

THE



Bombay Government Gazette.

Published by Authority.

THURSDAY, 1st AUGUST 1867.

Separate paging is given to this Part in order that it may be filed as a separate compilation. The paging of this Part commenced with the Number for January 1867.

PART IV.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 18th July 1867, and is hereby promulgated for general information:—

Act No. XXXII. of 1867.

An Act to enable the Governor General in Council to delegate to a Chief Commissioner powers conferred on a Local Government.

WHEREAS it is expedient to enable the Governor General of India in Council to delegate to any of the Chief Commissioners of Oudh, the Central Provinces, and British Burmah, any power conferred on the Governor General in Council as the Local Government of the territories under the administration of such Commissioner by any Act of the said Governor General in Council; It is hereby enacted as follows:—

1. It shall be lawful for the Governor General of India in Council, by a Notification published in the *Gazette of India*, to delegate to the Chief Commissioner of Oudh, the Central Provinces, or British Burmah, as the case may be, all or any of the powers heretofore or hereafter conferred by any Act of the Governor General of India in Council on the Governor General of India in Council, as the Local Government of the territories under the administration of such Chief Commissioners; and all acts done by

the Chief Commissioner, to whom any such power shall have been delegated as aforesaid, in exercise of the same power, shall be as valid as if they had been done by the said Governor General in Council.

Short title.

2. This Act may be called "The Chief Commissioners' Powers Act."

WHITLEY STOKES,
Asstt. Secy. to the Govt. of India,
Home Department (Legislative).

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 18th July 1867, and is hereby promulgated for general information:—

Act No. XXXIII. of 1867.

An Act to amend Act No. XXXI. of 1861.

WHEREAS it is expedient to amend Act No. XXXI. of 1861 (to regulate the manufacture of Saltpetre, and the sale of Salt educed in the refinement thereof); It is hereby enacted as follows:—

1. Section 6 of the said Act shall be read as if for the words "fine of Rupees five hundred," the following were substituted (that is to say), "fine not exceeding Rupees five hundred."

WHITLEY STOKES,
Asstt. Secy. to the Govt. of India,
Home Dept. (Legislative).

ACTS—30



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PART VI.

BILLS OF THE GOVERNMENT OF INDIA.

HOME DEPARTMENT (Legislative).

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations, on the 17th July 1867, and was referred to a Select Committee, with instructions to make their report thereon in a week :—

Bill No. 18 of 1867.

A Bill to repeal Act No. XIX. of 1866 in the places to which the Madras Salt Excise Act, 1867, may be made applicable.

WHEREAS it was enacted by Section 1 of Act No. XIX. of 1866 (to enhance the price of Salt manufactured and sold under the orders of the Governor of the Presidency of Fort Saint George in Council), that Section 43 of Act No. VI. of 1844 should be repealed, and that, in lieu thereof, the following section should be substituted (that is to say) :—

“XLIII. The price to be paid to the Government of the Presidency of Fort Saint George for salt manufactured and sold under the orders of the Governor of the Presidency in Council, for consumption within the territories subordinate to the same Presidency, shall from and after the passing of this Act, be one Rupee and eleven annas for every three thousand two hundred tolas weight of salt.”

And whereas, with the previous sanction of the Governor General of India, a Bill to be called the Madras Salt Excise Act, 1867, has been in-

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roduced into the Council of the Governor of Fort Saint George for the purpose of making Laws and Regulations, to enable the Local Government to levy a duty, by way of Excise, on salt manufactured in the districts to which such Act may be made applicable, and there to fix the Salt Excise and Import Duties, and the selling price of salt imported by the Government, at such rates as the Governor of Fort Saint George in Council, with the sanction of the Governor General of India in Council, may, from time to time, determine: And whereas, in order to give effect to the proposed enactment, it is necessary to render the said Act No. XIX. of 1866, and the Section substituted thereby for the original Section 43 of Act No. VI. of 1844, inoperative in those districts to which the said Madras Salt Excise Act, 1867, may be made applicable; It is hereby enacted as follows :—

1. In all districts, or parts of districts, of the Madras Presidency to which the said Madras Salt Excise Act of 1867 may be made applicable, Act No. XIX. of 1866 of the Governor General of India in Council, and the said Section thereby substituted for the original Section 43 of Act No. VI. of 1844, shall be held to be repealed and of no effect.

STATEMENT OF OBJECTS AND REASONS.

Act No. XIX. of 1866 enhances the price of salt manufactured and sold in Madras under the orders of the Local Government from Rupee 1-8 to

Rupee 1-11 per 3,200 tolas; and for this purpose, substituted a new Section for Section 43 of Act No. VI. of 1844.

In July 1866 permission was given for the introduction of a Bill into the local Legislature of Madras to legalize the adoption of the Excise system of Salt Revenue on the Western Coast of that Presidency, and there to fix, subject to the approval of the Government of India, the rate of duty on imported salt, and the selling price of such salt as the local Government might continue to import and sell at their own Depôts.

A Bill has accordingly been drafted to give effect to this sanction, and provision has been necessarily made in it for the repeal, among other enactments, of Section 43 Act No. VI. of 1844, as substituted for the original Section 43 of that Act by Act No. XIX. of 1866, and also of the latter enactment, so far as regards those districts into which the Excise system may be introduced.

As the Local Legislature cannot repeal Act No. XIX. of 1866, which was passed by the Imperial Legislature, the present Bill has been framed. It simply proposes to repeal, in the districts to which the Madras Salt Excise Act, 1867, may be made applicable, Act No. XIX. of 1866 and the Section thereby substituted.

SIMLA,
The 2nd July 1887. } (Signed) H. S. MAJNE.

WHITLEY STOKES,

Asst. Secy. to the Govt of India,
Home Dept. (Legislative).

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations, on the 17th July 1867, and was referred to a Select Committee, with instructions to make their report thereon in six weeks:—

Bill No. 19 of 1867.

THE OUDH RENT ACT.

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A Bill to consolidate and amend the Law relating to Rent in Oudh.

WHEREAS it is expedient to consolidate and amend the law relating to rent in Oudh, and to other matters connected

therewith ; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

1. This Act may be cited as "The Oudh Rent Act," and shall extend only to the territories for the time being under the administration of the Chief Commissioner of Oudh.

CHAPTER II.

OF CERTAIN RIGHTS AND LIABILITIES OF LANDLORDS
AND TENANTS.*Right of Occupancy.*

4. Tenants, who have lost all proprietary right, whether superior or subordinate, in the lands which they hold or cultivate, shall, so long as they pay the rent payable for the same, have a right of occupancy under the following rule (that is to say):—

Every such tenant, who, within thirty years next before the 13th day of February 1856, has been, either by himself, or by himself and some other person from whom he has inherited, in possession of the proprietary right in a village or estate, shall be deemed to possess an hereditary right of occupancy in the land which he cultivated or held in such village or estate on the 24th day of August 1866: Provided that such land has not come into his occupancy, or the occupancy of the person from whom he has inherited, for the first time since the said 13th day of February 1856: Provided also that no such tenant shall have a right of occupancy in any village or estate in which he or any co-sharer with him possesses any under-proprietary right.

Tenants' right to leases.

5. Every tenant is entitled to receive from his landlord a lease executed by him, and containing the following particulars:—
The quantity of land; and, where the fields comprised in the lease have been numbered in a Government survey, the number of each field:
The amount of annual rent reserved:
The instalments in which the same is to be paid;
Any special conditions of the lease:
If the rent is payable in kind, the proportion of produce to be delivered, and the time, manner, and place of delivery.

6. Tenants having a right of occupancy are entitled to receive leases at rates of rent determined in accordance with the provisions of Section 32.

7. Tenants not having a right of occupancy are entitled to leases only at such rates of rent as may be agreed on between them and the landlord.

Lessors' right to counterparts.

8. Every person who grants a lease is entitled to receive a counterpart from the person to whom the lease is granted.

Receipts.

9. Receipts for rent and acknowledgments of the tender of rent shall specify the year or years on account of which the rent is acknowledged to have been paid or tendered; and any refusal to make such specification shall be held to be a withholding of a receipt or acknowledgement.

2. All laws, orders having the force of law, and Repeal of laws, &c. rules in force in Oudh, inconsistent with any of the provisions of this Act, are repealed.

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

"Oudh" means the territories for the time being under the administration of the Chief Commissioner of Oudh;

"Court" means any Judicial Officer presiding in a Court of Revenue for the disposal of matters under this Act;

"Assistant Commissioner" includes an Extra Assistant Commissioner;

"Land" includes the ungathered produce thereof, whether spontaneous or otherwise, and whether growing in earth or water;

"Revenue" means the money payable annually to the Government on account of land;

"Rent" means the money not being revenue, or the portion of the produce of land, payable on account of the use or occupation, of land;

"Arrear of rent" means any instalment of rent which is not paid on or before the day when the same becomes due, whether under an instrument in writing or according to local usage;

"Under-proprietor" means any person possessing a heritable and transferable right of property in land for which he is liable to pay rent;

"Tenant" means any person not being an under-proprietor, who is liable to pay rent;

"Landlord" means any person entitled to receive rent from an under-proprietor or tenant;

"Representative" means the heir or any other person legally representing a deceased person. It also means the guardian of a minor and the legal curator of a lunatic or idiot;

"Suit" means a suit instituted by a plaintiff in the manner provided by this Act up to and including the decree of the Court of first instance;

"Year" and "month" respectively mean a year and month reckoned according to the English calendar;

"Section" means a section of this Act;

"Number." Words in the singular number include the plural: words in the plural number include the singular; and words importing the male sex include females.

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Deposit of Rent in Court without suit.

10. If any under-proprietor or tenant shall, at the place where the rents of the land held or cultivated by him are usually payable, tender payment to the landlord of what the tenant shall consider to be the full amount of rent due from him at the date of the tender to such landlord in respect of such land, and if the amount so tendered shall not be accepted and a receipt in full forthwith granted, it shall be lawful for the under-proprietor or tenant without any suit having been instituted against him, to deposit such amount in the Collector's Court to the credit of the landlord; and such deposit shall, so far as the under-proprietor or tenant and all persons claiming through or under him are concerned, operate as a payment then made by the under-proprietor or tenant of the amount deposited to such landlord.

11. The Collector shall receive such deposit on the application of the under-proprietor or tenant or his authorized agent, made in writing upon paper bearing a stamp of such value as would be necessary on the institution of suit for arrears of rent under this Act, for an amount equal to that which it is intended to deposit; and on the under-proprietor or tenant or his authorized agent making a declaration in the form, or as nearly as circumstances will admit, in the form set forth in Schedule A hereto annexed, the Collector shall give a receipt for the deposit. If the declaration shall contain any averment which the person making the declaration shall know or believe to be false or shall not know or believe to be true, he shall be deemed to have committed the offence of giving false evidence in a stage of a judicial proceeding. Upon receiving the money so deposited the Collector shall issue a notice to the person to whose credit it has been deposited in the form set forth in the Schedule B hereto annexed. Such notice shall be served by the Collector without the payment of any fee upon the person to whom it is addressed or upon his authorized Agent. In the absence of any such agent it may be served by sticking up a notice of the same in the Office of the Collector, and another copy at the place where the rents are usually paid for the land in respect of which the money has been deposited. If the person to whom such notice is issued or his authorized agent shall appear and apply that the money in deposit be paid to him, it shall immediately be paid accordingly.

12. Whenever a deposit shall have been made under the provisions of this Act, no suit shall be brought against the depositor or his representatives on account of any rent which accrued due in respect of the land last herein before mentioned prior to the date of the deposit, unless such suit is instituted within six months from the date of the service of the notice mentioned in Section 11.

Compulsory attendance or payment.

13. No landlord is authorized to compel the attendance of any under-proprietor or tenant for the adjustment of his rent, or

for any other purpose, nor can he legally adopt any means of compulsion for enforcing payment of the rents due to him other than are authorized by the provisions of this Act.

Excessive Exaction. Illegal Extortion.

14. Every under-proprietor or tenant, from whom any sum is exacted in excess of the rent specified in his lease or otherwise legally claimable, and every under-proprietor or tenant, from whom a receipt or acknowledgment is withheld for any sum of money paid or tendered by him as rent, shall be entitled to recover from the person receiving such rent, to whom such rent is tendered, compensation not exceeding double the amount so exacted or paid or tendered.

15. If payment of rent, whether the same be legally due or not is extorted from any under-proprietor or tenant by any means not authorized by this Act, such under-proprietor or tenant shall be entitled, in addition to any amount for which he may obtain a decree in respect of such payment, to receive such compensation not exceeding in any case the sum of two hundred Rupees as the Court may think proper to award. An award of compensation under this Section shall not bar or affect any penalty to which the defendant may be subject under the criminal law.

Abatement of Rent.

16. No suit for an abatement of rent shall be brought by any tenant not having a right of occupancy and not holding under a lease, except on the ground that the area of the land has been diminished by diluvion or otherwise.

17. No suit for an abatement of rent shall be brought by any tenant having a right of occupancy or holding under a lease, or by any under-proprietor except on the ground that the area of the land has been diminished by diluvion or on some ground specified in the lease, agreement, or decree under which he holds.

Remission of Rent.

18. Notwithstanding anything contained in Sections 16, 17, and 40, it shall be lawful for the Court in making a decree for an arrear of rent, to allow such remission from the rent payable by any tenant, as may appear equitable, if the area of the land in the occupation of such tenant has been diminished by diluvion or otherwise, or if the produce of such land has been diminished by drought or hail, or other calamity beyond the control of the tenant, to such an extent that the full amount of rent payable by such tenant cannot, in the opinion of the Court, be equitably decreed.

Relinquishment of Land.

19. Any tenant who desires to relinquish the land held by him shall be at liberty to do so provided he gives notice of such desire in writing to the land-

lord or his authorized agent on or before the 15th day of May next following. If he fail to give such notice, and the land is not let to any other person, he shall continue liable for the rent of the land. If the landlord or his authorized agent refuse to receive such notice and to sign a receipt for the same, the tenant may make an application to the Court, which shall thereupon cause the notice to be served on such landlord or his agent in the manner provided in Section 37: Provided that if notice of enhancement of rent shall have been served on the tenant in manner provided by Section 37, he may within fifteen days of receiving the notice, signify in writing his intention to relinquish his holding; and such writing, if served on the landlord or his authorized agent, shall be held to be a notice under this Section.

Arrears of Rent.

20. An arrear of rent, unless otherwise provided by written agreement, shall bear interest at twelve per cent. per annum.

21. When an arrear of rent shall be adjudged to be due from any sub-lessee, his lease shall be liable to be cancelled, and he himself to be ejected:

Provided that no such lease shall be cancelled, nor the sub-lessee ejected, otherwise than in execution of a decree under the provisions of this Act.

Compensation for Tenants' Improvements.

22. If a tenant, or the person from whom he shall have inherited, make any such improvements on the land in his occupancy as are hereinafter mentioned; and if a landlord serve, under this Act, upon any such tenant not having a right of occupancy, a notice of ejectment or enhancement of rent from or in respect of the land in his occupation, or bring a suit to eject or to enhance the rent of any such tenant having a right of occupancy, the tenant shall be entitled to compensation for the outlay, in money or labour, or both, in making such improvements, which shall have been effected by him, or the person from whom he has inherited, within thirty years next before the service or institution of such notice or suit as aforesaid.

23. The word "improvements," as used in the "Improvements" defined. last preceding Section, means works by which the annual letting value of the land has been, and at the time of demanding compensation continues to be, increased, and shall comprise—

1st—The construction of wells and of works for the storage of water, for applying water for irrigation, for drainage, and for protection against floods; the reclaiming, clearing, and enclosing of waste lands and jungles; and other works of a like nature;

2nd—The renewal or reconstruction of any of the foregoing works, or such alterations therein or additions thereto as are not required for maintaining the same, and which increase durably their value.

24. Such compensation may, at the option of the landlord or his representative, be made—

(1).—By payment in money;

(2).—By the grant of a beneficial lease of the land by the landlord or his representative to the tenant or his representative; or

(3).—Partly by payment in money, and partly by the grant of such lease as aforesaid.

25. In case of difference as to the amount or

Provision for difference as to amount or value of compensation.

value of the compensation tendered, the amount of the payment or the terms of the lease, or

both, shall be determined by the Court; and it shall be lawful for the Chief Commissioner of Oudh, with the previous sanction of the Governor

General of India in Council, to make rules

consistent with this Act, for giving effect to the provisions contained in the former part of this Section, and from time to time, with such sanction as aforesaid, to alter and add to the rules so made.

26. Nothing in Sections 23, 24, and 25 shall

Nothing in Sections 23, 24, 25 to affect agreements.

affect the terms of any agreement in writing which may have been,

or may be, entered into between a landlord and a tenant respecting the making of, or compensation for, improvements.

27. If in any case a landlord shall tender to a

Tender of lease for 20 years to bar right to claim compensation.

tenant a lease of the land in his occupation, for a term of not less than twenty years from the date of

the tender, at the annual rent then paid by the tenant, or at such other annual rent as may be agreed upon, such tender, if accepted by the tenant, shall be deemed to be a bar to any claim by him or his representative in respect of improvements previously made on such land by the tenant or the person from whom he shall have inherited.

CHAPTER III.

COMMUTATION AND PAYMENT OF RENT IN KIND.

28. In any district in which a settlement of revenue

Commutation of rents in kind. is in progress, it shall be lawful for any officer employed in making or revising

such settlement, in any case in which the rent of a tenant having a right of occupancy is paid in kind or by the estimated value of a portion of the crop, to commute, on the application either of the landlord or the tenant, such rent into a rent in money. The amount of rent thus fixed shall be binding upon the parties concerned. All decisions already passed by any such Officer, commuting rents in kind or by valuation to rents in money, shall, subject to the same appeal as is given by this Act in respect of decisions passed in suits, be binding on the parties concerned.

29. It shall be competent to the Chief Commissioner to declare the

Chief Commissioner may declare Section 23 applicable to any place, and the Officers to hear and decide cases under that Section.

provisions of Section 28 applicable to any district or portions of a district, in which a settlement of revenue is not in progress;

and to declare what Officers are empowered to hear and decide cases under this Section; and with the sanction of the Governor General in Council, to make rules consistent with this Act.

for the guidance of Officers acting under this Section and Section 28.

30. Wherever rent is taken by division of the produce in kind, or by estimate or appraisement of the standing crop or other procedure of a similar nature requiring the presence both of the tenant and landlord either personally or by a representative, if the landlord shall neglect to attend at the proper period, the tenant may apply to the Court, which may thereupon issue notice to the landlord to attend within a certain period; and failing his appearance within the period so fixed, the tenant may proceed to divide, estimate, or appraise the crop in the presence of two witnesses, or he may present a petition to the Court requesting that a proper Officer be deputed to make the division, estimate, or appraisement.

31. Wherever rent is taken in the manner mentioned in the foregoing Section, and a dispute regarding the division, estimate, or appraisement is alleged in a petition of plaint by either of the parties concerned, the Court may depute an officer of its establishment, before whom the division, estimate or appraisement shall be made; and the decision of such officer, in respect of such division, estimate, or appraisement, shall, subject to the orders of the Court on the issue of a suit, be final.

CHAPTER IV.

ENHANCEMENT OF RENT.

32. No tenant having a right of occupancy of any land shall be liable to an enhancement of the rent paid by him in respect of such land, except in pursuance of a decree made under this Act on some one of the following grounds (that is to say):—

1st Case.—That the rate of rent so paid by such tenant is below the prevailing rate payable by the same class of tenants having a right of occupancy for land of a similar description, and with similar advantages, situate in the same village.

Rule.—In this case the Court shall enhance the rent of such tenant to the rate so prevailing.

2nd Case.—That the rent paid by such tenant is more than 12½ per cent. below the rent of land of a similar description, and with similar advantages, paid by tenants of the same class not having a right of occupancy.

Rule.—In this case the Court shall decree an enhancement, such as will raise the rent to the level of the rent assessable at the rates paid by tenants of the same class not having a right of occupancy for land of a similar description, and with similar advantages, less 12½ per cent.

3rd Case.—That the quantity of land held by such tenant has been ascertained by a measurement made by a proper officer to be greater than the quantity for which rent has been previously paid by such tenant.

Rule.—In this case the Court shall decree rent for the surplus land calculated at the same rates as those paid for the rest of the holding, or, if the

plaintiff shall so desire, at rates to be fixed by the first or the second of the said rules, as the case may be.

33. Nothing contained in Section 32 shall be held to affect the terms of any written contract entered into between a landlord and tenant, when such contract contains any express stipulation contrary to the provisions of the same Section.

34. After a decision has been passed in accordance with Section 32, no suit shall lie for re-enhancement of such rent until the expiration of five years from the date of such decision, except under the said third case, or until re-assessment within the said term of five years of the revenue of such land.

35. On such re-assessment of the revenue the landlord may institute a suit to enhance the rent of such tenant to a sum not exceeding double the average amount of the revenue imposed upon land of a similar description and with similar advantages held by tenants of the same class in the same village.

36. No tenant, not having a right of occupancy, who holds or cultivates land without a written engagement, or under a written engagement not specifying the term of his holding, or whose holding has expired, or has been cancelled in consequence of the sale for arrears of rent or revenue of the tenure or estate in which such land is situate and has not been renewed, shall be liable to pay any higher rent for such land than the rent payable for the previous year, unless a written notice shall have been served upon him on or before the 1st day of April in the year in which such notice is served.

37. The notice of enhancement of rent under Section 36, shall be served on the application of the landlord to the Court, through the Tahsildár or other officer authorized to serve such notices, and the landlord shall pay the costs of service. The notice shall be written in Hindi and in Urdu, it shall specify the rent demanded, and the fields on which enhancement is to take place, and it shall inform the tenant that if he means to sue to dispute the enhancement, he must institute his suit on or before the 15th day of May next after the service. Such notice shall, if practicable, be served personally on the tenant. If the notice cannot be served personally on the tenant, service may be made by affixing it at his usual place of residence, or if he have no such place of residence in the district in which the land is situate, at the village chowpal, or some other conspicuous place in the village in which the land is situate.

38. Any tenant, on whom notice of enhancement has been served under Section 37 may contest his liability to pay the enhanced rent demanded of him by suit instituted on or before the 15th day

of May next after the service or in answer to any suit preferred against him for recovery of arrears of the enhanced rent.

39. A tenant not having a right of occupancy may contest his liability to pay the enhanced rent demanded from him, on either of the following grounds:—

First.—That he holds a lease or special agreement, or decree of Court, under the terms of which he is not liable to such demand.

Second.—That notice of enhancement of rent has not been served upon him in the manner provided by Section 37.

40. It shall in no case be competent to the Court to inquire into the propriety of the rate of rent payable by a tenant not having a right of occupancy. The rent payable by such tenant shall be such amount as may be agreed upon between him and the landlord; or, if no such agreement has been made, such amount as was payable in the previous year; or, if notice of enhancement of rent has been served upon such tenant in the manner provided by Section 37, the amount stated in such notice, unless the tenant has successfully contested his liability to pay the enhanced rent in manner provided by Section 38.

CHAPTER V.

EJECTMENT.

41. When an arrear of rent remains due from any tenant on the 15th day of May in any year after the passing of this Act, he shall be liable to be ejected from the land in respect of which the arrear is due.

42. No under-proprietor or tenant having a right of occupancy, or holding under an unexpired lease or special agreement, or decree of Court, shall be ejected otherwise than in execution of a decree under the provisions of this Act.

43. No tenant, except a sub-lessor, shall in any case be ejected from the land in his occupancy, except between the 1st day of April and the 15th day of June in any year after the passing of this Act, unless while his rent is in arrear he has failed to cultivate the land which he holds from the landlord to whom the arrear is due.

44. No tenant not having a right of occupancy who holds or cultivates land without a written engagement, or under a written engagement specifying the term of his holding, or whose holding has expired, or has become cancelled in consequence of the sale for arrears of rent or revenue of the tenure or estate in which such land is situated, and has not been renewed, shall be liable to be ejected therefrom unless a written notice shall have been served upon him on or before the first day of April in each year. The provisions contained in Section 37 as to the service, languages, and

contents of the notice in case of enhancement shall apply, *mutatis mutandis*, to notices served under this Section.

45. Any tenant not having a right of occupancy, on whom a notice of ejectment shall have been served as last aforesaid may contest his liability to be ejected by suit instituted on or before the 15th day of May next after the service of such notice, or the land in his occupancy must be vacated on or before that date.

46. If no such suit be brought, and the landlord require the assistance of the Court to eject such tenant, he may, at any time before the 15th day of June next after such service, make application for such assistance, and if the Court be satisfied that notice of ejectment was duly served on the tenant it shall give such assistance accordingly.

47. A tenant not having a right of occupancy may contest his liability to be ejected from the land which he holds on any of the following grounds:—

First, that he holds a lease or special agreement or decree of Court under the terms of which he is not liable to such ejectment:

Second, that notice of ejectment has not been served upon him in manner provided by Section 46; and

Third, that he has a right of occupancy in the land from which his landlord seeks to eject him.

CHAPTER VI.

OF DISTRAINT FOR ARREARS OF RENT.

48. When an arrear of rent is due from any tenant, the landlord may distrain the produce of the land on account of which the arrear is due, subject to the rules contained in Section 49 and the following Sections—

Provided, first, that when a tenant has given security for the payment of his rent, the produce of the land, for the rent of which security has been so given, shall not be liable to distraint:

Secondly, that no sharer in a joint estate, under-proprietary, or other tenure in which a division of lands has not been made amongst the sharers, shall exercise the power of distraint otherwise than through a manager authorized to collect the rents of the whole estate or tenure on behalf of all the sharers in the same;

And thirdly, that in pattidari estates, distraint shall be made only through the person under direct engagement for the payment of the Government land revenue, or where the rent of a patti is not collected by such person, through the pattidar who is entitled to collect the rent.

49. Distraint shall not be made for any arrear which has been due for a longer period than one year; nor for the recovery

of any sum in excess of the rent payable for the preceding year for the land in respect of which the arrear is due, unless a written engagement for the payment of such excess has been executed by the tenant.

50. The power of distraint, vested by Section 48 in landlords, may be exercised by managers under the Court of Wards, managing agents, and tahsildars of estates held under khām management, and other persons lawfully entrusted with the charge of land, and also by the agents employed by any such persons as aforesaid in the collection of rent, if expressly authorized by power of attorney in this behalf: Provided that, if any such agent purporting to act in the exercise of the said power, commits an illegal act, the person employing such agent shall be liable, as well as the agent, for any damages accruing by reason of such act.

Liability of principal of agent to distraint.

51. Standing crops and other ungathered products of the earth, and crops or other products when reaped or gathered and deposited in any threshing floor or place for treading out grain or the like, whether in the field or within a homestead, may be distrained by persons invested with the powers of distraint under the provisions of this Act. But no such crops or products, other than the produce of the land in respect of which an arrear of rent is due, or of land held under the same engagement, and no grain or other produce after it has been stored by the cultivator, and no other property whatsoever, shall be liable to distraint under this Act.

52. Before or at the time when distraint is made under this Act, the distraint shall cause the defaulter to be served with a written demand for the amount of the arrear, together with an account exhibiting the grounds on which the demand is made. The demand and account shall, if practicable, be served personally on the defaulter, or if he abscond or conceal himself so that they cannot be so served, shall be affixed at his usual place of residence.

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

54. Standing crops and other ungathered products of the earth may, notwithstanding the distraint, be reaped or gathered by the tenant, and may be stored in such granaries or other places as are commonly used by him for the purpose. If the tenant neglect to do so the distraint may cause the said crops or products to be reaped or gathered, and, in such case, shall store the same either in such granaries or other places as aforesaid, or in some other convenient place in the neighbourhood. In either case, the distrained property shall be placed in the charge of some person appointed by

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the distrainer for the purpose. If the crops or products do not from their nature admit of being stored, the distraint shall be made at least twenty days before the time when the crops or products or any part of the same would be fit for cutting or gathering.

55. If a distraint shall be opposed, or shall apprehend resistance, and shall desire to obtain the assistance of a public officer, he may apply to the Court, and the Court may, if it think necessary, depute an officer to support the distraint in making the distraint.

56. Any person, empowered to distrain property under Sections 48 or 50, may employ a servant or other person to make the distress; but in every such case he shall give to such servant or person a written authority for the same, and the distress shall be made in the name and on the responsibility of the person giving such authority.

57. If at any time after property has been distrained as aforesaid the owner of the property shall tender payment of the arrear, and of the expenses of the distress, the distraint shall receive the same, and give a discharge therefor, and shall forthwith withdraw the distress.

58. Within ten days from the time of making the distress, the distraint shall institute a suit for the arrears due to him in the manner provided by this Act, and at the time of the institution of the suit shall apply to the Court, in the manner provided by Section 81 of the Code of Civil Procedure, that security be taken from the defendant to fulfil any decree that may be passed against him in the suit, and on his failing to give such security, that the property so distrained shall be attached. Such application shall be disposed of by the Court according to the provisions of the Code of Civil Procedure. If the Court order security to be taken from the defendant, or that the distrained property be attached, the distress shall be withdrawn from the time at which the order of the Court shall be carried into effect.

59. If the person bringing a suit under Section 58 shall fail to procure a decree, or the Court shall consider the distraint to have been vexatious or groundless, the Court may award compensation to the defendant, not exceeding twice the value of the property so distrained.

60. A person, whose property has been distrained in the manner hereinbefore provided, may institute a suit to contest the demand of the distraint immediately after the distraint.

61. In all suits instituted to contest the demand of a distraint, the defendant shall be required to prove the arrear in the same manner as if he had himself brought a suit for the amount under the fore-

Application by distraint in case of resistance.

Persons empowered to distrain may authorise their servants to do so.

Withdrawal of distress on tender of arrear and expenses.

Distrainer to sue for arrears within ten days of making distress.

Compensation where distraint fails to procure a decree under Section 58.

Suit to contest distraint's demand.

Distrainer to prove the arrear in suits to contest his demand.

going provisions of this Act. If the demand or any part thereof is found to be due, the Court shall give a decree for the amount in favour of the distrainer. If the distraint is adjudged to be vexatious or groundless, the Court, besides directing the release of the distrainted property, may award such compensation to the plaintiff as it may think fit, not exceeding twice the value of the property distrainted.

Compensation for vexatious distraint.

62. If any person shall claim, as his own, property which has been distrainted for arrears of rent alleged to be due from any other person, the claimant may institute a suit against the distrainer and such other person to try the right to the property, in the same manner and under the same conditions as to the time of instituting the suit as a person whose property has been distrainted for an arrear of rent alleged to be due from him, may institute a suit to contest the demand. When any such suit is instituted, the property may be released upon security being given to the satisfaction of the Court for the value of the same property. If the claim is dismissed, the Court shall make a decree in the favour of the distrainer. If the claim is upheld, the Court shall order the release of the distrainted property, and may award such damages as it may think fit, not exceeding twice the value of the property distrainted.

Compensation for illegal distraint.

63. No claim to any produce of land liable to distraint under this Act, which produce at the time of the distress may have been found in the possession of a defaulting tenant, whether such claim be in respect of a previous sale, mortgage, or otherwise, shall bar the prior claim of the landlord, nor shall any attachment in execution of a decree of any Civil Court prevail against such prior claim.

Landlord's prior claim to distraintable produce in possession of defaulting tenant.

64. If in any case in which property has been distrainted for an arrear of rent, and a suit has been instituted to contest the demand, the right to distrain for such arrear is claimed by or on behalf of any person other than the distrainer, on the ground of such other person being actually and in good faith in the receipt and enjoyment of the rent of the land, such other person shall be made a party to the suit, and the question of the actual receipt and enjoyment of the rent by such other person, before and up to the commencement of the suit, shall be inquired into, and the suit shall be decided according to the result of such inquiry.

65. If the distrainer shall not bring a suit under Section 58 within the time specified therein, the distress shall be considered null and void, and the property shall be released from distraint.

If distrainer does not sue under Section 58, distress to be void.

66. Crops or products, which from their nature do not admit of being stored, may be sold, cut,

Sale of perishable crops.

or gathered, under the orders of the Court, at any time after attachment under Section 58.

67. Any person, whose property has been distrainted for the recovery of a demand not justly due, or of a demand due or alleged to be due from some other person, may institute a suit under this Act to recover compensation for the illegal distress of his property.

68. If any person, empowered to distrain property, or employed for the purpose under a written authority by a person so empowered, shall distrain any property for the recovery of an arrear of rent alleged to be due otherwise than according to the provisions of this Act, or if any distrainted property shall be lost, damaged, or destroyed, by reason of the distrainer not having taken proper precaution for the due keeping and preservation thereof, or if the distraint shall not be immediately withdrawn when it is required to be withdrawn by any provision of this Act, the owner of the property may institute a suit to recover compensation for any injury which he may have thereby sustained.

69. If any person, not empowered to distrain property under this Act, nor employed for the purpose under a written authority by a person so empowered, shall purport to distrain any property under this Act, the owner of such property may institute a suit to recover damages from such person for any injury which he may have sustained from the distraint. The person so distraining shall be held to have committed criminal trespass, and shall be subject to the penalties for that offence in addition to any damages which may be awarded against him in such suit.

70. If any person shall resist a distraint of property duly made under this Act, or shall forcibly or clandestinely remove any distrainted property, the Court, upon complaint being made within ten days from the date of such resistance or removal, shall cause the person accused to be arrested and to be brought before the Court with all convenient speed, and the Court shall proceed forthwith to try the case. If the case cannot be at once heard and determined, the Court may, if it think fit, require the party arrested to give security for his person, whenever the same may be required, and in default of such security, may be committed to the civil jail until the case is tried. If the resistance or removal of property as aforesaid be proved, and if the offender be the owner of the property, the Court may order him to be imprisoned in the civil jail until the whole arrear due to the distrainer, with all expenses and costs, shall be paid, or shall be levied by distress and sale of the property of the offender under warrant of the Court: Provided that no such imprisonment shall continue for more than six months. If the person convicted of the offence be any other than the owner of the property, he shall make good to the distrainer the value of the same, and shall further be liable to a fine not exceeding one hundred Rupees, or in default of payment thereof, to imprisonment in the civil jail for a period not exceeding two months.

Procedure in case of resistance of distraint.

CHAPTER VII.

OF THE JURISDICTION OF THE COURTS.

Suits cognizable.

71. The Courts of Revenue in Oudh shall take cognizance of the following descriptions of suits, and such suits shall be heard and determined in the said Courts in the manner provided in this Act, and not otherwise:—

Suits cognizable under this Act.

A. Suits by a Landlord.

(1.)—For the delivery by a tenant of the counter-part of a lease.

(2.)—For arrears of rent.

(3.)—For the enhancement of the rent of a tenant having a right of occupancy under Section 4.

(4.)—For the ejectment of a tenant having a right of occupancy, or for cancelling any lease on account of the non-payment of arrears of rent, or on account of a breach of the conditions of any contract.

(5.)—Suits by landlords against any agents employed by them in the management of land, or collection of revenue or rent, or against the sureties of such agents for money received or accounts kept by such agents in the course of such employment, or for papers in their possession.

B. Suits by an Under-proprietor or a Tenant.

(6.)—For the delivery by a landlord of a lease.

(7.)—For contesting a notice of enhancement of rent, or for contesting a notice of ejectment.

(8.)—For compensation on account of the illegal exaction of rent, or of any unauthorized cess or impost, or on account of the refusal of receipts or acknowledgments for rent paid or tendered or on account of the extortion of rent by any means not authorized by this Act, or on account of illegal ejectment.

(9.)—For the recovery of the occupancy of any land from which an under-proprietor or tenant has been illegally ejected by the landlord.

(10.)—For contesting the exercise of the power of distraint conferred on landlords and others, by this Act, or any acts purporting to be done in exercise of the said power.

(11.)—For abatement of rent in accordance with the provisions of Sections 16 and 17.

(12.)—For the recovery of compensation for improvements in accordance with the provisions of Section 22.

C. Suits regarding the division or appraisement of produce.

(13.)—Suits regarding the division, estimate, or appraisement of the produce of land under Section 31.

D. Suits by, and against, Co-sharers and Muáfidárs.

(14.)—Suits by co-sharers for their share of the profits of an estate, or any part thereof, after payment of the revenue and village expenses, or for a settlement of accounts.

(15.)—Suits by any person under direct engagement for the payment of revenue, for arrears of revenue, payable through him by the co-sharers whom he represents, and for village expenses and other dues for which the co-sharers may be responsible to him.

(16.)—Suits by co-sharers against persons under direct engagement for the payment of revenue, or by under-proprietors or lessees against muáfidárs or assignees of revenue, for compensation on account of the illegal exaction of revenue, or of any unauthorized cess or impost, or on account of the refusal of receipts or acknowledgments for revenue paid or tendered.

(17.)—Suits by muáfidárs or assignees of revenue for arrears of revenue due to them as such muáfidárs or assignees.

Grades of Courts.

72. For the purposes of this Act, the Courts of Revenue shall consist of six grades of Courts, namely,—

(1.)—The Court of the Assistant Collector of the second class.

(2.)—The Court of the Assistant Collector of the first class.

(3.)—The Court of the Deputy Collector.

(4.)—The Court of the Collector.

(5.)—The Court of the Commissioner.

(6.)—The Court of the Financial Commissioner.

73. Subject to any orders that may from time to time be issued by the Governor General in Council, the Chief Commissioner shall have power to declare to which of the first three grades Assistant Commissioner shall belong, and to invest any Tahsildár with the powers of any of the same grades.

Deputy Commissioner to have Collector's powers.

74. The Deputy Commissioner shall exercise the powers of a Collector under this Act.

75. Subject to any orders that may from time to time be issued by the Governor General of India in Council, the Chief Commissioner of Oudh may invest any officer employed in making or revising settlements of revenue with all or any of the powers of a Collector, or Deputy Collector, or Assistant Collector, under this Act.

76. The Court of the Assistant Collector of the second class shall have power to try and determine suits of the description mentioned in Clauses 1, 2, 6, 15, 16, and 17 of Section 71, of which the subject-matter shall not exceed one hundred Rupees in value or amount.

77. The Court of the Assistant Collector of the first class shall have power to try and determine suits of the descriptions referred to in the last preceding Section of which the subject-matter shall not exceed five hundred Rupees in value or amount.

78. The Court of the Deputy Collector shall have power to try and determine suits of every description of which the subject-matter shall not exceed five thousand Rupees in value or amount.

79. The Court of the Collector shall have power to try and determine suits of every description and of any amount, and to hear appeals

from the original decisions in suits, and (where an appeal is allowed by the Code of Civil Procedure as applied by this Act) from the orders of the Courts of the Assistant Collectors, and in the cases of the nature mentioned in Section 83 from such decisions and orders of the Deputy Collectors. Whenever the state of the public business requires it, it shall be competent to the Chief Commissioner to invest any Deputy Collector with the powers of a Collector under this Act, and, with the sanction of the Governor General in Council, to invest any Collector with all or any of the powers of a Commissioner under this Act.

80. The Court of the Commissioner shall have Jurisdiction of Commissioner. power to hear and determine appeals from the original decisions in suits, and (where an appeal is allowed by the Code of Civil Procedure) from the orders of the Courts of the Collectors and Deputy Collectors, except as otherwise provided in Sections 79 and 83.

81. The Court of the Financial Commissioner shall have power to hear and determine appeals from the decisions in suits, and (where an appeal is allowed by the Code of Civil Procedure) from the orders of the Commissioners, and also applications for a special appeal as provided in the said Code, from the decisions passed in regular appeal by the Collectors and by the Commissioners.

Appeals and Rehearing.

82. The memorandum of appeal prepared in the form and containing the particulars mentioned in the Code of Civil Procedure, shall be presented to the Court empowered to hear the appeal within the period hereafter specified, unless the appellant shall show sufficient cause to the satisfaction of such Court, for not having presented the memorandum within such period; that is to say, thirty days if the appeal lie to the Collector, six weeks if the appeal lie to the Commissioner, and ninety days if the appeal lie to the Financial Commissioner. The period shall be reckoned from and exclusive of the day on which the decision or order appealed against was passed, and also exclusive of such time as may be requisite for obtaining a copy of the decree or order from which the appeal is made. Applications for special appeal shall be presented in the Court of the Financial Commissioner within the period hereinbefore fixed for appeals.

83. In suits under Clauses 2, 5, 8, 10, 13, 14, 15, 16, and 17 of Section 71, tried and decided by a Collector, if the amount sued for does not exceed one hundred Rupees, the judgment of the Collector shall be final, except as hereinafter provided, unless in any such suit a question of right to enhance or otherwise vary the rent of a tenant, or any question relating to a title to land or to some interest in land as between parties having conflicting claims thereto, has been determined by the judgment, in which case the judgment shall be open to appeal in the manner provided in this Act.

84. In suits in which the judgment of the Collector is final, as provided in the last preceding Section, the Collector may upon the application of either party, if preferred within thirty days from the date of decision, order the rehearing of a suit, upon the ground of the discovery of new evidence or matter material to the issue of the case which the applicant had no knowledge of or could not produce at the time of trial, or for any other good and sufficient reason.

Distribution of Business.

85. The Collector may direct the business in the Courts subordinate to him, whether or not they hold their sittings in the same place, to be distributed among such Courts in such way as he shall think fit.

Transfer of Suits and Appeals.

86. The Commissioner or the Collector may withdraw any suit, instituted in any Court subordinate to him, and try such suit himself, or refer it for trial to any other such subordinate Court competent to try the same. The Commissioner may also withdraw any appeal instituted in the Court of any Collector subordinate to him, and try the appeal himself, or refer it for trial to the Court of any other Collector in his Division.

87. The Financial Commissioner may order that any suit or appeal which shall be instituted in or presented to any Court subordinate to him, shall be transferred to any other such subordinate Court competent to try or hear subject-matter of the same.

Miscellaneous.

88. In the performance of their duties under this Act, the Collectors shall be subject to the general control of the Commissioners and of the Financial Commissioner; and the Deputy Collectors and Assistant Collectors shall be subject to the direction and control of the Collectors to whom they are subordinate: Provided that nothing in this Section shall empower the Financial Commissioner or any Commissioner or Collector to interfere in any way not authorized by this Act with any decision or order in a suit.

89. A claim to eject a tenant or to cancel a lease, on account of non-payment of arrears of rent, may be joined in the same suit with a claim for such arrears; and the plaintiff may adduce any unexecuted decree for arrears of rent as evidence of the existence of such arrears.

90. All suits, which, under the provisions of this Act, may be brought by or against landlords, may be brought by or against managing agents or tahsildars of estates held under khām management, whether such estates are the property of Government or not.

91. It shall be competent to the Courts to sit for the hearing and determining suits and appeals, and for disposing of other business under this Act, in any place within the limits of their local jurisdiction: Provided that every hearing and decision shall be in open Court, and that the parties to the suit or their authorized agents shall have had due notice to attend at such place.

CHAPTER VIII.

LIMITATION OF SUITS.

92. Except as herein otherwise provided, all suits shall be instituted within one year from the date of the accruing of the cause of action.

93. Suits for the delivery of leases or the counterparts of leases may be instituted at any time during the tenancy of the plaintiff or defendant, as the case may be.

94. Suits for the recovery of arrears of rent or revenue, or share of profits, shall be instituted within three years from the date on which the arrear or share of profit claimed shall have become due.

95. Suits for the settlement of accounts shall be instituted within one year after the expiration of the year to which the accounts relate, or in the case of any claim for such settlement existing at the date of the passing of this Act, within one year from such date.

96. Suits for the recovery of money in the hands of an agent, or for the delivery of accounts or papers by an agent, may be brought at any time during the continuance of the agency, or within one year after the determination of the agency, or in the case of claims existing at the date of the passing of this Act, within one year after such date: Provided that, if the person having the right to sue shall have been fraudulently kept from the knowledge of the receipt of any such money by the agent, or if any fraudulent account shall have been rendered by the agent, the suit may be brought within one year from the time when the fraud shall have been first known to such person, but no such suit shall in any case (except the case of claims now existing as aforesaid) be brought at any time exceeding three years from the termination of the agency.

97. Any suit which may be instituted under Sections 67, 68, or 69, shall be commenced within three months from the date of the accruing of the cause of action.

CHAPTER IX.

PROCEDURE.

98. Subject to the exceptions and provisions under which the Code of Civil Procedure was extended to Oudh, as contained in the declaration

Civil Procedure Code to be the procedure under this Act.

of the Governor General in Council, dated the 6th day of August 1861, and republished in Schedule C to this Act annexed, the provisions of the said Code shall, so far as they are applicable and not inconsistent with the provisions of this Act, apply to all suits, appeals, and proceedings hereunder.

99. In addition to the particulars required by Section 26 of the said Code to be specified in the plaint, the plaintiff shall contain the following particulars:—

1st.—The name of the village or estate, and of the purgunna in which the land to which the suit relates is situate.

2nd.—If the suit be for the recovery of an arrear of rent, or for the enhancement or abatement of rent, or for the ejectment of a tenant, or for contesting a notice of enhancement of rent, or for contesting a notice for the ejectment of a tenant, or for the recovery of the occupancy or possession of any land, the plaintiff shall specify the extent, situation, and designation of the land to which the suit relates, and, where fields have been marked in a Government survey, the number (if it be possible to give it) of each field.

3rd.—If the suit be for the recovery of an arrear of rent or revenue, the plaintiff shall specify the yearly rent or revenue of the land, the amount (if any) received on account of the year or years for which the claim is made, the amount in arrear, and the time in respect of which it is alleged to be due.

100. In all suits under this Act the summons to the defendant shall be for the final disposal of the suit.

101. In any suit under this Act involving a claim to money, the defendant may pay the money into Court. The defendant may, at any stage of the suit, deposit in Court such sum of money as he considers a satisfaction in full of the claim of the plaintiff, together with the costs incurred by the plaintiff up to the time of such deposit. Notice of the deposit shall be given to the plaintiff, and the amount of the deposit shall be paid to the plaintiff on his application. No interest shall be allowed to a plaintiff on any sum paid by the defendant into Court from the date of such payment, whether such sum be in full of the plaintiff's claim or fall short thereof.

102. Nothing in the last preceding section shall be held to bar the plaintiff, in any case in which the defendant shall deposit less than the amount claimed by the plaintiff, from proceeding in the suit for the recovery of the balance.

103. The local inquiry described in Section 180 of the Code of Civil Procedure may also, if he think fit, be made by the Collector in person or other officer presiding in the Court, and the provisions contained in the said Code regarding local inquiries shall, so far as they are applicable, apply to such inquiries made by such Collector or other officer. In such cases the Collector or other officer as aforesaid, after completing the inquiry, shall record on the proceedings such observations as he

shall think fit, and the observations so recorded shall be received in the suit.

104. When a decree is passed in any suit under this Act, the Court may, on the oral application of the party in whose favour the decree is passed, direct immediate execution thereof in the manner described in Section 13 of Act No. XXIII. of 1861 (to amend Act VIII. of 1859).

105. No process of execution shall be issued on a judgment under this Act after the lapse of three years from the date of such judgment, unless the judgment be for a sum exceeding five hundred Rupees, in which case the period within which execution may be had shall be regulated by the general rules in force respecting the period allowed for the execution of decrees of the Civil Courts.

106. If the decree be for the delivery of papers or accounts, the decree may be enforced by the imprisonment in the Civil Jail of the party against whom the decree is made, or by the attachment of his property, or by both imprisonment and attachment. The imprisonment and attachment may be continued until the party against whom the decree is made shall comply with the terms of it: Provided that no person shall be imprisoned under this section for a longer period than six months.

Enforcement of decree for delivery of papers or accounts. made, or by the attachment of his property, or by both imprisonment and attachment. The imprisonment and attachment may be continued until the party against whom the decree is made shall comply with the terms of it: Provided that no person shall be imprisoned under this section for a longer period than six months.

107. Section 244 of the Code of Civil Procedure shall be read as if the word "Commissioner" were substituted for the word "Court."

108. If the decree be for an arrear of rent due in respect of an under-proprietary tenure, which is transferable by sale, the judgment-creditor may make application for the sale of the tenure, and the tenure may thereupon be brought to sale in execution of the decree, according to the rules for the sale of undertenures for the recovery of arrears of rent due in respect thereof contained in any law for the time being in force. But no such application shall be received when a warrant of execution has been previously issued against the person or moveable property of the judgement-debtor so long as such warrant remains in force. If after sale of such tenure any portion of the amount decreed remains due, process may be applied for against any other property, moveable, or immovable, belonging to the debtor.

SCHEDULE A.*

I, A. B., of, &c., do solemnly declare that I did personally (or by my Agent C. D.) on the day of tender payment to E. F. at the place where the rent of the lands at held or cultivated by me under or from the said E. F., are usually payable), of the sum of Rupees as and for the whole amount due from me in respect

of the rent of the said lands from the month of to the month of both inclusive. I further declare that the said E. F. refused to accept the said sum so tendered (or to give me a receipt in full, forthwith, for the same). And I do declare that, to the best of my belief, the sum of Rupees so tendered, and which I now desire to pay into Court, is the full amount which I owe the said E. F. on account of the rent of the said lands from the month of to the month of both inclusive, and that I owe the said E. F. no further sum on account of the rent of the said lands.

SCHEUDLE B.*

Court of the Collector of
Dated the day of 18
To E. F., of, &c.

With reference to the within declaration, you are hereby informed that the sum of Rupees therein mentioned, is now in deposit in this Court, and that the above sum will be paid to you or your duly authorized Agent, on application. And take notice that if you have any further claim or demand whatsoever to make against the said A. B. in respect of the rent of the said lands, you must institute a suit in Court for the establishment of such claim or demand within six calendar months from this date, otherwise your claim will be for ever barred.

SCHEDULE C.

Under the provisions of Section 385 of Act No. VIII. of 1859, and Section 3 of Act No. IV. of 1860, His Excellency the Governor General in Council is pleased to notify that, from 1st January 1862, Act VIII. of 1859 is extended to the Province of Oudh, subject to the following exceptions and provisos;—

1. Section 3 shall be subject to the following proviso:—

Provided that the Judicial Commissioner or any other Court exercising any appellate Jurisdiction within the Province of Oudh, may at any time, within one year from the time of the passing or execution of any judgment or order by any Court subordinate to the said Appellate Court, call for such judgment or proceedings without any regular appeal or application for review having been preferred against the same, and may, if he, or it, shall see sufficient grounds, revise and alter, or reverse or confirm the same. But that in such case before revising, altering, or reversing any one judgment or order, the said Judicial Commissioner or it, shall cause the same notice to be given to the party in whose favour the said judgment or order was pronounced, and the same opportunity to such party to be heard in support thereof, and the same proceedings to be taken as if a memorandum of appeal had been filed by the party aggrieved thereby.

2. Section 17 is excepted, and the term recognized agent is defined as follows, viz., a permanent servant, partner, relation, or friend, whom the Court may admit as a fit person to represent a party, and especially persons holding

* If this declaration is made by an Agent, it must be iterated accordingly.

* This is to be by endorsement on a copy of the Declaration under Schedule A., made by the person paying the money into Court.

powers of attorney from absent parties, persons carrying on business on behalf of bankers and traders, managing agents of landholders, nearest male relations of women, and persons *ex-officio* authorized to act for Government, or for any Prince or Chief.

3. Section 111 shall be subject to the following limitation:—It shall not be obligatory on the Court to decide *ex parte* in the absence of defendant, but the Court may proceed to compel his attendance under the following rule, being the rule now in force in Oudh:—

Rule.—If the defendant does not appear, it shall be at the discretion of the Court to issue a warrant to arrest him and detain him till another day appointed for the hearing of the case, and to attach his property.

4. Section 172. So much of this Section as requires that the whole of the evidence shall be taken down in writing in the language in ordinary use is excepted, and the record made by the hand of the Judge, under the following rule, being the rule now in force in Oudh, shall be taken as a record of the evidence:—

Rule.—An intelligible note of the essential points of the evidence of each witness is to be taken at the time and in the course of oral examination, by the Officer who tries the case, in his own language. The notes must be legible, complete, and properly arranged, must attest the presence of the witness at the time, and mark every postponement and change of time and scene, so that their *bona fide* character may be apparent. Every essential point must be noted, but mere surplusage may be omitted. These notes shall be filed and shall form part of the record of the case: Provided that in cases tried by a European Officer, who has not passed the examination in the Native languages prescribed for Assistant Commissioners exercising special powers, the evidence of witnesses shall also be recorded, at length, in their own language.

Section 205. So much of this Section as renders land liable to sale in execution of a decree, will be subject to the restrictions on the sale of land prescribed by the following rule, being the local rule now in force in Oudh:—

Rule.—No ancestral property in land shall be sold in satisfaction of a decree, without the sanction of the Judicial Commissioner: and before acquired property in land shall be so sold the permission of the Divisional Commissioner shall be obtained.

STATEMENT OF OBJECTS AND REASONS.

In August 1866 certain arrangements were sanctioned by the Government of India for the settlement of the questions which had long been pending regarding rights of occupancy in Oudh. The nature of those arrangements is described in the correspondence between the Government of India and the Chief Commissioner of Oudh, published in the Supplement to the *Gazette of India* of the 1st September 1866. Those arrangements involved the necessity, on the part of the Government, of cancelling all orders, rules, and circulars which were in force in Oudh, recognizing

a right of occupancy in non-proprietary cultivators, and the revision of the rules regarding the hearing of suits in the Summary Courts. The Talukdars of Oudh at the same time consented that certain privileges should be granted to certain classes of tenants. Legislation is necessary to carry into effect the engagements thus entered into by the Government, and to confirm the concessions made by the Talukdars. It appears desirable to take this opportunity of placing on a better footing the whole of the law regarding the recovery of rent in Oudh. Much difficulty has been experienced in determining what laws are actually in force in respect of the jurisdiction of the Revenue Summary Courts, and there has consequently been a great want of uniformity in the procedure that has been followed. This has been found to be a serious evil. The practice of the Summary Courts has been loose, uncertain, and dilatory.

Legislation is desirable for another reason. Although the Courts would probably maintain the validity of the rights of occupancy and other privileges which the Talukdars have consented to grant to certain classes of tenants in their estates, it is doubtful whether similar protection would be afforded to the same classes of tenants in estates not belonging to Talukdars.

It is desirable that the procedure of the Revenue Courts in Oudh should correspond with that followed in the neighbouring provinces, so far as this is practicable without injury to any special interests. Those portions of Act X. of 1859, and of Act XIV. of 1863, which appear applicable to Oudh, have therefore been incorporated in the present Bill.

It is proposed that, with a few modifications and additions, the Code of Civil Procedure shall apply to suits and proceedings under this Act. This is the more desirable since in Oudh the same officers preside over the Civil and Revenue Courts.

Sections 4, 32, 33, 34, and 35, and Sections 22 to 27 of the Bill are intended to confirm the agreements entered into by the Talukdars in respect of rights of occupancy and other privileges to be enjoyed by certain classes of tenants. The provisions of these Sections are not in all respects identical with those contained in the rules to which the Talukdars originally gave their consent. Although the more important of the alterations that have been made, have been already approved by the Talukdars, it will be right, before this portion of the Bill receives the sanction of the Legislature, that a reference regarding it be made to the Talukdars through the Chief Commissioner of Oudh.

Many of the other provisions of the proposed law are of great importance, but it does not appear necessary to notice them in this Statement of the general reasons which have led to the introduction of the Bill.

(Signed) JOHN STRACHEY.

SIMLA, The 15th June 1867.

WHITLEY STOKES,

Asstt. Secy. to the Govt. of India,

Home Department (Legislative).