planting and tending the crops, together with reasonable interest thereon.

(2) When the tenant has, before the date of his ejection, prepared for sowing any land comprised in his holding, but has not sown or planted crops on that land, he shall be entitled to receive from the landlord the estimated value of the labour and capital expended by him in so preparing the land, together with reasonable interest thereon:

Provided that a tenant shall not be entitled to retain possession of any land or receive any sum in respect thereof under this section when, after the commencement of proceedings by the landlord for his ejection, he has cultivated or prepared the land contrary to local usage:

Provided, also, that the rent, if any, payable to the landlord by the tenant at the time of ejection may be set off against any sums payable to the tenant under this section.

Payment by  
tenant for  
occupation of  
land under  
section 88.

89. When a landlord elects, under clause (1) of the last foregoing section, to allow a tenant to retain possession of any land for the purpose specified in that clause, the tenant shall pay to the landlord, for the use and occupation of the land during the period for which

(Chapter VIII.—*Jurisdiction and Procedure.*—  
Secs. 90-92.)

which he is allowed to retain possession of the same, such rent as the Court or Revenue-officer may deem reasonable.

90. In all suits for arrears of rent, the Court shall inquire into and determine all claims under this Act by the landlord against the tenant as such, or by the tenant against the landlord as such.

In suits for arrears all claims between landlord and tenant to be determined.

91. (1) When it appears to a Court making an inquiry under the last foregoing section that the amount payable by the landlord to the tenant as such exceeds the amount payable by the tenant to the landlord as such, the decree or order for sale or ejectment (if any) shall, unless the landlord and tenant come to an arrangement regarding the payment of the excess sum, specify a time within which it must be paid into Court.

Procedure when, on sale or ejectment, money is due by the landlord to the tenant.

(2) If it is so paid within the time specified, the Court shall, subject to the other provisions of this Act, make an order for the sale of the holding or the ejectment of the tenant; and, if it is not so paid, the Court shall refuse to make such order.

92. Any tenant who has been ejected from his holding or from any portion thereof otherwise than in accordance with the provisions of this Act, may, on application to a Revenue-officer made within one year from the date of his ejectment, be reinstated in possession of such holding or portion :

Reinstatement of tenant illegally ejected.

Provided that no order passed under this section shall prejudice the right of the landlord to eject the tenant so reinstated, or the right of a tenant whose application for reinstatement is rejected to establish his title to his holding and to recover possession thereof by means of a regular suit :

Provided, also, that possession of a tenancy, or of any portion thereof, shall not be recoverable under section 9 of the Specific Relief Act, 1877, by a tenant dispossessed thereof.

93. (1) If



(Chapter VIII.—Jurisdiction and Procedure.—  
Secs. 93-94.)

Applications  
to measure or  
ascertain  
condition of  
holdings.

93. (1) If any landlord or tenant of a holding desires that the extent of that holding be ascertained, or that evidence relating to any improvement made in respect thereof or to the state of the holding at any specified time, be recorded, he may apply to a Revenue-officer; and that officer shall thereupon, in presence of the parties,—

- (a) make or cause to be made such inquiry as he thinks fit, with a view to ascertaining the extent of the holding, and record his finding thereon, or
- (b) (where the applicant seeks to have evidence recorded) record that evidence:

Provided that no action shall be taken by any Revenue-officer under this section if he considers that there are no reasonable grounds for making the application, or if the subject-matter thereof is under inquiry in a Civil Court.

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

Limitation in  
suits under  
the Act.

94. (1) The period of limitation for a suit instituted by a tenant other than an absolute occupancy-tenant to recover possession of land from which he has been ejected, shall be two years from the date on which he is ejected.

(2) Whenever rent is taken by division of the produce or by estimate or appraisement of the crop, and no application is made under section 19, no suit by the landlord for the recovery of the share of the produce claimed by him as rent, or the value thereof, shall lie unless such suit is instituted within a period of one year reckoned from the date on which the rent instalment on account of the harvest to which the crop belongs fell due.

(3) In

(Chapter VIII.—*Jurisdiction and Procedure.*—  
Secs. 95-97.)

(3) In all other cases the limitation of every suit brought under this Act shall be governed by the  
XV of 1877. Indian Limitation Act, 1877 :

Provided that nothing in sections 7, 8 and 9 of the said Act shall apply to suits for arrears of rent or for the ejection of a tenant, or to suits for recovery of possession by a tenant against his landlord.

95. Save where it is expressly provided to the contrary, no Court other than the Court of a Revenue-officer or Settlement-officer shall fix, alter or commute any rent or call in question any rent fixed by a Revenue-officer or Settlement-officer, or shall take cognizance of any dispute or matter in respect of which authority is given by this Act to a Revenue-officer or Settlement-officer.

Jurisdiction of Civil Courts barred in certain cases.

96. (1) In fixing rents and disposing of the matters referred to in the last foregoing section, Revenue-officers and Settlement-officers shall, as nearly as may be practicable, subject to the provisions of this Act and any rules made thereunder, exercise the same powers and follow the same procedure as they exercise and follow under the Central Provinces Land-revenue Act, 1881, as from time to time amended.

Procedure on applications to Revenue and Settlement Officers, and appeals from their orders.

(2) From every decision or order of a Revenue-officer or Settlement-officer fixing rent or disposing of any matter referred to in the last foregoing section, an appeal shall lie as if that decision or order had been passed by that officer under the said Act.

97. Except as provided in section 95, the Civil Courts shall have jurisdiction in all suits between landlords and tenants as such :

Jurisdiction of Civil Courts in suits between landlords and tenants.

Provided that—

(a) a Judge of a Civil Court of original jurisdiction shall not, unless he is also a Revenue-officer or Settlement-officer, hear any such suit; and

(b) the

*Central Provinces Tenancy.* [ACT XI, 1898.]

(Chapter VIII.—Jurisdiction and Procedure.—  
 Sec. 98. Chapter IX.—Supplemental.—Secs. 99-  
 100. The Schedule.—Enactments repealed.)

(b) the Local Government may, subject to the other provisions of this Act, direct that all or any class of such suits shall be heard and determined only in such Courts competent to try the same as it thinks fit, and not otherwise.

Recovery of  
 fines and  
 penalties.

98. Any sum due as fine or penalty under this Act shall be recoverable as if it were an arrear of land-revenue.

CHAPTER IX.

SUPPLEMENTAL.

Power to  
 Local Govern-  
 ment to make  
 rules.

99. The Local Government may, by notification in the local official Gazette, make rules for the purpose of carrying out the objects of this Act and prescribing the procedure and practice thereunder.

Repeals.

100. The enactments mentioned in the schedule are repealed to the extent specified in the fourth column thereof.

THE SCHEDULE.

ENACTMENTS REPEALED.

(See section 100.)

1	2	3	4
Year.	No.	Short title.	Extent of repeal.
1883	IX	The Central Provinces Tenancy Act, 1883.	The whole.
1889	XVII	The Central Provinces Tenancy Act, 1889.	The whole.
1891	XII	The Repealing and Amending Act, 1891.	So much as relates to Acts IX of 1883 and XVII of 1889.

ACT NO. XII OF 1898.

~~ACT~~

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 21st October, 1898.)

An Act further to amend the Central Provinces Land-revenue Act, 1881.

WHEREAS it is expedient further to amend the Central Provinces Land-revenue Act, 1881; It is hereby enacted as follows:—

XVIII of 1881.

1. (1) This Act may be called the Central Provinces Land-revenue Act, 1898; and

Short title and commencement.

(2) It shall come into force at once.

XVIII of 1881.

2. In Chapter I of the Central Provinces Land-revenue Act, 1881 (hereinafter referred to as "the said Act"), clause (6) of section 4 is repealed, and after section 4 the following shall be added, namely:—

Substitution of new definition of "sir-land" for that contained in section 4, clause (6), Act XVII, 1881.

'4A. (1) Subject to the provisions of sub-section (2), "sir-land" (that is to say, the demesne or permanent home-farm land of a proprietor) includes the following, and no other, land, namely:—

Meaning of "sir-land."

(a) land finally recorded under section 69 as "sir-land" in the papers of the current settlement;

(b) land declared, under section 132, clause (j), to be "sir-land"; and

(c) land in the Sambalpúr district recorded as "bhogra" in the papers of the current settlement.

(2) In 1

[ Price three annas, three pies. ]

*Central Provinces Land-revenue.* [ACT XII  
(Section 2.)

Temporary provisions for districts not settled since 1889.

(2) In any local area of which no settlement has been made since the commencement of the Central Provinces Land-revenue Act, 1889, and until the settlement of such local area next following the commencement of the Central Provinces Land-revenue Act, 1898, "sir-land" includes—

XVI of 1889.

(a) land defined as sir-land in the foregoing sub-section :

Provided that any such land (other than bhogra) which, at the commencement of the Central Provinces Land-revenue Act, 1889, was unoccupied by such proprietor, and which had, after the date of the settlement last preceding the commencement of the said Act, been so unoccupied for a period of six consecutive years, shall not be deemed to be "sir-land";

(b) land which at the commencement of the Central Provinces Land-revenue Act, 1889, was occupied by and had been cultivated by the proprietors or one of the proprietors thereof for a period of not less than twelve consecutive years ;

(c) land which had at the commencement of the Central Provinces Land-revenue Act, 1889, been broken up from waste by the proprietor or one of the proprietors thereof, and cultivated by him for a period of not less than six consecutive years : Provided that any such land which at the commencement of the Central Provinces Land-revenue Act, 1889, was unoccupied by the proprietor, and had been so unoccupied by him for six consecutive years, shall not be deemed to be "sir-land."

XVI of 1889.

*Explanation I.*—For the purposes of sub-section (2), land shall be deemed to be occupied by the proprietor when it is leased out by him with an express reservation

(Section 3.)

reservation of his sîr-rights, and land shall be deemed to be cultivated when it is allowed to lie fallow in accordance with the usual practice of cultivation.

*Explanation II.*—For the purposes of this section—

- (a) the word “proprietor” shall be deemed to include an assignee of proprietary rights, but not a málik-mákbuzá :
- (b) when by any local custom land is liable to exchange or redistribution among the cultivators thereof, land which is not “sîr-land,” and which is taken in exchange for “sîr-land,” becomes “sîr-land” and the “sîr-land” given in exchange for that land ceases to be “sîr-land”:
- (c) subject to the proviso to sub-section (2), clause (a), land which has been recorded as “sîr-land” in the papers of any settlement made before the commencement of this Act shall be deemed to have been finally recorded as “sîr-land” under section 69.’

3. For section 65A of the said Act the following shall be substituted, namely :—

Substitution of new section for section 65A, Act XVIII, 1881.

‘65A. (1) The Settlement-officer may inquire into the claim of any person holding from a proprietor a village or part of a village as thîkádár, gaontia or farmer, and may, notwithstanding any contract to the contrary and with the previous sanction of the Chief Commissioner, declare such thîkádár, gaontia or farmer to be “protected” for the purposes of this section :

Power to inquire into claims of thîkádárs, gaontias and farmers.

Provided that no thîkádár, gaontia or farmer shall be declared to be protected under this section unless he or those from whom he has inherited has or have been in possession of the village or part

of

*Central Provinces Land-revenue.* [ACT XII  
(Section 3.)

of the village for a period of not less than twenty years, or unless it is proved to the satisfaction of the Settlement-officer that he or those from whom he has inherited has or have established the village or substantially improved it at his or their own cost :

Provided also that, when a thíkádár, farmer or gaontia is entitled to claim protection within the meaning of this section, the Settlement-officer may, in his discretion and with the previous sanction of the Chief Commissioner, instead of declaring him to be protected, confer on him the rights of an occupancy-tenant in respect of the whole or part of any land which he may be cultivating, whether as sír-land or otherwise, at the time of the inquiry, and shall determine the rent payable by him as occupancy-tenant of such land.

(2) When a thíkádár, farmer or gaontia is declared to be protected under this section, the Settlement-officer may, at the request of the proprietor of the village, determine the amount of the thíká-jama which shall be payable by such thíkádár, gaontia or farmer to the proprietor of the village on and from the date on which the settlement of the village takes effect.

(3) Any person who, having held any village or part of a village as a thíkádár, farmer or gaontia, was ejected by the proprietor from, or lost possession otherwise than by transfer or voluntary surrender of, such village, or part of a village, and who had at the date of such ejectment or dispossession earned a claim to be protected, may at any time before the expiration of two years from the date of such ejectment or dispossession apply to the Settlement-officer to reinstate him in the possession of the village or part of the village from which he was ejected ; and the Settlement-officer may, with the previous sanction of the Chief Commissioner, replace him in the possession of such village or part of a village and declare him to be protected, or may confer upon him the rights of an occupancy-tenant  
in

(Section 3.)

in the whole or part of any land in the village which he was cultivating at the time of his ejection, and place him in possession of such land and determine the rent which shall be payable by him to the proprietor as such tenant.

*Explanation.*—Any such person as is described in this sub-section who, having been ejected subsequently to the first day of January 1893, applied to a Revenue-officer for reinstatement within two years of his ejection, shall be deemed to have made the application required by this sub-section.

(4) The incidents of the tenure of a thikádár (including a farmer or gaontia) who has been declared to be protected under this section shall be as follows:—

(a) the tenure shall be heritable, but not transferable by sale, gift, mortgage or dower; it shall not be saleable in execution of any decree, nor shall any decree be passed for the sale thereof; and, save in so far as any arrangements to the contrary are in force at the time of the declaration, it shall not be partitioned and shall devolve on one member only of the thikádár's family;

(b) when on the death of a thikádár there are two or more heirs bearing the same relationship to him, the eldest of such heirs shall succeed:

Provided, first, that of such heirs an heir who was joint with the thikádár shall have preference over an heir who was separate: and

Provided, secondly, that the eldest of two or more such heirs shall be at liberty at the time of succession to resign his right in favour of another heir bearing the same degree of relationship to the deceased thikádár as he himself bears:

(c)



*Central Provinces Land-revenue.* [ACT XII  
(Section 3.)

- (c) a protected thikádár, whether holding under a written lease or a verbal agreement, shall be entitled to a renewal of his lease on its expiry, on his agreeing to farm his village at a fair and equitable thiká-jama ;
- (d) in the event of any dispute arising between the proprietor and the protected thikádár as to what is a fair and equitable thiká-jama, the matter shall be referred to the Deputy Commissioner, whose decision shall, subject to revision by the Commissioner and Chief Commissioner, be final ;
- (e) not more than one enhancement of the thiká-jama or, where it is so specially provided in the terms of the settlement of the village, no enhancement of the thiká-jama shall be imposed on a protected thikádár during the currency of a settlement ;
- (f) all miscellaneous dues and cesses, unless specially authorized by the Chief Commissioner, shall be included in the thiká-jama payable under the lease ; and
- (g) a protected thikádár shall comply with the rules made under section 124A for the management of malguzari forests.

(5) In any proceedings before a Court for the ejection of a thikádár, gaontia or farmer, if it appears that the thikádár, gaontia or farmer has filed an application before a Revenue-officer to obtain a declaration that he is protected, or if he files such an application before the Court, the Court shall stay proceedings until the application has been disposed of in accordance with the provisions of this Act, and shall, if the application is filed before itself, forward such application to the Deputy Commissioner or Settlement-officer for disposal.

(6) If any protected thikádár, gaontia or farmer is shown to have since the commencement of the Central Provinces Land-revenue Act, 1898, contravened,  
or

(Section 4.)

or to be contravening, the conditions of his tenure as contained in clause (a) or clause (g) of sub-section (4), or to have grossly mismanaged the village held by him in lease, the Settlement-officer or Deputy Commissioner may, with the previous sanction of the Chief Commissioner, declare such thikádár, gaontia or farmer to have forfeited the protection previously conferred on him under this section, and such thikádár, farmer or gaontia shall from the date of such declaration cease to be protected.

(7) Nothing in this section shall affect the liability of any protected thikádár, farmer or gaontia to ejection in execution of a decree for ejection passed, in accordance with any law for the time being in force and not inconsistent with this Act, on the ground—

(a) that he has failed to pay the thiká-jama legally payable by him;

(b) that he has diverted the culturable land of the village to non-agricultural purposes, or is chargeable with some act or omission which renders him liable to be ejected.'

4. For section 69 of the said Act the following shall be substituted, namely :—

Substitution of new section for section 69, Act XVIII, 1881.

' 69. (1) The Settlement-officer shall ascertain and determine the extent of all the land which is held as sír-land as defined in section 4A, and which has not lost its character as sír-land under the provisions of section 45 of the Central Provinces Tenancy Act, 1898, and shall record the same as sír-land.

Determination and record of sír-land.

(2) The Settlement-officer shall also record as sír-land—

(a) land which is at the time of his inquiry cultivated by the proprietor or one of the proprietors thereof and has been continuously so cultivated for a period of not less than twelve consecutive years; and

(b) land

*Central Provinces Land-revenue.* [ACT XII  
(Section 4.)

- (b) land which is at the time of his inquiry cultivated by the proprietor, or one of the proprietors thereof, and, having been broken up from waste-land by such proprietor or one of such proprietors, has since been continuously cultivated by him for a period of not less than six years :

Provided that no land shall be recorded as sîr-land under this sub-section if the total area of sîr-land within the mahal already exceeds, or will by such record be made to exceed, one-quarter of the total occupied area of the mahal :

Provided, further, that the Settlement-officer may, with the previous sanction of the Commissioner, exempt any mahal or part thereof from this limitation in respect of land falling under clause (b) of this sub-section.

(3) When a part of such land as is referred to in sub-section (2) is excluded from the record of sîr-land under the proviso to that sub-section, the proprietor shall have the right to choose the particular fields which are to be excluded.

(4) An order or entry of the Settlement-officer recording, or omitting or refusing to record, any land as sîr-land under sub-section (1) shall be final unless and until it is reversed or modified by the decree of a Civil Court in a suit instituted under section 83 at any time after the record is attested by the Settlement-officer, or his order regarding the entry is passed, and within one year after the settlement comes into effect; and an order or entry recording, or omitting or refusing to record, any land as sîr-land under sub-section (2) shall be final unless and until it is reversed or modified on appeal or revision in accordance with the provisions of sections 22 to 26.

(5) The Settlement-officer shall, at the request of any proprietor, furnish him, free of cost, with a list of all the land which has been recorded as sîr-land under  
this

(Sections 5-8.)

this section and is situated within the mahal or patti owned wholly or partly by such proprietor.

(6) All land not falling within the purview of section 4A, sub-section (1), shall be presumed, until the contrary is proved, not to be sir-land.

*Explanation.*—For the purposes of this section the word “proprietor” shall be deemed to include an assignee of proprietary rights, but not a málik-mákbuzá.’

5. In section 78 of the said Act, after the figures “69,” the word and figure “sub-section (1),” shall be inserted. Amendment of section 78, Act XVIII, 1881.

6. To section 91 of the said Act the following *explanation* shall be added, namely:— Addition of an *explanation* to section 91, Act XVIII, 1881.

‘*Explanation.*—The term “assigns” in this section includes a mortgagee in possession and a thíkádár.’

7. After section 91 of the said Act the following shall be added, namely:— Addition of new section after section 91, Act XVIII, 1881.

‘91A. Without the previous consent of the Deputy Commissioner or of such officer, not being below the rank of tahsildar, as he may appoint in this behalf, the rents and profits of a mahal or málik-mákbuzá holding and the produce of a survey-number shall not be liable to be attached or taken in execution of a decree or order of any Court until the land-revenue chargeable against such rents, profits or produce, and any arrear due in respect of the mahal, holding or survey-number, have been paid.’ Avoidance of attachments and executions which forestall land-revenue.

8. For clause (i) of section 132 of the said Act the following clauses shall be substituted, namely:— Addition to section 132, Act XVIII, 1881.

‘(i) inquiring into the claims of thíkádárs, gaontias or farmers, declaring them to be protected for the purposes of section 63A, and, generally, carrying out the provisions of that section; and

(j) declaring,

*Central Provinces Land-revenue.* [ACT XII  
(Sections 9-11.)

(j) declaring, either on his own motion or on a reference made by a Court or Revenue-officer, land to be sîr-land under the provisions of section 69, sub-section (2), clause (b), and the provisos thereto.'

Addition of new section after section 136V, Act XVIII, 1881.

9. After section 136V of the said Act the following section shall be added, namely :—

Partition may be effected by distribution of mahals.

'136W. Notwithstanding anything contained in this Chapter, when an estate, in respect of the whole or part of which imperfect partition is sought, consists of two or more mahals, or shares in two or more mahals, the partition may be effected by the distribution of such mahals or shares between the co-sharers without imperfect partition of the mahals or shares, or partly by such distribution and partly by imperfect partition, as the Deputy Commissioner may, of his own motion, or on the application of the parties, deem fit. In making the partition referred to in this section, the Deputy Commissioner shall be guided by the provisions of this Chapter so far as they are compatible with the distribution as aforesaid.'

Rules regarding village-watchmen may provide for their punishment.

10. In clause (a) of section 147A of the said Act, between the words "appointment" and "suspension" the word "punishment" shall be inserted.

Addition of new section after section 157, Act XVIII, 1881.

11. In Chapter XII of the said Act, after section 157 the following shall be added, namely :—

Recovery of miscellaneous revenue.

'157A. Rents, fees and royalties due to the Government for the use or occupation of land or water (whether the property of the Government or not) or on account of any products thereof and all moneys falling due to the Government under any grant, lease, or contract which provides that they shall be so recoverable, may be recovered under this Act in the same manner as an arrear of land-revenue.'

12. In

1898.] *Central Provinces Land-revenue.*  
(Sections 12-13.)

12. In sections 161A and 161B of the said Act, for the words "punishable with fine" the words "liable, on the order of a Deputy Commissioner, to a fine" shall be substituted.

Transfer from Criminal to Revenue Courts of power to fine a mukadam for breach of duty under the Act.

13. Sections 3, 5, 17, 19, 20 and 24 of the Central Provinces Land-revenue Act, 1889, are repealed.

Repeals.

XVI of 1889.

# ACT No. XIII OF 1898.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 4th November, 1898.)

An Act to declare the Regulations of the Bengal Code and Acts of the Governor General in Council now in force in Upper Burma and to make certain provisions regarding the law in Burma and other matters.

WHEREAS it is expedient to declare the Regulations of the Bengal Code and Acts of the Governor General in Council now in force in Upper Burma and to make certain provisions regarding the law in Burma ;

And whereas it is also expedient to amend, repeal, and facilitate the citation of, various enactments in force in Burma ;

It is hereby enacted as follows :—

## *Preliminary.*

1. (1) This Act may be called the Burma Laws Act, 1898; and

Short title, commencement and extent.

(2) It shall come into force at once.

(3) Save in so far as it applies expressly or by necessary implication to particular territory only, it extends to the whole of British India.

2. Save as otherwise in this Act expressly declared, nothing herein contained shall affect the provisions of the Arakan Hill District Laws Regulation, 1874, the Kachin Hill Tribes Regulation, 1895, the Chin Hills Regulation, 1896, or any special or local law

Saving of special or local laws.

IX of 1874.  
I of 1895.  
V of 1896.

for

[Price eight annas.]

B

(*Preliminary.—Section 3. Upper Burma.—Section 4.*)

for the time being in force in Burma or any part thereof.

Definitions.

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

- (a) the word “Burma” means the territories for the time being administered by the Lieutenant-Governor of Burma ;
- (b) the word “chief,” used with reference to a Shan State, includes a person temporarily administering such a State ;
- (c) the expression “Chin Hills ” means the territories for the time being known as the Chin Hills ;
- (d) the expression “Lower Burma ” means the territories for the time being included in Lower Burma ;
- (e) the expression “Shan States ” means the territories for the time being included in the Shan States ; and
- (f) the expression “Upper Burma ” means the territories for the time being included in Upper Burma, including also the Chin Hills.

*Upper Burma.*

Bengal Regu-  
lations and  
Acts of the  
Governor  
General in  
Council in  
force in  
Upper  
Burma.

4. (1) Subject to the provisions of this Act and of any other enactment for the time being in force, this Act and the enactments mentioned in the first schedule, to the extent specified in the fourth column thereof, shall be deemed to be in force in Upper Burma.

(2) A Regulation of the Bengal Code or an Act of the Governor General in Council passed before the commencement of this Act, but not mentioned in the first schedule, shall not be deemed to be in force in Upper Burma or in any part thereof, unless it is, after the commencement of this Act, extended thereto in exercise of the powers conferred by section 5 of the



*(Upper Burma.—Sections 5-6.)*

XIV of 1874. the Scheduled Districts Act, 1874, or by any other enactment for the time being in force.

(3) The undermentioned enactments shall, in their application to Upper Burma, be deemed to be subject to the following modifications, that is to say:—

VIII of 1851. (a) in the Indian Tolls Act, 1851, for the last sixteen words of section 4 the words “or of any person or property exempted by order of the Local Government from payment of tolls” shall be substituted;

VI of 1864. (b) in the Whipping Act, 1864, after section 5 the provisions set forth in the second schedule shall be added;

I of 1872. (c) in the Indian Evidence Act, 1872, after the expression “police-officer” in section 25 the words “who is not a Magistrate” shall be inserted.

(4) This section does not extend to the Shan States.

5. The Local Government may, for administrative, including revenue, purposes,—

(a) with the previous sanction of the Governor General in Council, divide Upper Burma into divisions and each of those divisions into districts, and vary the limits of those divisions and districts, and

(b) of its own authority, divide each of those districts into subdivisions, each of those subdivisions into townships and each of those townships into circles, and vary the limits of those subdivisions, townships and circles.

Division of Upper Burma into divisions, districts, subdivisions, townships and circles.

6. For the purpose of facilitating the application of any enactment for the time being in force in any part of Upper Burma, any Court may construe the enactment with such alterations, not affecting the substance, as may be necessary or proper to adapt it to the matter before the Court.

Construction of enactments in force in Upper Burma.

*Lower Burma.*

(Lower Burma.—Sections 7-9. The Shan States.—  
Section 10.)

Lower Burma.

Construction of references in certain existing enactments to British Burma and Burma.

7. Where, in any enactment in force on the twenty-fourth day of September, 1886, in any part of Lower Burma and still in force, there occurs a reference to the "British Burma Gazette," or a reference to "the territories administered by the Chief Commissioner of British Burma (or Burma)" or to "British Burma" or "Burma" (except where the expression "Burma" occurs in section 3 of the Petroleum Act, 1886), such reference shall be construed as referring to the Burma Gazette or to Lower Burma, as the case may be,

XII of 1886.

Extension of Bengal Regulation III, 1818, to Lower Burma.

8. The unrepealed portions of Regulation III of 1818 of the Bengal Code shall, *mutatis mutandis*, be deemed to extend, and on and from the sixteenth day of September, 1875, to have extended, to Lower Burma.

Conferment of magisterial and other powers upon police-officers in Salween and Arakan Hill Districts of Lower Burma.

9. In the tracts of country respectively known as the Salween District and the Hill District of Arakan, section 20 of the Police Act, 1861, shall not apply to any police-officer appointed under section 4 of that Act, and, notwithstanding anything in the Code of Criminal Procedure, 1898, the Local Government shall continue to have power to confer on any such police-officer in either of those tracts, either generally or in regard to particular cases or classes of cases, all or any of the powers conferred or conferable by or under that Code on any Magistrate.

V of 1861.

V of 1898.

The Shan States.

Law in the Shan States.

10. (1) The Local Government, with the previous sanction of the Governor General in Council, may, by notification in the Burma Gazette, extend, with such restrictions and modifications as it thinks fit, to all or any of the Shan States, or to any specified local area in the Shan States, any enactment which is in force in any part of Upper Burma at the date of the extension.

(2) Unless

*(The Shan States.—Sections 11-12.)*

(2) Unless and until it is extended under subsection (1), or unless it is expressed by special mention of the Shan States to extend thereto, an enactment shall not be in force in the Shan States or in any part thereof.

(3) The Local Government, with the previous sanction of the Governor General in Council, may, by notification in the Burma Gazette, declare what territories constitute the Shan States for the purposes of this Act.

11. (1) Subject to the provisions of this Act and of any other enactment for the time being in force in a Shan State, and to such conditions as may have been, or may be, prescribed by the Local Government, with the approval of the Governor General in Council, in any instrument recognizing a person as the chief of the State, the administration of civil and criminal justice and the collection of the revenue within the State shall be vested in the person for the time being recognized by the Local Government as the chief of the State.

Administra-  
tion of Shan  
States by  
their own  
chiefs and  
under their  
own laws.

(2) Subject as aforesaid, the law to be administered in a Shan State shall be the customary law of the State in so far as that law is in accordance with justice, equity and good conscience, and in so far as the punishments which may be awarded thereunder, or the practices which are permitted thereby, are in conformity with the spirit of the law in force in the rest of British India.

12. (1) The Local Government may, by order,—

(a) appoint officers to undertake, or to take part in, the administration of civil and criminal justice and the collection of the revenue within the Shan States;

(b) with the previous sanction of the Governor General in Council, define the powers, and regulate the procedure, of officers so appointed and their deputies and subordinates,  
and

Participation  
of the  
Government  
in the ad-  
ministration  
of Shan  
States.

(*General.—Section 13.*)

and of the chiefs and their deputies and subordinates ;

- (c) with the previous sanction of the Governor General in Council, direct by what authority any jurisdiction, power or duty incident to the operation of any enactment for the time being in force in the Shan States is to be exercised or performed ;
- (d) modify the customary law of the Shan States in so far as, in the opinion of the Local Government, that law is not in accordance with justice, equity and good conscience, or authorizes punishments, or permits practices, which are not in conformity with the spirit of the law in force in the rest of British India ; and
- (e) modify the system of taxation in the Shan States and regulate the assessment and collection of the revenue therein.

(2) An order of the Local Government under subsection (1) may have reference to any one Shan State or to any specified local area therein, or to any number of Shan States specified or referred to in the order.

*General.*

Law to be administered in certain cases.

13. (1) Where in any suit or other proceeding in Burma it is necessary for the Court to decide any question regarding succession, inheritance, marriage or caste, or any religious usage or institution,—

- (a) the Buddhist law in cases where the parties are Buddhists,
- (b) the Muhammadan law in cases where the parties are Mahammadans, and
- (c) the Hindu law in cases where the parties are Hindus,

shall form the rule of decision, except in so far as such law has by enactment been altered or abolished, or is opposed to any custom having the force of law.

(2) Subject

*(General.—Sections 14-15.)*

(2) Subject to the provisions of sub-section (1) and of any other enactment for the time being in force, all questions arising in civil cases instituted in the Courts of Rangoon shall be dealt with and determined according to the law for the time being administered by the High Court of Judicature at Fort William in Bengal in the exercise of its ordinary original civil jurisdiction.

(3) In cases not provided for by sub-section (1) or sub-section (2), or by any other enactment for the time being in force, the decision shall be according to justice, equity and good conscience.

(4) This section does not extend to the Shan States.

14. (1) The Local Government, with the previous sanction of the Governor General in Council, may, by notification in the Burma Gazette, transfer any portion of Upper Burma to Lower Burma, or any portion of Lower Burma to Upper Burma, with effect from a date to be specified in the notification, and, on and with effect from that date, the portion so transferred shall form part of Lower Burma or Upper Burma, as the case may be.

Transfers of territory between Upper and Lower Burma.

(2) When any portion of Upper Burma (except the Shan States) is transferred to Lower Burma, the territory so transferred shall, unless the Governor General in Council otherwise directs, continue to be a Scheduled District.

(3) When any portion of Lower Burma is transferred to Upper Burma, the Governor General in Council may direct that the territory so transferred shall form part of the Scheduled District of Upper Burma.

15. All powers conferred or duties imposed upon the Chief Commissioner of British Burma or Burma by or under any enactment shall be deemed to be, and, on and with effect from the first day of May, 1897, to have been, conferred or imposed upon the Lieutenant-Governor of Burma; and, subject to the provisions of section 7, all references in any instrument

Transfer to Lieutenant-Governor of powers and duties of Chief Commissioner.

*Burma Laws.* [ACT XIII  
(*General.—Sections 16-18.*)

instrument to the said Chief Commissioner shall, on and with effect from that date, be construed as referring to the Lieutenant-Governor.

Amendment  
of certain  
enactments.

16. The enactments mentioned in the third schedule are hereby amended to the extent and in the manner specified in the fourth column thereof.

Citation of  
certain enact-  
ments.

17. The enactments mentioned in the fourth schedule may, without prejudice to any other mode of citation, be cited for all purposes by the appropriate short titles specified in the fourth column thereof.

Repeal of  
certain enact-  
ments.

18. (1) The enactments mentioned in the fifth schedule are hereby repealed to the extent specified in the fourth column thereof.

(2) But the repeal by this Act of any enactment shall not affect any other enactment in which the enactment repealed has been applied, incorporated or referred to;

and nothing in this Act shall affect the validity, invalidity, effect or consequences of anything already done or suffered, or any right, title, obligation or liability already acquired, accrued or incurred, or any remedy or proceeding in respect thereof, or any release or discharge of or from any debt, penalty, obligation, liability, claim or demand, or any indemnity already granted, or the proof of any past act or thing;

nor shall anything in this Act affect any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure, or existing usage, custom, privilege, restriction, exemption, office or appointment, notwithstanding that the same respectively may have been in any manner affirmed, recognized or derived by, in or from any enactment hereby repealed;

nor shall the repeal by this Act of any enactment provide or restore any jurisdiction, office, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not now existing or in force.

THE

1898.]

*Burma Laws.**(The First Schedule.—Enactments declared in force in Upper Burma.)*

## THE FIRST SCHEDULE.

[See section 4, sub-section (1).]

## ENACTMENTS DECLARED IN FORCE IN UPPER BURMA.

[NOTE.—The citation of an enactment includes all enactments, passed before the commencement of this Act, expressly amending the former enactment.]

1	2	3	4
Year.	No.	Short title.	Extent of application.
<i>Regulation of the Bengal Code.</i>			
1818	III	The Bengal State Prisoners Regulation, 1818.	So much as is unrepealed.
<i>Acts of the Governor General in Council.</i>			
1843	V	The Indian Slavery Act, 1843.	So much as is unrepealed.
1847	XX	The Indian Copyright Act, 1847.	Ditto.
1850	XII	The Public Accountants' Defaults Act, 1850.	Ditto.
"	XVIII	The Judicial Officers' Protection Act, 1850.	The whole Act.
"	XIX	The Apprentices Act, 1850	So much as is unrepealed.
"	XXXIV	The State Prisoners Act, 1850.	Ditto.
"	XXXVII	The Public Servants (Inquiries) Act, 1850.	Ditto.
1851	VIII	The Indian Tolls Act, 1851.	Ditto.
1852	XXX	The Indian Naturalization Act, 1852.	Ditto.
1853	II	The Landholders' Public Charges and Duties Act, 1853.	The whole Act.
1855	XII	The Legal Representatives' Suits Act, 1855.	So much as is unrepealed.

1855

*(The First Schedule.—Enactments declared in force in Upper Burma.)*

THE FIRST SCHEDULE—*contd.*

ENACTMENTS DECLARED IN FORCE IN UPPER BURMA—*contd.*

1	2	3	4
Year.	No.	Short title.	Extent of application.
<i>Acts of the Governor General in Council—contd.</i>			
1855	XIII	The Indian Fatal Accidents Act, 1855.	So much as is unrepealed.
"	XXIV	The Penal Servitude Act, 1855.	Ditto.
1857	XI	The State Offences Act, 1857.	Ditto.
"	XXV	The Forfeiture Act, 1857	Ditto.
1858	III	The State Prisoners Act, 1858.	Section 5.
"	XXXV	The Lunacy (District Courts) Act, 1858.	So much as is unrepealed.
"	XXXVI	The Indian Lunatic Asylums Act, 1858.	Ditto.
1859	IX	The Forfeiture Act, 1859.	Ditto.
1860	IX	The Employers and Workmen (Disputes) Act, 1860.	Ditto.
"	XXI	The Societies Registration Act, 1860.	Ditto.
"	XLV	The Indian Penal Code .	Ditto.
1861	V	The Police Act, 1861 .	Ditto.
1863	XVI	The Excise (Spirits) Act, 1863.	Ditto.
1864	III	The Foreigners Act, 1864.	Ditto.
"	VI	The Whipping Act, 1864 .	So much as is unrepealed, except section 6.
"	XV	The Indian Tolls Act, 1864.	The whole Act.



1698.]

*Burma Laws.**(The First Schedule.—Enactments declared in force in Upper Burma.)*THE FIRST SCHEDULE—*contd.*ENACTMENTS DECLARED IN FORCE IN UPPER BURMA—*contd.*

1	2	3	4
Year.	No.	Short title.	Extent of application.
<i>Acts of the Governor General in Council—contd.</i>			
1865	III	The Carriers Act, 1865 .	So much as is unrepealed.
"	X	The Indian Succession Act, 1865.	Ditto.
"	XXI	The Parsi Intestate Succession Act, 1865.	The whole Act.
1867	III	The Public Gambling Act, 1867.	So much as is unrepealed.
"	XXV	The Press and Registration of Books Act, 1867.	Ditto.
1869	IV	The Indian Divorce Act, 1869.	Ditto.
"	V	The Indian Articles of War.	Ditto.
"	XV	The Prisoners' Testimony Act, 1869.	Ditto.
"	XX	The Indian Volunteers Act, 1869.	Ditto.
1870	VII	The Court-fees Act, 1870 .	Ditto.
"	XXIII	The Indian Coinage Act, 1870.	Ditto.
1871	I	The Cattle-trespass Act, 1871.	The whole Act.
"	V	The Prisoners Act, 1871 .	So much as is unrepealed.
"	XXIII	The Pensions Act, 1871 .	Ditto.
1872	I	The Indian Evidence Act, 1872.	Ditto.
"	IX	The Indian Contract Act, 1872.	Ditto.

-1872

*(The First Schedule.—Enactments declared in force in Upper Burma.)*

THE FIRST SCHEDULE—*contd.*

ENACTMENTS DECLARED IN FORCE IN UPPER BURMA—*contd.*

1	2	3	4
Year.	No.	Short title.	Extent of application.
<i>Acts of the Governor General in Council—contd.</i>			
1872	XV	The Indian Christian Marriage Act, 1872.	So much as is unrepealed.
1873	V	The Government Savings Banks Act, 1873.	Ditto.
"	X	The Indian Oaths Act, 1873.	Ditto.
1874	II	The Administrator General's Act, 1874.	Ditto.
"	III	The Married Women's Property Act, 1874.	Ditto.
"	IV	The Foreign Recruiting Act, 1874.	Ditto.
"	IX	The European Vagrancy Act, 1874.	Ditto.
"	XIV	The Scheduled Districts Act, 1874.	Ditto.
1875	V	The Unattested Sepoys Act, 1875.	The whole Act.
"	IX	The Indian Majority Act, 1875.	Ditto.
"	XIII	The Probate and Administration Act, 1875.	So much as is unrepealed.
1876	XI	The Presidency Banks Act, 1876.	Ditto.
"	XIX	The Dramatic Performances Act, 1876.	The whole Act, except section 12.
1877	I	The Specific Relief Act, 1877.	So much as is unrepealed.
"	II	The Probate and Administration Act, 1877.	Ditto.

1898.]

*Burma Laws.**(The First Schedule.—Enactments declared in force in Upper Burma.)*THE FIRST SCHEDULE—*contd.*ENACTMENTS DECLARED IN FORCE IN UPPER BURMA—*contd.*

1	2	3	4
Year.	No.	Short title.	Extent of application.
<i>Acts of the Governor General in Council—contd.</i>			
1877	XI	The Military Lunatics Act, 1877.	So much as is unrepealed.
"	XV	The Indian Limitation Act, 1877.	Ditto.
1878	I	The Opium Act, 1878	Ditto.
"	VI	The Indian Treasure-trove Act, 1878.	Ditto.
"	VIII	The Sea Customs Act, 1878.	The whole Act.
"	XI	The Indian Arms Act, 1878.	So much as is unrepealed.
1879	I	The Indian Stamp Act, 1879.	Ditto.
"	III	The Destruction of Records Act, 1879.	Sections 2, 4, 5, 7 and 8.
"	XI	The Local Authorities Loan Act, 1879.	The whole Act.
"	XIV	The Hackney Carriage Act, 1879.	So much as is unrepealed.
"	XX	The Glanders and Farey Act, 1879.	Ditto.
"	XXI	The Foreign Jurisdiction and Extradition Act, 1879.	Ditto.
1880	V	The Burma Boundaries Act, 1880.	Ditto.
"	XIII	The Vaccination Act, 1880.	The whole Act.
1881	V	The Probate and Administration Act, 1881.	So much as is unrepealed.

1881

(The First Schedule.—Enactments declared in force in Upper Burma.)

THE FIRST SCHEDULE—*contd.*

ENACTMENTS DECLARED IN FORCE IN UPPER BURMA—*contd.*

1	2	3	4
Year.	No.	Short title.	Extent of application.
<i>Acts of the Governor General in Council—contd.</i>			
1881	XI	The Municipal Taxation Act, 1881.	The whole Act.
"	XXVI	The Negotiable Instruments Act, 1881.	So much as is unrepealed.
1882	VI	The Indian Companies Act, 1882.	The whole Act.
"	XII	The Indian Salt Act, 1882.	Sections 1, 2, 6, 7 and 8 and Chapter IV.
"	XIV	The Code of Civil Procedure.	So much as is unrepealed.
"	XVIII	The Burma Steam-boilers and Prime-movers Act, 1882.	The whole Act.
"	XX	The Indian Paper Currency Act, 1882.	So much as is unrepealed.
1883	XIX	The Land Improvement Loans Act; 1883.	Ditto.
1884	IV	The Indian Explosives Act, 1884.	Ditto.
"	VI	The Inland Steam-vessels Act, 1884.	Ditto.
"	XII	The Agriculturists' Loans Act, 1884.	The whole Act.
"	XVI	The Burma Gaming Act, 1884.	Ditto.
1885	XIII	The Indian Telegraph Act, 1885.	Ditto.
1886	II	The Indian Income-tax Act, 1886.	So much as is unrepealed.

1898.]

*Burma Laws.**(The First Schedule.—Enactments declared in force in Upper Burma.)*THE FIRST SCHEDULE—*contd.*ENACTMENTS DECLARED IN FORCE IN UPPER BURMA—*contd.*

1	2	3	4
Year.	No.	Short title.	Extent of application.
<i>Acts of the Governor General in Council—contd.</i>			
1886	VI	The Births, Deaths and Marriages Registration Act, 1886.	So much as is unrepealed.
"	XI	The Indian Tramways Act, 1886.	Ditto.
"	XII	The Petroleum Act, 1886 .	The whole Act.
"	XIII	The Indian Securities Act, 1886.	So much as is unrepealed.
1887	VII	The Suits Valuation Act, 1887.	Ditto.
"	IX	The Provincial Small Cause Courts Act, 1887.	Ditto.
"	XIII	The Electricity Act, 1887 .	The whole Act.
"	XIV	The Indian Marine Act, 1887.	Ditto.
"	XV	The Burma Military Police Act, 1887.	Ditto.
"	XX	The Wild Birds' Protection Act, 1887.	Ditto.
1888	III	The Police Act, 1888 .	Ditto.
"	V	The Inventions and Designs Act, 1888.	Ditto.
"	VIII	The Indian Tolls Act, 1888.	So much as is unrepealed.
"	XVIII	The Burma Financial Commissioners Act, 1888.	Ditto.
1889	I	The Metal Tokens Act, 1889.	Ditto.

1889

(The First Schedule.—Enactments declared in force in Upper Burma.)

THE FIRST SCHEDULE—*contd.*

ENACTMENTS DECLARED IN FORCE IN UPPER BURMA—*contd.*

1	2	3	4
Year.	No.	Short title.	Extent of application.
<i>Acts of the Governor General in Council—contd.</i>			
1889	II	The Measures of Length Act, 1889.	The whole Act.
"	IV	The Indian Merchandise Marks Act, 1889.	So much as is unrepealed.
"	VI	The Probate and Administration Act, 1889.	So much as is unrepealed, except section 21.
"	VII	The Succession Certificate Act, 1889.	The whole Act.
"	XI	The Lower Burma Courts Act, 1889.	Sections 46 and 47.
"	XII	The Cantonments Act, 1889.	So much as is unrepealed.
"	XV	The Indian Official Secrets Act, 1889.	The whole Act.
1890	I	The Revenue Recovery Act, 1890.	Ditto.
"	VI	The Charitable Endowments Act, 1890.	Ditto.
"	VIII	The Guardian and Wards Act, 1890.	Ditto.
"	IX	The Indian Railways Act, 1890.	So much as is unrepealed.
"	XI	The Prevention of Cruelty to Animals Act, 1890.	The whole Act.
"	XIII	The Excise (Malt Liquors) Act, 1890.	Section 9.
1891	XVIII	The Bankers' Books Evidence Act, 1891.	The whole Act.
1892	II	The Marriages Validation Act, 1892.	Ditto.

1898.]

*Burma Laws.**(The First Schedule.—Enactments declared in force in Upper Burma.)*THE FIRST SCHEDULE—*contd.*ENACTMENTS DECLARED IN FORCE IN UPPER BURMA—*contd.*

1	2	3	4
Year.	No.	Short title.	Extent of application.
<i>Acts of the Governor General in Council—contd.</i>			
1892	X	The Government Management of Private Estates Act, 1892.	The whole Act.
1893	IV	The Partition Act, 1893 .	Ditto.
"	V	The Foreign Jurisdiction (Capital Sentences) Act, 1893.	Ditto.
1894	I	The Land Acquisition Act, 1894.	Ditto.
"	IX	The Prisons Act, 1894 .	Ditto.
1895	IX	The Extradition (India) Act, 1895.	Ditto.
"	X	The Indian Railway Companies Act, 1895.	Ditto.
"	XII	The Indian Companies (Memorandum of Association) Act, 1895.	Ditto.
"	XV	The Crown Grants Act, 1895.	Ditto.
"	XX	<i>Ex-King Thebaw's Act,</i> 1895	Ditto.
1896	XII	The Excise Act, 1896 .	Ditto.
1897	III	The Epidemic Diseases Act, 1897.	Ditto.
"	VIII	The Reformatory Schools Act, 1897.	Ditto.
"	IX	The Provident Funds Act, 1897.	Ditto.
"	X	The General Clauses Act, 1897.	Ditto.

(The First Schedule.—Enactments declared in force in Upper Burma. The Second Schedule.—Addition to the Whipping Act, 1864.)

THE FIRST SCHEDULE—concl'd.

ENACTMENTS DECLARED IN FORCE IN UPPER BURMA—concl'd.

1	2	3	4
Year.	No.	Short title.	Extent of application.
<i>Acts of the Governor General in Council—concl'd.</i>			
1897	XII	The Local Authorities' (Emergency) Loans Act, 1897.	The whole Act.
"	XIV	The Indian Short Titles Act, 1897.	Ditto.
1898	II	The Indian Paper Currency Act, 1898.	Ditto.
"	III	The Lepers Act, 1898	Ditto.
"	V	The Code of Criminal Procedure, 1898.	The whole Code (subject to the provisions of the Upper Burma Criminal Justice Regulation, 1892).
"	VI	The Indian Post Office Act, 1898.	The whole Act.
"	IX	The Live-stock Importation Act, 1898.	Ditto.

THE SECOND SCHEDULE.

[See section 4, sub-section (3), clause (b).]

ADDITION TO THE WHIPPING ACT, 1864.

Offenders punishable with whipping in certain other cases.

"6. (1) Notwithstanding anything in the foregoing sections of this Act, a person convicted of an offence specified in the List of Offences annexed hereto or of any offence which the Local Government, with the previous sanction of the Governor General in Council, may, by notification in the Burma Gazette, add to that List, shall be punishable with whipping, either in lieu of, or in addition to, any other punishment to which he may be liable.

"(2) The



*(The Second Schedule.—Addition to the Whipping Act, 1864.)*

“(2) The Local Government may, by notification in the Burma Gazette, suspend the operation of this section, in whole or in part, in any district or part of a district, and, with the previous sanction of the Governor General in Council, by a like notification, remove the suspension of its operation.

V of 1898.

“(3) This section shall be read subject to the provisions of section 393 of the Code of Criminal Procedure, 1898.

## “THE LIST OF OFFENCES.

Section of Indian Penal Code.	Offence.
148	Rioting armed with deadly weapon.
302	Murder.
304	Culpable homicide not amounting to murder.
307	Attempt to murder.
325	Voluntarily causing grievous hurt.
326	Voluntarily causing grievous hurt by dangerous weapons or means.
327	Voluntarily causing hurt to extort property or a valuable security, or to constrain to do anything which is illegal, or which may facilitate the commission of an offence.
329	Voluntarily causing grievous hurt to extort property or a valuable security, or to constrain to do anything which is illegal, or which may facilitate the commission of an offence.
333	Voluntarily causing grievous hurt to deter a public servant from his duty.
382	Theft, preparation having been made for causing death, or hurt, or restraint, or fear of death, or of hurt, or of restraint, in order to the committing of such theft or to retiring after committing it, or to retaining property taken by it.
386	Extortion by putting a person in fear of death or grievous hurt.
387	Putting or attempting to put a person in fear of death or grievous hurt in order to commit extortion.

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THE SECOND SCHEDULE—*concl'd.*

“ THE LIST OF OFFENCES.

Section of Indian Penal Code.	Offence.
392	Robbery.
393	Attempt to commit robbery.
394	Person voluntarily causing hurt in committing or attempting to commit robbery, or any other person jointly concerned in such robbery.
395	Dacoity.
396	Murder in dacoity.
397	Robbery or dacoity, with attempt to cause death or grievous hurt.
398	Attempt to commit robbery or dacoity when armed with deadly weapon.
399	Making preparation to commit dacoity.
400	Belonging to a gang of persons associated for the purpose of habitually committing dacoity.
401	Belonging to a wandering gang of persons associated for the purpose of habitually committing thefts.
402	Being one of five or more persons assembled for the purpose of committing dacoity.
412	Dishonestly receiving stolen property, knowing that it was obtained by dacoity.
435	Mischief by fire or explosive substance with intent to cause damage to amount of one hundred rupees or upwards, or, in case of agricultural produce, ten rupees or upwards.
436	Mischief by fire or explosive substance with intent to destroy a house, &c.
440	Mischief committed after preparation made for causing death or hurt, &c.
455	Lurking house-trespass or house-breaking, after preparation made for causing hurt, assault, &c.
458	Lurking house-trespass or house-breaking by night, after preparation made for causing hurt, &c.
459	Grievous hurt caused whilst committing lurking house-trespass or house-breaking.
460	Death or grievous hurt caused by one of several persons jointly concerned in house-breaking by night, &c.
506	Criminal intimidation, if threat be to cause death or grievous hurt, &c. Abetment of any of the foregoing offences. Attempt to commit any of those offences which are not themselves expressed to be attempts to commit offences.”

1898.]

*Burma Laws.*  
(*The Third Schedule.—Amendments.*)

THE THIRD SCHEDULE.

(See section 16.)

AMENDMENTS.

1	2	3	4
Year.	No.	Short title.	Amendment.
<i>Part I.—Acts of the Governor General in Council.</i>			
1875	VII	The Burma Fisheries Act, 1875.	To section 2 <i>add</i> :— “fixed obstruction” includes a weir, lock, bank or dam, or any fixed engine which impedes navigation, interferes with the flow of water, or prevents fish from proceeding up or down stream : and “implement” includes any implement or engine for catching fish other than a fixed obstruction. In section 6, <i>for the first thirty words substitute</i> No fixed obstruction.
1876	II	The Burma Land and Revenue Act, 1876.	In section 55, in the second proviso, <i>for</i> Chief Commissioner, <i>substitute</i> Financial Commissioner.
1877	XIII	The Burma Embankment Act, 1877.	In section 7, clause (a), <i>after</i> charge <i>insert</i> or of which he is the owner.
1879	IX	The Burma Coast-lights Act, 1879.	In section 16, <i>for</i> on or before the first day of October in each year, <i>publish substitute</i> publish annually.
”	XV	The Rangoon Port Commissioners Act, 1879.	In section 1, <i>for the last sentence substitute</i> Nothing herein contained shall affect the powers conferred on the Local Government under the Indian Ports Act, 1889, section 36, sub-section (5).
1880	II	The Lower Burma District Cesses and Rural Police Act, 1880.	In section 1, <i>for the second proviso substitute</i> Provided also that nothing herein contained applies to any town to which the Burma Municipal Act, 1898, extends. In section 9, <i>for the proviso substitute</i> :— Provided that the Local Government may at any time, for reasons to be recorded, transfer a sum of money from the accounts of any one district to the accounts of any other district.

(The Third Schedule.—Amendments.)

THE THIRD SCHEDULE—contd.

AMENDMENTS—contd.

1	2	3	4
Year.	No.	Short title.	Amendment.
<i>Part I.—Acts of the Governor General in Council—contd.</i>			
1881	II	The Pegu and Sittang Canal Act, 1881.	In section 15, for Deputy Commissioners of Rangoon and Shwegyin, <i>substitute</i> Deputy Commissioner of Pegu; and <i>omit</i> in the said districts respectively.
"	XIX	The Burma Forest Act, 1881.	In section 3, after Deputy Conservators, <i>insert</i> Extra Deputy Conservators, and for Sub-Assistant Conservators <i>substitute</i> Extra Assistant Conservators. In the heading to Chapter IV, for NATURAL PRODUCE <i>substitute</i> FOREST-PRODUCE. In section 37, for pasturage or of the natural produce, <i>substitute</i> forest-produce, and in clauses (c), (g) and (h), for natural produce, wherever the words occur, <i>substitute</i> forest-produce. In section 43, clauses (g) and (h), for stations, wherever the word occurs, <i>substitute</i> revenue-stations. In section 45, for station, wherever the word occurs, <i>substitute</i> revenue-station.
1882	XVIII	The Burma Steam-boilers and Prime-movers Act, 1882.	In section 18, after clause (a) <i>insert</i> :— (aa) for delegating to Commissioners all or any of the powers conferred upon him by sections 3 and 9;
1883	XXII	The Rangoon Tramways Act, 1883.	In section 2, for the definition of "committee" <i>substitute</i> :— "committee" means the committee for the town of Rangoon continued or appointed under the Burma Municipal Act, 1898.
1887	XV	The Burma Military Police Act, 1887.	In section 1, sub-section (2), after and <i>add</i> applies to every member of the Burma military police-force, wherever he may be; and.

1898.]

## Burma Laws.

## (The Third Schedule.—Amendments.)

THE THIRD SCHEDULE—*contd.*AMENDMENTS—*contd.*

1	2	3	4
Year.	No.	Short title.	Amendment.

*Part I.—Acts of the Governor General in Council—concl'd.*

1889	III	The Lower Burma Village Act, 1889.	In section 6, sub-section (1), for the first eight words <i>substitute</i> :— The headman of a village shall be bound to perform the following public duties, namely :— In section 6, sub-section (2), for duties <i>substitute</i> public duties. In section 8, for duties <i>substitute</i> public duties.
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*Part II.—Regulations made under the Government of India Act, 1870 (33 Vict., c. 3).*

1874	IX	The Arakan Hill District Laws Regulation, 1874.	For section 5 <i>substitute</i> :— 5. Notwithstanding anything in the Operation of Indian Arms Act, 1878, Act XI, 1878. or in any rule under that Act, no license to manufacture, or deal in, arms or ammunition shall be granted without the express sanction of the Local Government.  In the first division ( <i>Acts</i> ) of the schedule, <i>omit</i> the entries in the fourth column relating to Act XXXVII of 1850, and to the division <i>add</i> :—  XIV of 1874 . . . Scheduled Districts. The whole Act, except section 10. XV of 1874 . . . Laws Local Extent. The whole Act, except sections 4, 5, 6 and 7. V of 1875 . . . Unattested Sepoys. The whole Act. VII of 1875 . . . B u r m a Fisheries. The whole Act. IX of 1875 . . . Majority . The whole Act. I of 1897 . . . Amending Act XXXVII of 1850. The whole Act.
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1837

(The Third Schedule.—Amendments.)

THE THIRD SCHEDULE—contd.

AMENDMENTS—contd. ' .

1	2	3	4
Year.	No.	Short title.	Amendment.

Part II.—Regulations made under the Government of India Act, 1870 (33 Vict., c. 3)—contd.

1887	V	The Upper Burma Municipal Regulation, 1887.	In section 21, after any rule made under insert section 6 or, and for that section substitute section 12.
"	IX	The Upper Burma Frontier Crossing and Disturbed Districts Regulation, 1887.	In section 2, sub-section (2), for Chindwin, substitute Upper Chindwin, after Bhamo insert Myitkyina, and for Yamethin and Pynmana substitute and Yamethin.
"	XII	The Upper Burma Ruby Regulation, 1887.	In section 16, for Upper Burma Land Acquisition Regulation, IX of 1886, substitute Land Acquisition Act, 1894, and for that Regulation substitute that Act.
"	XIV	The Upper Burma Village Regulation, 1887.	In section, 5 for the first eight words substitute :— The headman of a village shall be bound to perform the following public duties, namely :— In section 7, for duties substitute public duties.  After section 14 add :— 14A. (1) Whoever holds a <i>pwè</i> in any village without a license, or promotes the holding of, or takes part in, a <i>pwè</i> held without such license, shall be punished, on conviction by a Magistrate, with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.  (2) No fee shall be paid on the application for, or on the issue of, the license required by sub-section (1).

## (The Third Schedule.—Amendments.)

## THE THIRD SCHEDULE—contd.

## AMENDMENTS—contd.

1	2	3	4
Year.	No.	Short title.	Amendment.
1889	III	The Upper Burma Land and Revenue Regulation, 1889.	In section 36, sub-section (1), <i>for</i> shall ascertain <i>substitute</i> may ascertain.
1891	VI	The Upper Burma Towns Regulation, 1891.	<p><i>After</i> section 7 <i>add</i> :—</p> <p>7A. (1) Whoever holds a <i>pwè</i> in any town without a license granted by the Deputy Commissioner or by an officer appointed by the Deputy Commissioner in this behalf, or promotes the holding of, or takes part in, a <i>pwè</i> held without such license shall be punished, on conviction by a Magistrate, with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.</p> <p>(2) No fee shall be paid on the application for, or on the issue of, the license required by sub-section (1).</p>
1892	V	The Upper Burma Criminal Justice Regulation, 1892.	<p>In section 2, sub-section (1), <i>for</i> 1882 <i>substitute</i> 1898.</p> <p>In the second column of the table annexed to section 5 of the schedule, <i>for</i> To entertain cases without complaint, section 191, clause (c), <i>substitute</i> To take cognizance of any offence upon information received from any person other than a police-officer, or upon his own knowledge or suspicion, that such offence has been committed, section 190, sub-section (1), clause (c) ; <i>for</i> To entertain complaints, section 191, <i>substitute</i> To take cognizance of an offence upon receiving a complaint of facts which constitute such offence, section 190, sub-section (1), clause (a) ; <i>and for</i> To receive police-reports, section 191, clause (b), <i>substitute</i> To take cognizance of an offence upon a</p>

police-report

*Burma Laws.*  
(The Third Schedule.—Amendments.)

[ACT XIII

THE THIRD SCHEDULE—*contd.*

AMENDMENTS—*contd.*

1	2	3	4
Year.	No.	Short title.	Amendment.

*Part II.—Regulations made under the Government of India Act, 1870 (33 Vict., c. 3)—contd.*

1892 V—*contd.*

police-report of facts which constitute such offence, section 190, sub-section (1), clause (b).

*After section XIV of the schedule add:—*

XIVA. Notwithstanding anything in section 526, a Court of Session may,—  
(Section 526.)

(1) if it is absolutely debarred by section 487 from trying any case committed to it, or by section 556 from hearing any appeal pending before it, direct that such case or appeal be transferred for trial or hearing to any other Criminal Court of equal jurisdiction;

(2) exercise as regards all Criminal Courts subordinate to its authority all the powers with respect to the transfer of criminal cases and appeals conferred upon the High Court by section 528:

Provided, first, that an application for the exercise of the power conferred by this section, if founded upon a report of the Judge or Magistrate before whom the case or appeal is pending, need not be supported by affidavit or affirmation:

Provided, secondly, that the Court shall, before directing the transfer of a case or of an appeal under this section, issue a notice to the accused requiring him to show cause on a certain day, to be fixed in the notice, why the said case or appeal should not be transferred to some Court therein named or to such other Court of competent jurisdiction as might be determined:



1898.]

*Burma Laws.*  
(*The Third Schedule.—Amendments.*)

THE THIRD SCHEDULE—*concl'd.*

AMENDMENTS—*concl'd.*

1	2	3	4
Year.	No.	Short title.	Amendment.

*Part II.—Regulations made under the Government of India Act, 1870 (33 Vict., c. 3)—concl'd.*

1892	V— <i>concl'd.</i>		<p>Provided, thirdly, that the High Court may, on the application of the accused or of the Public Prosecutor, reverse or vary any order made by a Court of Session under this section or substitute any other order in lieu thereof.</p> <p>In section XVI of the schedule, for 553, clause (c), substitute 554, sub-section (2), clause (c).</p>
1896	I	The Upper Burma Civil Courts Regulation, 1896.	<p>To section 12 <i>add</i> :—</p> <p>(4) The period of limitation for an appeal to the Divisional Court under clause (b) of sub-section (3) shall be sixty days, and in the computation of that period and in all other respects the limitation of the appeal shall be governed by the provisions of the Indian Limitation Act, 1877.</p> <p>To section 13 <i>add</i> :—</p> <p>The period of limitation for an appeal to the Court of the Judicial Commissioner under this section shall be ninety days, and in the computation of that period and in all other respects the limitation of the appeal shall be governed by the provisions of the Indian Limitation Act, 1877.</p>

*Part III.—Regulation of the Bengal Code.*

1812	XI	The Bengal Foreign Immigrants Regulation, 1812.	In section 2, for he substitute it.
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*Burma Laws.*  
(*The Fourth Schedule.—Short Titles.*)

[ACT XIII

THE FOURTH SCHEDULE.

(See section 17.)

SHORT TITLES.

1	2	3	4
Year.	No.	Subject.	Short title.

*Acts of the Governor General in Council.*

1888	XVIII	To provide for the appointment of a Financial Commissioner for Burma and for the definition of his functions.	The Burma Financial Commissioner's Act, 1888.
1892	III	To amend the Rangoon Port Commissioners Act, 1879.	The Rangoon Port Commissioners Act (1879) Amendment Act, 1892.
1894	XI	To amend the Lower Burma Village Act, 1889.	The Lower Burma Village Act (1889) Amendment Act, 1894.
1895	XI	To remove certain doubts as to the validity of certain proceedings and acts of certain officers of the Pegu and Tenasserim Divisions in Lower Burma and to prevent their being raised in the future.	The Pegu and Tenasserim Validation Act, 1895.
	XVIII	To amend the Lower Burma Village Act, 1889, and the Lower Burma Towns Act, 1892.	The Lower Burma Villages and Towns Law Amendment Act, 1895.

*Regulations made under the Government of India Act, 1870 (33 Vict., c. 3).*

1891	I	To amend the Upper Burma Civil Justice Regulation, 1886, the Upper Burma Stamps and Limitation Regulation, 1887, and the Upper Burma Village Regulation, 1887.	The Upper Burma Village Regulation (1887) Amendment Regulation, 1891.
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1891

1898.]

*Burma Laws.**(The Fourth Schedule—Short Titles.)*THE FOURTH SCHEDULE—*contd.*SHORT TITLES—*contd.*

1	2	3	4
Year.	No.	Subject.	Short title.
		<i>Regulations made under the Government of India Act, 1870 (33 Vict., c. 3)—contd.</i>	
1891	V	To amend the Upper Burma Ruby Regulation, 1887.	The Upper Burma Ruby Regulation (1887) Amendment Regulation, 1891.
1892	II	To amend the Arakan Hill Civil Justice Regulation, 1874.	The Arakan Hills Civil Justice Regulation (1874) Amendment Regulation, 1892.
1894	III	To amend the Upper Burma Land and Revenue Regulation, 1889.	The Upper Burma Land and Revenue Regulation (1889) Amendment Regulation, 1894.
"	IV	To amend the Upper Burma Village Regulation, 1887.	The Upper Burma Village Regulation (1887) Amendment Regulation, 1894.
1895	II	To amend the Upper Burma Land and Revenue Regulation, 1889.	The Upper Burma Land and Revenue Regulation (1889) Amendment Regulation, 1895.
1896	IV	To amend the Upper Burma Village Regulation, 1887, the Upper Burma Land and Revenue Regulation, 1889, and the Upper Burma Towns Regulation, 1891.	The Upper Burma Villages, Towns and Land-revenue Law Amendment Regulation, 1896.
1897	I	To amend the Upper Burma Ruby Regulation, 1887.	The Upper Burma Ruby Regulation (1887) Amendment Regulation, 1897.

THE FIFTH

*Burma Laws.*  
(*The Fifth Schedule.—Repeals.*)

[ACT XIII

THE FIFTH SCHEDULE.

(See section 18.)

REPEALS.

1	2	3	4
Year.	No.	Short title or subject.	Extent of repeal.
<i>Part I.—Acts of the Governor General in Council.</i>			
1846	I	The Legal Practitioners Act, 1846.	The whole Act, in so far as it applies to Burma.
1853	XX	The Legal Practitioners Act, 1853.	The whole Act, in so far as it applies to Burma.
1854	XXVI	Making better provision for the education of male minors subject to the superintendence of the Court of Wards.	The whole Act, in so far as it applies to Burma.
1875	VII	The Burma Fisheries Act, 1875.	In section 2, <i>the word and where it occurs after the word eggs.</i>  In section 7, <i>the words or fixed engine and the words or engine wherever they occur.</i>  In section 8, clause (e), <i>the words and engines.</i>
1876	II	The Burma Land and Revenue Act, 1876.	In section 40, clause (a), <i>the words prepare or, the words preparing or and the words catch, beeswax, honey, lac, cardamoms and other forest-produce or.</i>  Section 61.
1879	XV	The Rangoon Port Commissioners Act, 1879.	Section 43.  In section 56, <i>the proviso.</i>  In section 67, <i>the word new in each of the places in which it occurs.</i>
1882	XX	The Indian Paper Currency Act, 1882.	In section 5, clause (e), section 7, clause (b), and section 17, <i>the word British wherever it occurs.</i>

1884

1898.]

*Burma Laws.*  
(*The Fifth Schedule.—Repeals.*)

THE FIFTH SCHEDULE—*contd.*

REPEALS—*contd.*

1	2	3	4
Year.	No.	Short title or subject.	Extent of repeal.
<i>Part I.—Acts of the Governor General in Council—contd.</i>			
1884	XVII	The Burma Municipal Act, 1884.	The whole Act.
1886	XX	The Upper Burma Laws Act, 1886.	The whole Act.
1887	XV	The Burma Military Police Act, 1887.	In section 1, sub-section (2), <i>the words</i> (inclusive of Upper Burma), except the Shan States.
1888	XV	The Shan States Act, 1888	The whole Act.
"	XVIII	The Burma Financial Commissioner's Act, 1888.	In section 1, sub-section (1), <i>the words</i> (inclusive of Upper Burma), except the Shan States.  So much of section 7 and of the schedule as relates to Act XX of 1886.
"	XIX	Amending the Burma Municipal Act, 1884.	The whole Act.
1889	VI	The Probate and Administration Act, 1889.	In section 1, sub-section (2), <i>the words</i> (inclusive of Upper Burma), except the Shan States.
"	VII	The Succession Certificate Act, 1889.	In section 1, sub-section (3), <i>the words</i> (inclusive of Upper Burma) except the Shan States.
"	XI	The Lower Burma Courts Act, 1889.	So much of section 2 and of the first schedule as relates to Act XX of 1886.  Section 4.  So much of section 97 and of the second schedule as relates to Regulation IX of 1874.  Sections 99, 100, 101, 102 and the third schedule.

1889

*Burma Laws.*  
(*The Fifth Schedule.—Repeals.*)

[ACT XIII

THE FIFTH SCHEDULE—*contd.*

REPEALS—*contd.*

1	2	3	4
Year.	No.	Short title or subject.	Extent of repeal.
<i>Part I.—Acts of the Governor General in Council—contd.</i>			
1889	XIII	The Cantonments Act, 1889.	In section 1, sub-section (2), <i>the words</i> inclusive of Upper Burma.  So much of section 2 and of the schedule as relates to Act XX of 1886.
1890	I	The Revenue Recovery Act, 1890.	In section 1, sub-section (2), <i>the words</i> Upper Burma and.
"	VI	The Charitable Endowments Act, 1890.	In section 1, sub-section (2), <i>the words</i> Upper Burma and.
"	VIII	The Guardian and Wards Act, 1890.	In section 1, sub-section (2), <i>the words</i> Upper Burma and.
"	IX	The Indian Railways Act, 1890.	In section 1, sub-section (2), <i>the words</i> of Upper Burma, and.  So much of section 2 and of the first schedule as relates to Act XX of 1886.
1891	XII	The Repealing and Amending Act, 1891.	So much of the first schedule as relates to Acts XVII of 1884 and XIX of 1888 and so much of the second schedule as relates to Acts XIX of 1881 and XVII of 1884.
"	XIX	The Upper Burma Laws Act Amendment Act, 1891.	The whole Act.
"	XXI	Amending the Lower Burma Municipal Act, 1884.	The whole Act.
1892	X	The Government Management of Private Estates Act, 1892.	In section 1, sub-section (2), <i>the words</i> Upper Burma and.
1894	IX	The Prisons Act, 1894	In section 1, sub-section (2), <i>the words</i> Upper Burma.  So much of section 2 and of the schedule as relates to Act XX of 1886.

1898.]

*Burma Laws.*  
(*The Fifth Schedule.—Repeals.*)

THE FIFTH SCHEDULE—*contd.*

REPEALS—*contd.*

1	2	3	4
Year.	No.	Short title or subject.	Extent of repeal.

*Part I.—Acts of the Governor General in Council—contd.*

1894	XIV	Amending the Burma Municipal Act, 1884.	The whole Act.
1895	II	The Burma Boundaries Act Amendment Act, 1895.	In section 1, sub-section (2), the words except the Shan States.
"	XXI	Amending the Upper Burma Laws Act, 1886, and the Shan States Act, 1888.	The whole Act.
1896	XII	The Excise Act, 1896	In section 1, sub-section (2), the words (inclusive of Upper Burma).
1897	III	The Epidemic Diseases Act, 1897.	In section 1, sub-section (2), the words Upper Burma.
"	IX	The Provident Funds Act, 1897.	In section 1, sub-section (2), the words Upper Burma and.
1898	III	The Lepers Act, 1898	In section 1, sub-section (2), the words Upper Burma.
"	VI	The Indian Post Office Act, 1898.	In section 1, sub-section (2), the words Upper Burma.

*Part II.—Regulations made under the Government of India Act, 1870*  
(33 Vict., c. 3).

1874	IX	The Arakan Hill District Laws Regulation, 1874.	So much of the first division ( <i>Acts</i> ) of the schedule as relates to the Female Infanticide Prevention Act, 1870, and so much of the second division ( <i>Bengal Regulations</i> ) of the same as relates to the Bengal State Offences Regulation, 1804, and the Bengal Foreign Immigrants Regulation, 1812.
1887	V	The Upper Burma Municipal Regulation, 1887.	In section 3, sub-section (1), the words except the Shan States.

1887

*Burma Laws.*  
(*The Fifth Schedule.—Repeals.*)

[ACT XIII

THE FIFTH SCHEDULE—*contd.*

. REPEALS—*contd.*

1	2	3	4
Year.	No.	Short title or subject.	Extent of repeal.
<i>Part II.—Regulations made under the Government of India Act, 1870 (33 Vict., c. 3)—contd.</i>			
1887	VI	The Upper Burma Forest Regulation, 1887.	In section 1, sub-section (2), <i>the words</i> except the Shan States.
"	IX	The Upper Burma Frontier Crossing and Disturbed Districts Regulation, 1887.	In section 1, sub-section (2), <i>the words</i> except the Shan States.
"	X	The Upper Burma Stamps and Limitation Regulation, 1887.	In the preamble, <i>the words</i> And whereas it is expedient to limit the amount of interest to be decreed in suits instituted while the law of limitation for the institution of suits is inoperative.  In section 1, sub-section (2), <i>the words</i> except the Shan States.
"	XII	The Upper Burma Ruby Regulation, 1887.	In section 1, sub-section (2), <i>the words</i> except the Shan States.
"	XIV	The Upper Burma Village Regulation, 1887.	In section 1, sub-section (2), <i>the words</i> except the Shan States.
1889	III	The Upper Burma Land and Revenue Regulation, 1889.	In section 1, sub-section (2), <i>the words</i> except the Shan States.
1891	VI	The Upper Burma Towns Regulation, 1891.	In section 1, sub-section (2), <i>the words</i> except the Shan States.
1892	V	The Upper Burma Criminal Justice Regulation, 1892.	In section 2, sub-section (1), <i>the words</i> except the Shan States. In section 1 of the schedule, <i>the words</i> Local Government with the previous sanction of.
1895	V	Amending the Upper Burma Criminal Justice Regulation, 1892.	The whole Regulation.
1896	I	The Upper Burma Civil Courts Regulation, 1896.	In section 1, sub-section (2), <i>the words</i> except the Shan States.  Section 4.



1898]

*Burma Laws.**(The Fifth Schedule.—Repeals.)*THE FIFTH SCHEDULE—*concl'd.*REPEALS—*concl'd.*

1	2	3	4
No.		Short title or subject.	Extent of repeal.
<i>Part II.—Regulations made under the Government of India Act, 1870 (33 Vict., c. 3)—concl'd.</i>			
1896	VI	Amending the Upper Burma Civil Courts Regulation, 1896.	The whole Regulation.
"	VII	Repealing the Upper Burma Land Acquisition Regulation, 1886.	The whole Regulation.
<i>Part III.—Regulation of the Bengal Code.</i>			
1799	V	The Bengal Wills and Intestacy Regulation, 1799.	The whole Regulation, in so far as it applies to Burma.