



Bombay Government Gazette.

Published by Authority.

THURSDAY, 13TH FEBRUARY 1868.

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 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 24th January 1868, and was referred to a Select Committee, with instructions to make their report thereon in a fortnight:—

Bill No. 5 of 1868.

A Bill to authorize the Local Government of the Panjáb to invest any person with the powers of an Assistant Commissioner, and for other purposes.

1. The Local Government of the Panjáb may, by notification in the local official *Gazette*, invest any person with the powers of an Assistant Commissioner with full powers, or of an Assistant Commissioner with special powers, or of an Assistant Commissioner with ordinary powers, or of a Tahsildár, as described in Act No. XIX. of 1865, within such local limits as it may think proper, and may from time to time withdraw any of such powers.

The Local Government may also, by such notification as aforesaid, direct that all or any of the powers conferred under this Act shall be exercised only with reference to such class of suits as may be specified in the notification; and such powers shall thereupon be exercised accordingly.

2. The Local Government may also direct in manner aforesaid that all or any of the powers conferred under this Act shall be exercised by three or more persons sitting together.

The decision of the majority of the persons so sitting together shall be deemed to be the decision of the Court.

All decrees heretofore passed by any person invested with any of the powers of an Assistant Commissioner or Tahsildár by the Local Government shall be deemed to be as valid as if this Act had then been passed.

STATEMENT OF OBJECTS AND REASONS.

Several Chiefs in the Panjáb were invested by the Local Government a few years ago with powers to try civil suits within the limits of their own estates, and have since continued to exercise those powers. Also certain tribunals were established in the Kangra district of the Panjáb for the decision of a particular class of suits, namely, suits relating to marriages and betrothals. In consequence, however, of no mention having been made of these tribunals, or of the Courts of the Chiefs, in the Panjáb Courts' Act (No. XIX. of 1865), doubts have been entertained of their legality. This Bill is brought forward, therefore, with the object of removing these doubts, and of enabling the Local Government to invest any person with powers to try civil suits, in the same way as it can by the Criminal Procedure Code invest any person with the powers of a Magistrate.

(Signed) E. L. BRANDRETH.

CALCUTTA,
The 17th December. 1867. }

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

The following Report of a Select Committee, together with the Bill as settled by them, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations, on the 17th January 1868 :—

REPORT.

We, the undersigned, the Members of the Select

From Officiating Secretary to Chief Commissioner, Central Provinces, No. 1094, dated 24th March 1863.

From Messrs. Hamilton, Brown, and Co., dated 30th January 1863.

From Assistant Secretary with the Chief Commissioner, Central Provinces, No. 241C, dated 20th March 1863.

From Secretary to Chief Commissioner, Central Provinces, No. 1482, dated 2nd April 1864, and enclosure.

From Secretary to Chief Commissioner, Central Provinces, No. 833-73, dated 23rd February 1865, and enclosures.

From ditto ditto, No. 1503-156, dated 1st June 1866, and enclosures.

From Resident at Hyderabad, No. 4, dated 24th January 1866.

From Secretary to Chief Commissioner, Central Provinces, No. 589-42, dated 10th March 1866, and enclosures.

From ditto ditto ditto, No.—, dated 4th September 1866, and enclosures.

From ditto ditto ditto, No. 642-61, dated 23rd February 1867, and enclosure.

From ditto ditto ditto, No. 470-40, dated 12th February 1867, and enclosures.

From ditto ditto ditto, No. 1077-141 dated 2nd May 1867, and enclosures.

From ditto ditto ditto, No. 1653-141, dated—

From Secretary to Bengal Chamber of Commerce, dated 1st March 1867.

From ditto ditto ditto, dated 28th March 1867.

From Secretary to Government, North-Western Provinces, No. 1063 A, dated 3rd April 1867.

From ditto ditto ditto, No. 1135, dated 8th April 1867, and enclosures.

From Officiating Under Secretary to Government of Bombay, No. 45, dated 11th April 1863.

From Secretary to Board of Revenue, North-Western Provinces, No. 659, dated 10th September 1867.

From ditto ditto ditto, No. 923A, dated 25th September 1867.

From Secretary, Bombay Chamber of Commerce, No. 116, dated 12th August 1867.

From Under Secretary to Government, North-Western Provinces, No.—dated October 1867, and enclosures.

From Chief Secretary to Government Fort St. George, No. 1783, dated 7th November 1867.

From Chairman, Chamber of Commerce, Madras, dated 1st October 1867.

From First Assistant Resident, Hyderabad, No. 24, dated 18th November 1867, and enclosures.

Despatch from Secretary of State for India, Revenue, No. 28, dated 24th May 1867.

Ditto ditto, No. 60, dated 14th September 1867.

4. We have provided for the appointment of Sub-Inspectors.

5. We have limited the fees to a maximum of four annas per bale.

6. Finding that it would be difficult to regulate the apportionment of the fees collected at Bombay, if some were collected under Bombay Act No. IX. of 1863, and some under this Bill, we recommend that the Bombay Act be repealed from the first April next, and that this Act should take its place. We have provided that any surplus funds which

Committee of the Council of the Governor General of India for the purpose of making Laws and Regulations, to whom the Bill for the suppression of Frauds in the Cotton Trade was referred, have the honour to report that we have considered the Bill and the papers noted in the margin.

2. We have extended the scope of the Bill so as to admit of the surplus funds being expended on introducing improved machinery and better descriptions of cotton seed.

3. We have extended the duties of Cotton Inspectors so as to enable them to examine cotton at the Railway stations, as well as when brought for compression or offered for sale. This seems requisite to meet the circumstances of the Central Provinces and Berar.

may then be at the disposal of the Government of Bombay for the purposes of Act No. IX. of 1863 should be treated under the provisions of this Bill.

7. We have provided that the duties of Cotton Inspectors may be entrusted by the Local Governments to any other officers.

8. We recommend the omission of the last sentence of section 32 of the Bill, which provides that every person shall be legally bound to furnish information to any officer when required. We consider that the Inspectors are armed with ample powers for searching and examining all cotton, and that it is undesirable to empower them to exact information at their pleasure. This provision does not occur in the Bombay Act on which this Bill is founded.

9. We have provided for the publication of annual accounts of the fund.

10. We have modified the title and preamble of the Bill.

11. We recommend that the Bill, thus altered, be passed.

M. J. SHAW STEWART,
W. R. MANSFIELD,
W. N. MASSEY.

The 7th January 1868.

THE COTTON ACT, 1868.

CONTENTS.

Preamble.

I.—PRELIMINARY.

Section.

1. Short title.
2. Commencement of Act.
3. Repeal of Bombay Act No. IX. of 1863.
4. Power to extend Act.
5. Interpretation clause.

II.—LICENSES FOR COTTON PRESSES.

6. No cotton-press to be worked without license.
7. Grant of licenses.
8. Expiration and renewal of licenses.
9. Refusal of licenses.
10. Contents of license.
11. License fee.
12. New license on removal or alteration of press.
13. Press-mark to be lodged with Collector.
14. Licensee of cotton-press to use press-mark.

III.—INSPECTORS OF COTTON.

15. Appointment of Inspectors of Cotton.
16. Their duties.
17. To have access to stores, presses, and gins.
18. Obstructing Inspectors.
19. Inspectors may seize adulterated cotton, and give it into custody.
20. Police to assist Inspectors.
21. Opening bales.
22. Control of Inspectors.
23. Their suspension and dismissal.
24. Appointment of Sub-Inspectors.

IV.—FEES.

25. Levy of fees.
26. Disposal of fees levied at sea-ports not under Local Government.
27. Application of fees.
28. Power of Governor of Bombay. to transfer to other Local Governments part of surplus of Cotton Fund.

V.—PENALTIES.

29. Penalty for fraudulent adulteration, deterioration, or mixture of cotton.

Section.

19. For fraudulently selling, or keeping or offering for sale, adulterated or deteriorated cotton.
20. For offering adulterated cotton for compression.
21. Confiscation of cotton.
22. For using cotton-press without a license.
23. For working cotton-press after refusal of license.
24. For neglecting to take out new license.
25. For failure to mark bales.
26. For counterfeiting press-mark, or using it without authority.
27. For abatement of offences.
28. Institution of prosecutions.
29. Adjudication of offences, confiscation and fines. Fines, fees, and proceeds of confiscations.
30. Licensees held to be owners.

VI.—MISCELLANEOUS.

31. Civil remedies not barred.
32. Suits against officers. Notice. Limitation. Tender.
33. Powers of Collector exercisable by any officer appointed by Local Government.
34. Power to make rules.
35. Account to be prepared and published. Schedule.

AMENDED BILL.

A Bill for the Improvement of Cotton.

WHEREAS it is expedient to provide for the improvement of Cotton produced in British India;

Preamble.

It is hereby enacted as follows:—

I.—PRELIMINARY.

Short title. 1. This Act may be called "The Cotton Act, 1868."

2. The Act shall come into force in the Presidency of Bombay and in the Central Provinces on the first day of April 1868, and thereupon Act No. IX. of 1863 of the Governor of Bombay in Council (*for the prevention of adulteration of Cotton, and the better suppression of Frauds in the Cotton trade in the Presidency of Bombay*) shall be repealed. All things duly done under the said Act shall be deemed to have been done under this Act.

3. The Governor General of India in Council may, at the request of any Local Government, extend this Act to the whole or such part of the territories, other than the Presidency of Bombay and the Central Provinces, under such Local Government as shall be specified in that behalf by notification in the *Gazette of India*.

4. In this Act—unless there be something repugnant in the subject or context—
 Interpretation clause. "Bale" means any package of cotton;
 "Gin" means any machine used for the purpose of cleaning cotton;
 "Press" means any machine used for the purpose of compressing cotton;
 "Foreign export" means export out of British India.

II.—LICENSES FOR COTTON PRESSES.

5. From the day on which this Act shall come into operation in any Presidency, territory, or district, no press shall be used therein for the purpose of compressing cotton, without a license obtained in the manner and subject to the conditions hereinafter mentioned.

6. Licenses for the working of cotton-presses may be granted by the Collector of the district within which such presses are to be worked, to any persons who the Collector may be satisfied are in possession of the presses in respect of which they apply.

Every such license shall expire and shall be renewable upon the first day of January in the year next ensuing the year in which it was granted or last renewed.

The Collector may, for reasons which he shall state in writing under his signature to the person applying for any such license or renewal, refuse to grant or to renew the license of any press.

7. Every license issued under this Act shall specify the number of presses for which the same is granted, the place in which they are situate, and the power employed for working them, according to a written statement which shall accompany the application for such license; and for every press so licensed, or the license of which shall be so renewed, a fee shall be levied at the rate set forth in the schedule to this Act.

Upon the removal to another place of a press comprised in any license, or upon change of the power employed for working such press, it shall be necessary for the licensee to obtain a new license in respect of the press, subject to the conditions aforesaid.

8. Every applicant for a license under this Act shall lodge with the Collector, a cloth, parchment, or paper, impressed or marked either with some distinctive mark not less than one foot square, or with his name, or that of his firm or company, in letters not less than one inch and a half long, and the name or mark shall be called a press-mark.

Upon the grant of such license the licensee shall mark with the press-mark every bale compressed by any press in his possession or comprised in the license, and the press-mark shall be affixed to the wrapper or cloth under-lying the fastenings or bands of the bale.

III.—INSPECTORS OF COTTON.

9. The Local Government may appoint such and so many officers to be styled Inspectors of Cotton, as shall appear expedient.

It shall be the duty of such officers to suppress the use of unlicensed presses, and to examine cotton brought for compression, or to a Railway station

for transport, or kept or offered for sale. In the execution of this duty, the Inspectors shall at all

To have access to stores, presses, and gins. building or enclosure within which any cotton is stored, or any gin or press at work, or prepared for work, is situate; and if the licensee of any press, or his servant or agent, shall be convicted of having

Obstructing Inspectors. offered any obstruction to such Inspector in the execution of his duty, his license may be adjudged by a Magistrate to be suspended for such fixed time as the Magistrate shall think fit, or to have become void.

10. The Inspectors may seize and detain all adulterated cotton and give it into custody. Inspectors may seize adulterated cotton and give it into custody. which any offence under this Act shall appear to have been committed, and may give such cotton into the custody of any Police officer.

Every Police officer shall be bound, at the request of any Inspector, Police to assist Inspectors. to assist him in seizing and detaining such cotton, and in bringing the offender to justice.

11. Any Magistrate may grant a warrant authorizing an Inspector to open any bale finally passed for foreign export, and thereupon the Inspector may open the same accordingly; but no Inspector shall, without such warrant, open a bale so pressed as last aforesaid.

12. The Inspectors shall, in their official capacities, be subject, in any seaport to which this Act may apply, to the orders of such officer as the Local Government shall from time to time appoint, and, in all other places to which this Act shall apply, to the orders of the Collector of the district in which they hold their appointments, or in which they are for the time being employed.

The Local Government may suspend or dismiss any Inspector for neglect or misconduct in the discharge of his duty. Their suspension and dismissal.

13. The Local Government may appoint any number of Sub-Inspectors, and confer and impose upon them such of the powers and duties of Inspectors as it may from time to time think fit; and the provisions as to Inspectors contained in the latter part of section ten and in sections eleven and twelve shall, *mutatis mutandis*, apply to Sub-Inspectors so appointed.

IV.—FEES.

14. Upon every bale of cotton exported from any presidency, territory, or district in which this Act shall be in force, there shall be levied such fee not exceeding four annas per bale as the Governor General of India in Council shall from time to time notify in the *Gazette of India*.

Such fees may be levied at such place or places within British India (whether or not situated within the presidency, territory, or district from which the cotton is exported) as the Governor General of

India in Council shall from time to time notify as aforesaid.

15. Whenever any such fee shall be levied at a sea-port within the territories of any Local Government, other than the Local Government from whose territories the cotton was originally exported, the former shall transmit to the latter Government the whole or such proportion of the fee as the Governor General of India in Council shall from time to time notify as aforesaid.

16. All such fees levied by the Local Government from whose territories the cotton shall have been originally exported, and (in case they are levied by another Local Government under the directions of the Governor General of India in Council as aforesaid) all or such portion of the fees as aforesaid, shall be paid to the credit of a fund to be termed "The Cotton Improvement Fund," which shall be established by each Local Government to whose territories this Act shall have been extended, and shall be devoted solely to carrying out the objects of this Act.

After providing for the salaries of the officers appointed under this Act and the expenses of their establishments and the cost of collecting the fees leviable under this Act, the surplus (if any) may at the discretion of the Local Government be expended in the purchase, importation, and introduction of superior cotton-seed, and of improved machinery for cultivating, cleaning, and compressing cotton.

17. The Governor of Bombay in Council may, if he shall think fit, transfer to any other Local Government such portion of the unexpended surplus of the Bombay Cotton Improvement Fund as may, in his opinion, be due to such Local Government on account of the fees collected in Bombay, before the first day of April 1868, in respect of cotton exported from the territories subordinate to such Local Government.

V.—PENALTIES.

18. Whoever adulterates or deteriorates cotton by mixing therewith any seed, dirt, stone, or other foreign matter, or who fraudulently or dishonestly mixes cleaned and uncleaned cotton, or cotton of different varieties, in one bale, or who fraudulently or dishonestly, by exposing cotton to dew, or by any other means, deceptively increases or attempts to increase the weight of the same, shall be punished with imprisonment for a term not exceeding twelve months, and shall also be liable to fine.

Penalty for fraudulent adulteration, deterioration, or mixture of cotton. fraudulently or dishonestly mixes cleaned and uncleaned cotton, or cotton of different varieties, in one bale, or who fraudulently or dishonestly, by exposing cotton to dew, or by any other means, deceptively increases or attempts to increase the weight of the same, shall be punished with imprisonment for a term not exceeding twelve months, and shall also be liable to fine.

19. Whoever fraudulently or dishonestly sells or keeps for sale, or offers for sale, any cotton adulterated, deteriorated, or deceptively increased in weight, as aforesaid, shall be punished with imprisonment for a term not exceeding twelve months, or with fine, or with both.

For fraudulently selling, or keeping or offering for sale, adulterated or deteriorated cotton.

20. Whoever offers for compression cotton adulterated, or deteriorated or mixed as described in section eighteen, shall be liable to a fine not exceeding one thousand rupees.

For offering adulterated cotton for compression.

21. All cotton which shall have formed the subject of a conviction under section eighteen, section nineteen, or section twenty, shall be confiscated.

Confiscation of cotton.

22. Whoever, without such license as is mentioned in section five, works or attempts to work any such press as is referred to in the same section, shall be liable to a fine not exceeding one thousand rupees.

For using cotton press without a license.

23. Whoever, after such refusal as is mentioned in section six, works, or attempts to work the press in respect of which the refusal has been made, shall be liable to a fine not exceeding one thousand rupees.

For working cotton-press after refusal of license.

24. Whoever neglects to obtain a new license under the circumstances mentioned in section seven, shall be liable to a fine not exceeding one thousand rupees.

For neglecting to take out new license.

25. Any licensee failing to mark with his pressmark mentioned in section ten any such bale compressed as aforesaid, shall be liable to a fine not exceeding one hundred rupees, and his license, if it be so adjudged by the Magistrate, shall be suspended for such fixed time as the Magistrate shall think fit, or shall become void as to all presses comprised therein.

For failure to mark bales.

26. Whoever, with intent to cause damage or injury to the public or to any person, knowingly counterfeits or imitates any press-mark used by a licensee under this Act, or packs any bale in any cloth or wrapper bearing a press-mark used by such licensee, shall be punished with imprisonment for a term which may extend to two years, or with fine, or with both.

For counterfeiting press-mark, or using it without authority.

27. Whoever abets within the meaning of the Indian Penal Code any offence made punishable by this Act, shall be punished with the punishment herein provided for such offence.

For abetment of offences.

28. No person shall be proceeded against for any offence under this Act, except by summons on information laid by an Inspector of Cotton or some other person.

29. All offences against this Act may be tried, and all confiscations and fines under its provisions may be adjudicated, by any Magistrate with powers not inferior to those of a subordinate Magistrate of the first class.

Adjudication of offences, confiscations and fines.

Provided that, in the infliction of the penalties provided by this Act, no Magistrate shall exceed the limits of his ordinary criminal jurisdiction.

All fines and fees levied, and the proceeds of all Cotton confiscated under this Act, shall be carried to the credit of the Cotton Improvement

Fines, fees, and proceeds of confiscations.

Fund established by the Local Government within whose territories such levy or confiscation shall have been made.

30. For all purposes of this Act, a licensee shall be held to be the owner of the press for which he has obtained a license.

Licensees held to be owners.

VI.—MISCELLANEOUS.

31. Nothing herein contained shall affect the right of any person defrauded by an offender against this Act to sue him in the Civil Courts.

Civil remedies not barred.

32. No suit shall be brought against a Collector or other officer for anything done under this Act until the expiration of one month next after notice in writing shall have been delivered or left at the office or place of abode of the Collector or other officer, explicitly stating the cause of suit and the name and place of abode of the intended plaintiff. Unless such notice be proved, the Court shall find for the defendant.

Notice.

Every such suit shall be commenced within six months next after the accrual of the cause of suit.

Limitation.

If any person to whom any such notice of suit is given shall, before suit brought, tender sufficient amends to the plaintiff such plaintiff shall not recover.

Tender.

33. All or any of the powers and duties conferred and imposed under or by virtue of this Act on a Collector, Inspector, or Sub-Inspector may be exercised and performed by such other officer not an officer of Police as the Local Government shall from time to time appoint in this behalf.

Powers of Collector exercisable by any officer appointed by Local Government.

34. The Local Government may from time to time, with the previous sanction of the Governor General of India in Council, make rules for the guidance of officers in matters connected with the enforcement of this Act, and alter and add to the rules so made:

Provided that such rules, alterations, and additions are not inconsistent with any of the provisions herein contained.

35. As soon as may be after the first day of April in each year, such officer as the Local Government shall from time to time appoint, shall prepare an account of all sums realized and expenditure incurred under this Act during the preceding year in the territories subject to such Local Government, and such account shall be published in the official Gazette.

Account to be prepared and published.

SCHEDULE.

	Fees leviable.
For every press worked by steam or any power other than animal or manual labour ..	Rs. 5
For every press worked by animal, or animal and manual, labour 2
For every press worked by manual labour alone 1

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 January 1868:—

No. 4 of 1868.

PANJA'B TENANCY BILL.

CONTENTS.

Preamble.

PART I.

PRELIMINARY.

SECTION.

1. Short title.
2. Saving of agreements between landowners and tenants, and of decrees.
3. Interpretation clause.

PART II.

RIGHTS OF OCCUPANCY.

4. Tenant who has lost proprietary rights otherwise than by forfeiture to Government.
5. Tenant whose name is in settlement records, or who has occupied continuously for certain period.
6. When tenants not recorded as having right of occupancy shall have same rights as other tenants.
7. No right of occupancy acquired by mere lapse of time.

PART III.

OF RENT.

1.—Enhancement.

8. Liability to enhancement of rent.
9. Suit for re-enhancement.

2.—Rent payable by Tenant-at-will.

10. Rent payable by tenant-at-will.

3.—Abatement of Rent.

11. Grounds of right to abatement.

4.—Remission of Rent.

12. When Court may allow remission from rent.

5.—Rent in kind.

13. Commutation of rent in kind.
14. Division and appraisalment of produce taken for rent.
15. Procedure in case of dispute.

PART IV.

OF EJECTMENT, ABANDONMENT, RELINQUISHMENT, SUB-LEASES.

Ejectment.

16. Ejectment of tenants-at-will and tenants having right of occupancy.
17. Tenant-at-will not liable to ejectment without notice.
18. Ejectment of tenant having a right of occupancy.
19. Time of ejectment.
20. Compensation to ejected tenant for growing crops.
21. Loss of right of occupancy on ejectment.

GOVT. OF INDIA BILLS—79g

Abandonment.

22. Loss of right of occupancy on abandonment. Abandonment, what.

Relinquishment.

23. Relinquishment of land by tenant.

Sub-leases.

24. Right to sub-let.
25. Loss of right of occupancy by non-receipt of produce.

PART V.

OF CERTAIN DISABILITIES WHICH MAY BE REMOVED BY PAYMENT OF COMPENSATION.

26. Right of land-owner to resume possession of leased land required for his own cultivation.
27. Right of tenant to alienate tenure. Land-owner's right of pre-emption. Right of tenant's alienee.
28. Removal of disability to plant or cut trees.

PART VI.

OF COMPENSATION FOR TENANTS' IMPROVEMENTS.

29. Rights as to improvements.
30. Enforcement of tenant's right to require or make improvements.
31. Tenant's right to compensation for improvements.
32. Compensation how made.
33. "Improvements" defined.

PART VII.

PROCEDURE.

34. Revenue Courts, what.
35. Revenue Courts to hear claims under certain sections.

A Bill to define and amend the law relating to the tenancy of land in the Panjáb.

WHEREAS it is expedient to define and amend the law relating to certain matters connected with the tenancy of land in the Panjáb; It is hereby enacted as follows:—

Preamble.

PART I.

PRELIMINARY.

1. This Act may be called "The Panjáb Tenancy Act." Short title.
2. Nothing contained in this Act shall affect the operation of any agreement entered into between a land-owner and a tenant or of any decree of court under which a tenant holds. Saving of agreements between landowners and tenants, and of decrees.
3. In this Act, unless there be something repugnant in the subject or context—
"Land-owners" means any person entitled to receive rent, but does not include the Government, in cases where the Government is entitled only to the land-revenue, nor any mere assignee of land-revenue;
"Tenant" means any occupant of land liable to pay rent therefor, who does not, at the date of the passing of this Act, possess both a heritable

and a transferable interest in such land, and includes the person from whom the land may have been inherited, or otherwise legally acquired;

"Rent" means whatever is payable on account of the use or occupation of land;

"Land" means land subject to a settlement, whether regular or summary, of land-revenue;

"Settlement Officer" means any officer employed in making or revising a regular settlement of land revenue.

PART II.

RIGHTS OF OCCUPANCY.

4. Every tenant who has at any time possessed proprietary rights in land continuously occupied by him, and who has lost those rights otherwise than by forfeiture to Government, shall be deemed to have a right of occupancy in such land.

5. Every tenant whose name appears in the records of a regular settlement sanctioned by the Local Government prior to the passing of this Act, as having a right of occupancy in land which he has continuously occupied from the date of entering his name in such settlement, or who, if no such settlement has been made, shall have occupied the land continuously for a term commencing not less than twelve years prior to the first day of April 1849, shall, unless and until the contrary be proved, be presumed to have a right of occupancy in the land so occupied.

The land-owner may rebut the said presumption by showing—

(1).—That the entry in the said records was made in violation of the rules laid down by the settlement officer, as set forth in the official report or the records of the settlement; or

(2).—That the tenant has voluntarily admitted before any settlement officer, or before any officer authorized to attest mutation of entries in the village record, that he is a tenant-at-will; or

(3).—That within the thirty years immediately before the institution of a suit relating to the right of occupancy, other tenants of the same class and holding under similar circumstances in the same or in adjacent villages (excepting tenants specified in section three), have ordinarily been ejected from their holdings at the will of the land-owner; or

(4).—That on any other grounds which may satisfy a Civil Court, the tenant is only a tenant-at-will.

Explanation.—If the tenant shall have voluntarily exchanged the land, or any portion of the land, formerly occupied by him, for other land belonging to the same land-owner, the land taken in exchange shall, for the purposes of this Act, be held to be subject to the same right of occupancy as the land given in exchange would have been subject to if the exchange had not taken place.

6. Any tenant who at a regular settlement sanctioned by the Local Government prior to the

passing of this Act was not recorded as having a right of occupancy, shall, if in the opinion of the Court there is reason for believing that he would have been so recorded if he had preferred his claim at the settlement have the same rights and be subject to the same liabilities as other tenants who were recorded in the same settlement as having rights of occupancy.

7. No tenant-at-will shall be deemed to acquire a right of occupancy by mere lapse of time.

PART III.

OF RENT.

1.—*Enhancement.*

8. Every tenant having a right of occupancy shall be liable to have his rent enhanced; but the rent of no such tenant shall be enhanced otherwise than in execution of a decree of Court made in accordance with the following provisions, (that is to say):—

(1).—In no case shall the rent payable by the tenant, be more than eighty-five per cent. of the average annual net produce which, in the opinion of the Court, the land is capable of yielding during a period of five years from the date of suit; and

(2).—The rent payable by the tenant shall not exceed seventy-five per cent. of such net produce, if before the institution of a suit for enhancement or the regular settlement he did not pay rent at any higher rate than that of the land-revenue.

Explanation.—These rates are laid down on the assumption that the land-revenue and all extra cesses, such as Road Fund, Lumberdars' fees, Patwari's fees, School Fund, district dak cess, and the like, are payable by the land-owner. If the land-revenue or any of the said cesses is payable by the tenant, the rate to which his rent may be enhanced shall be reduced by the amount so payable.

9. After a decree shall have been passed in accordance with section eight, no suit shall lie for re-enhancement of the rent until the expiration of five years from the date of such decree, unless—

(1).—A general revision of settlement shall have taken place in the meantime; or

(2).—The quantity of land held by the tenant shall be ascertained to be greater than the quantity for which he has paid rent previously to the institution of the suit; or

(3).—The productive power of the land shall have been increased by improvements of the description mentioned in section thirty-three effected at the sole expense of the land-owner.

2.—*Rent payable by Tenant-at-will.*

10. Every tenant-at-will shall pay such rent as may be agreed upon between him and the land-owner; or, if no such agreement has been made, such rent as was payable for the land in the last preceding year.

3.—*Abatement of Rent.*

11. Every tenant having a right of occupancy shall be entitled to claim abatement of the rent previously paid by him on either of the following grounds, and on no others:—

(1).—That the area of the land has been diminished by diluvion or otherwise, or proved to be less than the quantity for which rent has been previously paid by him; or

(2).—That the productive powers of the land have been decreased by any cause beyond the control of the tenant.

4.—*Remission of Rent.*

12. Notwithstanding anything contained in section ten or section eleven, 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 be 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.

5.—*Rent in Kind.*

13. No commutation of rent in kind into rent in money shall take place without the consent of the land-owner; and no commutation of rent in money into rent in kind shall take place without the consent of both the land-owner and the tenant.

14. Whenever rent is taken by division of the produce in kind, or by estimate or appraisal of the standing crop, or other procedure of a similar nature, requiring the presence of the person entitled to the rent and of the cultivator either personally or by their recognised agents, if either party shall neglect to be present at the proper period, or if a dispute shall arise between the parties regarding such division, estimate or appraisal, either party may present an application to the Court requesting that a suitable person be deputed to make the division, estimate or appraisal.

15. On receiving such application the Court shall issue a written notice to the other party requiring him to attend on the date and at the place specified in the notice, and shall depute a suitable person before whom the division, estimate or appraisal shall be made. The award of such person in respect of the division, estimate or appraisal shall be final, unless within three months from the date thereof either party shall institute a suit in the Civil Courts to set it aside.

PART IV.

OF EJECTMENT, ABANDONMENT, RELINQUISHMENT,

SUB-LEASES.

Ejection.

16. Subject to the provisions contained in sections sixteen, seventeen, and eighteen, every tenant-at-will shall be liable to be ejected from the land in his occupancy, and every tenant having a right of occupancy, from whom an arrear of rent is due, shall be liable to be ejected from the land in respect of which the arrear is due.

17. No tenant-at-will from whom no arrear of rent is due shall be ejected from the land in his occupancy, unless he shall have received notice of the land-owner's intention to eject him, and such notice shall have been recorded by the Patwari, or a written notice put up in some conspicuous place in the village in which the land is situate, at the time fixed in the village administration paper for such notices to be given, if or no such time be so fixed, on or before the first day of May in any year after the passing of this Act.

18. No tenant having a right of occupancy shall be ejected otherwise than in execution of a decree for ejection, and such decree shall not be made unless at the date of the decree, a decree against such tenant for an arrear of rent in respect of the land from which the land-owner desires to eject him shall have remained unsatisfied for fifteen days or upwards.

19. Not tenant shall, whether in execution of a decree or otherwise ejected from the land occupied by him except at such time as may have been fixed in that behalf in the village administration paper; or, if no such time has been fixed, except between the first day of May and the fifteenth day of June in any year after the passing of this Act: Provided that, while his rent is in arrear, he has failed to cultivate the land for which the arrear is due, in accordance with the terms on which he holds it, he may be ejected therefrom at any time.

20. Any tenant ejected in accordance with the provisions of this Act, shall be entitled to receive from the land-owner the value of any growing crops or other ungathered products of the earth belonging to such tenant and being on the land at the time of such ejection.

21. If a tenant having a right of occupancy be ejected in accordance with the provisions of section seventeen from the land in which he possesses such right, he shall lose his right of occupancy in such land.

22. If a tenant having a right of occupancy abandon the land in his occupancy, he shall lose his right of occupancy in such land.

23. Every tenant shall continue liable for the rent of the land occupied by him, unless at the time fixed in that behalf in the

Omission both to cultivate and to pay rent or to make provision for both cultivation on payment of rent for twelve months, shall be held to be abandonment within the meaning of this section.

Relinquishment.

23. Every tenant shall continue liable for the rent of the land occupied by him, unless at the time fixed in that behalf in the

village administration paper, or, if no such time be fixed, on or before the fifteenth day of May in any year after the passing of this Act, he shall give notice to the land-owner of his intention to relinquish such land, or unless such land shall have been let to any other person by the land-owner.

Sub-leases.

24. Any tenant having a right of occupancy may sub-let, or otherwise temporarily provide for the cultivation of his land, whenever for any sufficient reason he is unable to cultivate it himself.

25. Provided that the tenant shall lose his right of occupancy, if it appear that, for a period of more than three years, neither the tenant nor his heir has received any portion of the produce of the land.

PART. V.

OF CERTAIN DISABILITIES WHICH MAY BE REMOVED BY PAYMENT OF COMPENSATION.

26. Any land-owner proving to the satisfaction of the Court that the quantity of land in his possession is insufficient for the support of himself and his household, may, on payment of the market value of the land, be entitled to require a surrender of as much of the land of any tenant having a right of occupancy subordinate to him (the land-owner) as shall, when added to the land already in the land-owner's possession, be sufficient in the opinion of the Court for the support of himself and his household: Provided that, at the option of the tenant, the land-owner shall be required to take at the market-value either such additional quantity only, or the whole of the land occupied by the tenant.

27. Any tenant having a right of occupancy in any land, and having an heir entitled to succeed to such land, shall have power, subject to any restrictions imposed on the disposition of immoveable property generally by law or local usage, to alienate his tenure on payment to the land-owner of a sum of ten per cent. of the market-value; provided that in every such case the tenure shall be offered for sale in the first instance to the land-owner at the market-value less ten per centum, and shall not be sold to any other person unless the land-owner shall for the space of one month refuse or neglect to complete the purchase.

Every person to whom a tenure shall be alienated under this section, shall be deemed to have the same rights and to be subject to the same liabilities as the tenant making the alienation.

28. Any tenant having a right of occupancy but disentitled to plant or cut down, remove and dispose of trees or timber planted by himself or of spontaneous growth, on the land in his occupation, shall, on tendering to

the land-owner such compensation as the Court shall think reasonable, become entitled to plant and cut down, remove and dispose of any such trees or timber as aforesaid. Provided that nothing herein contained shall be deemed to authorize the tenant to plant trees so as to diminish the amount of rent which he may from time to time be liable to pay in kind.

PART VI.

OF COMPENSATION FOR TENANTS' IMPROVEMENTS.

29. The land-owner may make improvements on the land in the occupation of any tenant; and any tenant may with the previous permission of the land-owner make improvements on such land: Provided that the land-owner shall be deemed to have given such permission in every case where, being cognizant of the improvements while they were being made, he did not expressly prohibit them.

30. Any tenant having a right of occupancy may require the land-owner either to make the improvements or to give the tenant permission to make them. If the land-owner refuse to make or neglect to commence and within a reasonable time to complete the improvements required of him, or to give the tenant permission to make them, the tenant may, on satisfying the Court that such improvements or any of them are or is desirable, obtain an order authorizing him to effect them or it himself.

31. If any tenant shall have made improvements on the land in his occupation in accordance with the conditions mentioned in sections twenty-nine and thirty, and if the land-owner ejects or brings a suit to eject or to enhance the rent of such tenant, 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 within twenty years next before such ejectment or the institution of such suit as aforesaid.

32. Such compensation shall, in case the tenant be ejected or the land-owner sue to eject him, be made by payment in money; and in case the land-owner sue to enhance the rent within twenty years after the date of effecting any such improvement, the Court in making a decree in his favour shall not take into consideration the increase of the value of the land which may reasonably be attributed to such improvement: Provided that, in estimating the amount of the compensation, regard shall be had to any benefit derived by the tenant from his having been allowed to hold at a rate of rent more favourable than the rate at which he otherwise would have held.

33. The word "improvements," as used in sections twenty-nine, thirty, thirty-one and thirty-two, 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 and clearing of waste lands and jungles; and other works of a like nature;

2nd.—The renewal or re-construction 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.

PART VII.

PROCEDURE.

34. For the purposes of this Act, the Revenue Courts shall be these several Courts mentioned in section four of the Panjáb Courts' Act, 1865, holding sittings on the revenue side, other than Courts of Small Causes; but instead of the Chief Court of the Panjáb, the final Court of appeal shall be the Court of the Financial Commissioner of the Panjáb. The Court of the Settlement Officer shall also for the purposes of this Act be deemed to be a Revenue Court. All the provisions of the said Act and of Act No. XXVII. of 1867 (*to empower Deputy Commissioners in the Central Provinces, the Panjáb, Oudh and the Jhansi Division to distribute the business in subordinate Courts*) shall, so far as they are applicable, apply to the Revenue Courts.

35. Claims under sections eight, nine, thirteen, Revenue Courts to hear fourteen, fifteen, twenty-claims under certain sections six, twenty-seven and twenty-eight shall, unless otherwise provided for, be heard in the Revenue Courts. The rules relating to civil procedure for the time being in force in the Panjáb shall, so far as they are applicable, apply to all suits brought before the Revenue Courts under this Act.

STATEMENT OF OBJECTS AND REASONS.

No Act at present exists to provide for the fixing or enhancing of the rent of land in the Pan-

jáb, or for dealing with the claims of tenants to rights of occupancy and with other matters relating to the tenancy of land. Acts for these purposes are in existence, which apply to Bengal and the North-Western Provinces, and a Bill on the same subject for the Province of Oudh has recently been introduced in the Council. An enactment for the regulation of these matters is no less required for the Panjáb. Whatever appeared applicable to the requirements of the Panjáb, in the North-West Provinces' Acts (Nos. X. of 1859, and XIV. of 1863) and the Qudh Bill, has been adopted in the present draft, but other provisions differing in some very material respects from the provisions made for these Provinces, have been introduced where they appear to be required by the different circumstances of the Panjáb. Perhaps the most important point in which this Bill differs from Act No. X. of 1859 is that, whereas by that Act tenants who have cultivated for twelve years are deemed to have rights of occupancy in the land so cultivated, under this Bill mere length of possession confers no right of occupancy on the tenant, but only creates a rebuttable presumption of such a right, if he has been entered in the settlement record as having right of occupancy, or if he has occupied his land for a period of twelve years before the annexation of the Panjáb; and mere length of possession under other circumstances creates no presumption of a right of occupancy in favour of the tenant.

I propose that this Bill be published for six or seven weeks before I move to pass it. There are so many experienced officers in the Panjáb, able to judge of the merits of the Bill, that I trust I shall, in this interval, receive from them valuable suggestions in regard to all the points on which it may require amendment.

E. L. BRANDRETH.

CALCUTTA,
The 30th December 1867. }

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