The United Provinces Tenancy Act, 1939

Act 17 of 1939

Published on 30 June 1938
Commenced on 30 June 1938

[This is the version of this document from 30 June 1938.]

[Note: The original publication document is not available and this content could not be verified.]

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(U.P. Act No. 17 of 1939)

Recod. the assent of the Governor on 6.12.1939, under Section 75 of the Government of India Act, 1935, and was published on 16.12.1939.

Whereas it is expedient to consolidate and amend the law relating to agricultural tenancies (proprietary cultivation) and other matters connected therewith in Agra and Oudh.

It is hereby enacted as follows :

Chapter I
Preliminary

Note. - The Act stands rep. vide Section 339(a) of U.P. Act 1 of 1951, in all areas in respect of which notification under Section 4 of the aforesaid Act 1 of 1951 have already been made.

1. Short title, extent and commencement

. - (1) This Act may be called the United Provinces Tenancy Act, 1939.

(2) It extends to the whole of Uttar Pradesh except the areas specified in the First Schedule, the Jaunsar Bawar Pargana of the Dehra Dun district and portion of the Mirzapur district south of the Kaimur Range :

Provided that the State Government may, by notification in the official Gazette, extend the whole or any part of this Act to the whole or any portion of the area specified in the First Schedule subject to such modification, if any, as it thinks fit:

Provided further that when this Act or any portion of it is extended to the whole or any portion of the area specified in the First Schedule with or without modification, so much of any Act or Regulation in force therein as is inconsistent with this Act or the portion so extended or with any modification made therein, shall be deemed to have been repealed thereby :

Provided further that no provision of this Act which is inconsistent with the provisions of the Pargana of Kaswar Raja Act, 1915, shall apply to the Pargana of Kaswar Raja in the district of Benaras.

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

2. Repeal

. - (1) The Agra Tenancy Act, 1926, is hereby repealed except in respect of the areas to which this Act does not apply.

(2) The Oudh Rent Act, 1886, is hereby repealed.

3. Interpretation

. - In this Act, unless there is something repugnant in the subject or context, -

(1) all words and expressions used to denote the possessor of any right, title or interest in land, whether the same be proprietary or otherwise, shall be deemed to include the predecessors in right, title or interest of such person.

(2) "agricultural year" means the year commencing on the first day of July and ending on the thirtieth day of June;

(3) "Board", "Commissioner", "Collector", "Revenue Court", "Revenue Officer", "Settlement Officer", "Assistant Settlement Officer", "Assistant Collector", "Assistant Collector incharge of a sub-division", "tahsildar", "mahal", "lambardar" "sub-proprietor", under-proprietor", "superior proprietor" and "minor" have the same meaning as in the United Provinces Land Revenue Act, 1901, except that a sub-proprietor does not include a rent-free grantee.

(4) "Commissioner" includes an Additional Commissioner and "Collector" includes an Additional "Collector".

(5) "crops" include shrubs, bushes, plants and climbers such as tea bushes, rose bushes, betel plants, plantains, and papitas;

(6) "grove-land" means any specific piece of land in a mahal or mahals having trees planted thereon in such numbers that they preclude, or when full grown will preclude, the land or any considerable portion thereof from being used primarily for any other purpose, and the trees on such land constitute a grove;

(7) "holding" means a parcel or parcels of land held under one lease, engagement or grant, or in the absence of such lease, engagement or grant under one tenure and in the case of a thekedar includes the theka area;

(8) "improvement" means with reference to a tenant's holding :-

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

(ii) any work which adds materially to the value of the holding and is consistent with the purpose, for which it was let, and which, if not executed on the holding, is either executed directly for its benefit or is after execution made directly beneficial to it; and, subject to the foregoing provisions of this clause, includes :-

(a) the construction of wells, water channels and other works for the supply or distribution of water for agricultural purposes;

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

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

(d) the erection in the immediate vicinity of the holding otherwise than on the village site, of buildings required for the convenient or profitable use or occupation of the holding;

(e) the construction of tanks or other works for the storage of water for agricultural purposes;

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

Provided that such water channels, embankments, enclosures, temporary wells, or other works are made by tenants in the ordinary course of cultivation shall not be deemed to be improvements.

(9) "khudkasht" means land other than sir cultivated by a landlord, an under-proprietor or a permanent tenure-holder as such either himself or by servants or by hired labour;

(10) "land" means land which is let or held for growing of crops, or as grove-land or for pasturage. It includes land covered by water used for the purpose of growing singhara or other produce, but does not include land for the time being occupied by buildings or appurtenant thereto other than buildings which are improvements;

(11) "landholder" means the person to whom rent is or, but for a contract, express or implied, would be payable, but except in Chapter VII and Chapter XIII does not include an assignee of rent or a person who has lost the pro: dietary or other interest by virtue of which rent became payable to him;

(12) "landlord" means the proprietor of a mahal, or of a share, or specific plot, therein. In Agra it included a sub-proprietor, in Oudh, except as otherwise provided in this Act, it does not include an under-proprietor;

(13) "lease" includes the counterpart of a lease;

(14) "pay" with its grammatical variations and cognate expressions, when used with reference to rent, includes "deliver" with its grammatical variations and cognate expressions;

(15) "permanent lessee" means a person in Oudh who holds under heritable non-transferable lease and who is entered in the register maintained under the provisions of clause (b) or clause (c) of Section 32 of the United Provinces Land Revenue Act, 1901;

(16) "recorded" means recorded in a register maintained under the provisions of Section 32 of the United Provinces Land Revenue Act, 1901;

(17) "registered" means registered under any Act for the time being in force for the registration of documents and includes "attested" under the provisions of Section 57;

(18) "rent" means whatever is, in cash or kind, or partly in cash and partly in kind, payable on account of the use or occupation of land or on account of any right in land and in Chapter VII, except when the contrary intention appears, includes sayar.

Explanation. - A share of the timber or its value deliverable or payable to the land-holder on a sale of trees by a grove-holder is rent.

(19) "revenue" means land revenue and includes revenue assessed only for the purposes of calculating the local rate payable under the United Provinces Local Rates Act, 1914.

(20) "sayar" includes whatever is to be paid or delivered by a lessee or licensee on account of the right of gathering produce, forest rights, fisheries and the use of water for irrigation from artificial sources;

(21) "sir holder" means a landlord, an under-proprietor or a permanent tenure-holder, who possesses sir;

(22) "sub-tenant" means a person who holds land from the tenant thereof other than a permanent tenure-holder, or from a grove-holder, or from a rent-free grantee or from a grantee at a favourable rate of rent and by whom rent is, or but for a contract, express or implied, would be payable;

(23) "tenant" means the person by whom rent is, or but for a contract, express or implied, would be payable and, except when the contrary intention appears, includes a sub-tenant, but does not include a mortgagee of proprietary or under-proprietary rights, a grove-holder, a rent-free grantee, a grantee at a favourable rate of rent or, except as otherwise expressly provided by this Act, an under-proprietor, a permanent lessee or a thekedar;

(24) "thekedar" means a farmer or other lessee of the rights in land of a proprietor, an under-proprietor or permanent lessee or mortgagee in possession and, in particular, of the right to receive rents or profits, but does not include an under proprietor or a permanent lessee;

4. Restrictions on agreement between land-holder and tenant

. - (1) Every agreement, whether made before or after the commencement of this Act, which purports, or would operate, to restrict a tenant from enforcing or exercising any rights conferred on, or secured to him by this Act is void to that extent.

(2) In particular and without prejudice to the generality of the provisions of sub-section (1) an agreement between a land-holder and a tenant is void as so far as it purports, -

(a) to prevent a hereditary tenant from acquiring any of the rights conferred on hereditary tenant, under the provisions of this Act;

(b) to take away or limit the right of a tenant to make improvements or to claim compensation for the same in accordance with the provisions of this Act;

(c) to entitle a land-holder to eject a tenant or enhance his rent otherwise than in accordance with the provisions of this Act;

(d) to take away the right of a tenant to sublet in accordance with the provisions of this Act.

(3) When land not previously cultivated has been reclaimed by the land-holder and let to a tenant or has been let to a tenant in order that it should be reclaimed, then for a period of fourteen years after such land was first brought under cultivation nothing in this section shall be construed as affecting the conditions of any contract which relate to enhancement, abatement or variation of the rent of such land or

which provide that during any period for which such land is to be held free of rent the tenant is liable to ejectment for breach of any condition thereof.

Explanation. - When laird has remained uncultivated for a period of seven years it shall, for the purposes of this sub-section, be deemed to have not been previously cultivated.

(4) Subject to provisions of this section and any other law for the time being in force, any agreement entered into between a land-holder and a tenant relating to a holding, including an agreement conferring transferable rights, shall be valid and enforceable.

5. Power of land-holder to act through agent

. - Save as otherwise provided by the Code of Civil Procedure, 1908, in the case of proceedings governed by that Code, anything which is by the Act required or permitted to be done by a land-holder, may be done by an agent of the land-holder authorised by him [* * *] *[The word 'in writing' omitted by U.P. Act No. 10 of 1947.]* in this behalf; and process served on, or notice given to, such agent shall be as effectual for all purposes as if the same had been served on, or give to, the land-holder in person; and all tire provisions of this Act relating to the services of process on, or the giving of notice to, a party shall be applicable to the service of process on, or the giving of notice to, such agent.

Chapter II
SIR

6. Definition of Sir

. - "Sir" means -

(a) land which immediately before the commencement of this Act was sir under the provisions of the Agra Tenancy Act, 1926, or the Oudh Rent Act, 1886;

Provided that if, at the commencement of this Act, the sir holder is assessed in Uttar Pradesh to a local rate of more than twenty-five rupees, land which was sir under the provisions of clause (d) or clause (e) of Section 4 of the Agra Tenancy Act, 1926, or of clause (c) or clause (d) of sub-section (17) of Section 3 of the Oudh Rent Act, 1886, shall on thus Act coming into force cease to be sir unless it was -

(i) before the first day of July, 1938, received otherwise than in accordance with the provisions of Section 122 of the United Provinces Land Revenue Act, 1901, or

(ii) before the commencement of this Act, received in accordance with the provisions of that section, in exchange for land which was sir under the provisions of clause (a) or clause (b) or clause (c) of Section 4 of the Agra Tenancy Act, 1926, or of clause (a) or clause (b) of-sub-section (17) of Section 3 of the Oudh Rent Act, 1886 :

Provided further that the provisions of the first proviso shall apply to a sir holder who was not at the commencement of this Act assessed into Uttar Pradesh to a local rate of more than twenty-five rupees, if he or his predecessor-in-interest was so assessed on the 30th June, 1938, unless the local rate assessed on him has been decreased by resettlement or by revision of settlement or unless since that day he obtained his sir rights by succession or survivorship :

Provided also that if the land to which the provisions of the first proviso apply was joint sir of several sir holders and all such joint sir holders are not sir holders to whom such provisions apply, such land shall not cease to be sir at the commencement of this Act, but shall remain sir until that portion of it which is the sir of those joint holders to whom such provision apply is demarcated under the provisions of this Act;

(b) land which was khudkasht and which is demarcated as sir under the provisions of this Act.

Explanation. - If any portion of the land revenue assessed on the sir holder's land has been remitted owing to fall in the price of agricultural produce, the local rate payable by him shall, for the purposes of this section, be deemed to have been reduced in the same proportion.

7. Application to joint Hindu families

. - For tire purposes of the provisos to Section 6 each member of a joint Hindu family shall be deemed to be assessed to so much of the local rate assessed on the property of such family as appertains to his share in such property :

Provided that a member of such family, any of whose male lineal ascendants in the male line of ascent is alive and joint with such members, shall not, for such purposes, be deemed to be a sir holder of any portion of the sir of such family and the share of such member in such property shall be deemed to be included in the share of his oldest surviving ascendant in the male line of ascent and the local rate assessed on such share shall be deemed to be assessed on the share of such oldest surviving ascendant.

8. Definition of sir right

. - "Sir right" means the right conferred on sir holders by this Act and by the United Provinces Land Revenue Act, 1901, and includes the right to exclusive possession of the sir against co-sharers of the sir holder in the proprietary right, subject to a liability to account for profits.

9. Succession to, and transfer of sir right

. - (1) On the death of a sir holder sir right shall not devolve except in accordance with the personal law to which the deceased was subject.

(2) Sir right is not transferable except, -

(a) by gift to a person to whom the proprietary right in the sir is gift, or

(b) by exchange :

Provided that no sir holder shall exchange sir for sir in a mahal in which he is not a co-sharer unless the proprietary rights in the sir are exchanged.

10. Exchange of sir

. - A land-holder may agree with his tenant to exchange sir which is not let for land which such tenant holds from such land-holder and which he has not sublet and on such exchange each party shall have the same rights in the land which he receives in exchange as he had in the land which he gives in exchange.

11. Extinction of sir right

. - Land shall cease to be sir, -

(a) when the sir-holder becomes an ex-proprietary' tenant of such land; or

(b) when under the provisions of this Act, hereditary rights accrue in such land; or

(c) when being grove-land, it is transferred otherwise than in accordance with the provisions of sub-section (2) of Section 9.

Provided that if an ex-proprietary tenant regains his proprietary right in the land held by him as ex-proprietary tenant such land shall again become his sir :

Provided further that if, on redemption of a mortgage, the mortgagor regains possession of land which under the provisions of the Agra Tenancy Act, 1926, ceased to be sir and to which the provisions of the second paragraph of sub-section (3) of Section 15 of that Act applied, such land shall again become his sir.

12. Hereditary rights of sir holder's heir on whom proprietary rights do not devolve

. - (1) If on the death of sir-holder the proprietary right in his sir does not devolve according to the personal law' to which the deceased was subject, every person on whom no such right devolves but on whom no such right would have devolved in accordance with that law, shall become a hereditary tenant of so much of such sir as corresponds with the share in such right as would have devolved on him according to that law.

(2) When proprietary right in sir devolves on a person on whom it would have devolved under the personal law to which the deceased was subject and hereditary rights accrue in favour of other persons under the provisions of sub-section (1), the Assistant Collector in-charge of the sub-division shall demarcate

and divide off the area in which hereditary rights accrue and shall, in accordance with rules made by the Board, determine the rent payable for such area.

Explanation. - In this section and in Section 9 the expression "personal law" in the case of Muslims shall mean the Muslim law, of inheritance.

13. Application of "proprietary rights" and "tenant" to other sections

. - In Sections 8 and 9, and Sections 11 and 12 the words "proprietary rights" shall be deemed to include the right of an under-proprietor and of a permanent tenure-holder, and in Section 10 the word "tenant" includes an under-proprietor and a permanent lessee.

14. Rights of certain tenants of sir

. - Any person who, at the commencement of this Act, is a tenant of land which ceased to be sir under the provisions of Section 6 shall become a hereditary tenant of his holding.

15. Demarcation of joint sir

. - (1) An Assistant Collector incharge of sub-division may of his own motion and shall, on the application of any joint holder of sir to which the provisions of the third proviso to clause (a) of Section 6 apply, or of any tenant of such sir, demarcate and divide off so much of such sir as was immediately before the commencement of this Act, the sir of those joint sir holders to whom the provisions of the first proviso to that clause apply, and shall declare that the portion so demarcated and divided off has ceased to be sir from the date of his order and that from that date any tenant of sir is hereditary tenant.

(2) If, in the course of proceedings under the provisions of sub-section (1) the Assistant Collector declares that a portion only of the holding of a tenant, has ceased to be sir, he shall divide off such portion and determine the rent of such portion and of the remainder.

(3) Before passing orders under this section, the Assistant Collector may make such inquiry as he considers necessary and shall give to such joint holders as have not joined in the application and the tenants of sir, if any, an opportunity to show-cause, if they wish to, why the demarcation should be made in any particular way.

16. Hereditary rights in sir and demarcation of sir which is let

. - (1) Every person who, at the commencement of this Act, is a tenant of sir holding from a sir-holder to whom the provision of the first proviso to clause (a) of Section 6 apply shall, at such commencement, become a hereditary tenant of his holding if at such commencement such sir-holder possess fifty acres or more than fifty acres of sir which is not let, and which did not cease to be sir under any of the previous provisions of this Act.

(2) If at such commencement such sir-holder possesses less than fifty acres of such sir, such person shall become a hereditary tenant only in accordance with a declaration to that effect made under the provisions of sub-section (3).

(3) In a case to which the provisions of sub-section (2) apply the Assistant Collector may of his own motion, and shall, on the application either of sir-holder or the tenant, demarcate the sir of the sir-holder and shall declare that any tenant of land situated in the area not so demarcated shall be a hereditary tenant of his holding or of such person thereof as is situated in such area.

(4) In demarcating sir under the provisions of sub-section (3), the Assistant Collector shall demarcate as sir so much of the sir-holder's sir and of his khudkasht as amounts to fifty acres, or the area of the sir-holder's sir, whichever is less :

Provided that only so much of the sir-holder's sir which is let shall be demarcated as sir as is necessary to make the total area demarcated as sir equal to fifty acres or the area of the sir holder's sir, whichever is less.

(5) If, in accordance with the provisions of sub-section (3), the Assistant Collector orders that a tenant be the hereditary tenant of a part only of his holding, he shall divide off such portion and shall determine the rent of such portion and of the remainder.

(6) Before passing order under sub-section (3) the Assistant Collector may make, such inquiry as he considers necessary and shall give the sir-holder and the tenants of sir an opportunity to show cause why the demarcation should be made in a particular way.

(7) For the purposes of this section, an acre situated in Bundelkhand or in the trans-Jumuna portion of the Allahabad, Etawah, Agra and the Mathura districts and in such areas as the State Government may specify by notification in the official Gazette shall be deemed to be half an acre.

17. Bar to hereditary rights in sir of disabled persons etc

. - If the sir-holder is a person belonging to one of the clauses to which the provisions of Section 14 apply or if the property of the sir holder is under the superintendence of the Court of Wards, sir, let to a tenant who was admitted to his tenancy by such person or while such property was under the superintendence of the Court of Wards shall, for the purposes of Section 16, be deemed not to be let and such tenant shall not be a hereditary tenant of his holding.

18. Demarcation of sir in the case of joint sir or joint khudkasht

. - (1) If a sir-holder to whom the provisions of Section 16 apply, possesses joint sir or joint khudkasht the Assistant Collector, if he considers it necessary to do so may, before

demarcating sir under the provision of that section demarcate and divide off so much of such joint sir or joint khudkasht as appertains to the share of such sir-holder, and the provisions of Section 16 regarding sir or khudkasht, as the case may be, shall apply to the area so divided off.

(2) If, in the course of proceedings under Section 16, the Assistant Collector finds that the sir-holder is a person who might have applied under the provisions of Section 15, he shall stay such proceedings until the sir to which the provisions of Section 15 apply has been demarcated under the provisions of that section.

19. Procedure for the ejectment of a tenant of Sir

. - (1) In a suit or proceeding for the ejectment of a tenant of sir, the sir-holder shall, before the first date fixed for recording evidence, furnish to the Court such particulars as the Board may by rule made in this behalf prescribe for ascertaining, -

(a) whether the sir-holder is a person to whom the provisions of the first proviso to clause (a) of Section 6 apply; and

(b) the total area and nature of the sir-holder's sir and khudkasht:

Provided that if the sir-holder satisfies the Court that he had sufficient cause for not filing (he particulars before the date fixed, it may, subject to the payment of costs to the opposite party, extend the time.

(2) If the sir-holder does not file the particulars mentioned in subsection (1) within the time fixed thereunder, or deliberately furnishes inaccurate particulars, the Court shall dismiss the suit or proceeding, as tire case may be, and shall declare the tenant to be a hereditary tenant.

(3) If the Court finds is that the sir-holder could apply under the provisions of Section 15 or Section 16, it shall, before deciding such suit or proceeding, take action under Section 15 or Section 16, as the case may be, and if it declares or orders that the tenant is a hereditary tenant of the whole or any part of his holding, it shall dismiss the suit or proceeding :

Provided that if the Court is not empowered to take action under the provisions of Section 15 or Section 16, it shall forward the case to the Assistant Collector in-charge of the sub-division who shall decide it is accordance with the provisions of this section.

20. Rights of tenants of sir

. - Every person, who is a tenant of sir at the commencement of this Act and who does not become a hereditary tenant under the provisions of Section 14 or Section 15 or 16 or whom is admitted thereafter rs a tenant of sir, shall be entitled to retain possession of his

holding for a period of five years from the date of the commencement of this Act or of admission, as the case may be.

20A. Right of tenant of sir to retain possession

. - Every person who, on the dale of the commencement of the United Provinces Tenancy (Amendment) Act, 1947, is a tenant of sir-holding from a sir-holder to whom the provisions of the first proviso to clause (a) of Section 6 apply, and who does not become a hereditary tenant under the provisions of Section 14 or Section 15 or section 16, shall be entitled to retain possession of his holding for a period of five years from that date.

Chapter III
CLASSES OF TENANTS

21. Classes of tenants

. - There shall be, for the purposes of this Act, tire following classes of tenants, namely ;

(a) permanent tenure-holders,

(b) fixed-rate tenants,

(c) tenants holding on special terms in Oudh,

(d) ex-proprietary tenants,

(e) occupancy tenants,

(f) hereditary tenants,

(g) non-occupancy tenants.

22. Permanent tenure-holders

. - (1) When in Agra any permanent and transferable interest in India in a district or portion of a district which is permanently settled has been held, otherwise than under a terminable lease, by any person intermediate between the landlord and the occupants, from the time of the permanent settlement, at the same rate of rent, such person shall have a right to hold such interest at that rate.

(2) Such person shall be called a permanent tenure-holder.

23. Fixed-rate tenants

. - (1) When in Agra any land in a district or portion of a district which is permanently settled has been held by a tenant from the time of the permanent settlement at the same rate of rent, such tenant shall have a right of occupancy at that rate.

(2) Such tenant shall be called a fixed-rate tenant.

24. Presumption from entry at revision of record

. - (1) In those districts or portions of districts in which a revision of records has taken place since the first day of January, 1875, every entry made in the revision recording a person as a permanent tenure-holder or a fixed-rate tenant, or otherwise shall, in the absence of a judicial decision to the contrary in proceedings instituted before the first day of January, 1902 be as between landlord and tenant conclusive proof that such person was, at the date of such revision, a permanent tenure-holder, or a fixed-rate tenant, or not, as the case may be.

(2) In those districts or portions of districts in which no revision of records has taken place since the first day of January, 1875, if, in any suit or proceedings, an issue arises whether a person is a permanent tenure-holder or a fixed-rate tenant and it is proved that he has held any land at the same rate of rent for twenty years next before the institution of the suit or proceedings, it shall be presumed, unless the contrary is proved, that he has held such land at the same rate of rent since the permanent settlement :

Provided that if thereafter a revision of records take place in any such district or portion of a district the provisions of this sub-section shall cease to operate; and those of sub-section (1) shall become operative therein.

25. Tenants holding on special terms in Oudh

. - Every tenant in Oudh holding under a special agreement or a judicial decision made or passed before the passing of Oudh Rent Act, 1886, shall be called a tenant holding on special terms, and subject to the terms of such agreement or decree, and save as otherwise expressly provided in this Act, shall have all the rights and be subject to all the liabilities conferred and imposed upon occupancy' tenants in Oudh by this Act.

26. Ex-proprietary tenants

. - (1) When the landlord of the whole of a mahal or of a specific area in a mahal transfers the whole of his proprietary right in such mahal or area by voluntary alienation otherwise than under the provisions of sub-section (2) of Section 9, or when the whole of such landlord's right in such mahal or area is transferred by foreclosure or sale in execution of a decree or order of a civil or revenue Court, the landlord shall become an ex-proprietary tenant of his sir and of such portion of his khudkasht as he has cultivated continuously for three years at the date of transfer.

(2) When the landlord of a share in a mahal or in a specific area in a mahal so transfers the whole of such share or when such share is so transferred the landlord shall become an ex-proprietary tenant of his sir and of such portion of his khudkasht as

he has cultivated continuously for three years at the date of the transfer and which, in the casa of joint sir or joint khudkasht is demarcated by the officer empowered to fix the rent of the holding under the provisions of Section 36 of the United Provinces Land Revenue Act, 1901.

(3) When the landlord of the whole or of a share of a mahal or of a specific area in a mahal so transfers a part of such whole or of such share, or of such area, or when a part of such whole or of such share or of such area is so transferred, the landlord shall become an ex-proprietary tenant of so much of his sir and of such portion of his khudkasht as he has cultivated continuously for three years at the date of transfer as appertains or corresponds to such part and is demarcated by the officer empowered to fix tire rent of the holding under the provisions of Section 36 of the United Provinces Land Revenue Act, 1901.

(4) If, in the course of proceedings under this section the officer empowered to fix the rent of the holding finds that any of the landlord's sir is land to which the provisions of the third proviso to clause (a) of Section 6 apply, or that the landlord is a sir-holder to whom the provisions to subsection (2) of Section 16 apply, he shall stay proceedings under this section and shall proceed under the provisions of Section 15 or Section 16, as the case may be, and the provisions of this section regarding sir shall not apply to any area in which he orders that the tenants are hereditary tenants.

(5) Every person who becomes an ex-proprietary tenant under the provisions of this section or who, at the commencement of this Act, is an ex-proprietary' tenant in accordance with the provisions of any previous Act or who is or becomes an ex-proprietary tenant under any other enactment for the time being in force, shall be entitled to all the rights conferred and be subject to all the liabilities imposed, on ex-proprietary tenants by this Act and unless the rent payable by' him was fixed under the provisions of a previous Act, it shall be fixed in accordance with the provisions of this Act by the officer empowered to do so under the provisions of Section 36 of the United Provinces Land Revenue Act, 1901.

(6) A mortgage shall be deemed to be a transfer within the meaning of this section when it has the effect of transferring proprietary possession of the mortgaged property from the mortgagor, but not otherwise.

(7) No right shall accrue under this section in any land transferred for any public or private purpose inconsistent with the existence of a right of cultivation therein.

(8) For the purposes of this section the word "landlord" shall include an under-proprietor and a permanent tenure-holder and the words "proprietary right" shall include the right of an under-proprietor and of a permanent tenure holder.

(9) Notwithstanding anything in this section, ex-proprietary rights shall not accrue in grove-land.

27. Agreement for relinquishment of ex-proprietary right not enforceable

. - Subject to the provisions of Section 82, no agreement for the relinquishment or having the effect of a relinquishment of ex-proprietary rights shall be enforceable in any Court whether such agreement was entered into before or after such ex-proprietary rights accrued.

28. Occupancy tenants

. - Every tenant, who is not a fixed rate tenant or an ex-proprietary tenant and who, at the commencement of this Act, has acquired a right of occupancy under the Agra Tenancy Act, 1926, or any previous enactment relating to Agra, or under the Oudh Rent Act, 1886, shall be called an occupancy tenant, and shall have the rights and be subject to the liabilities conferred and imposed on occupancy tenants by this Act.

29. Hereditary tenants

. - Every person belonging to one or another of the following classes shall be a hereditary tenant, and subject to any contract which is not contrary to the provisions of Section 4 shall be entitled to all the rights conferred, and be subject to all the liabilities imposed on hereditary tenants by this Act, namely :

(a) every person who is, at the commencement of this Act, a tenant of land otherwise than as a permanent tenure-holder, a fixed-rate tenant, a tenant holding on special terms in Oudh, an ex-proprietary tenant, an occupancy tenant, or except as otherwise provided in this Act, as a sub-tenant, as a tenant or a tenant of sir,

(b) every person who is, after the commencement of this Act, admitted as a tenant otherwise than as a tenant of sir or as a sub-tenant;

(c) every person who, in accordance with the provisions of this Act, acquires hereditary rights.

[Explanation. - For the purposes of this section, 'sub-tenant' does not include a person who holds land from a relation, dependant or servant of the land-holder, unless such relation, dependent or servant proves to the satisfaction of the Court that he is a genuine tenant of such land and has not been admitted to prevent the accrual of hereditary rights in favour of such person.] *[Added by U.P. Act No. 10 of 1947.]*

30. Land in which hereditary rights shall not accrue

. - Notwithstanding anything in Section 29, hereditary rights shall not accrue in, -

(1) grove-land, pasture land, or land covered by water and used for the purpose of growing singhara or other produce;

(2) land used for the casual or occasional cultivation in the bed of a river;

(3) land acquired or held for a public purpose or a work of public utility; and in particular, and without prejudice to the generality of this clause, -

(a) lands at present, or which may, hereafter, be set apart for military encamping grounds;

(b) lands situated within the limits of any cantonment;

(c) lands included within railway or canal boundaries;

(d) lands acquired by a town improvement trust, in accordance with a scheme sanctioned under Section 42 of the United Provinces Town Improvement Act, 1919; or by a municipality for a purpose mentioned in clause (a) or clause (c) of Section 8 of the United Provinces Municipalities Act, 1916;

(e) lands within the boundaries of any Government forests;

(f) municipal trenching grounds;

(g) land held or acquired by educational institutions for purposes of instruction in agriculture;

(4) such tracts of shifting or unstable cultivation as the State Government may specify by notification in the official Gazette;

(5) such areas included in tea estates as the State Government with the previous approval of both Houses of the Legislature, may notify as areas in which, in the interest of the tea industry, hereditary rights should not accrue :

[Provided that, notwithstanding the inclusion of any plot in any notification issued under this clause before the first day of September, 1946, such plot if held by a tenant the aggregate area of whose holding exceeds one-half of an acre, shall be deemed never to have been included in any such notification.

Provided further that if any tenant has been ejected since January 1, 1940, from any plot to which the foregoing proviso applies on grounds other than those on which a hereditary tenant is liable to ejectment, such ejected tenant shall be reinstated in such plot, if he applies to a competent Court within six months from the date of the commencement of the United Provinces Tenancy (Amendment) Act, 1947.] *[Added by U.P. Act No. 10 of 1947.]*

(6) land transferred by a mortgage to which the provisions of the second paragraph of sub-section (5) of Section 15 of the Agra Tenancy Act, 1926, apply during the period specified in that paragraph;

(7) [The khudkasht of a landlord, permanent tenure-holder or under-proprietor, the local rate payable by whom does not exceed Rupees twenty-five per annum, if

such khudkasht is let out when such landlord, permanent tenure-holder or under-proprietor is in the military, naval or air service of the Government or within three months before the entry in or three months after the cessation, of such service :

Provided that provisions of this clause shall not apply, -

(a) if, at the time such khudkasht is let out, there are several co-sharers in such khudkasht and not all of them are in the service of the Government as aforesaid, unless the co-sharers who are not in such service, belong to one or more of tine following classes, namely, females, minors, lunatics, idiots or persons incapable of cultivation by reason of blindness or physical infirmity; and

(b) beyond the thirtieth day of June next following the expiry of two years after the cessation of such service of landlord, permanent tenure-holder or under-proprietor, as the case may be.

(8) Lands notified by the State Government in accordance with rules to be framed by the State Government for the purpose of tanugya plantation.

Explanation. - For the purposes of this sub-section 'taungya plantation' means the system of afforestation where under the plantation of forest trees according to a scientific system, is done in the initial stages simultaneously with the cultivation of agricultural crop which ceases when the young trees begin to form a canopy and make further cultivation of agricultural crops impossible.] *[Inserted by U.P. Act No. 18 of 1942.]*

31. Non-occupancy tenants

. - All tenants other than permanent tenure-holders, fixed-rate tenants, tenants holding on special terms in Oudh, ex-proprietary tenants, occupancy tenants and hereditary tenants are non-occupancy tenants.

Chapter IV
DEVOLUTION, TRANSFER, EXTINCTION, DIVISION, EXCHANGE AND ACQUISITION OF TENANCIES

Devolution ami Transfer of Tenancies

32. Interest of permanent tenure-holder, and fixed rate tenants

. - The interest of a permanent tenure-holder and of a fixed-rate tenant is both heritable and transferable.

33. Interest of other tenants

. - (1) The interest of a tenant holding on special terms in Oudh, of an ex-proprietary tenant, of an occupancy tenant, of a hereditary tenant, and of a non-occupancy tenant is heritable, but is not transferable otherwise than in accordance with the provisions of this Act.

(2) Nothing in the foregoing provisions of this section shall render illegal :

(a) a sub-lease of a holding as hereinafter provided.

(b) a sale of the interest of a tenant under the provisions of Section 251.

(c) a release or transfer of an interest in favour of a co-tenant:

Provided that no person shall be deemed to be a co-tenant notwithstanding that he may have shared in the cultivation of the holding, unless he was a co-tenant from the commencement of the tenancy, or has become such by succession or has been specifically recognised as such in writing by the land-holder.

34. Succession under personal law in certain cases

. - When a permanent tenure-holder, a fixed rate tenant, an occupancy or an ex-proprietary tenant in Oudh or a tenant holding on special terms in Oudh, dies, the interest in his holding shall devolve in accordance with the personal law to which the deceased was subject.

35. Succession to a male tenant

. - When a male tenant, other than a tenant mentioned in Section 34 dies, interest in his holding shall devolve in accordance with the order of succession given below :-

(a) male lineal descendants in the male line of descent :

Provided that no member of this class shall inherit if any male descendant between him and the deceased is alive;

(b) widow;

(c) father;

(d) mother, being a widow;

(e) step-mother, being a widow;

(f) father's father;

(g) father's mother, being a widow;

(h) widow of male lineal descendant in the male line of descent;

(i) unmarried daughter;

(j) brother, being the son of the same father as the deceased;

(k) daughter's son;

(l) brother's son, the brother having been a son of the same father as the deceased;

(m) father's brother;

(n) father's brother's son;

36. Succession to a female tenant holding an interest inherited as a widow etc

. - (1) When a female tenant, other than a tenant mentioned in Section 34, who either before or after the commencement of this Act has inherited an interest in a holding as a widow, as a mother, as a step-mother, as a father's mother, or as a daughter dies or abandons such holding, surrenders such holding, or a part of such holding or, in the case of a tenant inheriting as a widow or as a daughter, marries, such holding or such part of such holding shall, notwithstanding anything in Section 45, devolve in accordance with the order of succession laid down in Section 35 on the heir of the last male tenant, other than a tenant who inherited as a father's father under the provisions of that section.

(2) When a tenant who inherits an interest in a holding as a father's father in accordance with the provisions of sub-section (1), or of Section 35, abandons such holding or surrenders such holding or a part of such holding or dies, such holding or such part shall, notwithstanding anything in Section 45, devolve upon the nearest surviving heir of the last male tenant, such heir being ascertained in accordance with the provisions of Section 35.

37. Succession to other female tenants

. - When a female tenant, other than a tenant mentioned in Section 34 or Section 36 dies, her interest in the holding shall devolve in accordance with order of succession given below, -

(a) male lineal descendants in the male line of descent ;

Provided that no member of this class shall inherit, if any male descendant between him and the deceased is alive;

(b) husband;

(c) unmarried daughter;

(d) daughter's son;

(e) brother;

(f) brother's son.

38. Passing of interest by survivorship

. - No person shall be deemed to have an interest in a tenancy to which the provisions of Section 35, Section 36 or Section 37 apply merely by reason of being joint in state with any person with whom a contract of tenancy has been made or who has succeeded to the interest of a tenant or who has become a tenant by operation of law or otherwise; and except in the case of a co-widow of a co- tenant who dies leaving no heir entitled to succeed under the provisions of this Act, no interest in such tenancy shall pass by survivorship. Where the persons possessing such interest are joint in estate, they shall be deemed for the purposes of succession to be tenants in common.

39. Right to sub-let

. - (1) A tenant, other than a tenant of sir or a sub-tenant, may sub-let the whole or any portion of his holding under such restrictions as are imposed by this Act:

Provided that no such sub-letting shall in any way, relieve the tenant of any of his liabilities to his land-holder.

(2) No tenant of sir and no sub-tenant shall sub-let the whole or any part of his holding.

40. Restrictions on sub-letting

. - (1) No occupancy tenant in Agra, or ex-proprietary tenant or hereditary tenant shall sub-let the whole or any portion of his holding for a term exceeding five years, or within three years of any portion of such holding being held by a sub-tenant.

(2) No non-occupancy tenant shall sub-let the whole or any portion of his holding for a term exceeding one year or within one year of any portion of such holding being held by a sub-tenant.

41. Exemption from restrictions on sub-letting by disabled persons

. - (1) The restrictions imposed by Section 40 on the sub-letting of a holding or portion of a holding shall not apply when the lessor is a female, a minor, a lunatic, an idiot, or a person incapable of cultivating by reason of blindness or physical infirmity, or because he is in the military, naval or air service of the Government :

Provided that in the case of a holding held jointly by more persons than one, the provisions of this sub-section shall not apply, unless either such persons are incapable of cultivating because one or more of them is in the military, naval or air service of the Government or all such persons are of one or more of the remaining descriptions specified therein.

(2) A sub-lease which would be invalid but for the provisions of sub-section (1), shall not remain in force for more than three years after the lessor dies or ceases to come

within any of the descriptions specified therein.

42.

[* * * *] *[Repealed by U.P. Act No. 10 of 1947.]*

43. Successor bound by sub-lease

. - When a tenant has sub-let, the successor-in-interest of such tenant shall be bound by the terms of the sub-lease, in so far as they are consistent with the provisions of this Act.

44. Transfers which are void or voidable

. - (1) Every transfer, other than a sub-lease, made by a tenant in contravention of the provisions of this Act, and every sub-lease made by a tenant of sir, or by a sub-tenant in contravention of the provisions of sub-section (2) of Section 39, shall be void.

(2) Every sub-lease made by a tenant in contravention of tire provisions of this Act, other than a sub-lease, which is void under sub-section (1), shall be voidable at the option of the land-holder.

Extinction of Tenancies

45. Tenancy when extinguished

. - The interest of tenant shall be extinguished, -

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

(b) in land, which has been sold in execution of a decree for arrears of rent, or from which he has been ejected in execution Of a decree or order of a Court;

(c) subject to the provisions of Sections 82 to 88, by surrender, or by abandonment;

(d) in land which has been acquired under the provisions of the Land Acquisition Act, 1894;

(e) subject to the proviso to Section 46, by merger;

(f) where the tenant has been deprived of possession and his right to recover possession is barred by limitation.

46. Merger

. - Where a tenant acquires or succeeds to the entire proprietary right in his holding or where the holder of the entire proprietary right over a holding inherits or otherwise acquires the holding, the tenancy is extinguished :

Provided that if the transaction by which the proprietary right was acquired, is afterwards set aside by the order of the competent Court, or if such a right is lost in consequence of the exercise of a right of pre-emption, the tenancy shall revive.

Explanation. - In this section the words "proprietary right" include the rights of an under-proprietor, of a permanent lessee, and of a permanent tenure-holder.

47. Rights of sub-tenant and mortgagee on extinction of tenant's interest

. - (1) Except as otherwise provided in sub-section (3) and sub-section (4), the extinction of the interest of a tenant, other than a permanent tenure-holder or a fixed-rate tenant, shall operate to extinguish the interest, of any tenant holding under him.

(2) Subject to the provisions of Section 16 of the Land Acquisition Act, 1894, the extinction of the interest of permanent tenure-holder or a fixed-rate tenant shall not of itself affect the rights of any transferee from such tenant under a valid transfer, but after the transfer all covenants binding and enforceable as between the land-holder and the tenant shall be binding and enforceable as between the land-holder and the transferee.

(3) Where, at the time of the extinction by surrender or abandonment of the interest in a holding of a tenant, other than a permanent tenure-holder or a fixed-rate tenant, there is in existence, a valid sub-lease or mortgage of the whole or of a portion of the holding executed before the first day of January, 1902, all covenants binding and enforceable as between the tenant and the sub-tenant or the mortgagee, as the case may be, shall, subject to the provisions of sub-section (5) be binding and enforceable as between the tenant's land-holder and the sub-tenant or the mortgagee for the remainder of the term of the sub-lease or mortgage, or for the lifetime of the tenant, or for ten years, whichever period may be the shortest.

(4) Where, at the time of the extinction by surrender or abandonment, or by death without any heir entitled to inherit such interest, of the interest in a holding of a tenant other than a permanent tenure-holder or fixed-rate tenant, there is in existence a valid sub-lease of the whole or of a portion of the holding, executed on or after the first day of January, 1902, all covenants, binding and enforceable as between the tenant and the sub-tenant shall, subject to the provisions of sub-section (5), be binding and enforceable as between the tenant's land-holder and the sub-tenant for the remainder of the term of the sub-lease or for five years, whichever period may be the shorter.

(5) In the case referred to in sub-section (3) and sub-section (4), if the rent payable by the sub-tenant is less than that either to payable by the tenant, the sub-tenant shall have the option of vacating the holding, but shall, if he continues in possession, be liable to pay rent at the rate hitherto payable by the tenant.

(6) Nothing in this section shall have the effect of limiting the right of the land-holder to have the rent of any holding enhanced under the provisions of Chapter VI of this Act, or to set aside any sub-lease voidable under the provisions of sub-section (2) of Section 44.

48. Rights and liabilities of sub-tenants on extinction of sub-tenancy

. - When the interest of a sub-tenant is extinguished, he shall vacate his holding but shall have in respect of the removal of standing crops and other products of the earth the same rights as the tenant would have upon ejectment in accordance with the provisions of this Act.

Division, Exchange and Acquisition of Holdings

49. Division of holdings

. - (1) A division of holding shall be accompanied by a distribution of the rent payable in respect of such holding, and shall be effected only, -

(a) by agreement between the co-tenants; or

(b) by the decree in a suit instituted under this section by one or more of the co-tenants against the other or the others.

Provided that no agreement for the division of a holding and the distribution of the rent thereof shall be binding on the land-holder unless he agrees thereto in writing.

(2) In any suit under this section the land-holder shall be made a party.

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

50. Rights of tenants in land received in exchange from land- holder

. - A land-holder may, in agreement with a tenant, give such tenant land, other than land which is let, in exchange for land included in such tenant's holding, and such tenant shall have the same right in the land so received by him in exchange as he had in the land given in exchange.

51. Exchange of land between tenants

. - (1) Tenants of the same class may agree to exchange land which they hold from landlord, under-proprietor, permanent lessee or permanent tenure-holder with his written consent, or which they hold from different landlords, under-proprietors, permanent lessees or permanent tenure-holders with the written consent of all such persons.

(2) On exchange the tenants shall have the same rights in the land received in exchange as they had in the land given in exchange.

52. Entry of exchange in record of rights

. - Persons who have exchanged land under the provisions of sub-section (9) of Section 9, or of Section 10 or of Section 50 or Section 51 may apply to the Assistant Collector incharge of the sub-division to have the appropriate entry made in the record of rights.

53. Exchange of land for consolidation of cultivated area, etc

. - (1) A person who wishes to consolidate the area which he cultivates or to build a house or to obtain land to increase the amenities of his house may apply to the Assistant Collector incharge of the sub-division to exchange the whole or any portion of the land which he cultivates for land cultivated by another person.

(2) On receipt of an application under the provisions of sub-section (1), the Assistant Collector shall, if he is satisfied that reasonable grounds exist, grant such application either in whole or in part, and allot to such other person, land which is cultivated by the applicant and which is approximately equal in value to, and is of the same quality as the land received by the applicant.

(3) After orders have been passed under the provisions of sub-section (2), each person shall have, in respect of the land which he receives in exchange, the same right as he had in the land which he gives in exchange, and the Assistant Collector shall order that the appropriate entry be made in the record of rights.

(4) No order shall be passed under the provisions of this section, -

(a) in respect of land cultivated by a non-occupancy tenant, or

(b) for exchange of land between persons, unless they are landlords or are under-proprietors, permanent lessees or tenants of the same land-holder or stand to one another in the relation of land-holder and under-proprietor, permanent lessee.

(5) A land-holder, who is not a party to the exchange may file an objection, and the Court shall consider such objection before passing orders on the application.

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

54.

[Omitted]

Chapter V
GENERAL PROVISIONS RELATING TO TENANCIES

Leases and Right to Measure Land

55. Right to written leases and counterparts

. - (1) On admission to a holding, the tenant is entitled to receive, front his land-holder, a written lease consistent with the provisions of this Act and the land-holder, upon delivering or tendering to a tenant such a lease, is entitled to receive from him a counterpart thereof.

(2) Such lease or counterpart shall contain, in addition to the name and description of the land-holder and of the tenant the following particulars, namely, -

(a) the class to which the tenant belongs;

(b) the area, numbered plots or boundaries of the holding;

(c) the rent payable in respect of the holding, and, whether fixed rent is payable in cash or whether rent is payable by division of the produce, or is passed on an appraisement or estimate of the standing crop or varies with the crop sown;

(d) the dates on which and the instalments in which the rent is payable;

(e) in the case of rent payable in kind, the time, place and manner of appraisement, division or delivery of the crops;

(f) in the case of a non-occupancy tenant, the term for which the tenancy is to run; and

(g) any special conditions not-inconsistent with provisions of this Act.

(3) Such lease or counterpart may be in the form given in the Third Schedule.

(4) If the lease or counterpart is not received by the person entitled to receive it under the provisions of sub-section (1), he may bring a suit for such lease or counterpart, as the case may be.

56. Registration of leases

. - A lease for a period exceeding one year or from year to year shall be made by a registered instrument only.

57. Attestation in lieu of registration

. - (1) When, under provisions of this Act or the Indian Registration Act, 1908, or any other enactment for the time being in force any lease, counterpart, grant, or agreement is required to be made by registered instrument, and such lease, counterpart, grant or agreement, -

(a) is with respect to land held by a grove-holder as such, or to land let or granted for the purpose of planting a grove, or

(b) relates to a tenancy, and stipulates for rent mot exceeding one hundred rupees annually,

the parties to such lease, counterpart, grant or agreement may, in lieu of registering the same, obtain the attestation thereto of a revenue Court or of a Revenue Officer, not inferior in rank to a Qanungo or such other person as the [State Government] may, by general or special order in this behalf, appoint and subject to such conditions, if any, as the [State Government] may, by rules made under this Act, direct.

(2) Such Court, officer or other person shall, after satisfying himself as to the identity of the parties and their acquaintance with the, and assent to the terms of the lease, counterpart, agent or agreement, make, sign, and date an endorsement thereon to the effect that he has so satisfied himself.

(3) No such instrument shall be accepted for attestation under this section, unless presented within the period prescribed for presentation for registration under Part IV of the Indian Registration Act, 1908.

58. Right to measure land

. - A land-holder or his agent may, at all reasonable times enter upon any land comprised in his estate or holding and not occupied by buildings for the purpose of surveying and measuring such land.

Declaratory Suits

59. Suit by tenant for declaration of right or share

. - (1) Any person claiming to be a tenant or a joint tenant may sue the land-holder for a declaration that he is a tenant, or for a declaration of his share in such joint tenancy.

(2) In any suit under this section any person claiming to hold through the land-holder, whether as tenant or otherwise, shall be joined as a party.

60. Suit for declaration of right of a person claiming to be tenant

. - The land-holder may sue any person claiming to be a tenant of a holding for a declaration of the right of such person.

61. Suit as to class of tenancy, etc

. - At any time during the continuance of tenancy either the land-holder or the tenant may sue for a declaration as to any of the matters specified in sub-section (2) of Section 55.

62. Single suit in respect of several holdings

. - A suit may be instituted under the provisions of Section 59, Section 60 or Section 61, in respect of a number of holdings provided that the parties are the same.

63. Dispute with tenant whether land is sit or khudkasht

. - When land claimed by a tenant as his holding or as being under his cultivation is also claimed by the land-holder as being held by him as his sir or khudkasht either the land-holder or the tenant may sue for a declaration of his status.

64. Provision for injunctions

. - If, in the course of a suit under the provisions of any of the last five preceding sections, it is proved by affidavit or otherwise, -

(a) that any property, tree or crops standing on the land in dispute is in danger of being wasted, damaged or alienated by any party to the suit, or

(b) that any party to the suit threatens or intends to remove or dispose of the said property, trees or crops, in order to defeat the ends of justice.

the Court may grant a temporary injunction and, if necessary, appoint a receiver.

Improvement

65. Right of certain tenants to make improvements

. - (1) A permanent tenure-holder, a fixed-rate tenant, an occupancy tenant in Oudh or a tenant holding on special terms in Oudh may make any improvement.

(2) An occupancy tenant in Agra, an ex-proprietary tenant or hereditary tenant may make any improvement, except that he may not make an improvement mentioned in sub-clause (d) or sub-clause (e) of clause (ii) of sub-section (8) of Section 3, unless there is a local custom entitling him to do so, or he has obtained the written consent of the land-holder.

66. Right of non-occupancy tenant to make improvements

. - No non-occupancy tenant shall make any improvement unless he has obtained the written consent of his land-holder.

67. Only certain land-holders to give consent

. - No land-holder other than a landlord shall give consent to the making of an improvement which he is not himself entitled to make.

68. Restriction on improvements

. - Nothing in this Chapter shall entitle a tenant or a land-holder to make an improvement on, or detrimental to, any land which is not included in the holding to be benefited by such improvement unless he has obtained the written consent of the landlord or of the mortgagee in possession or of the under proprietor or of the permanent lessee, as the case may be, and of the tenant, if any, of such land.

69. Liability for full rent

. - A tenant making an improvement or planting trees, shall in the absence of a written agreement to the contrary, continue to be liable to pay the full rent of the holding.

70. Application for permission when land-holder refuses or omits to consent

. - A tenant may apply to the land-holder for his written consent to the making of an improvement mentioned in clause (i) or sub-clause (d) or sub-clause (e) of clause (ii) of sub-section (8) of Section 3, and except in the case of an improvement mentioned in clause (i) of sub-section (8) of Section 3, if the land-holder omits or refuses to grant such consent, may apply to tine Assistant Collector in-charge of the sub-division for permission to make such improvement.

71. Right of land-holder to make improvements

. - (1) A land-holder may, with the written consent of the tenant, make an improvement on or affecting the holding of a tenant other than a tenant to whom sub-section (1) of Section 65 applies :

Provided that if the land-holder is not the landlord, he shall not make any improvement which he is not under the provisions of this Act, entitled to make.

Provided further that no such written consent shall be required if the tenant is a non-occupancy tenant, or if the improvement, which the landholder desires to make, is a well.

(2) If the tenant omits or refuses to grant such written consent, the land-holder may apply to the Assistant Collector incharge of the sub-division for permission to make the improvement.

(3) A land-holder making an improvement on, or affecting the holding of any tenant, shall be liable to compensate the tenant for any loss which he may cause to the tenant when making it.

(4) If the effect of an improvement made by a land-holder is to imp the productive powers of any land held by arty tenant from such land-hold such tenant shall in addition to any compensation which may be awarded him under sub-section (3), be entitled to such abatement of his rent as Court considers just.

72. When permission may be granted or refused by Assistant Collector

. - (1) The Assistant Collector to whom an application is made under the provisions of Section 70 or Section 71 may, after hearing the parties and making such further inquiry as he thinks fit, grant permission to make the improvement, subject to such restrictions, if any, as he may deem reasonable or may refuse permission :

Provided that the Assistant Collector, -

(a) shall not grant permission for a work which, -

(i) is not an improvement as defined in this Act,

(ii) is too costly for the purpose for which it is intended,

(iii) is not an improvement which the applicant is entitled to make,

(iv) requires written consent under the provisions of Section 68, unless such consent has been previously obtained, and

(b) may, in the case of an application made under the provisions of Section 70, refuse permission if the other party is prepared to make the improvement within a time fixed by the Court, and may order that, if the improvement is not so made, the applicant shall be entitled to make it himself.

(2) An order of the Assistant Collector granting permission to make and improvement shall be deemed to be the written consent of the land-holder or of the tenant, as the case may be, to the making of the improvement in the manner specified in such order.

73. Compensation for improvement made with land-holder's consent or by entitled persons

. - A tenant who has, with the written consent of the land-holder, made an improvement mentioned in clause (i) of sub-section (8) of Section 3, or who has made any other improvement which he is entitled to make shall be entitled to compensation in the following cases :

(a) when a decree or order for his ejectment is passed; or

(b) when he has been wrongfully dispossessed by Iris land-holder and has not recovered possession of his holding :

Provided that, except in the case of air improvement mentioned in clause (i) of sub-section (8) of Section 3, compensation shall not be payable for any improvement made thirty years or more before the date on which the ejectment is to take effect :

Provided further that a tenant, ejected in execution of a decree passed in a suit for ejectment or in pursuance of a notice of ejectment, shall not be entitled to compensation for any improvement begun by him after the date of the institution of the suit or of the application for the issue of the notice which resulted in his ejectment.

74. Compensation for certain buildings when erected without land-holder's consent

. - A tenant, who has made an improvement mentioned in clause (i) of sub-section (8) of Section 3, and who has not obtained the land-holder's written consent thereto, shall, -

(a) be entitled to compensation when he has been wrongfully dispossessed by his land-holder and has not recovered possession of his holding, and

(b) when a decree or order is passed for his ejectment, be entitled before the date of delivery of possession, or with the permission of the Court and, subject to such terms as it may direct, before some later date, to sell such improvement to any person with the land-holder's written consent, or to remove the materials thereof.

75. Amount of compensation

. - (1) When under any provision of this Act the Court has to determine the amount of compensation due on account of an improvement, it shall have regard, -

(a) to the amount by which the value or the produce of the holding or the value of that produce is increased by the work;

(b) to the condition of such work, and the probable duration of its effects;

(c) to the labour and capital required for the making of such work, allowing for, -

  (i) any reduction or remission of rent or any other advantage allowed to the tenant by the land-holder in consideration of the work;

  (ii) any assistance given to the tenant by the land-holder in money, material or labour; and

  (iii) in the case of a reclamation of the conversion of unirrigated to irrigated land, the length of time during which the party claiming compensation has had the benefit of the improvement.

(2) When an improvement benefits the land from which a tenant has been ejected or wrongfully dispossessed and also other land in his possession, compensation shall be determined with reference to the extent to which the first mentioned land has benefited by such work.

76. Works benefiting other land

. - (1) If a tenant has made an improvement on land which is sold in execution of a decree for arrears of rent or from which he is ejected, the purchaser or the land-holder, as the case may be, shall become the owner of the work, but tenant shall be entitled to the benefit of the work, in respect of the land remaining in his possession to the same extent and in the same manner as it has hitherto benefited thereby.

(2) If a tenant has made an improvement on land which remains in his possession after a portion of his land has been sold in execution of a decree for arrears of rent or after he has been ejected from a portion of his land, the purchaser or the land-bolder, as the case may be, shall be entitled to the benefit of such work in respect of the land which does not remain in the possession of the tenant to the same extent and in the same manner as it has hitherto benefited thereby.

(3) If a land-holder has executed a work which benefits the holding of a tenant and the whole or any portion of such holding is sold in execution of a decree for arrears of rent, the purchaser shall be entitled to tire benefit of such work in respect of the land sold to the same extent and in the same manner as such land has hitherto benefited thereby.

77. Registration of outlay on improvement

. - (1) If either the land-holder or the tenant desires that the amount expended on an improvement, executed with the permission of the Assistant Collector in-charge of the sub-division under the provisions of Section 72, should be determined, the Assistant Collector incharge of the sub-division shall, on application made to him for the purpose, and after due notice to the other party, determine the amount of the outlay and enter it in a register kept in the prescribed form.

(2) The entry in the register shall be conclusive proof of the amount of the outlay in any subsequent proceedings between the parties to the application or their successors-in-interest respecting the cost of the work.

78. Compensation by agreement

. - When a Court has assessed the amount of compensation due to a tenant it may, if both the land-holder and the tenant desire that the compensation assessed, instead of being paid wholly in money, shall be made wholly or partly in some other way, proceed to give judgment according to the terms agreed between them.

79. Dispute as regards improvement, how settled

. - If a question arises between a tenant and his land-holder, -

(a) as to the right to make a work, or

(b) as to whether a particular work is an improvement, or

(c) as to the amount of compensation due under sub-section (3) or of abetment of rent under sub-section (4) of Section 71, or

(d) as to the right to the benefit of the improvement under Section 76, the Assistant Collector incharge of the sub-division shall, on the application of either party, decide the question.

Trees

80. Right of tenants to plant trees

. - (1) A tenant, other than a non-occupancy tenant, may plant trees on his holding.

(2) If a tenant plants, or proposes to plant, trees in such a way as to diminish the value of land not included in his holding, any person, whose consent is required under the provisions of Section 68, may apply to the Assistant Collector in-charge of the sub-division for an order prohibiting the planting of trees on certain land or directing the tenant to remove trees already planted thereon, and the Assistant Collector may, after hearing such of the parties as wish to be heard, either grant the application subject to such modification, if any, as he think fit or reject it.

81. Tenant's right in trees existing at the commencement of the Act

. - (1) Notwithstanding anything in this Act or any custom or contract to the contrary, scattered trees situated on the holding of a tenant other than a sub-tenant or tenant of sir, otherwise than on the boundary thereof, and existing at the commencement of this Act, shall vest in such tenant, provided that such tenant has been continuously in possession of such holding from the beginning of the agricultural year 1335 Fasli.

(2) If any question arises between a land-holder and a tenant regarding the ownership of trees it shall, on the application of either party, be decided by the Assistant Collector in-charge of the sub-division.

Surrender and Abandonment

82. Surrender by tenant

. - (1) A tenant not bound by a lease or other agreement for a fixed period to continue to occupy the land in the following year, may, at the end of any agricultural year surrender his holding, by sending a registered notice to his land-holder intimating his intention to

do so and by giving up possession thereof, whether such holding is or is not sub-let or mortgaged, but he shall not be entitled to surrender a portion only of his holding unless -

(a) the holding is situated in an alluvial mahal for the time being registered as such under the rules made under clause (k) of Section 234 of the United Provinces Land Revenue Act, 1901, and a part of the holding has been washed away or rendered unculturable by fluvial action; or

(b) the holding is situated in an alluvial mahal as aforesaid, or in a tract notified by the [State Government] under the provisions of sub-section (4) of Section 30 and the rent thereof has been agreed or fixed with reference to the amount of land actually cultivated in each year.

Provided that an ex-proprietary tenant shall not surrender his holding or any part thereof until the expiry of a period, which, if his rights accrued on a mortgage, shall be three years and, in other cases, six months, from such accrual.

(2) Notwithstanding such surrender, unless the tenant sends such registered notice before the first day of April, he shall be liable to the land-holder for the rent of holding for the agricultural year next following the date of the surrender.

Provided that the tenant shall not be so liable in respect of any period during which the holding is let to another tenant, or is taken into his own cultivation or use by the land-holder.

(3) Subject to the provisions of the proviso to sub-section (1), nothing in this section shall affect any arrangement by which a tenant and his land-holder may agree to the surrender of the whole or any portion of a holding.

83. Surrender on enhancement of rent

. - Notwithstanding anything in the last preceding section when a decree or order for the enhancement of the rent of any holding is passed, and the tenant thereof within thirty days of the date of such decree or order gives to the land-holder a registered notice in writing of his desire to surrender such holding at the date on which such enhancement takes effect, and surrenders such holding accordingly, he shall not be liable for the rent payable for such holding in respect of any period subsequent to such surrender.

84. Notice through tahsildar

. - Any tenant, instead of or in addition to, himself sending a registered notice to the land-holder under Section 82 or Section 83, may, before the expiry of the period prescribed for sending such notice, make an application or the tahsildar who shall thereupon cause the notice to be served on such land-holder; the tenant paying the cost of the service.

85. Suit to set aside notice

. - (1) When any such notice has been received by, or served on a land-holder he may institute a suit to have such notice declared invalid and the Court shall thereupon determine the question between the parties.

(2) If the land-holder does not institute such suit he shall be deemed to have accepted the surrender.

86. Taking possession of holding surrendered

. - Subject to the provisions of Section 36 land-holder may enter upon, and take possession of a holding or a part of a holding surrendered in accordance with the provisions of the Act.

87. Abandonment

. - (1) Subject to the provisions of sub-sections (2) and (3), a tenant, who ceases to cultivate and leaves the neighbourhood, shall not lose his interest in his holding, if he leaves in charge thereof a person responsible for payment of the rent as it falls due and gives written notice to the land- holder of such arrangement.

(2) If the person so left in charge is a person, -

(a) on whom, in the event of the tenant's death, the tenant's interest would devolve; or

(b) who is to manage the holding for the benefit of the person on whom in the event of the tenant's death the tenant's interest would devolve, the tenant shall on the expiry of a period of five years, lose his interest in his holding unless he, within such period, resumes cultivation thereof, and such interest shall devolve on the person on whom the tenant's interest would devolve in the event of his death.

(3) If the person so left in charge is not a person mentioned in sub-section (2), the tenant shall, on the expiry of the period for which he could have sublet, be presumed to have abandoned his holding, unless within such period he resumes cultivation thereof.

(4) A tenant who ceases to cultivate and leaves the neighbourhood otherwise than in accordance with the provisions of sub-section (1), shall be presumed to have abandoned his holding.

88. Notice through tahsildar

. - Subject to the provisions of Section 36, where a tenant is presumed to have abandoned his holding, the land-holder shall file a notice in the office of the tahsildar, stating that he wishes to treat the holding as abandoned and is about to enter on it accordingly, and the tahsildar shall cause such notice to be served or to be published in such manner as the

Board may by rule direct, and after the expiry of a period of fifteen days from the date of service of such notice or of the publication thereof the land-holder may enter upon the holding and let it to another tenant or take it under his own cultivation.

88A. [Plea of abandonment by a tenant of abandoned holding. - A person claiming to be tenant of an abandoned holding or any part of such holding may, in any legal proceedings, take the plea of abandonment by the previous tenant.] ***[Added by U.P. Act No. 10 of 1947.]***

89. Application of Section 183 to abandonment cases

. - A land-holder who enters upon a holding in contravention of the provisions of Section 88 shall be deemed to have ejected the tenant otherwise than in accordance with the provisions of this Act within the meaning of Section 183.

Premia, Forced Labour and Illegal Cesses

90. Taking a premium or making service a condition of tenancy prohibited

. - No land-holder shall take a premium for the admission of a tenant to a holding, and it shall not be a condition of any tenancy that the tenant shall render any service to or do any work for the land-holder, whether for wages or not.

91. Illegal cesses

. - (1) Notwithstanding that the cess has been recorded under the provisions of Section 55 or Section 86 of the United Provinces Land Revenue Act, 1901, no cess which is levied in accordance with village custom, other than a payment in kind which forms part of the rent payable for a holding, shall, after such date as may be notified by the [State Government] in the official Gazette, be recoverable in any civil or revenue Court unless such cess is sanctioned under the provisions of sub-section (2).

(2) The State Government may sanction the collection of any cess levied on account of any bazar or fair and may impose on the collection of such cess any such condition regarding conservancy, police or other establishments as it thinks fit.

(3) The State Government may, in case of doubt, declare whether any payment is a cess to which the provisions of sub-section (1) or sub-section (2) apply.

(4) A landlord may apply to the Collector, that at the last revision of settlement, the assessment of revenue on his land was based on the payment to him of cesses which are declared in this section to be irrecoverable, and, on receipt of such application the Collector shall, with the approval of, and in accordance with rules made by the Board, remit such portion of the land revenue payable by the applicant as he finds to have been assessed on account of such cesses.

Chapter VI
DETERMINATION AND MODIFICATION OF RENT

General Provisions as to rent

92. Initial rent of tenant

. - A tenant on being admitted to the occupation of land is liable to pay such rent as may be agreed upon between him and his land-holder.

93. Presumption as to rent

. - The rent or rate of rent payable by a tenant shall be presumed to be the rent or rate of rent previously payable by him until it is varied in accordance with the provisions of Section 98.

94. Suit for determination and for arrears of rent

. - (1) When no rent has been fixed and any person has been admitted to the occupation of land, or permitted to retain possession of land by any one having a right to admit or permit him with the intention that a contract of tenancy should thereby be effected, or becomes a hereditary tenant under the provisions of this Act, either he or the person entitled to admit or permit him may, at any time during the period of occupation or within three years after the expiry of such period, due to have rent fixed thereon, and, subject to the law of limitation as to arrears of rent, for a decree for arrears of such rent.

(2) In a suit under sub-section (1), the rent decreed shall be the rent payable in the year previous to the year of admission, permission, or accrual of hereditary rights, as the case may be, or if no rent was payable in such year, the rent shall be fixed in accordance with the provisions of this Chapter.

95. Determination of rent on partial ejectment or surrender

. - When a tenant is ejected from a part only of his holding under a decree or order of Court, or, being entitled to surrender a part of his holding, legally surrenders such part, either he or his land-holder may, at any time, apply to the Court in which a suit for ejectment would lie for the determination of the rent of the remainder.

96. Period for which rent is not liable to modification

. - (1) Save as provided in Section 126 of this Act and in Section 87 of the United Provinces Land Revenue Act, 1901, when the rent of an ex-proprietary, an occupancy or hereditary tenant or of a tenant holding on special terms in Oudh has been agreed upon, fixed, commuted, abated or enhanced in accordance with the provisions of this Act, the Agra Tenancy Act, 1926, the Oudh Rent Act, 1886, or the United Provinces Land Revenue Act, 1901, it shall not be liable to enhancement or abatement until or unless :-

(a) a period of ten years, or such longer period as may have been decreed or ordered, has elapsed; or

(b) the period of the settlement of the local area in which the holding is situated has come to an end; or

(c) the area of the tenant's holding has been increased by alluvion or decreased by diluvion or encroachment, or by the taking up of land for a public purpose, or for a work of public utility, or under the provisions of Section 54; or

(d) the productive powers of the land held by the tenant have been increased by fluvial action, or by an improvement effected by, or at the expense of land-holder, or decreased by an improvement made by the land-holder or by any cause beyond the control of the tenant.

(2) Where the rent has been varied merely on any of the grounds mentioned in clauses (c) and (d) of sub-section (1), such variation shall not be considered in computing the period mentioned in clause (a) of that subsection.

97. Effect of enhancement of rent of non-occupancy tenant under the Act

. - If the rent of a non-occupancy tenant, not being a tenant of sir or a sub-tenant, is enhanced under the provisions of this Act, the tenant shall be entitled to hold the land at the enhanced rent for a term of not less than five years from the beginning of the agricultural year in which such enhancement takes effect.

98. Method of varying rent

. - Subject to the provisions of this Act, the rent of a tenant may be fixed, commuted, abated or enhanced only, -

(a) by registered agreement;

(b) by decree or order of a revenue Court;

(c) by a compromise filed in a suit or proceeding, provided that such compromise is filed in the Court which is competent to fix, commute, abate or enhance the rent.

99. Saving of enhancement or abatement under the Northern India Canal and Drainage Act

. - Nothing in this Act shall bar the right of a tenant to abatement of rent under Section 11 of the Northern India Canal and Drainage Act, 1873, or the right of a land-holder to enhancement of rent under Section 12 of this Act.

100. Restriction on institution of suits for variation of rent

. - Notwithstanding anything in this Chapter when a local area is under settlement, no suit for determination, commutation, abatement or enhancement of rent shall be maintainable under this Act until the time for making applications to the Settlement Officer, under Section 87 of the United Provinces Land Revenue Act, 1901, has passed.

101. Rent how calculated for communication etc. of rent

. - (1) Subject to the provisions of Section 102, Section 103, Section 111 and Section 126, in a suit in which rent is to be commuted, determined, abated or enhanced, the Court shall calculate the rent, -

(a) in the case of occupancy tenants, in accordance with the rates sanctioned for occupancy tenants;

(b) in the case of ex-proprietary tenants, and of tenants holding on special terms in Oudh, in accordance with rates which shall be less than the corresponding rates sanctioned for occupancy tenants by two annas in the rupee;

(c) in the case of hereditary and non-occupancy tenants, in accordance with the rates sanctioned for hereditary tenants :

Provided that in suits for the abatement of rent of sub-tenants or tenants of sir, sanctioned rates shall be deemed to have been increased by thirty-three and one-third per cent :

Provided further that for special reasons to be recorded, the Court may modify the rates applicable to any particular case.

(2) When rent, which is payable partly in cash and partly in kind, is abated or enhancement under the provisions of sub-section (1), the Court shall not alter that portion of the rent which is payable in kind and shall abate or enhance that portion of the rent which is payable in cash, so that the amount of rent payable by the tenant, including the value, as determined by it, of that portion of the rent which is payable in kind, shall be equal to the rent that would have been payable by the tenant if his rent had been payable wholly in cash :

Provided that, if it sees fit, the Court may order that the rent shall be payable wholly in cash.

102. Basis of variation of rent in certain cases

. - (1) In any proceeding for abatement of rent on tire ground that the area of the holding has been decreased by diluvion or encroachment or the taking up of land for a public purpose or a work of public utility or under the provisions of Section 54, or for enhancement on the ground that tire area of the holding has been increased by alluvion, the Court hall determine the rent with reference to the existing rent and the decrease or increase in the area of the holding.

(2) In any proceedings for enhancement of rent on the ground that the productive powers of the holding have been increased by fluvial action or by an improvement effected by or at the expense of the land-holder, or for abatement of rent on the ground that such powers have been decreased by an improvement made by the land-holder or by any cause beyond the control of the tenant, the Court shall determine the rent with reference to the exiting rent and the increase or decrease of the productive powers.

(3) In an application for the determination of the rent of a portion of a holding under Section 95, the Court shall determine the rent, with reference to the rent payable before ejectment or surrender and the loss of area due to such ejectment or surrender.

(4) In a suit for abatement of rent of an under-proprietor or of a permanent lessee on a ground specified in the lease, agreement or decree, under which he holds, the Court shall determine the rent in accordance with the terms of such lease, agreement or decree.

103. Procedure when rent-rates not determined

. - In any district, part of a district or local area for which rent-rates have not been determined, the Court shall decide any question relating the commutation, determination, abatement or enhancement of rent after making a local inspection and considering the rent generally payable by tenants of the same class for land of the same class in the vicinity.

Rent rates and appointment of Rent-rates Officer

104. Rent-rates applicable

. - In any district, part of a district or local area for which rent-rates have been determined, the sanctioned rates for the purposes of this Act shall be, -

(a) the rates determined at the latest settlement or the latest revision of settlement made under tire United Provinces Land Revenue Act, 1901; or

(b) the rates determined under the Agra Tenancy Act, 1926, or the Oudh Rent Act, 18S6, as the case may be; or

(c) the rates determined under the provisions of this Act, whichever are the latest.

105. Provision if rent rates did or did not distinguish between occupancy, non-occupancy and statutory tenants

. - (1) If the rent-rates referred to in Section 104 do not distinguish between occupancy and non-occupancy or statutory tenants, such rates shall be deemed to be sanctioned rates for both occupancy and hereditary tenants.

(2) If the rent-rates referred to in sub-section (1) distinguished between occupancy and non-occupancy or statutory tenants, the rates sanctioned for either non-occupancy or statutory tenants shall be deemed to be sanctioned rates for hereditary tenants.

106. Order for determining rent rates

. - Notwithstanding anything to the contrary in the United Provinces Land Revenue Act, 1901, the State Government may, by notification in the Official Gazette, order that rent-rates shall be determined for any specified district or part of a district or local area, whether by revision of the most recent rent-rates or otherwise and may appoint an officer having powers, not less than those of an Assistant Collector of the first class, hereinafter called a Rent-rate Officer, to propose rent-rates for occupancy and hereditary tenants in accordance with the provisions of this Act and with rules made by the Board.

107. Duration of rent-rates

. - When rent-rates have been determined under the provisions of this Act for any district, part of a district or local area, they shall not again be determined, until a period of 20 years has elapsed, or the term of settlement of such district, part of a district or local area has expired:

Provided that the State Government may order the declaration of rent-rates at an earlier date on the ground that there has been a substantial rise or fall in the prices of agricultural produce or of any particular form of produce.

Provided further that the State Government may postpone determination of rent-rates for such period, as it may deem fit, either on the ground that there has been no substantial rise or fall in the price of agricultural produce or on grounds of administrative convenience.

108. Additional powers of rent-rates officer

. - (1) In addition to proposing rent-rates according to the provisions of this Act, the rent-rate officer shall, if so empowered by the [State Government], decide suits for the determination, commutation, abatement and enhancement of rent in accordance with the provisions of this Act.

(2) Such suits may be instituted in his Court within such period as may be fixed by him with the sanction of the Board.

Procedure in determining Rent-rates

109. Circles and soil classification

. - (1) If the local area has previously been divided into assessment circles under the United Provinces Land Revenue Act, 1901, the Rent-rate Officer shall propose separate rates for each circle and for each separate class of soil previously demarcated therein, unless by order of the Board the circles or the classification of soils, or both are revised by him.

(2) If a local area has not been so divided into assessment circles, or if a classification of the soil thereof has not been so made, or if the Board order a revision of the existing circles, or soil classification or both, the Rent-rate Officer shall make circles and classify the soils in tire manner prescribed by Section 63 of the United Provinces Land Revenue Act, 1901, and by rules made under Section 62 of that Act, and shall propose rates for each class of soil in each circle.

110. Basis of rates for hereditary and occupancy tenants

. - (1) The rates proposed by the Rent-rate Officer for hereditary tenants shall be such as will result in rents payable without hardship over a series of years by cultivating hereditary tenants with substantial holdings and shall be based on genuine and stable rents paid by such tenants.

(2) In considering whether the genuine and stable rents paid by such tenants are payable without hardship over a series of years, the Rent-rate Officer shall have regard to, and compare, -

(a) the level of rents paid by tenants who held, or were admitted to land, at different times, and in particular the level of rents agreed to by tenants who were admitted to holdings in or between the years 1309 Fasli, and 1313 Fasli;

(b) the prices of agricultural produce prevailing at such times;

(c) changes in the crops grown and in the amount of the produce;

(d) the value of tire produce with a view to seeing that the valuation of the holdings of hereditary tenants at the proposed rates does not exceed one-fifth of such value;

(e) the expenses of cultivation, and the cost to the cultivator of maintaining himself and his family.

(3) In proposing rates for occupancy tenants in Agra the Rent-rate Officer shall have regard to the rates which he has proposed for hereditary tenants, and also to the rent actually paid by occupancy tenants, distinguishing between holdings of old and of rent standing. In Oudh the rates proposed for occupancy tenants shall be two annas in the rupee less than the corresponding rates for hereditary tenants.

(4) The Rent-rate Officer shall also record for each village whether the rates proposed by him are applicable without modification or the extent to which they require modification either for the village as a whole or for a specified area or class of soil therein, and in their application to such village, area, or class the rates shall be deemed to be modified accordingly.

111. Provision for rates in special cases

. - The Rent-rate Officer shall not propose rates for other classes of tenants but, -

(i) in tracts of unstable and shifting cultivating he may propose modified rates for non-occupancy tenants;

(ii) he may, and when the greater part of the rent of a village is paid in kind shall, propose rates for the commutation of such rents.

112. Procedure in publishing and sanctioning rent-rates

. - (1) The Rent-rate Officer shall publish in such manner as may be prescribed the proposals and records made by him under Section 110 and Section 111 and shall receive and consider any objections which may be made to them.

(2) When such objections, if any, have been considered and disposed of according to the prescribed procedure the Rent-rate Officer shall submit the proposals and records made by him after such modification, if any, as he may think fit to the Board.

(3) On receipt of the proposals and records submitted by the Rent-rate Officer under sub-section (2), the Board may direct further inquiry into any of the matters contained therein.

(4) The Board shall either sanction the proposed circles, soil classifications, rent-rates and other matters recorded under Sections 110 and 111 or may, for reasons to be recorded, sanction them with such modification as they think fit and the rates so sanctioned shall be sanctioned rates.

Commutation, Abatement and Enhancement of Rent

113. Commutation of rent

. - Where rent has heretofore been paid in kind, or based on an estimate or appraisement of the standing crop or on rates varying with the crops sown or partly in one of such ways and partly in another or other of such ways, the land-holder or the tenant may sue for the commutation of such rent to a fixed money rent, and the Court shall decree the suit unless, in a case in which the land-holder is the plaintiff, on a plea by the tenant that the cultivated area or the produce of the holding is exceptionally liable to fluctuation by

reason of damage by wild animals, flooding, and the like, it considers that commutation is undesirable, in which I case it shall dismiss the suit.

114. Ground of abatement of rent

. - The rent of a tenant, other than a permanent tenure-holder, or a fixed-rate tenant, shall be liable to abatement under this Act on one or more of the following grounds only :-

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

(b) that the productive powers of the land held by the tenant have been deceased by an improvement made by the land-holder or by any cause beyond the tenant's control during the currency of the present rent; or

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

(d) that the rent is liable to a bailment on some ground specified in a lease, agreement or decree under which he holds.

115. Abatement of rent of fixed-rate tenants

. - The rent of a fixed-rate tenant shall be liable to abatement only on one of the grounds mentioned in clause (c) of Section 114.

116. Abatement of rent of under-proprietor and permanent lessee

. - The rent of an under proprietor, other than an under-proprietor who holds a sub-settlement, and of a permanent lessee, other than a permanent lessee of a whole mahal or patti, shall be liable to abatement only on one of the grounds mentioned in clause (c) of Section 114, or on some ground specified in the lease, agreement or decree under which he holds.

117. Grounds of enhancement of rent

. - The rent of a tenant, other than a permanent tenure-holder or a fixed-rate tenant, shall be liable to enhancement under this Act on one or more of the following grounds only :-

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

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

(c) that the productive powers of the land held by the tenant have been increased by an improvement effected by or at the expense of the land-holder; or

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

118. Enhancement of rent of fixed-rate tenant

. - The rent of a fixed-rate tenant shall be liable to enhancement only on the ground specified in clause (d) of Section 117.

119. Limits to enhancement of rent

. - (1) The rent of a tenant shall not be enhanced by more than one-fourth of his existing rent, subject to the condition that the rent fixed shall in no case be less than three quarters of the rent calculated at the appropriate sanctioned rates.

(2) This section shall not apply to a decree or order of a Court for enhancement of rent on account of an increase in area.

(3) In decreeing an enhancement of rent, if the enhancement is not less than one-fourth of the existing rent, and if the Court considers that tire immediate enforcement of the decree to its full extent will be attended with hardship to the tenant, the Court may direct that the enhancement shall take effect by yearly increments extending over any number of years not exceeding three.

120. Tenant's plea in enhancement suit

. - If a tenant who is sued for enhancement of rent proves that the whole or any portion of the enhancement decreeable is due to an improvement which was made by him within the last thirty years and which he was entitled to make, the Court shall pass a decree only for such enhancement, if any, as it might have decreed if the tenant had made no improvement.

121. Decree or agreement in suits for determination, etc., of rent when to take effect

. - Subject to the provisions of sub-section (4) of Section 126, every decree, compromise or registered agreement for the determination, abatement, enhancement or commutation of rent shall take effect from the commencement of the agricultural year next following that in which the suit was instituted or the agreement was registered, unless, in the case of a decree, the Court for reasons to be recorded, directs, or unless in the case of compromise or a registered agreement, the compromise or agreement provides that it shall take effect from some later date.

122. Joinder of parties in suit relating to variation of rent

. - (1) A suit for commutation, abatement, or enhancement of rent may be instituted against, or by, any number of ex-proprietary, occupancy, hereditary or non-occupancy tenants collectively :

Provided that all such tenants are tenants of the same land- holder, and all the holdings in respect of which the suit is instituted, are situated in the same mahal and village.

(2) No decree shall be passed in any such suit affecting the interest of any person, unless the Court is satisfied that he has had an opportunity of being heard.

(3) The decree shall specify the extent to which each of the holdings is affected thereby.

Relief in Agricultural Calamities

123. Remission or suspension of rent in natural calamities

. - (1) On the occurrence of an agricultural calamity affecting the crops of any mahal or portion of a mahal, the State Government or any authority empowered by it in this behalf may, in accordance with the provisions of the Sixth Schedule, remit or suspend for any period the whole or any portion of the rent of any holding affected by such calamity whether such holding is held mediately immediately from the landlord.

(2) When the State government or any authority empowered by it in this behalf, remits or suspends rent under the provisions of sub-section (1) it shall, in accordance with the provisions of Sixth Schedule, remit or suspend for a like period, the whole or a portion of the revenue assessed on such mahal.

124. Finality of order under the preceding section

. - (1) An order passed under Section 123 shall not be questioned in any civil or revenue Court.

(2) No suit or application shall lie for the recovery of any sum the payment of which has been remitted under the provisions of Section 123 or, during the period of suspension, of any sum the payment of which has been suspended under the provisions of that section.

125. Period of suspension to be excluded in computing period of limitation

. - When the payment of any sum has been suspended in accordance with the provisions of Section 123, the period during which the suspension continues shall be excluded in the imputation of the period of limitation prescribed for a suit for the recovery of such sum.

Extraordinary and Emergency Provisions

126. Revision of rent and revenue when there is a sudden rise in prices or in an emergency

. - (1) Notwithstanding anything in this Act or in any other enactment for the time being in force, when the State Government is satisfied that owing to some extraordinary cause

there has been a sudden and substantial rise in the price of agricultural produce or that an emergency has arisen within any specified area or areas, it may, with the previous approval of both Houses of Legislature, by notification in the official Gazette, appoint to such area or areas, an officer having powers not less than those of an Assistant Collector of the first class and invest him with all or any of the following powers, -

(a) the powers of a Rent-rate Officer under this Act;

(b) power to fix, commute, abate or enhance rents in accordance with the sanctioned rent-rates;

(c) power, in an emergency, to abate rents summarily, otherwise than in accordance with such rent-rates.

(2) An officer invested with powers under this section may be invested with them generally or with reference to specified cases or classes or cases and shall have all the powers of a Record Officer under Chapter IV of the United Provinces Land Revenue Act, 1901.

(3) Nothing in this section shall apply to the rents payable by permanent tenure-holders or fixed-rate tenants.

(4) Every order settling or commuting rent under this section shall take effect from such date, nor preceding the beginning of the agricultural year next following the year in which the order was passed as the officer passing it may direct.

(5) The State Government shall invest the officer appointed under this section with the powers of Settlement Officer under Chapter V of the United Provinces Land Revenue Act, 1901, for the purpose of revising the revenue assessed on any mahal in which rents have been settled or commuted under this section.

(6) If as a result of the proceedings of the officer appointed under this section, the as sets of a mahal, calculated in accordance with the provisions of the United Provinces Land Revenue Act, 1901, are increased or decreased, such officer shall increase or decrease, as the case may be, the land revenue of such mahal in the proportion which such increased or decreased assets bear to the assets before such increase or decrease was made.

(7) An appeal against an order of the officer appointed under this section fixing, abating, enhancing or commuting rent shall lie to the Commissioner.

(8) Except as provided in sub-section (7), no order under this section shall be questioned in any civil or revenue Court.

126A. Utilization of land in an emergency

. - (1) Notwithstanding anything contained in this Act or any other enactment for the time being in force, when the State Government is satisfied that an emergency has arisen in

any area in Uttar Pradesh for bringing under cultivation land which is not grove-land and which has not been previously cultivated or, if previously cultivated, has remained uncultivated for more than one year, it may, by notification on the official Gazette, declare the date from which and the period for which the provisions of this section shall be in operation in such area.

(2) When a declaration under sub-section (1) has been made in respect of any area, the Collector may, by means of a written notice, call upon the land-holder of any such land situated within such area, to let out for cultivation, within six months from the date of the service of such notice, such land in the manner and order of preference prescribed in the rules made by the Board in this behalf. Copies of the notice shall be fixed to the village chaupal or other public places in the village. If the land-holder satisfies the Collector that he has so let out the land, the provisions of sub-section (3) of Section 4 shall apply to a contract entered into between him and the tenant in respect of such land. In such proceedings, the Collector shall consider the claims, if any, put forward by a person claiming preference to satisfy himself whether the land-holder has actually let out the land in accordance with the rules. If the land-holder shows to the satisfaction of the Collector within one month from the date of the notice that the land is not capable of being utilized for agricultural purposes or that it is already being properly utilized, the Collector shall cancel the notice :

Provided that where such land is in the possession of thekedar, the Collector shall issue notice to both the thekedar and the landlord :

Provided also that the Collector may suspend the notice, if he is satisfied that the land-holder is making arrangements for the proper utilization of the land within the agricultural year next following the date of the notice, and if the whole or any part of the land is so utilized within the time the notice remains suspended, the Collector shall cancel the notice in respect of the whole or part of the land so utilized :

Provided further that no notice shall be issued under this sub-section in respect of any land which was being used on or after the first day of January, 1940, as pasture land, threshing floor, irrigating tank or for some other purpose for the benefit of the public or a section of the public.

(3) If the notice is neither complied with, nor cancelled-under subsection (2), the Collector shall, in accordance with the rules mentioned in subsection (2), let out such land to a tenant on a rent to be determined in accordance with the provisions of this Act, and the tenant to whom such land is let out shall be liable to pay such rent direct to the land-holder and shall, subject to the provisions of Section 30 become a hereditary tenant of such land.

Chapter VII
PAYMENT AND RECOVERY OF RENT

127. Application of the Chapter to under-proprietors, etc

. - In this Chapter "tenant" includes an under-proprietor and a permanent lessee.

128. Hypothecation of produce towards payment of rent

. - (1) The produce of ever)' holding in the cultivation of a tenant and the fruit of ever) tree which stands on such holding and which is the property of such tenant, shall be deemed to be hypothecated for the rent payable in respect of such holding by such tenant and by eveRy person, other than a thekedar, intermediate between such tenant and the landlord; and until the demand for such rent has been satisfied no other claim on such produce of fruit shall be enforced. by sale in execution of a decree of a civil or revenue Court, or otherwise.

(2) Nothing in this section shall be deemed to affect the provisions of Sections 2 to 4 of the Bengal Indigo Contracts Regulation, 1823, or of Section 11 of the Opium Act, 1857, or of Section 141 of the United Provinces Land Revenue Act, 1901.

129. Presumption as to payment by tenant

. - Any payment made by a tenant from whom rent is due to the landlord to whom it is due shall, in the absence of evidence of a contrary intention on the part of the tenant, be deemed to be a payment on account of rent.

130. Application of rent payment

. - (1) A payment made by a tenant to his land-holder, whether in satisfaction of a decree or otherwise, shall not be applied to the discharge of an arrear tire recovery of which is barred by the law in force for the time being as to the limitation of suits and applications.

(2) Subject to sub-section (1), when a tenant makes payment on account of rent to his land-holder with express intimation that he wishes the payments to be credited to any year, instalment, or holding, the payment, if accepted, shall be credited accordingly, and if the tenant makes no such intimation the landholder shall credit the payment to an earlier arrear in preference to a later arrear and, where more than one arrear is of the same date, to a smaller arrear in preference to a larger arrear.

(3) Where the tenant makes a payment in respect of a decree passed under the provisions of sub-section (2) of Section 150 without intimating that the payment should be credited to the amount due in respect of any particular holding, the payment shall be appropriated in such manner as to save as many holdings as possible for the tenant.

131. Rent, how payable

. - A payment of a money rent may be made by the tenant to the land-holder either direct, or by postal money order or by deposit in accordance with the provisions of Section 137 :

Provided that the acceptance by a land-holder of a sum paid by postal money order or by deposit in Court shall not by itself or by virtue of anything written on the money order coupon, be deemed to constitute an admission by him as to the amount of rent payable or due on account of any particular year, instalment or holding, or an admission of the year as a tenant.

132. Presumption as to money order acknowledgement

. - Where rent is sent by postal money order, in the case of acceptance, the payee's receipt, and in the case of refusal, the endorsement of such refusal, on the money order duly stamped by the post- office shall be admissible in evidence without formal proof and shall, until the contrary is proved, presumed to be a correct record of such acceptance or refusal.

133. Right of tenant to receipt

. - (1) Every tenant, lessee or licensee who makes a direct payment on account of rent or sayar shall be entitled to obtain forthwith from the land-holder a written receipt for the amount so paid, signed by the land-holder or his duly authorised agent.

(2) The land-holder shall, from a book printed under the provisions of Section 136, give a separate receipt for each sum paid on account of rent or sayar and shall prepare and retain a counterfoil of such receipt given by him.

(3) If in any suit or proceeding between the land-holder and a tenant in which the payment of rent is in issue the land-holder does not produce or, when ordered by the Court to produce, fails to produce, such receipt book, the Court may make any presumption against the land-holder which it considers reasonable.

134. Particulars of valid receipt

. - (1) The receipt and counterfoil shall specify the following particulars, namely, -

(a) the names of the payer and payee;

(b) the name of the village with mahal and patti;

(c) the amount paid;

(d) whether the payment is on account of rent or sayar;

(e) where there is more than, one holding, an indication of the holding towards the rent of which the payment has been credited;

(f) the year and instalment to which the payment has been credited;

(g) whether the payment has been accepted as payment in full, or only on account; and

(h) the date on which the payment is made.

(2) If a receipt does not contain-substantially the particulars required by this section, or if a joint receipt for rent and sayar has been given in contravention of sub-section (2) of Section 133, it shall be presumed, until the contrary is shown, to be an acquittance in full of all demands for rent and for sayar upto the date on which the receipt was given.

135. Right of tenant to statement of account

. - The tenant shall, in accordance with rules made by the Board be entitled, on paying a fee of four annas to the land-holder, to receive from him, within three months after the end of an agricultural year a statement of account of rent and sayar, specifying such particulars as may, from time to time, be prescribed by the Board either generally or for any particular local area or class of cases.

136. Obligation of State Government to print and supply books of receipts

. - The [State Government] *[Substituted by the AO 1950 for (Provincial Government).]* shall cause to be printed and kept for sale to land-holders at all tahsils books of receipts with counterfoils in the form prescribed by Schedule V, at a rate which the [State Government] *[Substituted by the AO 1950 for (Provincial Government).]* may fix from time to time by notification in the official Gazette and which shall not exceed the cost of production.

137. Deposit of rent in the Court of tahsildar

. - (1) A tenant may make an application for permission to deposit, in the Court of tahsildar an instalment or instalments of the unpaid balance of an instalment or instalments of rent in arrears on the date of such application, and if such application complies substantially with the provisions of sub-section (2), the tahsildar shall receive such deposit and grant a receipt therefor, which shall operate as an acquittance for the amount deposited as if such amount had been received by the person entitled to receive it.

(2) Such application shall specify the name of the person to whom the amount deposited is due as arrears of rent, or where several persons are entitled to receive such amount, either jointly or severally, the name of each of such persons, where the tenant entertains a bona fide doubt as to who is entitled to receive such amount the name of the person to whom rent was last paid and of the person now claiming it.

138. Disposal of deposit by tahsildar

. - (1) if the tahsildar receives the deposit, he shall cause a notice of the receipt of such deposit to be served free of charge on the person or persons specified in the application and on any other person who, he has reason to believe, is entitled to such deposit.

(2) The tahsildar may pay the amount of the deposit to any person appearing to him to be entitled to the same or may, if in his opinion there is any doubt as to the person to whom the deposit should be paid, retain such amount until such doubt is removed by order of Court of competent jurisdiction.

(3) The payment may, it the tahsildar so directs, be made by postal money order.

(4) If no payment is made under this section before the expiration of three years from the date on which a deposit is made, the amount deposited may, in the absence of any order of a civil or revenue Court to the contrary, be repaid to the depositor on his application and on his returning the receipt given by the tahsildar under the provisions of Section 137, or on Iris producing such other evidence of his having made the deposit as the Court may consider sufficient.

139. Deposit of rent in Court during pendency of suit

. - A tenant who issued for a portion of the rent of a holding under the provisions of sub-section (3) of Section 246 may deposit the whole of the rent of such holding in the Court before which the suit is pending and such deposit shall, subject to any orders passed in appeal, be disposed of in accordance with the orders of such Court.

140. Bar of suits

. - No suit or other proceeding shall be instituted against the Government or against any servant of the Government in respect of anything done regarding a deposit under the provisions of the foregoing sections of this Chapter; but any person considering himself entitled to recover the amount of such deposit may sue to recover the same from a person to whom it has been paid.

Produce Rent

141. Rights and liabilities in respect of produce

. - (1) When the rent is based on an estimate or appraisement of the standing crop, the tenant shall be entitled to the exclusive possession of the crop.

(2) When the rent is payable by a division of the produce, the tenant shall be entitled to the exclusive possession of the whole produce until it is divided, but shall not be entitled to remove any portion of the produce from the threshing floor at such a time or in such a manner as to prevent the due division thereof at the proper time.

(3) In either case the tenant shall be entitled to cut/harvest the produce in due course of husbandry without any interference on the part of the land-holder.

(4) If the tenant removes any portion of the produce, contrary to the provisions of sub-section (2), the produce may, for the purpose of making an award under the provisions of Section 143, be deemed to have been equal to that of the best crop of the same kind grown at that harvest on similar land in the neighbourhood.

142. Application for officer to make division, estimate or appraisement

. - (1) When the rent is payable by a division of the produce or is based on an estimate or appraisement of the standing crop, -

(a) if either the land-holder or the tenant neglects to attend at the proper time; or

(b) if there is a dispute about the division, quantity or value of the produce.

an application may be presented by either party to the tahsildar, requesting that an officer be deputed to make the division, estimate or appraisement.

(2) With die application the applicant shall deposit such fee as may be prescribed by tire State Government in rules made in this behalf.

143. Procedure on such application

. - (1) On receiving such application, the tahsildar shall issue a written notice to the opposite party to attend on the date and at tire time and place specified in the notice, and shall depute an officer, by whom such division, estimate or appraisement shall be made.

(2) If the opposite party objects that the rent is not payable by division of the produce or is not based on an estimate or appraisement of the standing crop, or that no amount is to be paid, such officer shall record the objection, but shall proceed as hereinafter provided.

(3) Such officer shall call on each of the parties to appoint, and shall himself appoint, a resident of the neighbourhood, as an assessor to assist in the division of the produce, or in the estimate or appraisement of the crop.

(4) If either party fails to attend, or refuses to appoint an assessor, such officer shall nominate an assessor on his behalf.

(5) Such officer shall record the opinions of the assessors and, in making his award, shall have regard thereto.

(6) In the case of a division of the produce, if the parties agree to the manner of division proposed by the officer, the division shall be made accordingly. If the parties do not agree to such manner of division, and in all cases in which the rent is based on an estimate or appraisement of the standing crop or in which it is

claimed that no rent is payable, such officer shall make an estimate of the value of the produce or crop and determine the amount to be paid. He shall then deliver his award and submit it with a report of his proceedings to the tahsildar.

(7) Notice shall be issued to the parties that tire award has been delivered and they shall be entitled to file objections to the award within one week of the date of service of such notice; and the tahsildar shall, after hearing such objections and making such further inquiry as may appear to be necessary, confirm, modify or set aside the award, and if any amount is found due shall pass an order for the payment of such amount and costs, if any, and such order shall have the effect of a decree, for arrears of rent.

Provided that if the amount awarded under sub-section (6) exceeds two hundred rupees the tahsildar shall forward the case to the Assistant Collector in charge of the sub-division, who shall dispose.of it is accordance with the provisions of sub-section (7).

144. Suit for arrears of produce rent

. - If rent which is based on an estimate or appraisement of the standing crop or which is payable by a division of the produce is in arrears and no order having the effect of a decree for arrears of rent has been passed under the provisions of sub-section (7) of Section 143, the land-holder may bring a suit for the recovery of such arrears. In either case the Court shall determine the rent in accordance with the provisions of Chapter VI.

145. Instalments, how fixed

. - The rent of a tenant shall be payable in the following instalments and at the following dates :-

(a) if the instalments and dates have been agreed on by the parties to the tenancy, the instalments and dates so agreed on;

(b) in the absence of any such agreement, if the instalments and dates have been determined and recorded by a Settlement Officer, the instalments and dates so determined and recorded;

(c) in other cases, in instalments proportionate to the land revenue instalments payable one month before the dates, appointed for the payment of such instalments.

Arrears

146. Rent when in arrear

. - Any instalment of rent not paid on or before the day when it falls due becomes an arrear on the date following the day it fell due, and the tenant shall thereupon become

liable to pay interest on the arrears at the rate of one anna per rupee per annum simple interest.

147. Prohibition of arrest or detention for arrears

. - No decree for arrears of rent shall be executed by the arrest or detention of a tenant.

148. Methods of recovering arrears

. - Except as otherwise provided by this Act, an arrear of rent shall be recoverable by suit, by notice through the tahsildar in accordance with the provisions of this Act.

149. Suit against co-tenant

. - A co-tenant, who has paid rent on account of another co-tenant or from whom such rent has been recovered may sue such co-tenant for the amount so paid.

150. Joinder of claims for arrears

. - (1) A plaintiff may unite in the suit several claims for arrears of rent against the same tenant, provided, that they are in respect of holdings situated in the same village.

(2) In such a suit the decree shall specify separately the amount, if any, found due in respect of the several holdings.

151. Remission for calamity by Court decreeing claim for arrears

. - (1) If it appears to a Court passing a decree in a suit for arrears of rent that the area of the holding was so decreased by diluvion or otherwise, or that the produce thereof was so diminished by drought, hail, deposit of sand or other like calamity during the period for which the arrears claimed that the full amount of rent payable by the tenant for that period cannot be equitably decreed, the Court may, with the sanction of the Collector, allow such remission from the rent payable by the tenant for that period as may appear to it to be just.

(2) An order of the Collector under sub-section (1), giving or refusing sanction to remission of rent, shall not be questioned in any civil or revenue Court.

(3) Nothing in this section shall be deemed to authorize any remission in the rent payable by a permanent tenure-holder, or a thekedar or, except when the area of a holding is decreased by diluvion, by a fixed-rate tenant.

(4) No remission made under the provisions of this section shall be deemed to vary the rent payable by the tenant otherwise than for the period in respect of which such remission was made.

(5) When a Court allows remission under this section the State Government or any authority empowered by it in this behalf shall order consequential remissions of rent and revenue in accordance with the principles contained in the Sixth Schedule :

Provided that nothing in this sub-section shall affect tracts assessed to revenue for periods of five or eight years.

(6) The provisions of this sub-section shall not apply to alluvial tracts in which there is a local custom providing for remissions of the rent of holdings, the culturable area of which has been decreased by diluvion, deposit of sand, or the like causes.

152. Suit for arrears of irrigation dues

. - Any person to whom any sum is due on account of canal dues under Section 47 of the Northern India Canal and Drainage Act, 1873, may sue for the recovery of such sum.

153. Recovery of arrears in respect of Government property

. - Arrears of rent due in respect of Government property or in respect of an estate attached under the provisions of Section 150 of the United Provinces Land Revenue Act, 1901, may be recovered in accordance with the provisions of Sections 39 to 42 of the United Provinces Court of Wards Act, 1912, as if they were arrears due in respect of property under the charge of the Court of Wards.

154. Recovery of arrears in the event of general refusal to pay

. - (1) In case of any general refusal to pay rent or any demand on account of canal dues to persons entitled to collect the same in any local area, the State Government may, by notification in the Official Gazette, declare that such rents or demands may be recovered as arrears of land revenue.

(2) In any local area to which a notification made under sub-section (1) applies, a land-holder or any other person to whom an arrear of rent or of canal dues is due, may, notwithstanding anything to the contrary in this or any other enactment for the time being in force, instead of suing for recovery of the arrear under this Act, apply in writing to the Collector to realize the same, and the Collector shall, after satisfying himself that the amount claimed is due, proceed, subject to rules made by the Board, to recover such amount with costs and interest as an arrear of land revenue.

(3) The Collector shall not be made a defendant in any suit in respect of an amount for the recovery of which an order has been passed under this section.

(4) Nothing herein contained, and no order passed under this section, shall debar, -

(a) a land-holder from recovering, by suit or application, any amount due to him which has not been recovered under this section;

(b) a person from whom any amount has been recovered under this section, in excess of the amount due from him, from recovering such excess by suit against the land-holder or other person on whose application the arrear was realized.

Chapter VIII
EJECTMENT

General

155. Application of some sections relating to tenants to permanent tenure-holders, etc

. - In Section 183, Section 185 and Section 1S6 and in no other sections of this Chapter "tenant" includes an under-proprietor, a permanent tenure- holder and a fixed-rate tenant.

156. Application of provisions of this Chapter to permanent lessees, etc

. - The provisions of this Chapter relating to occupancy tenants shall apply to permanent lessees and to tenants holding under a special agreement or decree in Oudh, except in so far as they are inconsistent with the terms of the lease, agreement or decree under which they hold.

157. Ejectment to be in accordance with the Act

. - No tenant shall be ejected from his holding otherwise than in accordance with the provisions of this Act.

158. Arrears deemed satisfied when tenant is ejected

. - Subject to the provisions of Sections 159 and 160, when a tenant is ejected from the whole or any portion of his holding in execution of a decree or order of ejectment for arrears of rent, all arrears of rent, whether decreed or not, due in respect of such holding on the date of the delivery of possession shall be deemed to have been paid.

159. Compensation for improvement on ejectment

. - (1) A Court deciding any proceeding by which a tenant is ejected from his holding or part thereof shall assess the amount of compensation due to the tenant on account of any improvement made by him.

(2) If the compensation exceeds the amount recoverable from the tenant as arrears of rent, whether decreed or rent, on account of the holding, together with costs if any,

the decree or order for ejectment shall be conditional on the payment by the land-holder of the balance due to the tenant within such time as the Court may direct.

(3) If the compensation does not exceed the amount recoverable from the tenant as specified in sub-section (2), any claim made by the tenant for compensation shall be deemed to have been satisfied on his ejectment.

(4) If the Court to which a claim under sub-section (1) is made, is the Court of an Assistant Collector of the second class, he shall forward the proceedings to the Assistant Collector in-charge of the sub-division who shall dispose of the case as if it had been instituted before himself.

160. Right to crops and trees when ejectment takes effect

. - (1) If, on the date of the delivery of possession to the land-holder there exist on the holding any ungathered crops or any trees which are the property of the tenant, tire Court executing the decree shall proceed in the following manner :

(a) If after deducting the compensation, if any, assessed under Section 159, the amount due from the tenant is equal to or greater than the value of such crops or trees, the Court shall deliver the possession of the holding to the land-holder and all rights of the tenant in such crops or trees shall pass to the land-holder.

(b) If after deducting the compensation, if any, assessed under Section 159, the amount due from the tenant is less than the value of such crops or trees; and

(i) the land-holder pays the difference between such amount and such value to the tenant, the Court shall deliver the possession of the holding to the land-holder and all rights of the tenant in such crops or trees shall pass to the land- holder; or

(ii) the land-holder does not pay such difference, the tenant shall have a right of tending, gathering or removing such crops or trees or fruits of such trees until such crops or trees have been gathered and removed or die or are cut down, as the case may be, paying such compensation for the use and occupation of land as the Court may fix.

(2) On an application made by the tenant or the land-holder, the Court executing the decree or the order of ejectment may determine the value of the crops or trees and the compensation payable by the tenant under the provisions of clause (b) of sub-section (1).

(3) Nothing in this section shall apply to a person ejected from land under the provisions of Section 180 and any crops or trees existing on such land at the time of the delivery of possession shall vest in the decree-holder.

161. Contents and service of notice

. - (1) Every notice to be issued to a tenant under this Chapter shall be filed by the land-holder in duplicate, and shall contain the following particulars :-

(a) the name, description, and place of residence of the landholder;

(b) the name, description, and place of residence of the tenant;

(c) a description of the holding, specifying the name of the village and mahal and of the pargana or other local area in which the holding is situated;

(d) the recorded numbers of the holding, and of each filed, the amount of each instalment of rent, any portion of which is in arrears and the amount of such arrears.

(2) The manner of service of such notice on a tenant shall be that of the service of a summons by the Court.

[Provided that such notice shall also be served on the tenant through the registered post acknowledgment due :

Provided further that if the tenant is not found, or refuses to accept the notice or to sign the acknowledgment, the notice shall be served by affixing it to his usual place of residence in the presence of two respectable persons of the place, who shall sign the notice in attestation of such service and such service shall be deemed to be due service on the tenant.] *[Substituted by U.P. Act No. 10 of 1947.]*

162. Immunity from ejectment from residential house on ejectment from holding

. - No tenant shall be liable to ejectment from his residential house in a village other than a house erected under the provisions of Section 65, merely because he has been ejected from his holding in that village.

Ejectment for Arrears of Rent

163. Application for issue of notice to ex-proprietary tenant, etc., for payment of arrears and for ejectment in default

. - (1) A land-holder may, between the first day of June and the thirty-first day of August, apply to the tahsildar for the issue of a notice to an ex-proprietary, an occupancy or a hereditary tenant for the payment of arrears of rent due by him and in default for ejectment from his holding, and the tahsildar shall forthwith issue such notice.

Provided that no application shall be made under this section for payment of an arrear which exceeds the amount of rent payable by the tenant for the holding in an agricultural year, or which, on the date of the application, has been outstanding for more than three years.

(2) A notice issued, under the provisions of sub-section (1) shall, in addition to the particulars specified in Section 168, specify the instalments of rent payable by the tenant for the holding in the future.

(3) The notice shall require the tenant to appear within fifteen days of the date of service of the notice and either to admit the claim or to contest it.

(4) If the tenant does not appear or appears and admits the arrear claimed and the instalments of rent specified in the notice, the tahsildar shall pass an order directing him to pay [in the manner laid down in Section 131] *[Substituted by U.P. Act No. 10 of 1947.]* such arrear and also, during the currency of such order, to pay [in the manner laid down in Section 131] *[Substituted by U.P Act No. 10 of 1947.]* the instalments of rent as they fall due :

Provided that, if the order is passed ex parte the tenant may apply for setting aside such order and if he satisfies the Court that either the notice was not served on him or that he had sufficient cause for non-appearance on the date fixed, the tahsildar shall set aside the order and shall proceed to hear the case in the manner hereinafter provided.

(5) If the tenant appears and contests the claim for arrears or pleads that he is not an ex-proprietary, an occupancy, or a hereditary tenant, the application for the issue of notice shall, on payment of the court-fee as in a suit for arrears of rent, be deemed to be a suit for arrears of rent and the tahsildar shall pass an order directing the tenant to pay the Court deciding such suit the instalments of rent specified in the notice as they fall due :

Provided that all cases in which the tenant pleads that he is not an ex-proprietary, and occupancy or a hereditary tenant, or which the tahsildar is not competent to try shall be forwarded to the Assistant Collector in-charge of the sub-division.

(6) If in such suit the Court finds that the tenant is an ex-proprietary, an occupancy or a hereditary tenant and that any amount is due by him it shall pass a decree directing him to pay such amount [in the manner laid down in Section 131] *[Inserted by U.P. Act No. 10 of 1947.]*.

(7) If the tenant appears and pleads that he is not liable to pay that instalments specified in the notice, the tahsildar shall pass an order directing him during the currency of such order to pay [in the manner laid down in Section 131] *[Inserted by U.P. Act No. 10 of 1947.]* such instalments or such less amounts as he may, for reasons to be recorded, determine.

(8) No appeal shall lie against an order of the tahsildar regarding the payments passed under the provisions of sub-section (5) or sub-section (7), but no such order shall be a bar to a suit under the provisions of this Act for determination of rent for the recovery of arrears of rent.

(9) An application made under the provisions of this section may be amended, either by the addition of the name of joint tenants or otherwise, at any time up to fifteen days before the date on which the instalment of rent next following the date of the application falls due, and on such application being amended the tahsildar shall proceed as if the amendment had been made in the notice filed within tire prescribed period.

164. Order that may be passed in appeal from ejectment proceedings

. - If in a case to which the provisions of sub-section (5) of Section 165 apply, the Court or any Court which passes orders in the suit in appeal, reference or revision finds either that the tenant is not an ex-proprietary, an occupancy or a hereditary tenant or that no part of the arrear specified in the notice was due by the tenant as arrears of rent on the date on which the application was made under the provisions of sub-section (1) of Section 163, it shall dismiss the suit and cancel with effect from the date of such dismissal the order of the tahsildar passed under the provisions of that section directing the tenant to pay [in the manner laid down in Section 131] *[Substituted by U.P. Act No. 10 of 1947, for the words (from his holding).]* the instalments of rent.

165. Consequences of cancellation of an order passed under Section 163

. - (1) If during the currency of an order passed by the tahsildar under the provisions of Section 163, directing the tenant to pay in the manner laid down in Section 131 [the instalments of rent the tenant fails by the thirty-first day of May in any agricultural year so to pay the instalment which fell due in that agricultural year with interest thereon, the tahsildar shall forthwith order (in accordance with, the rules made by the Board that he be ejected from the whole or part of his holding and he shall forthwith be ejected accordingly.] *[Substituted by U.P. Act No. 10 of 1947 for the words (into Court).]*

(2) If the tenant fails to pay in the manner laid down in Section 131 the amount of the arrear as ordered by the tahsildar under the provisions of sub-section (4) of Section 163 or as decreed by the Court under the provisions of sub-section (6) of that section together with interest thereon and the cost of the application or the costs, if any, awarded to the land-holder by the decree, as the case may be, by the thirty-first day of May next following the expiry of a period of one year from the date of the passing of such order or of the decree becoming final, as the case may be, the tahsildar shall forthwith order [in accordance with the rules made by the Board] *[Inserted by U.P. Act No. 10 of 1947.]* that the tenant be ejected [from the whole or part of his holding and he shall forthwith be ejected accordingly.] *[Substituted by ibid for the words (from his holding).]*

(3) If on any date before an order of ejectment is passed under the provisions of this section, the tenant pays [in the manner laid down in Section 131] *[Substituted by U.P. Act No. 10 of 1947.]* the amount of the arrear which he was ordered to pay under the provisions of sub-section (4) of Section 163 or which was decreed under

the provisions of sub-section (6) of that section together with interest thereon and the costs of the application or the costs, if any, awarded to the land-holder under the decree, as the case may be, and also the instalments of rent that have fallen due by such date or the balance thereof, the Court shall forthwith cancel its order directing the tenant to pay [in the manner laid down in Section 131] *[Substituted by U.P. Act No. 10 of 1947.]* the instalments of rent as they fall due.

(4) [If within one month after the delivery of possession, the tenant deposits the full amount in respect of which he has been ejected, the ejectment order shall be cancelled and possession restored forthwith to the tenant.] *[The original sub-section (4) was re-numbered as sub-section (5) and a new sub-section (4) was inserted by U.P. Act No. 10 of 1947.]*

(5) Notwithstanding anything in this section, the tenant shall not be ejected for failure to pay any portion of his rent which has been remitted or suspended under the provisions of Section 123.

166. Tenant's claim for compensation on appearance

. - (1) Notwithstanding anything in Section 159, if the tenant appears in accordance with a notice served under the provisions of Section 163, he shall be asked whether he makes any claim for compensation on account of improvements in case an order of ejectment is passed against him and if he makes such claim the tahsildar shall forward the case for decision to the Assistant Collector in-charge of the sub-division.

(2) No claim for compensation on account of improvements shall be entertained unless it is made in accordance with the provisions of this section, provided that if the tenant appears after the expiry of the period specified in the notice and satisfies the tahsildar either that the notice was not served on him or that he had sufficient cause for non-appearance within such time, the tahsildar shall entertain any claim made by him for compensation.

167. Bar to suits and application in certain cases

. - (1) Except as provided in sub-section (5) and sub-section (8) of Section 163, no suit for arrears of rent shall lie in respect of an arrear specified in a notice issued under the provisions of Section 163 or in respect of any instalment of rent payable into Court under the provisions of that section.

(2) No application shall be made under the provisions of Section 163 in respect of an arrear for the recovery of which a suit has been instituted under the provisions of Section 144 or Section 141.

168. Ejectment of certain tenants in execution of a decree for arrears

. - (1) When a decree for arrears of rent against an ex-proprietary, occupancy or hereditary tenant has not been completely satisfied within one year from the date of such decree by any mode of execution other than sale of holdings, the land- holder may apply to the Court, which passed the decree, for the issue of a notice to the tenant for payment of the amount outstanding and for his ejectment in case of default and the Court shall thereupon issue such notice.

(2) The notice shall require the tenant to appear within thirty days of the service of the notice and either to show cause why he should not be ejected from the holding, or to admit the claim and obtain leave to pay the amount into the Court within one hundred and twenty days from the date of his appearance in the Court.

(3) If the tenant does not appear in accordance with the terms of the notice or having appeared either does not show-cause why he should not be ejected or does not ask for leave to pay, the Court shall immediately order his ejectment from the holding.

(4) [x x x] *[The letter and the bracket (a) were omitted, by U.P. Act No. 10 of 1947.]* If the tenant appears and obtains leave to pay, then unless within one hundred and twenty days from the date of his appearance in the Court the tenant has paid the amount or payment thereof has been certified to the Court in accordance with Rule 2, Order XXI of the Code of Civil Procedure, 1908, the Court shall, on the 31st of May next following order his ejectment.

(5) The order of ejectment shall be executed on or after the first day of June next following the date of the order: If within one month after the delivery of possession the tenant deposits the decretal amount, the ejectment order shall be cancelled and possession restored forthwith to the tenant.

(6) [] *[The original sub-section (5) was re-numbered as sub-section (6) and for clause (b) and (c) of sub-section (4) a new sub-section (5) was Substituted by U.P. Act No. 10 of 1947.]* No extension of time for payment shall be allowed :

Provided that the tenant shall be ejected only from such portion of the holding the rent of which does not exceed one [sixth of the decretal amount].

169. Application for issue of notice to non-occupancy tenant for payment of arrears or for ejectment in default

. - (1) When the rent of a non-occupancy tenant is in arrears, the land-holder may apply to the tahsildar for the issue of a notice to such tenant for payment of the arrears and for his ejectment in case of default, and the tahsildar shall thereupon issue such notice.

(2) The notice shall require the tenant either to contest the claim within fifteen days of the service of notice, or to pay the arrear into the Court within six weeks of the service of the notice, and shall state that if he fails to comply with the terms of the notice an order of ejectment will be passed.

(3) If the tenant does not contest the claim and does not, within six weeks of the service of the notice or within such time as may be allowed under the provisions of sub-section (4) pay the amount into Court or the payment thereof is not certified under Order XXI, Rule 2 of the Code of Civil Procedure, 1908, the Court shall forthwith pass an order that he may be ejected.

(4) The tahsildar may from time to time, for reasons to be recorded, extend the time for payment, provided that the total period allowed for payment shall not exceed six months.

(5) If the tenant contents the claim, the application for issue of notice shall, on payment of the court-fee as in a suit for arrears of rent, be deemed to be a suit for arrears of rent. If the tahsildar is not competent to try the suit, he shall forward it to the Assistant Collector incharge of the sub-division.

170. Ejectment of non-occupancy tenant in execution of decree for arrears of rent

. - (1) When a decree is passed for arrears of rent against a non-occupancy tenant, the land-holder may, in addition to any other mode of execution, apply to the Court which passed tire decree for the issue of a notice to the tenant for payment of the amount and for Iris ejectment in case of default; and the Court shall thereupon issue such notice.

(2) The notice shall require the tenant either to show cause within fifteen days of the service of the notice why he should not be ejected or to pay the amount into Court within six weeks of the date of the service of the notice.

(3) If the tenant appears and claims, that he is not liable to ejectment, the Court shall, after enquiry, decide such claim, and, if it rejects it, shall order that the tenant be ejected forthwith.

(4) If the tenant does not claim that he is not liable to ejectment and does not, within six weeks of the service of the notice or within such time as may be allowed under the provisions of sub-section (5), pay the amount into Court or the payment thereof is not certified to the Court under Order XXI, Rule 2, of the Code of Civil Procedure, 1908, the Court shall forthwith pass an order that he be ejected.

(5) The Court may from time to time for reasons to be recorded extend the time for payment, provided that in no case shall the total period allowed for payment exceed six months.

Ejectment for Illegal or Detrimental Acts

171. Ejectment for illegal transfer, sub-letting

. - (1) If a tenant transfers, sub-lets, the whole or any portion of his holding otherwise than in accordance with the provisions of this Act, and the transferee or sub-lessee has entered upon possession in pursuance of such transfer or sub-lease, both the tenant and

any person who may have thus obtained possession of the whole or any part of the holding shall, on the suit of the land-holder, be liable to ejectment from the area so transferred or sub-let at the date of the institution of the suit :

[Provided that, In the case of a voidable sub-lease, if the suit succeeds, the Court shall pass a decree permitting the tenant to apply in the same proceedings, within a time not exceeding one month from the date of the decree, for the ejectment of the person in whose favour the voidable sub-lease has been made, and directing that if the tenant so applies and if he ejects such person and resumes occupation of the land within such further time as the Court, either in the decree itself or by means of a subsequent order, may fix having regard to the provisions of Section 182, the decree shall not be executed against the tenant except in respect of costs. In such a case, the decree shall direct that, if the tenant either fails to apply for the ejectment of such person within the time fixed in this behalf or fails to resume occupation within further time allowed by the Court for that purpose, the tenant as also the sub-lessee shall be ejected from the area sub-let at the date of the institution of the suit.] *[Substituted by U.P. Act No. 10 of 1947.]*

(2) To every suit under this section both the tenant and the sub-tenant or the person in whose favour the transfer purports to have been made shall be made parties.

172. Ejectment for detrimental act or breach of condition

. - (1) A tenant shall be liable to ejectment from his holding on the suit of the land-holder, -

(a) on the ground of any act or omission detrimental to land in that holding, or inconsistent with the purpose for which it was let; or

(b) on the ground that he or any person holding from him has broken a condition on breach of which he is, by special contract which is not contrary to the provisions of Section 4, liable to be ejected ;

Provided that the planting of trees in accordance with the provisions of i Section 80 or the making of an improvement in accordance with the provisions of this Act or the use of a holding for the purpose of grazing or raising stock, including horses, or the construction of enclosures suitable for stock for raising, shall not constitute ground for ejectment under this section.

(2) In any suit for ejectment under this section any person claiming through the tenant may be joined as a party, and, where the plaintiff's cause of action is based wholly or partly on any act or omission or breach of condition by a sub-lessee or other transferee, such sub-lessee or other transferee shall be joined as a party.

173. Decree in suit under Section 172

. - (1) A decree for ejectment under Section 172 may direct the ejectment of the tenant either from the holding or from such portion thereof as the Court, having regard to all the circumstances of the case, may direct.

(2) Such decree shall further direct that if the tenant repairs the damage, or pays such compensation as the Court thinks fit or within three months from the date of the decree within such further period as the Court may, for reasons to be recorded, allow, the decree shall not be executed in respect of costs.

174. Suit for compensation, injunction, etc

. - Notwithstanding anything in Section 172, a land-holder may, in lieu of suing for ejectment, sue, -

(a) for compensation; or

(b) for an injunction with or without compensation; or

(c) for the repair of the damage or waste with or without compensation.

Ejectment on Other Grounds

175. Ejectment on application

. - Subject to the provisions of Section 19, a non-occupancy tenant shall also be liable to ejectment on the application of the land-holder on any of the following grounds, namely, -

(a) that he is a tenant holding from year to year;

(b) that he is a tenant holding under a lease or for a period which has expired or will expire before the end of the current agricultural year.

176. Application and notice

. - (1) An application for the ejectment of a tenant under the provisions of Section 175 shall be made between the first day of July and the thirtieth day of September and not otherwise, and shall be accompanied by the notice specified in Section 161 :

Provided that, if the application is made within the prescribed period the Court may allow the names of other persons having an interest in the tenancy or who are for any other reason necessary parties to the proceedings, to be added after such period has expired, and the notice shall be as effectual in respect of all persons so added as if they had been included in the notice filed within the prescribed period.

(2) Every notice under sub-section (1) shall state the ground on which ejectment is applied for and inform the tenant, -

(a) that if he desires to dispute the ejectment he must contest the notice within thirty days of its being served on him, and

(b) that if within thirty days of the notice he appears and admits his liability to ejectment he will not be liable for any costs.

177. Service of notice

. - On an application being made in accordance with the provisions of Section 176, a copy of the notice accompanying such application shall, on payment of the prescribed fee be served on the tenant in the manner prescribed in Section 161.

178. Effect of admission or of non-appearance

. - (1) if a tenant to whom a notice is issued under Section 177 appears within thirty days of the service of such notice and admits his liability to ejectment, the Court shall pass an order for his ejectment but he shall not be liable for any cost incurred by the applicant,

(2) If on the expiry of thirty days from the service of such notice the tenant has not appeared the Court shall pass an order for his ejectment.

179. Procedure where tenant contests notice

. - (1) If within thirty days of service of a notice under Section 177, the tenant appears and contests his liability to ejectment, the Court shall forward the proceedings for disposal to the Assistant Collector in-charge of the sub-division.

(2) In such case the application under Section 175 shall be deemed to be a plaint and the case shall proceed as a suit. The land-holder shall within a time to be fixed by the Court, deposit the balance of court-fee due from him, failing which the suit shall be dismissed.

Ejectment of Person Occupying Land Without Title

180. [Ejectment of person occupying land without consent. - (1) A person taking or retaining possession of a plot of land without the consent of the person entitled to admit him to occupy such plot and otherwise than in accordance with the provisions of the law for the time being in force, shall be liable to ejectment under this section on the suit of the person so entitled, and also to pay damages which may extend to four times the annual rental value calculated in accordance with the sanctioned rates applicable to hereditary tenant :

Provided that, notwithstanding the provisions of sub-section (1) of Section 246, where such a person taking or retaining possession is one of the co-sharers whose joint consent is required to bring such suit, he shall not be required to join as plaintiff in the suit. In

such a case, the decree passed in favour of the plaintiff shall be deemed to be in favour of all such co-sharers.

Explanation I. - A co-sharer in the proprietary rights in a plot of land taking or retaining possession of such plot without the consent of the whole body of co-sharers or of an agent appointed to act on behalf of all of them, shall be deemed to be in possession of such plot otherwise than in accordance with the provisions of the law within the meaning of this section.

Explanation II. - A tenant entitled to sub-let a plot of land in accordance with the provisions of the law for the time being in force may maintain a suit under this section against the person taking or retaining possession of such plot otherwise than in the circumstances for which provision is made in Section 183.

(2) If no suit is brought under this section, or if a decree obtained under this section is not executed, the person in possession shall become a hereditary tenant of such plot, or if such person is a co-sharer, he shall become a khudkasht holder, on the expiry of the period of limitation prescribed for such suit or for the execution of land decree, as the case may be.

Provided that where the person in possession cannot be admitted to such plot except as sub-tenant by the person entitled to admit, the provisions of this sub-section shall not apply until the interest of the person so entitled to admit is extinguished in such plot under Section 45(f).] *[Substituted by U.P. Act No. 10 of 1947.]*

Enforcement of Ejectment

181. Mode of execution of decree or order

. - (1) Every decree or order for ejectment shall be enforced in accordance with the provisions of the Code of Civil Procedure, 1908, relating to the execution of decree for delivery of immovable property.

(2) Every sub-lessee or transferee whose interest is extinguished on the ejectment of his land-holder or transferor, as the case may be, shall, for the purpose of the execution of the decree or order for ejectment, be deemed to be a judgment-debtor, but unless he offers resistance or obstruction to delivery of possession, he shall not be liable for costs.

182. Time of execution

. - (1) Delivery of possession in execution of a decree or order for ejectment of a civil or revenue Court, shall not be made before the first day of April or after the thirtieth day of June in any year :

Provided that the State Government may, by rule, prescribe in respect of any local area other dates between which delivery of possession shall be made.

(2) Nothing in this section shall apply to an order of delivery of possession passed after the first day of June in respect of an application for execution made,before the preceding first day of April or to an order of ejectment passed under the provisions of Section 165 or Section 170 or Section 180.

Remedies for Wrongful Ejectment

183. Remedies for wrongful ejectment

. - (1) Any tenant ejected from or prevented from obtaining possession of his holding or any part thereof, otherwise than in accordance with the provisions of the law for the time being in force by :-

(a) his land-holder or any person claiming as landlord to have a right to eject him, or

(b) any person admitted to, or allowed to retain possession of the holding by such land-holder or person, whether as tenant or otherwise, may sue the person so ejecting him or keeping him out of possession, -

(i) for possession of the holding;

(ii) for compensation for wrongful dispossession; or

(iii) for compensation for any improvement he may have made:

Provided that no decree for possession shall be passed where the plaintiff at the time of the passing of the decree, is liable lo ejectment in accordance with the provision of this Act within the current agricultural year.

(2) If the decree is for possession, no compensation for an improvement shall be awarded.

(3) When a decree is given for compensation for wrongful dispossession but not for possession, the compensation awarded shall be for the whole period during which the tenant was entitled to remain in possession.

(4) A tenant who has sued for possession only shall not be entitled to institute a separate suit for compensation for wrongful dispossession, or for an improvement in respect of the same cause of action.

184. Reversal of decree or order of ejectment

. - When a Court of appeal or revision reverses a decree or order for the ejectment of a tenant, and the tenant is liable to ejectment in accordance with the provisions of this Act within the current agricultural year, the decree or order of the Court of appeal or revision

shall not be for possession but subject to the provisions of Sections 73 and 74, for costs only.

185. Defendants to be joined in suit

. - When a tenant sues under clause (a) of sub-section (1) of Section 183 for possession, he may join, as a defendant, in the suit, every person in possession claiming through the landholder or the person who has ejected him, as the case may, be, and if he sues under clause (b) of sub-section (1) of that section, he shall join the land-holder or the person claiming as land-holder to have the right to eject him as the case may be, as a defendant in the suit.

186. Reinstatement of tenant

. - The provision of Section 181 shall apply mutatis mutandis to the execution of decree for the reinstatement of a tenant in his holding.

Chapter IX
GRANTS OF LAND HELD RENT-FREE OR AT FAVOURABLE RATE OF RENT

187. Application oi this Chapter to under-proprietors

. - In this Chapter "landlord" includes an under-proprietor with whom a sub-settlement had been made.

188. Meaning of rent-free grant

. - A rent-free grant means a grant of a right to hold land rent-free by a landlord, with or without consideration, not being a grant for the purpose of planting a grove :

Provided that in Agra, if made after the seventh day of September, 1926, and in Oudh, if made after the commencement of this Act, such grant shall be made by registered instrument.

Explanation I. - When a sale of land takes place, a reservation in favour of the vendor of a portion of the land sold, to be held rent-free by such vendor, is a rent-free grant.

Explanation II. - A grant of land for the performance of a service, religious or secular, is a rent-free grant.

189. Meaning of grant of land at a favourable rate

. - A grant of land at a favourable rate of rent means in Oudh a grant of land at a rent less than the aggregate of the revenue local rates payable thereon and in Agra a similar grant made after the commencement of this Act.

190. Liability of grant to resumption, or assessment or enhancement of rent

. - A landlord may, in accordance with the provisions of this Chapter, sue to resume possession of land held rent-free or at a favourable rate of rent, for the fixation of rent or revenue on land held rent-free, or for the enhancement of the rent of land held at a favourable rate of rent.

191. Grants not liable to fixation of revenue or rent

. - All land held rent-free or at a favourable rate of rent shall be liable to fixation of rent or revenue or to enhancement of rent, as the case may be, unless, -

(1) in Agra -

(a) it is held rent-free in a district or portion of a district which is permanently settled under a grant made prior to the permanent settlement, or

(b) it is held rent-free under a judicial decision of a date prior to the twenty-second day of December, 1873; or

(c) it is held rent-free by a holder whose title is based on a transfer of the land for valuable consideration made by the landlord or by a rent-free holder thereof before the twenty-second day of December, 1873, provided that at the date the right of the landlord to resume the land had been barred by Section 28 of Act No. 10 of 1859 or by Article 130 of the Second Schedule of the Indian Limitation Act, 1871;

(2) in Oudh, -

(a) it is held rent-free or at a favourable rate of rent under a Government grant; or

(b) it is held rent-free or at a favourable rate of rent under a judicial decision of a date prior to the first day of January, 1902; or

(c) it was acquired rent-free or at a favourable rate of rent for a valuable consideration before the tenth day of October, 1876, and the right to resume it had, before that date, been barred by the law of limitation :

Provided that nothing in this section shall apply to any grants in Oudh to which the provisions of Section 79 of United Provinces Land Revenue Act, 1901, are applicable.

192. Declaration that grantee is proprietor or under-proprietor

. - (1) Subject to the provisions of Section 191 a landlord or a grantee or a tenant of a grantee may sue for a declaration that land held rent-free or at a favourable rate of rent, -

(a) in Agra, is held in proprietary right, and for the fixation of revenue thereon, or

(b) in Oudh, is held in under-proprietary right, and for fixation of rent thereon.

(2) No suit shall lie under provisions of sub-section (1) unless such land, -

(a) is held under a grant made in perpetuity and in consideration of the loss or surrender of a right previously vested in the grantee, or

(b) is held under a grant made in perpetuity by a written instrument for valuable consideration, or

(c) not being held for the performance of some service, religious or secular, or conditionally, or for a term, has been held in Agra rent-free for fifty years immediately before the seventh day of September, 1926, or in Oudh rent-free or at a favourable rate of rent for fifty years.

(3) When rent or revenue is fixed on such land under the provisions of this section, any tenant of the grantee shall become a hereditary tenant of his holding.

193. Rent or revenue how determined

. - If under the provisions of this Chapter revenue or rent has to be determined, such revenue or rent shall be determined in accordance with the following provisions, namely;

(a) the rent of a hereditary tenant shall be determined in accordance with the sanctioned rent-rates, applicable to hereditary tenants,

(b) in fixing revenue, the Court shall calculate the rent in accordance with the provisions of clause (a) and shall assess the revenue thereon in accordance with the provisions of Chapter V of the United Provinces Land Revenue Act, 1901,

(c) in fixing the rent of an under-proprietor, the Court shall calculate the revenue in accordance with the provisions of clause (b), and shall add thereto a percentage which shall not be less than ten or greater than fifty.

194. Liability of grant to fixation of rent or to enhancement

. - Subject to the provisions of Section 191 and 192, rent may be fixed on all rent-free grants and the rent of all grants held at a favourable rate of rent may be enhanced.

195. Ejectment of grantee

. - Except in a case in which the grantee becomes a proprietor or an under-proprietor under the provision of Section 192, a grantee may be ejected from Iris grant in all cases in which rent may be fixed thereon or the rent thereof enhanced if, by the terms of the grant or by local custom, it is held, -

(a) at the pleasure of the grantor; or

(b) for the purpose of some specific service; religious or secular, which the landlord no longer requires; or

(c) conditionally or for a term, when the condition has been broken or the term has expired.

196. Date from which liability to fixation or enhancement of rent or to ejectment arises

. - (1) The liability to fixation or enhancement of rent under Section 194 and to ejectment under Section 195 arises, -

(a) where the land is held under a written instrument by which the grantor has expressly agreed that it shall not be resumed, on the death of the original grantor, or on the expiration of the settlement in force at the date of the grant, or on the expiry of a period of thirty years from the date of the grant, whichever event first occurs;

(b) where the land is held for the purpose of some specific service, religious or secular, when the service is no longer required;

(c) where the land is held conditionally or for a term, when the condition has been broken or the term expires, or on the expiry of eleven years from the date of the grant, whichever first occurs;

(d) in any other case, on the expiry of five years from the date of the grant.

(2) In the case of a grant falling under clause (b) of sub-section (1), the filing of a suit for fixation or enhancement of rent or for ejectment shall be deemed sufficient notice that the service is no longer required; but where no previous notice in writing has been given to the grantee, the Court may, in its discretion, award cost to the defendant.

197. Determination of class of tenure and of amount of rent payable

. - If, under the provisions of this Chapter, rent is fixed on a rent-free grant, or the rent of a grant held at a favourable rate of rent is enhanced under the provisions of Section 194, the grantee shall become a hereditary tenant from tire date of the decree, fixing or enhancing the rent.

198. Application of certain sections to grantee

. - The provisions of Section 65, Section 68, Section 70, Sections 72 to 80, Section 157, Section 159, Section 160, Section 162, Sections 181 to 183 and Sections 185 and 186 shall

apply to rent-free grantees and to grantee holding at a favourable rate of rent as they apply to hereditary tenant.

199. Application of certain sections to grantees holding at a favourable rate of rent

. - The provisions of Section 69 and of Chapter VII and of clauses (a), (b), (d) and (e) of Section 236 and of Sections 237 to 240 shall apply to grantees holding at a favourable rate of rent as they apply to tenants, except that the provisions of Section 148 shall apply only in so far as they refer to recovery of an arrear of rent by suit.

200. Extinction of rent-free grantee's interest

. - The interest of a rent-free grantee or a grantee holding at a favourable rate of rent shall be extinguished, -

(a) when he dies, leaving no heir entitled to succeed him,

(b) when, in accordance with the provisions of this Chapter, he becomes a proprietor, an under-proprietor or a hereditary tenant, or when he is ejected,

(c) when his holding is acquired under the provisions of the Land Acquisition Act, 1894,

(d) by merger,

(e) when he has lost possession of his holding and the right to recover possession is barred by limitation,

(f) when he surrenders his holding under the provisions of Section 82, which shall mutatis mutandis apply to him, as if he were a tenant.

201. Procedure when district is under settlement

. - Suit under this Chapter shall, when the local area in which the land is situated is under settlement, be instituted in the Court of the Settlement Officer or Assistant Settlement Officer, who shall have powers to hear and dispose of cases under this Chapter.

202. Appeals

. - Appeals from decrees or orders passed under the provisions of Sections 198 and 199 shall be governed by the provisions of Chapter XIV and appeals from other decrees or orders passed under this Chapter shall, notwithstanding anything in Chapter XIV, be governed by the provisions of Chapter X of the United Provinces Land Revenue Act, 1901.

203. Saving of the right of the State Government to assess revenue

. - Nothing in this Chapter shall affect the right of the State Government to assess revenue on any land in accordance with Section 58 or Section 103 of the United Provinces Land Revenue Act, 1901.

Chapter X
GROVE-HOLDERS

204. Application of this Chapter to under-proprietors

. - In this Chapter the word "landlord" includes under-proprietors, a permanent lessee and a permanent tenure-holder.

205. Definition of grove-holder

. - A person who has planted a grove, -

(a) on land which was let or granted to him by a landlord, for the purpose of planting a grove;

(b) with the written permission of the landlord, or in accordance with local custom entitling him to do so, on land which he held as a tenant other than as a sub-tenant, a permanent tenure holder or a fixed-rate tenant, or a tenant holding on special terms in Oudh or an occupancy tenant in Oudh;

shall be the grove-holder of such grove.

Provided that where the permission was granted in Agra before the 7th day of September, 1926, and in Oudh prior to the commencement of this Act, the permission need not have been in writing and may have been either ex-tenant or pressed or implied.

206. Rights and liabilities of grove-holder

. - Notwithstanding anything in this Act, or any custom or contract to the contrary, -

(a) the rights of a grove-holder shall, subject to the provisions of clauses (a) and (b) and clauses (d) to (f) of Section 45, which shall apply to grove-holders as they apply to tenants, subsist so long as grove land retains its character as such. On the land ceasing to be grove-land the holder shall become a hereditary such land;

(b) a grove-holder may re-plant trees as they are cut or die and any person who is recorded as a grove-holder of any land on the 1st day of July, 1937, and is in possession thereof at the commencement of this Act, may re-plant trees thereon within three years of the commencement of this Act;

(c) the interest of a grove-holder shall be transferable by voluntary transfer or in execution of a decree of a civil or revenue Court or otherwise;

(d) the interest of a grove-holder shall devolve according to the personal law applicable to him;

(e) while the land continues to be grove-land, a grove-holder shall be liable to ejectment on one of the ground mentioned in Section 172, and the provisions of Section 157, Section 159, Section 160, Section 162, Section 173, Section 174, Sections 181 to 183, Section 185 and Section 186 shall apply to him as if he were a tenant;

(f) the provisions of Section [49] *[Inserted by U.P. Act No. 10 of 1947.]*, 59 to 64 and of Chapter VII and of clauses (a), (b), (d) and (e) of Section 236 and of Section 237 to 240 shall apply to grove-holders as they apply to tenants, except that the provisions of Section 148 shall apply only to the extent to which they refer to the recovery of rent by suit;

(g) where a person becomes a grove-holder in respect of land of which he is a tenant, he shall hold such land as grove-holder in supersession of all subsisting rights and liabilities so far as they are inconsistent therewith.

207. Right of grove-holder to make improvement

. - A grove-holder may make any improvement which a hereditary tenant may make and the provisions of Section 65, Sections 68 to 70, Sections 72 to 97 shall apply to him as if he were a hereditary tenant.

208. Appeals

. - The provisions of Chapter XIV shall apply to orders and decrees passed under this Chapter in respect of appeals, review and revision as if the grove-holder were a tenant.

Chapter XI
THEKEDARS

209. Definition of thekedar, etc

. - The form of lease of a thekedar is called a "theka", the person who grants it, the "lessor" and the area to which it relates, the "theka area".

210. Method of granting theka

. - A theka may be made only by a written instrument executed by the lessor and shall be deemed to be a lease for agricultural purposes within the meaning of Section 117 of the Transfer of Property Act, 1882.

211. Rights of lessor which thekedar may exercise

. - (1) Except as otherwise provided by the terms of his theka a thekedar, may exercise, during the period and to the extent of his theka, all the rights of the lessor under this Act, except, -

(a) the right to sue for enhancement of rent;

(b) the right to sue a rent-free grantee or grantee, holding at a favourable rate of rent under the provisions of Chapter IX.

(2) The rights mentioned in clauses (a) and (b) of sub-section (1) may be exercised by the thekedar only if they are conferred expressly by the terms of the theka.

(3) Rights which may be exercised by a thekedar under the foregoing sub-sections shall not be exercised by the lessor during the period of the theka.

212. Improvement in the theka area by lessor

. - (1) A lessor may, notwithstanding the theka, make any improvement in, or affecting the theka area which he would otherwise be entitled to make as land-holder under the provisions of Section 71.

(2) A thekedar shall not, without the written consent of the lessor, make or grant permission for the making of any improvement.

213. Restrictions on the transfer of, and on succession to thekas

. - (1) The interest of a thekedar, -

(a) shall not be transferable in execution of a decree of a civil or revenue Court;

(b) except as provided by the terms of the theka, shall not be otherwise transferable or be heritable.

(2) Where a thekedar's interest is heritable, it shall devolve according to the personal law applicable to him.

214. Grounds of ejectment

. - (1) A thekedar shall be liable to ejectment on one or more of the following grounds, namely, -

(a) on the ground that a decree against him, for arrears of rent remains unsatisfied;

(b) on the ground of any act or omission prejudicial to the rights of the lessor or inconsistent with the purpose of the theka;

(c) on the ground that he, or any sub-thekedar under him has broken a condition on breach of which he is, by the terms of his theka, liable to be ejected;

(d) on the ground that the term of the theka has expired, or will expire at or before the end of the current agricultural year;

(e) in the case of a theka from year to year, on the expiry of a notice to determine the theka, provided that not less than six months' notice ending on any date in the last year of the thekedar's tenure shall be given;

(f) except in the case of thekas granted before the commencement of this Act, on the ground that a period of ten years has elapsed since the theka began, or on the ground that the period of the settlement of the local area in which the theka area is situated has come to an end.

(2) Notwithstanding anything in clauses (b) and (c) of sub-section (1), no thekedar shall be ejected for non-payment of rent otherwise than in accordance with clause (a) of that sub-section.

215. Procedure of ejectment for non-payment of decree arrears

. - (1) When a lessor desires to eject a thekedar on the ground specified in clause (a) of sub-section (1) of Section 214 he shall apply for execution of the decree in accordance with the provisions of Section 170.

(2) When a lessor desires to eject a thekedar on any other ground specified in sub-section (1) of Section 214, he shall proceed by suit.

(3) The provisions of Section 174 shall apply to a thekedar who is liable to ejectment under the provisions of clause (b) or clause (c) of sub-section (1) of Section 214 as they apply to a tenant, and if a decree for ejectment is passed under the provisions of either of these clauses, the provisions of sub-section (2) of Section 173 shall apply to such decree as they apply to a decree against a tenant.

216. Joinder of sub-thekedar as defendant

. - In a suit for the ejectment of a thekedar any sub-thekedar may be joined as a party to the suit, and shall be so joined where the suit is on the ground of any act or omission of such sub-thekedar or to which such sub-thekedar was a party.

217. Remedies for wrongful ejectment

. - (1) A thekedar who has been wrongfully ejected from the whole or any part of the theka area, or wrongfully prevented from exercising any of his rights as thekedar, by the lessor or any person claiming under, or as agent of, the lessor may sue for any or all of the following remedies, -

(a) recovery of possession;

(b) an injunction;

(c) compensation for such wrongful dispossession or unlawful interference;

(d) compensation for an improvement lawfully made by him.

(2) The provisions of sub-sections (2), (3) and (4) of Section 183 and of Section 184 to 186 shall apply to a thekedar in the same way and to the same extent as they apply to a tenant.

218. Surrender

. - A thekedar may, at any time, with the consent of the lessor surrender his interest in the theka.

219. Application to thekedars of certain sections relating to tenants

. - The provisions of Sections 73 to 75, Section 79, Sections 90 and 91, Sections 123 to 125, Section 129, sub-sections (1) and (2) of Section 130, Sections 131 to 133, Sections 137 to 140, Sections 146 and 147, Section 149, Section 149, Section 150, Section 154, Section 157, Section 159, Section 181, Sections 236 to 238 and Section 240 shall apply to a thekedar in tire same way and to the same extent as they apply to a hereditary tenant and the provisions of Section 148 shall apply to an arrear of rent due by a thekedar only in so far as they refer to the recovery of rent by suit.

220. Application of Sections 245 and 246

. - The provisions of Sections 245 and 246, governing the exercise by two or more co-sharers of their rights against a common tenant shall be applicable also to the exercise of such rights against a common thekedar.

221. Provision for holding over

. - If a thekedar remains in possession after the expiry of his theka, and the lessor accepts rent from him or otherwise assents to his continuing in possession, the theka shall, in the absence of an agreement to the contrary, be deemed to have been renewed from year to year.

222. Application of the Fourth Schedule

. - Every suit or application brought by a thekedar against the lessor, or against a thekedar by the lessor, under the provisions of this Chapter, which is of the same nature as any suit or application specified in the Fourth Schedule, which may be brought by a tenant against a land-holder or by a land-holder against a tenant, shall be deemed to be included in that Schedule under the same serial number as such similar suit or application.

Chapter XII
ARREARS OF REVENUE, PROMTS, ETC.

223. Extent to which the term "co-sharer" applies to the thekedar

. - The word "co-sharer" shall, for the purpose of this Chapter include a thekedar who is in possession of the property leased to him.

224. Suit for arrears of revenue, etc. by lambardar

. - A lambardar may sue a co-sharer for arrears of revenue or rent payable through such lambardar by such co-sharer and for village expenses and other dues for which such co-sharer may be liable to the lambardar.

225. Suit against a joint lambardar

. - A lambardar who has paid arrears of revenue or rent on account of a joint lambardar who defaults may sue such joint lambardar for the amount so paid.

226. Suit for arrears of revenue by a co-sharer

. - A co-sharer who has paid arrears of revenue or rent on account of a lambardar or another co-sharer who defaults may sue such lambardar or co-sharer for the amount so paid.

227. Suit for arrears of revenue by a muafidar or assignee

. - A muafidar or assignee of revenue may sue for arrears of revenue due to him as such.

228. Suit by a superior proprietor for arrears of revenue or rent

. - A superior proprietor may sue for arrears of revenue or rent due to him as such.

229. Profits when divisible

. - (1) In the absence of the determination of the date by the Settlement Officer, or of an express agreement among the co-sharers, profits shall be divisible on such dates as the State Government may, by rules made under this Act, prescribe.

(2) Revenue, rent or profits and paid on the day on which they fall due become, on the following day, arrears, and the lambardar, co-sharer, muafidar, assignee of revenue of superior proprietor, as the case may be, shall be entitled to claim interest on such arrears at the rate of one anna in the rupee per annum simple interest.

230. Suit for settlement of accounts and profits against lambardar

. - (1) A co-sharer may sue the lambardar for settlement of accounts and for his share of the profits of a mahal or of any part thereof.

(2) In any such suit the Court may award to the plaintiff a share not only of the amounts actually collected but also of such sums as have remained uncollected owing to the negligence or misconduct of the lambardar.

231. Suit for settlement of accounts and profits against a co-sharer

. - (1) A co-sharer may sue another co-sharer for a settlement of accounts and for his share of the profits of a mahal or of any part thereof.

(2) In a suit under this section, the plaintiff shall make the lambardar and all co-sharers interested in the division of profits parties to the suit.

232. Liability to produce accounts in certain cases

. - If, in a suit under the provisions of Section 230 or Section 231, it is claimed that either party has made collections, such party shall be bound to produce his accounts including the books of the counterfoils of receipts issued by him, and if he does not do so, the Court may make such presumption against him and pass such orders as to costs as it thinks fit.

233. Valuation of sir and khudkasht in profits cases

. - (1) In a suit for settlement of accounts under Section 230 or Section 231, the collections made by a co-sharer shall, in the absence of any custom or contract to the contrary, be treated as having been made on behalf of all the co-sharers.

(2) In any such suit, the valuation of sir, which is not let, and of khudkhast which has been cultivated continuously for three years at the date of the suit shall, for the purposes of calculating the amount divisible among the co-sharers as profits, be made at the rates applicable to ex- proprietary tenants ; provided that if such sir is let the rent payable by the tenant thereof shall be accepted as the fair valuation, unless the Court, for reasons to be recorded, decides to make the valuation in some other manner.

234. Provision for joinder of parties and form of decree in certain suits

. - In any suit under Section 224, Section 226, Section 227, Section 228 or Section 231, the plaintiff may sue any number of co-sharers collectively, but in such case the decree shall specify the extent to which each of the defendants is affected thereby.

Chapter XIII
COMPENSATION AND PENALTIES

235. Application of this Chapter to under-proprietors, etc

. - In this Chapter "tenant" shall include an under-proprietor and a permanent lessee.

236. Tenant entitled to compensation for illegal exactions

. - If any person, -

(a) knowingly collects any sum or produce in excess of the amount due as an arrear of rent or sayar;

(b) charges interest on an arrear of rent at a rate exceeding that allowed by this Act;

(c) infringes the provisions of Section of 90 or collects any sum which is irrecoverable under the provisions of Section 91;

(d) collects any rent of which payment has been remitted in accordance with the provisions of this Act, or, before the expiry of the period of suspension, collects any rent of which payment has been suspended in accordance with the provisions of the Act;

(e) without reasonable cause, credits a payment made towards rent or sayar otherwise than to rent or sayar or otherwise than in accordance with the provisions of Section 130;

the tenant or lessee or licensee of sayar, as the case may be, shall be entitled to recover from such person such compensation, not exceeding two hundred rupees, as the Court having regard to the circumstances of the case, may decree, in addition to any amount or value of any produce which may have been so collected, charged or credited.

237. Power to award compensation in suit

. - When, in any suit for arrears of rent, the Court finds that the land-holder has, without reasonable cause, refused or neglected to deliver to the tenant a receipt, or neglected to prepare and retain a counterfoil of the receipt in the manner prescribed by Section 133, in respect of any year to which such suit relates, it may award to the tenant such compensation, not exceeding double the amount or value of the rent paid, as it may decree.

238. Penalty for collecting rent remitted or suspended

. - If a landholder collects any rent of which the payment has been remitted in accordance with the provisions of this Act, or, before the expiration of the period of suspension, collects any rent of which the payment has been suspended in accordance with the provisions of this Act, the whole of the revenue or rent, as the case may be, remitted or suspended in his favour shall become immediately payable by him.

239. Penalty for habitual refusal or neglect to give receipts

. - If any person habitually refuses, or neglects, to give receipts in accordance with the provisions of Section 133, he shall, on conviction by a criminal Court, be liable for a first offence to a fine not exceeding one hundred rupees, and for a second or subsequent offence to imprisonment for a term not exceeding three months or to fine not exceeding five hundred rupees or to both.

240. Penalty for illegal entry on a holding

. - (1) Any person against whom a decree or order of ejectment from a holding or any portion thereof, has been executed under the provisions of this Act, or under the Agra Tenancy Act of 1926 or the Oudh Rent Act, 1886, and who, so long as such decree or order remains in force, re-enters or attempts to re-enter, into occupation of such holding without the written consent of the person entitled to admit him as tenant, shall be presumed to have done so with intent to intimidate or annoy the person in possession, within the meaning of Section 441 of the Indian Penal Code.

(2) If a land-holder enters or attempts, to enter, upon a holding in the possession of a tenant with the object of dispossessing him of such holding, otherwise than under the provisions of this Act, such land-holder shall be presumed to have done so with the intent to intimidate or annoy such tenant within the meaning of Section 441 of the Indian Penal Code.

(3) Where a person Ls convicted of an offence of criminal trespass in the circumstances stated in sub-section (1) or sub-section (2) and it appears to the Court convicting him that any person has, by reason of anything done in the course of the committing of the offence, been dispossessed of any land, the Court may, if it thinks fit, order the dispossessed person to be restored to the possession of such land.

Chapter XIV
PROCEDURE AND JURISDICTION OF COURTS

General Provisions

241. Meaning of "proprietary right" in certain cases

. - In Section 246, sub-section (2) of Section 247, Section 286 and Section 287, the words "proprietary right" shall include the right of an under-proprietor.

242. Suits and applications cognizable by Revenue Courts only

. - Subject to the provisions of Section 286 all suits and application of the nature specified in the Fourth Schedule shall be heard and determined by a Revenue Court, and no Court other than a Revenue Court, shall, except by way of appeal or revision as provided in this Act, take cognizance of any such suit or application, or of any suit or application based on

a course of action in respect of which [any] *[Inserted by U.P. Act No. 10 of 1947.]* relief could be obtained by means of any such suit or application.

Explanation [I] *[Inserted by U.P. Art No. 10 of 1947.]*. - If the cause of action is one in respect of which relief might be granted by the revenue Court, it is immaterial that the relief asked for from the civil Court may not be identical with that which the revenue Court could have granted.

[Explanation II. - If the cause of action is one in respect of which relief might be granted by the revenue Court under Section 180, it is immaterial that the relief which may be asked for from the civil Court is greater than, additional to that which the revenue Court could have granted.] *[The original explanation was re-numbered as (I) and a new explanation (II) was added by U.P. Act No. 10 of 1947.]*

Example. - If in a suit under Section 180, a person claims damages exceeding four times the annual rental value, he cannot oust the jurisdiction of the revenue Court by framing his relief as such.

243. Application of the Code of Civil Procedure, 1908

. - (1) The provisions of the Code of Civil Procedure, 1908, except, -

(a) provisions inconsistent with anything in this Act, as far as the inconsistency extends,

(b) provisions applicable, only to special suits or proceedings, outside the scope of this Act, and

(c) the provisions contained in List I of the Second Schedule, shall apply to all suits and other proceedings under this Act, subject to the modifications contained in List II of the Second Schedule.

(2) The rules mentioned in the Second Schedule of this Act shall be interpreted, as referring to rules contained in the First Schedule to the Code of Civil Procedure, 1908, as altered or added to by the High Court of Judicature at Allahabad under Section 122 of the Code of Civil Procedure, 1908, [* * *] *[The words (in the case of Agra etc.) omitted by the A.O. 1950.]*.

244. Provision for granting any relief to which plaintiff is entitled

- In any suit brought under Section 180, Section 183, or Chapter IX, or in deciding an application under Section 175, which is treated as a suit under the provisions of Section 179, the Court may, on the application of the plaintiff and after framing the necessary' issues, grant any relief which the Court is competent "to grant, and to which it may find the plaintiff entitled, notwithstanding that such relief may not have been asked for in the plaint:

Provided that, after framing such issues, the Court shall, on the request of either party, grant reasonable time for the production of evidence.

245. Powers of lambardar

. - (1) The lambardar in an undivided mahal or in the common land of a mahal, thok or patti of which he is the lambardar, is entitled, in the absence of any contract or usage to the contrary, to collect rents and other dues.

(2) Wherever the lambardar is entitled under the provisions of subsection (1) to collect rents, he shall also be entitled to settle and eject tenants, to eject rent-free grantees, at a favourable rate of rent, to enhance rents and to do all acts incidental to the proper management of the estate with a view to the common benefit:

Provided that a lambardar shall not be entitled on behalf of other co-sharers without their written consent to, -

(a) grant a theka;

(b) sell or cut down trees or groves;

(c) grant permission to erect building on the holding of a tenant.

246. Suit, etc., by co-sharers in undivided property

. - (1) Except as otherwise provided in sub-section (3) or in Section 245, where there are two or more co-sharers in any light, title or interest, all things required or permitted to be done by the possessor of the same shall be done by them conjointly, unless they have appointed an agent to act on behalf of all of them.

(2) Nothing in sub-section (1) shall affect any local usage or special contract by which a co-sharer in an undivided property is entitled to receive separately the whole or his share of the rent payable by a tenant.

(3) When one or two or more co-sharers is not entitled to sue alone and the remaining co-sharers refuse to join as plaintiffs in a suit for money recoverable by them jointly, such co-sharer may sue separately for his share, joining the remaining co-sharers as defendants.

(4) Where the tenant of a holding or the illegal transferee of such tenant is also a co-sharer in the proprietary right in such holding, nothing in this section shall require him to be joined as plaintiff in any suit or application brought or made against him as such tenant, or illegal transferee under the provisions of this Act.

247. Procedure when plea of payment in good faith to a third person is taken

. - (1) When, in any suit brought under this Act by a land-holder against an under-proprietor or a tenant for arrears of rent, the under-proprietor or the tenant pleads that he has paid the rent of the holding for the period in respect of which the suit is brought to a third person whom he in good faith believed to be entitled to receive such rent, the Court shall, at the cost of such under-proprietor or tenant, as the case may be, make such third person a defendant in the suit and shall inquire into and decide the question.

(2) If the question is determined in favour of the under-proprietor or the tenant, the suit shall be decided in his favour and he shall not be made a party to any subsequent suit between the land-holder and the third person for the recovery of the amount so paid or for the determination of the proprietary right in the holding.

248. Registration of encumbrance created by under-proprietor

- A beneficial lease or other encumbrance created an under-proprietor on his tenure after the twenty-second day of July, 1868, shall not be valid in the event of the sale of his rights and interests in execution of a decree for arrears of rent, unless the encumbrance has been registered under any rule or law for the time being in force in Oudh within four months after the creation thereof, and not less than thirty days before the date of attachment of those rights and interests.

249. Proprietor's lien for the rent payable by under-proprietor

. - (1) When an under-proprietor creates any such encumbrance and fails to pay to the proprietor all or any portion of the rent subsequently accruing in respect of the land subject to such encumbrance, the encumbrancer shall be liable to pay to the proprietor such rent or such portion as the case may be, unless the proprietor has agreed in writing to waive any claim which he might otherwise have made on the encumbrancer under this section.

(2) Where an under-proprietor transfers his rights or any part thereof in land, and the transferee enters into possession the transferee shall, subject to any agreement in writing with the proprietor to the contrary, be liable to pay to the proprietor any arrears of rent due in respect of the land at the date of the transfer.

250. Right of pre-emption at execution sale in Oudh

. - (1) When land in Oudh is sold in execution of a decree under this Act and the land or any part thereof has been knocked down to a stranger, any co-sharer of the judgment-debtor but not the judgment-debtor, may, before confirmation of the sale, claim to take such land or part at the highest bid.

(2) A like claim may be made, if the land is a proprietary tenure, by an under-proprietor, and if the land is an under- proprietary tenure, by a proprietor.

(3) Any claim made under this section shall be allowed :

Provided that a claim made under the provisions of sub-section (1) shall prevail over a claim made under the provisions of sub-section (2).

Provided further that a claim shall not be allowed unless the claimant fulfils all the conditions of the sale binding on a purchaser.

Provided further that if two or more persons equally entitled make valid claims within the time allowed, lots shall be drawn.

251. Sale of certain tenant's interest of arrears for rent

. - (1) The interest of a tenant holding on special terms in Oudh of an ex-proprietary tenant, of an occupancy tenant, or of a hereditary tenant in his holding or in any part thereof may be sold in execution of a decree for arrears of the rent of such holding and, unless such interest is purchased by the land-holder thereof, the purchaser shall, subject to the provisions of sub-section (3), have the same interest in such holding or such part and be subject to the same liabilities in respect of such holding or such part as the tenant.

(2) Before selling the interest of a tenant in a part only of his holding in accordance with the provisions of sub-section (1), the Court executing the decree shall, in accordance with rules made by the Board, distribute the rent of the holding over such part and the remainder of the holding.

(3) When such interest is sold either, -

(a) a sub-tenant of such holding; or

(b) an agricultural or other labourer or a servant of the village community who permanently resides in the village and does not belong to any of the classes mentioned in clause (c) to (e); or

(c) a person, who is not a proprietor or an under-proprietor in the village and who cultivates land and resides in the village; or

(d) the land-holder; or

(e) a person who is a proprietor or an under-proprietor in the village; may in the above order of priority, within fifteen days of the date of sale, claim to take such interest at the highest bid :

Provided that where two or more persons belonging to the same class, being class mentioned in clause (a) or clause (b), claim to take such interest preference shall be given to the claimant who cultivates, the smallest area in the village; and when two or more such claimants cultivate the same area, preference shall be decided by lot :

Provided further that if two or more persons belonging to the same class, being a class mentioned in clause (b) or clause (e) claim up take such interest preference

shall be decided by lot:

Provided also that if such interest is not claimed by such sub-tenant the land-holder may within fifteen days of the sale claim to take such interest on payment of the highest bid together with a sum equal to five per cent thereon and such claim shall have priority over any other claim.

252. Lease in execution of a decree for arrears of rent

. - (1) Instead of selling the interest of a tenant in the whole or a part of his holding, the Court executing a decree for arrears of rent may lease such whole or part for a period which shall not exceed six years to any person who pays into Court the amount of such decree.

(2) If the whole of the tenant's holding is leased under the provisions of sub-section (1), the lessee shall be liable to pay to the land-holder the rent previously payable by the tenant for the holding, and if a portion only of such holding is so leased, the lessee shall be liable to pay to the land-holder such portion of the rent previously payable by the tenant for such holdings as may be determined by the tahsildar in accordance with rules made by the Board and the tenant shall be liable to pay the remainder of such rent.

(3) In addition to depositing the amount specified in sub-section (1), a person obtaining a lease of land under the provisions of this section shall deposit an amount equal to the rent annually payable by him under such lease and such amount shall be deemed to be a deposit made under the provisions of Section 137 of the rent due by him in respect of the last year for which he is entitled to hold under such lease or, if he surrenders or abandons such land or is ejected therefrom, before the expiry of such lease, in respect of the last year for the rent of which he is liable.

(4) Notwithstanding anything in this Act, a person obtaining a lease under the provisions of this section shall be a non- occupancy tenant.

(5) On the expiry of the term of a lease given under the provisions of this section or on ejectment of the lessee or on his surrender or abandonment of such land the same rights shall, subject to the provisions of sub-section (6) regarding surrender and abandonment, accrue to the tenant in such land as he possessed before the granting of such lease.

(6) At any time during the period of a lease given under the provisions of this section, the tenant may in accordance with the provisions of Sections 82 to 88, surrender or abandon the holding or the portion leased and, during the period of such lease, the tenant shall, for the purposes of Sections 33 to 38 be deemed to possess an interest in the portion leased.

253. Application of Limitation Act

. - Subject to the provisions of this Act, the provisions of Section 5 of the Indian Limitation Act, 1908 shall apply to suits and other proceedings under this Act.

254. Limitation in cases under the Act

. - The suits and other proceedings specified in the Fourth Schedule shall be instituted within the time prescribed in that Schedule for them respectively.

255. Court-fees payable

. - The court-fees payable in suits and on application under this Act shall be as specified in the sixth column of the Fourth Schedule.

Powers of Courts

256. Place of sitting of Revenue Court

. - (1) The Board may sit for the disposal of cases under this Act at the headquarters of any district.

(2) Every other Revenue Court shall sit for the disposal of such cases as provided in Section 189 of the United Provinces Land Revenue Act, 1901.

257. Powers of Assistant Collector of the second class

. - An Assistant Collector of the second class shall have power to dispose of all suits specified in serial Nos. 1 to 6, inclusive, of Group A of the Fourth Schedule, in which the value of the subject-matter docs not exceed two hundred rupees, and except as otherwise provided in this Act, a tahsildar shall have power to dispose of suits specified in Group A and B of the Fourth Schedule.

258. Powers of Assistant Collector of the first class

. - An Assistant Collector of the first class shall have power to dispose of all suits specified in Group A and B of the Fourth Schedule.

259. Powers of Assistant Collector incharge of a sub-division

. - An Assistant Collector incharge of a sub-division shall have power to dispose of all applications specified in Group D of the Fourth Schedule.

260. Powers of Collector

. - A Collector shall have all the powers which may be exercised under this Act by an Assistant Collector in-charge of a sub-division and in addition shall also have power to dispose of the applications specified in Group E of the Fourth Schedule.

261. Investment of Assistant Collector with the powers of Collector

. - The State Government may confer on an Assistant Collector of the first class all or any of the powers of a Collector under this Act, and such Assistant Collector shall exercise such powers in respect of such cases or classes of cases as the Collector may direct.

262. Court in which proceedings to be instituted

. - (1) Notwithstanding anything in Section 15 of the Code of Civil Procedure, 1908 :-

(a) All suits specified in serial Nos. 1 to 6, inclusive, of Group A, of the Fourth Schedule, in which the value of the subject-matter does not exceed two hundred rupees, and all application included in Group C of that Schedule shall be instituted in the Court of the tahsildar;

(b) all suits under Serial Nos. 7 to 16, inclusive, of Group A of the Fourth Schedule, and all other suits included in that group in which the value of the subject-matter exceeds two hundred rupees and all suits included in Group B of that Schedule, and all application*: included in Group D of that schedule, shall be instituted in the Court of Assistant Collector in-charge of the sub-division :

Provided that if there is no Assistant Collector in-charge of the sub-division, all such suits and applications shall be instituted in the Court of the Collector :

Provided also that the Collector may, by written order, direct that any class of suits or applications referred to in this sub-section shall be instituted in the Court of any other Assistant Collector competent to try them under the provisions of this Act.

(2) All applications included in Group E of the Fourth Schedule shall be made in the Court of the Collector.

(3) All applications included in Group F of the Fourth Schedule shall be made in the Court empowered to entertain them under the provisions of this Act.

Appeals

263. Appeal to lie as allowed by the Act

. - No appeal shall lie from any decree or order passed by any Court under this Act except as provided in this Act.

264. Appeal from decree of Assistant Collectors of the second class

. - Except as provided by Section 268, an appeal shall lie to the Collector from every decree of an Assistant Collector of the second class.

265. Appeal from decree of Assistant Collector of the first class or of Collector to Commissioner or civil Court

. - (1) An appeal shall lie to the District Judge from the decree of an Assistant Collector of the first class or of a Collector in any of the suits included in Group A of the Fourth Schedule in which, -

(a) the amount or value of the subject-matter of the appeal exceeds fifty rupees; or

(b) the liability to pay rent or the amount of rent annually payable has been in issue in the Court of first instance, and is in issue in the appeal; or

(c) the amount of rent payable separately to one or more of a number of co-sharers has been in issue in the Court of first instance, and is in issue in the appeal; or

(d) in any suit under the provisions of Chapter XII in which the liability to pay revenue or rent or the amount of the revenue or rent annually payable has been in issue in the Court of first instance, and is in issue in appeal :

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

(2) Subject to the provisions of sub-section (3) of this section and of Section 202, an appeal shall lie to the Commissioner from the decree of a Collector or of an Assistant Collector of the first class in all suits included in Group B of the Fourth Schedule.

(3) An appeal shall lie to the District Judge from the decree of an Assistant Collector of the first class or of a Collector in all suits, in which a question of jurisdiction has been decided and is in issue in the appeal :

Provided that, when the amount or value of the subject-matter of suits exceeds five thousand rupees, the appeal shall lie to the High Court or the Chief Court, as the case may be.

266. Appeal from appellate decree of Collector

. - An appeal shall lie to the District Judges from the appellate decree of a Collector in any suit in which a question of jurisdiction has been decided and is in issue in appeal.

267. Appeal from appellate decree of Commissioner

. - An appeal shall lie to the Board from the appellate decree of a Commissioner on any of the grounds specified in Section 100 of the Code of Civil Procedure, 1908.

268. Power of Board to reject an appeal summarily

. - The Board may either admit an appeal or may summarily reject it.

269. Appeal from appellate decree of District Judge

. - An appeal shall lie to the High Court or the Chief Court, as the case may be, from the appellate decree of a District Judge on any of the groups specified in Section 100 of the Code of Civil Procedure, 1908.

270. Appeal to Collector from order of Assistant Collector of the second class

. - Except as otherwise provided in this Act, an appeal shall lie to the Collector from every order, including an order rejecting an application for review, passed by an Assistant Collector of the second class.

271. Appeal from order of Assistant Collector of the first class, and of Collector, in certain cases

. - (1) An appeal lies to the Collector from the order of an Assistant Collector of the first class and to the Commissioner from the original order or a Collector, in any of the cases specified below, namely, -

(a) an order deciding a question regarding compensation for improvements under Section 159; or determining the value of crops or trees or the amount of compensation under the provisions of Section 160;

(b) an order under Section 170, extending or refusing to extend the time for payment;

(c) an order under Section 15, Section 16, Section 18, Section 53 and 54, Section 64, Section 72 to 75, Section 77, Section 79 to 81, Section 95, Section 126-A, Section 251, Section 252 and Section 294.

(2) An appeal shall lie from the order mentioned in Section 47 or Section 104 or Section 144 or in Order XLIII, Rule 1 of the Code of Civil Procedure, 1908, and made by an Assistant Collector of the first class of a Collector.

(3) Such appeal shall lie to the Court, if any, having jurisdiction under Section 265 of this Act to hear an appeal from the decree in the suit, or in the case of an application for execution, to the Court having jurisdiction to hear an appeal from the decree which is being executed.

272. No appeal from appellate orders

. - No appeal shall lie from any order passed in appeal under the provisions of sub-section (7) of Section 126, Section 126-A, Section 270 or Section 271.

Review

273. Review by Board

. - The Board, on its own motion or on the application of a party to the case, may review and may rescind, alter or confirm any decree or order made by itself, or by a single member.

274. Review by other Courts

. - Every other Court shall be competent to review its judgment in accordance with the provisions of the Code of Civil Procedure, 1908, and the provisions of Order XLVII of the said Code shall apply to any such review.

Revision

275. Power of Board to call for cases

. - The Board may call for the record of any case decided by any subordinate revenue Court in which no appeal lies either to the District Judge or the Board, and if such subordinate Court appears, -

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

(b) to have failed to exercise a jurisdiction so vested, or

(c) to have acted in the exercise of its jurisdiction illegally or with material irregularity, the Board may pass such order in the case as it thinks fit.

276. Power of High Court to call for cases

. - The High Court [* * *] may call for record of any suit or application which has been decided by any subordinate revenue Court, and in which an appeal lies to the District Judge and in which no appeal lies to the High Court or to the Chief Court, as the case may be; and if the District Judge or such subordinate Court appears, -

(a) to have exercised a jurisdiction not vested in its by law, or

(b) to have failed to exercise a jurisdiction so vested, or

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

the Court may pass such order in the case as it thinks fit.

Transfer of Cases

277. Transfer of cases by Board

. - The Board may, on sufficient cause being shown, transfer any suit, application or appeal, are class of suits, applications or appeals from any revenue Court to any other revenue Court competent to deal therewith.

278. Transfer of cases by Commissioner

. - A Commissioner may exercise within the limits of his division the same powers as the Board under the last preceding section.

279. Transfer of appeal by Commissioner to Collector

. - (1) A Commissioner may, with the previous sanction of the Board, transfer any appeal or class of appeals pending before himself, to any Collector within his division.

(2) The order passed by a Collector on an appeal transferred to him by a Commissioner under sub-section (1) shall be subject to appeal and revision in the same manner as if it had been passed by the Commissioner.

(3) The Commissioner may, by order, recall, to his own Court any appeal or class of appeals transferred to a Collector under sub-section (1).

280. Transfer of cases by Collector or Assistant Collector

. - A Collector, with tire previous sanction of the Commissioner, or an Assistant Collector in-charge of a sub-division with the previous sanction of the Collector, may transfer any case or class of cases pending before himself, to any subordinate Court competent to deal therewith.

281. Withdrawal of cases by Collector or Assistant Collector

. - A Collector or an Assistant Collector in-charge of a sub-division may withdraw any case or class of cases from any Court subordinate to him, and may try such case or class of cases himself, or transfer such case or class of cases to any other subordinate Court competent to deal therewith.

282. Subordinate Courts

. - For the purposes of Sections 280 and 281, the Courts of all Assistant Collectors shall be deemed to be subordinate to the Collector and the Courts of all Assistant Collectors of the second class to be subordinate to the Assistant Collector in charge of the sub-division within which they exercise jurisdiction.

283. Transfer and withdrawal by Settlement Officer

. - A Settlement Officer may transfer any case or class of cases pending before him to any Assistant Settlement Officer, and may withdraw any case or class of cases from an

Assistant Settlement Officer and may try such case or class of cases himself, or transfer the same to any other Assistant Settlement Officer.

284. Transfer of revenue appeals by District Judge

. - A District Judge may, with the previous sanction of the High Court transfer any appeal or class of appeals, from the decree or order of a revenue Court pending before himself, to a civil Judge subordinate to him and such Civil Judge shall dispose of such appeal or class of appeals as if he were a District Judge.

285. Withdrawal of revenue appeals by District Judge

. - A District Judge may withdraw from a Civil Judge any appeal or class of appeals from a decree or order of a revenue Court and try such appeal or class of appeals himself or transfer such appeals or class of appeals to any other Civil Judge competent to deal therewith.

Questions of Proprietary Right in Revenue Courts

286. Procedure when plea of proprietary right raised

. - (1) If, in any suit or proceeding in a revenue Court a question of proprietary right in respect of the land which forms the subject-matter of the suit or proceeding is raised, arid such question has not previously been determined by a Court of competent jurisdiction, the revenue Court shall frame an issue on the question of proprietary right and submit the record to the competent civil Court for the decision of that issue only :

Explanation I. - A plea of proprietary right which is dearly untenable and intended solely to oust the jurisdiction of the revenue Courts shall not be deemed to raise a question of proprietary right the meaning of this section.

Explanation II. - A question of proprietary right does not include the question whether land is sir or khudkasht.

(2) The civil Court, after re-framing the issue, if necessary, shall decide such issue only and return the record together with its finding thereon to the revenue Court which submitted it.

(3) The revenue Court shall then proceed to decide the suit, accepting the finding of the civil Court on the issue referred to it.

(4) An appeal from a decree of a revenue Court passed in a suit in which an issue involving a question of proprietary right has been decided by a civil Court under sub-section (2), shall lie to the civil Court which, having regard to the valuation of the suit, has jurisdiction to hear appeals from the Court to which the issue of proprietary title has been referred.

287. Procedure in appeal when material for determining question of right not on record

. - If in any appeal filed under the provisions of sub-section (4) of Section 286, the appellate Court has not before it all the material necessary for the determination of the question of proprietary right it may either, -

(a) remand the case to the civil Court which decided the issue on the question of proprietary right, or

(b) frame a fresh issue with respect to such question and refer it for trial to any subordinate Court of competent jurisdiction.

Questions of Tenant Right in Civil Courts

288. Procedure when plea of tenancy raised in civil Court

. - (1) if in any suit relating to agricultural land instituted in a civil Court, any question regarding tenant right arises and such question has not previously been determined by a Court of competent jurisdiction, the civil Court shall frame an issue on the plea of tenancy and submit the record to the appropriate revenue Court for the decision of that issue only.

Explanation. - A plea of tenancy which is clearly untenable and intended only to oust the jurisdiction of the civil Court shall not be deemed to raise a plea of tenancy.

(2) The Revenue Court after reframing the issue, if necessary, shall decide such issue only, and return the record together with its finding thereon to the civil Court which submitted it.

(3) The civil Court shall then proceed to decide the suit, accepting the finding of the revenue Court on the issue referred to it.

(4) The finding of the Revenue Court on the issue referred to it shall, for the purposes of appeal, be deemed to be part of the finding of the civil Court.

Conflict of Jurisdiction

289. Power to refer question of jurisdiction to High Court or Chief Court

. - (1) Where either a civil or a revenue Court is in doubt whether it is competent to entertain any suit, application or appeal, or whether it should direct the plaintiff, applicant or appellant to file the same in a Court of the other description, the Court may submit the record with a statement of the reasons for its doubt to the High Court.

(2) Where any suit, application or appeal, having been rejected either by a civil Court or by a revenue Court on the ground of want of jurisdiction, is subsequently filed in a Court of the other description, the latter Court, if it disagrees with the finding

of the former, shall submit the record, with a statement of the reasons for its disagreement to the High Court.

(3) In cases falling under sub-section (1) or sub-section (2), if the Court is a revenue Court subordinate to the Collector, no reference shall be made under the foregoing provisions of this section except with the previous sanction of the Collector.

(4) On any such reference being made, the High Court may order the Court either to proceed with the case, or to return the plaint, application or appeal for presentation to such other Court as it may declare to be competent to try the same.

(5) The order of the High Court shall be final and binding on all Courts, subordinate to it or to the Board.

290. Plea in appeal that suit was instituted in wrong Court

. - When in a suit instituted in a civil or revenue Court, an appeal lies to the District Judge or to the High Court [* * *], an objection that the suit was instituted in the wrong Court shall not be entertained by the appellate Court unless such objection was taken in the Court of first instance; and the appellate Court shall dispose of the appeal as if the suit has been instituted in the right Court.

291. Procedure when objection was taken in the Court of first instance

. - (1) If, in any such suit, such objection was taken in the Court of first instance, and the appellate Court has before it all the material necessary' for the determination of the suit, it shall dispose of the appeal as if the suit had been instituted in the right Court.

(2) If the Appellate Court has not before it all such materials, and remands the case, or frames issues and refers them for trial, or requires additional evidence to be taken, it may direct its order either to the Court in which the suit was instituted, or to such Court as it may declare to be competent to try the same.

(3) No objection shall be taken or raised in appeal or otherwise to any such orders on the ground that it has been directed to a Court not competent to try the suit.

Chapter XV
POWER TO MAKE RULES

292. Power of Provincial Government to make rules

. - The State Government may, after previous publication, make rules consistent with this Act, -

(a) as to the fees payable under this Act;

(b) as to the time of the year for execution of decrees for ejectment in any local area;

(c) as to the attestation of leases, counterparts and agreements under Section 57;

(d) as to the dates on which profits shall be divisible;

(e) generally for giving effect to the provisions of this Act.

293. Power of Board to make rules

. - The Board may, with the previous sanction of the State Government, and after previous publication, make rules consistent with this Act and with any rules made under Section 292, -

(a) for the guidance of officers in the determination, enhancement, abatement, and commutation of rent;

(b) for the guidance of officers deciding applications under Sections 15 and 16 and Section 18;

(c) for the guidance of officers deciding suits under Section 49;

(d) for the guidance of officers deciding applications under Sections 53 and 54;

(e) for the guidance of rent-rate officers;

(f) as to the manner of publication of a notice of abandonment;

(ff) [as the manner and order of preference in which land shall be left by the land-holder or Collector under Section 126-A] *[Inserted by U.P. Act No. 10 of 1917.]*;

(g) as to the procedure to be followed in applications under this Act;

(h) for the guidance of officers in executing a decree for arrears of rent by sale or lease of the interest of tenant in a holding or part of a holding;

(i) as to the transfer of cases by revenue Courts;

(j) as to the person before whom and the mode in which affidavits may be made and the matters which may be proved by affidavit; and

(k) generally for giving effect to the provisions of this Act.

Chapter XVI
TRANSITIONAL PROVISIONS

294. Application by ejected tenant for reinstatement in his holding

. - (1) If, after the first day of April, 1937, a tenant was ejected from his holding for non-payment of arrears of rent due on account of kharif 1344 fasli or any previous instalments, he may, within six months of the commencement of this Act apply to the

Court which passed the order of ejectment to be reinstated in his holding, and on receipt of such application, the Court, after making such enquiry as it thinks fit, shall order that the applicant be put in possession of the holding from which he was ejected and that any other person in possession of such holding be ejected therefrom :

Provided that, if such holding or a part thereof was let to another person in the agricultural, year 1345 fasli and has since been continuously so let, no order shall be passed under this section in respect of such holding or such part, as the case may be.

(2) No person shall be reinstated in his holding or any part thereof under the provisions of this section unless within such time as may be allowed by the Court, he pays to the land-holder, -

(a) the cost of the proceedings which resulted in his ejectment, and

(b) any amount that may have been paid to him by the landholder as compensation for improvements when he was so ejected, and

(c) in a case in which the land-holder has made an improvement on the holding, since such ejectment, compensation for such improvement calculated in accordance with the provisions of this Act.

(3) No person shall be ejected from his holding under the provisions of this section until he has received compensation for any improvement made by him calculated in accordance with the provisions of this Act.

(4) On reinstatement, the rights and liabilities of the applicant in respect of land from which he was ejected shall revive :

Provided that, if he is reinstated in a part only of the land from which he was ejected, the applicant shall be liable to pay such rent as the Court ordering such reinstatement may decide.

295. Right of sub-tenant in Oudh to retain possession of his holding

. - Notwithstanding any contract to the contrary of anything in this Act or any Other law for the time being in force, every person who, at tire commencement of this Act is a sub-tenant in Oudh shall be entitled to retain possession of this holding for a period of five years from sued commencement, and for this period nothing in sub-section (2) of Section 44 or Section 171 or Section 171 shall render the land-holder or such sub-tenant liable to ejectment under the provisions of Section 171 :

Provided that nothing in this section shall authorise a sub-tenant or a person who belongs to one of the classes mentioned in Section 41 to retain possession of his holding after the disability of such person has ceased.

295A. [Right of sub-tenant to retain possession. - Notwithstanding any contract to the contrary or anything contained in this Act or any other law for the time being in force, every person who, on the date of the commencement of the United Provinces Tenancy (Amendment) Act, 1947, is a sub-tenant shall, subject to the provisions of the proviso to sub-section (3) of Section 27 of the United Provinces Tenancy (Amendment) Act, 1947, be entitled to retain possession of his holding for a period of five years from that date, and for this period nothing in sub-section (2) of Section 44 or Section 171 shall render the land-holder of such sub-tenant liable to ejectment under the provisions of Section 171 :

Provided that nothing in this section shall authorise a sub-tenant of a person who belongs to one of the classes mentioned in Section 41 to retain possession of his holding after the disability of such person has ceased.] *[Added by U.P. Act No. 10 of 1947.]*

296. Disposal of pending suits

. - A suit under any of the provisions of the Agra Tenancy Act, 1926[or the Oudh Rent Act, 1886, which is pending at the commencement of this Act or a decree under any of the provisions of either of these Acts, which has not been satisfied in full at such commencement, shall be decided or executed, as the case may be, in accordance with the corresponding provision of this Act and if there is no such corresponding provision, the proceedings relating to such suit or decree shall be quashed.] *[Repealed by U.P. Act No. 10 of 1947.]*

THE FIRST SCHEDULE

(See Section 1)

Areas to which the Act will not apply in the first instance

I. The district of Almora and Garhwal.

II. In the district of Naini Tal, -

(a) the Naini Tal sub-division;

(b) the following villages of the Tarai and Bhabar Government estates :

Pargana Bazpur	
Bajawala.	Banskhera.
Bannakhera.	Banskheri.
Bannakhera Sani.	Barihni.
Bhainsia.	Khamari
Bhajwanagla.	Maindaya Hattoo

Bhikampur.	Rajpura No. 1.
Bijai Rampura.	Ratanpuri.
Chanakpur.	Somalpuri.
Gularia Gobra.	Sheopuri.
Gulzarpur.	Thadaknagla.
Hazira.	Kalabandwari.
Haripur.	Faridpur.
Harsana.	
Pargana Godarpur	
Alakhdei.	Madnapur.
Andkhera.	Mahloi Jungle.
Beria.	Mukandpur.
Bari Rain.	Nandpur.
Buxaura.	Piapalia.
Khanpur Pachcham.	Kopa.
Khanpur.	Jafarpur.
Kulha.	Gadarpuri.
North Kashipur	
Kamdebpur.	Kandala.
Beria.	Birpur lachi
Lalitpur.	Birpur.
Karailpuri.	Rajpur.
Thari.	Pipalsana
In Khushalpur Circle	
Khusnalpur.	Lampur Lachi.
Lampur Moti.	Shahbazpur.

(c) the Bhabar viilages in the Tarai and Bhabar sub-division which are settled with zamindars.

THE SECOND SCHEDULE

(See Section 243)

Application of the Code of Civil Procedure, 1908

LIST I

Sections and Orders of the Code of Civil Procedure, 1908, which do not apply to suits or proceedings under this Act

Section 9.

Sections 68 to 72 inclusive.

Section 88.

Sections 113, 114, 115.

Order XXII, Rule 8.

"	XXXIII (Pauper suits).	The whole.
"	XXXV (Inter pleader suits).	The whole.
"	XXXVI (Special cases).	The whole.
"	XLIV (Pauper appeals).	The whole.
"	XLVI (Reference).	The whole.

LIST II

Sections and Orders of the Code of Civil Procedure, 1908, which apply subject to the modifications stated against each

SI. No.	Sections	Modifications
1	24	Applies only to the transfer of appeals under this Act by the High Court[* * *] *[The words (or the Chief Court) omitted by the A.O. 1950.]*from the Court of one District Judge to the Court of another District Judge.
2	30	No decree need be prepared in the case of an application under this Act unless the preparation of a decree is prescribed by rule.

3	58(2)	Where a judgment-debtor has been released from detention under this section, the Court may declare him absolved from further liability for payment of money under that decree, and such liability shall thereupon be extinguished.
4	60	To the particulars not liable to attachment or sale shall be added 'manure stocked by an agriculturist.'
5	98	Nothing in this section shall require two members of the Board to sit together in the exercise of appellate or revisional jurisdiction under this Act
6	114	In this section the words "or order" shall be deemed to be inserted after the word "decree" wherever it occurs.
7	Order V, Rules 9 to 30.	A summons or notice may, if the[State Government] *[Substituted by the A.O. 1950 for (Provincial Government).]*by rule, either generally or in respect of any local area or class of cases, so directs, be served by post in addition to, any other mode of service.
8	Order VII, Rule 1	In addition to the particulars contained in this rule, the plaint shall specify the name of the village andmahaland of the pargana or other local division, in which the land is situate to which the suit or other proceeding relates, and unless such land can be otherwise adequately described, the number of each field according to the Government survey;if the suit is for arrears of rent, the plaint shall contain a statement of

		account, showing the annual demand for each period to which the suit relates, the amount, if any, received, and the amount claimed to be due;and if the suit is for ejectment of a tenant, the plaint shall set forth the ground or grounds on which the ejectment is sued for.
9	Order XX	Every decree for rent shall also state the amount including interest, due on account of each agricultural year in respect of which relief is granted.
10	Order XXI	(1) No application for the execution of a decree shall be made by an assignee of the decree unless the assignor's interest in the land to which it relates has become and is vested in such assignee.
11		(2) If the property against which execution is applied for is amahal, or a share of amahal, or the holding of a permanent tenure-holder, or the fixed-rate tenant or an under- proprietor the decree shall be sent to the Collector, who shall execute the same as if it had been a decree of his own Court.
12	Order XLI, Rule 1, read with Order XLII.	In addition to the copies required by this rule every memorandum of second appeal shall be accompanied by a copy of the judgment of the original Court.
13	Order XLI, Rule 11	Nothing in this rule shall require the Board to hear any party before rejecting an appeal summarily.

14	Order XLI, Rules 30 and 31.	No judgment of the Board need be dated or signed, or pronounced in open Court.

THE THIRD SCHEDULE

(See Section 55)

Form of Lease or Counterpart

I,| A, B,F, G,| ,| son of| C, DH, I,| ,| resident of E/J, have| leasedtaken on lease| the

under-mentioned land| to F, G,from A, B,| son of| H,C, D,| ,| resident of J/E inmahalK, mouza L

(here adequately describe the holding and give details mentioned in Section 55),

at an annual rent of Rs. ( ), payable in the following instalments and on the following dates, namely ;

( ) Rs. on the ( ) day of ( )

( ) Rs. on the ( ) day of ( )

( ) Rs. on the ( ) day of ( )

( ) Rs. on the ( ) day of ( )

( ) Rs. on the ( ) day of ( )

*The period of the lease being for ( ) years, that is to say from (day) to.....(date)

Dated the ( ) day of ( ) 19....

Signed

(A, B, landlord)

(or marked)

F, G, tenant)

.....Witness (if marked) M.N.

---

*To be filled up in the case of non-occupancy tenants only, and to be struck out in all other cases.

THE FOURTH SCHEDULE

POWERS OF COURTS ETC.

The jurisdiction both original and appellate specified in the heading of each group is in all cases subject to the provisions of Sections 264, 286 and 288

Group A - Suits

(Suit triable by Assistant Collector of the First Class - appeal, if any, to the civil Court; suits under serial Nos. 1 to 6 inclusive, when not exceeding Rs. 200 in value, are triable by an Assistant Collector of the Second class - appeal to Collector.)

SI. No.	Section of Act	Description of suit	Period of limitation	Time from which period begins to run	Proper court-fees
1	140	For recovery of a deposit of rent	Three years	When the amount deposited was paid by thetahsildar.	As in the Court Fees Act, 1870.
2	144, 148	For arrears of rent	Ditto	Fifteen days after the arrear became due.	Ditto.
3	149	For recovery of rent paid by, or recovered from, a co-tenant on account of another co-tenant.	Ditto	Date of payment or recovery.	Ditto.
4	152	For the recovery of canal dues	Ditto	Date of delivery of canaljamabandi.	Ditto.
5	154(4) (b)	To recover an amount realized in excess.	Three years	When the excess was realized.	As in the Court Fees Act, 1870.
6	163(5), 169(5)	For arrears of rent	None	None	Ditto.
7	172	For the ejectment of a tenant	One year	When the detrimental or inconsistent act is done or the condition is broken.	As in the Court Fees Act, 1870.
8	174	For an injunction, or for the repair of damage or waste, or	Ditto	When the damage is done or the waste	Ditto.

		for compensation.		begins, or the condition is broken.	
9	224	By alambardarto recover from a co-sharer arrears of revenue or rent, village expenses, and other dues.	Three years	When the arrears became due.	Ditto.
10	225	By alambardarto recover from jointlambardarwho defaults arrears of revenue or rent paid by the former on account of the latter.	Ditto	When the rent or revenue was paid.	Ditto.
11	226	By a co-sharer to recover from alambardaror another co-sharer who defaults arrears of revenue or rent paid by the former on account of the latter.	Ditto	When the arrear were paid.	Ditto.
12	227	By amuafidaror assignee of revenue for arrears of revenue due to him as such.	Three years	When the arrears became due.	As in the Court Fe Act, 1870.
13	228	By a superior proprietor for arrears of revenue or rent due to him as such.	Ditto	Ditto	Ditto

14	230	By a co-sharer against alambardarfor his share of the profits of amahal, or of any part thereof.	Ditto	When the profits became divisible under Section 229.	Ditto
15	231	By a co-sharer against a co-sharer for a settlement of accounts and his share of the profits of themahal, or of any part thereof.	Ditto	Ditto	Ditto
16	236(a)	For compensation for any sum of produce collected in excess of the amount due.	Three months	The date of the collection.	Eight annas.
	236(b)	For compensation for charging interest at a rate exceeding that allowed by the Act.	Ditto	The date of the charging.	Ditto
	236(c)	For compensation for infringing the provisions of Section 90 or collecting any sum not recoverable under Section 91.	Ditto	The date of the collection or infringement.	Eight annas
	236(d)	For compensation for collecting remitted or suspended rent.	Six months	Ditto	Ditto
	236(e)	For compensation for crediting payment made towards rent or sayar otherwise than to rent or sayar or otherwise than in	Ditto	The date when payment wrongfully credited.	Ditto

		accordance with the provisions of Section 130.			

GROUP B - SUITS

[Suits triable by Assistant Collector of the First class - Appeal to Commissioner except in the case of serial nos. 20, 21, 22 which are governed by Section 201.]

S.I. No.	Section of Act	Description of suit	Period of limitation	Time from which period begins to run	Proper court-fees
1	45	For division of a holding and distribution of rent.	None	None	As in the Court Fees Act, 1870, on rent payable in respect of the part to be separated.
2	55	For a lease or counterpart	Ditto	Ditto	Eight annas.
3	59	For a declaration of plaintiff's right as tenant or for a share in a joint holding.	Ditto	Ditto	Ditto.
4	60	By a land-holder for a declaration of the right of a person claiming to be tenant.	Ditto	Ditto	Ditto.
5	61	For a declaration as to any matters specified in Section 55(2).	Ditto	Ditto	Ditto.

6	63	For a declaration that land claimed as tenancy is sir orkhudkashtorvice versa.	Ditto	Ditto	Ditto.
7	85	To have a notice of surrender declared invalid.	Fifteen days	The date of the receipt or service of the notice.	Ditto.
8	94	For determination of rent and for arrears	As in Section 94	As in Section 94	As in the Court Fees Act, 1870.
9	108	For the determination, abatement, enhancement or commutation of rent.	As in Section 108	As in Section 108	Ditto
10	113	For commutation of rent.	None	None	Ditto
11	114	For abatement of the rent of a tenant other than permanent tenure-holder or fixed-rate tenant.	Ditto	Ditto	Ditto
12	115	For abatement of the rent of fixed-rate, tenant.	Ditto	Ditto	Ditto.
13	116	For abatement of rent of an under-proprietor or permanent lessee.	Ditto	Ditto	Ditto.
14	117	For enhancement of the rent of a tenant other than a permanent tenure-holder or fixed-rate tenant.	Ditto	Ditto	Ditto.

15	118	For enhancement of rent of fixed-rate tenant.	Ditto	Ditto	Ditto.
16	171	For ejectment of s tenant and his transferee on account of an illegal sublease or other transfer.	Ditto	Ditto	Ditto.
17	179	For the ejectment of a non-occupancy tenant who contests his liability to ejectment.	Ditto	Ditto	As in the Court Fees Act, 1870, on the rent payable.
18	180	For ejectment of a person occupying land without title and tor damages: -			
		(1) If the land is contiguous to any other land lawfully occupied by such person -			
		(a) if such person has, at the commencement of this Act. occupied the land for more than six years since the land-holder first knew of the unauthorized occupation;	Twelve years	When the land-holder first knew of the unauthorised occupation.	As is the Court Fees Acts, 1870, on the rent payable.
		(b) in any other case	Six years	From the 1st July following the date of such occupation or	Ditto

				following the date of the commencement of this Act, whichever is later.	
		(2) In any other case -			
		(a) if such person has, at the commencement of this Act, occupied the land for more than 9 years since the land-holder first knew of the unauthorised occupation;	Twelve years	When the land-holder first knew of the unauthorized occupation	As in the Court Fees Act, 1870, on the rent payable
		(b) in any other case	[Twelve years] *[Substituted by U.P. Act No. 10 of 1947.]*	For the 1st July following the date of the unauthorized occupation or following the date of the commencement of this Act, whichever is later.	Ditto
19	188	for recovery of possession of a holding or for compensation or both.	[Three years] *[Substituted by U.P. Act No. 41 of 1948.]*	When the wrongful dispossession takes place or when the tenant is prevented from obtaining possession.	As in the Court Fees Act, 1870.
20	190, 192	For declaration and assessment of revenue or rent on a grant.	None	None	As in the Court Fees Act. 1870,

					according to the annual letting value of the land as estimated by the 'plaintiff.
21	190, 194	For fixing rent on a rent-free grant, or for enhancing rent on grants held at a favourable rate of rent.	Ditto	Ditto	Ditto.
22	190, 195	For the ejectment of a rent free grantee or of a grantee holding at a favourable rate of rent.	Twelve years	As in Section 195	Ditto

GROUP C - APPLICATIONS TRIABLE BY THE TAHSILDAR

SI. No.	Section of Act	Description of application	Period of limitation	Time from which period begins to run	Proper court-fees
1	84	For the service of a notice of surrender under Section 82 or 83.	As in Section 84	As in Section 84	Nil.
2	137	For permission to deposit rent	None	None	(i) If the amount deposited does not exceed Rs. fifty-four annas.
					(ii) If the amount deposited exceeds Rs. 50 but does not

					exceed Rs. 100- eight annas.
					(iii) If the amount deposited exceeds Rs. 100 - one rupee.
3	138(4)	For payment or refund of rent deposited under Section 137.	Ditto	Ditto	As in the Court Fees Act, 1870.
4	142	For the deputation of an officer to make division, estimate or appraisement of produce or crops.	Ditto	Ditto	Ditto
5	163(1)	For the issue of a notice to an ex-proprietary, occupancy or hereditary tenant.	As in Section 163	As in Section 163	Ditto
6	169(1)	For arrears of rent or ejectment in default of a non-occupancy tenant.	Three years	When the arrears become due.	Ditto
7	175	For the ejectment of non-occupancy tenant.	None	None	Eight annas.

GROUP D - APPLICATIONS TRIABLE BY ASSISTANT COLLECTOR IN CHARGE OF SUB-DIVISION

SI. No.	Section of Act	Description of application	Period of limitation	Time from which period begins to run	Proper court- fees
1	15	Demarcation of joint sir	None	None	Eight annas.
2	16	Demarcation of sir	Ditto	Ditto	Ditto
3	52	To have an exchange of land	None	None	As in the Court Fees Act. 1870,

		recorded in the record of rights.			according to the amount of rent payable for the more highly rented of the two pieces of the land exchanged. For this purpose the rent of sir shall be the valuation of such land at the rates applicable to hereditary tenant.
4	53	For exchange of land	Ditto	Ditto	Ditto.
5	70	For permission to make an improvement	Ditto	Ditto	As in the Court Fees Act, 1870.
6	71	Ditto	Ditto	Ditto	Ditto.
7	77	Registration of works	Six months	The date of the completion of the improvement.	Nil.
8	79(a) or (d)	For establishment of right to make or benefit from a work.	None	None	As in the Court Fees Act, 1870.
9	79(b) or (c)	For settlement of dispute as to an improvement or as to compensation or abatement of rent.	One year	The date of the completion of the improvement.	Ditto.
10	80	For an order prohibiting the planting of trees or removing the	None	None	Ditto.

		trees planted.			
11	81	For ownership of trees	Ditto	Ditto	Ditto.

GROUP E - APPLICATIONS TRIABLE BY THE COLLECTOR

SI. No.	Section of Act	Description of application	Period of limitation	Time from which period begins to run	Proper court-fees
[1, 2 & 3] *[Serial Nos. 1 and 2 omitted by Section 33(a) of U.P. Act No. 10 of 1947.].*	91(4)	For remission of revenue	None	None	As in the Court Fees Act. 1870.
3A. [*[Added by Section 33(b) ibid.]*	126-A	Utilization of land in emergency	Ditto	Ditto	Nil.]
4	154	For collection of rent[or canal dues] *[Added by Section 7 of U.P. Act 1 of 1940, made by the Governor in exercise of the power assumed by him under Section 93 of Government of India Act, 1935.]*as land revenue in case of general refusal to pay.	So long as notification remains in-force.	When notification in the official Gazette is published.	As on the plaint for arrears of rent.

GROUP F - OTHER APPLICATIONS

SI. No.	Section of Act	Description of application	Period of limitation	Time from which period begins to run	Proper court- fees
1.	95	For determination of rent after ejectment	None	None	As in the Court Fees

		from, or surrender of part of, holding.			Act, 1870.
2.	160	For determination of value of crops or trees and of compensation.	Ditto	Ditto	Ditto.
3.	168	For the ejectment of an ex-proprietary, occupancy or hereditary tenant on the ground of an unsatisfied decree for arrears of rent.	Two years	On the expiry of one year from the date of the decree.	Ditto.
4.	170	For the ejectment of non-occupancy tenant on the ground of an unsatisfied decree tor arrears of rent.	Three years	The date of the final decree in the case.	Ditto.
5.		For the execution of a money decree or a decree under Section 180 or Section 183 in as far as it relates to the payment of damages or compensation not being a decree for a sum exceeding Rs. 500 inclusive of the costs of executing such decree but exclusive of any interest which may have accrued after decree upon the sum decreed.	Three years	The date of the final decree in the case.	As in the Court Fees Act, 1870.

6.		For the execution of any money decree or a decree under Section 180 or Section 183 in as far as it relates to the payment of damages or compensation for a sum of money exceeding Rs. 500 inclusive of the costs of executing such decree, but exclusive of any interest which may have accrued alter decree upon the sum decreed.	The period allowed for the execution of a decree of the civil Court.	As in the case of a decree of the civil Court.	Ditto
7.		For the execution of any decree other than a money decree.	One year	The date of the final decree in the case.	Ditto
8.	273 and 274	For a review of judgment	Ninety days	The date of the decree or order	Ditto
9.	275, 276	For revision	None	None	Ditto
10.	294	For recovery of possession.	As in the section	As in the section	One rupee.

GROUP G - APPEALS

SI. No.	Section of Act	Description of application	Period of limitation	Time from which period begins to run	Proper court-fees
1.	To a Collector	Thirty days	The date of the decree or order appealed against.	As in the Court Fees Act, 1870.	

2.	To a Commissioner or to a District Judge	Ditto	Ditto	Ditto	
3.	To the Board, High Court[* * *] *[The words (or the Chief Court) omitted by the A.O. 1950.]*	Ninety days	Ditto	Ditto	

THE FIFTH SCHEDULE

(See Section 136)

Form of Counter Foil and Receipt for Rent

Note. - In the forms sold to Court of Wards Estates and to other proprietors, if they so desire, the receipt portion will be printed in duplicate

COUNTERFOIL

Book No.....Page No.....

Receipt No.....

Name of land-holder.....

Received from tenant (name and father's name)..... of village.....mahal.....patti.....as follows :

Date	By whom paid (description)	Nature of tenant's holding	Kishtand year	Whether on account of rent or ofsayar	Whether in full or in part payment	Amount received
						Rs. np.

- Signature of land-holder or agent

Note. - Under Section 133 of the United Provinces Tenancy Act, separate receipts must be issued for each payment of rent or of sayar.

RECEIPT

Book No.....Page No.....

Receipt No.....

Name of land-holder.....

Received from tenant (name and father's name)..... of village mahal.....patti as follows :

Date	By whom paid (description)	Nature of tenant's holding	Kishtand year	Whether on account of rent or ofsayar	Whether in full or in part payment	Amount received
						Rs. np.

- Signature of land-holder or agent

Note. - Under Section 133 of the United Provinces Tenancy Act, separate receipts must be issued for each payment of rent or of sayar.

THE SIXTH SCHEDULE

(See Section 123)

Provision for the Granting of Relief in Agricultural Calamities

1. In this Schedule, -

(1) "harvest" means tire kharif or rabi harvest;

(2) "holding" does not include the holding of an under-proprietor, permanent lessee, permanent tenure-holder, or thekedar;

(3) "khudkasht" includes land cultivated by a permanent lessee or thekedar as such either by himself with his own stock or by servants or by hired labour;

(4) "landlord" does not include a person with whom a sub-settlement has been made under the provisions of Section 76 of the United Provinces Land Revenue Act, 1901, or with whom a settlement has been made under the provisions of Section 77 of that Act;

(5) "relief in rent or revenue" means the remission or suspension of such rent or revenue and "relief in rented" means the sum of the relief in rent and of tire nominal relief in valuation in mahal or portion of a mahal;

(6) "rent" means the amount of rent payable in respect of the harvest affected by the calamity and includes the amount payable by an under-proprietor as defined below;

(7) "rental" of a mahal or portion of a mahal means tire sum of the fixed cash rent of such mahal or portion payable to the landlord and of the valuation of the sir or khudkasht of such landlord and of holdings the rent of which is payable by division of the produce or based on an estimate or appraisement of die standing crops as appertains to the area normally shown in tire harvest in which the calamity occurred;

(8) "under-proprietor" includes an inferior proprietor with whom a sub-settlement has been made in accordance with the provisions of Section 76 of the United Provinces Land Revenue Act, 1901, or with whom a settlement has been made under the provisions of Section 77 of that Act;

(9) "valuation" means valuation in accordance with the provisions of paragraph 4.

2.

(1) Relief in rent of a holding shall ordinarily be given in accordance with the following scale :

Loss measured in annas per rupee of normal produce.	Relief in rent per rupee.
Amounting to 8 annas, but not amounting to 10 annas.	6 annas.
Amounting to 10 annas but not amounting to 12 annas.	10 annas.
Amounting to and exceeding 12 annas.	16 annas.

Provided that in Bundelkhand and in the trans-Jamuna parts of the Allahabad, Etawah, Agra and Mathura Districts and in other areas, if justified by the circumstances of the cultivators, suspension or remission of rent to the extent of 4 annas in the rupee may be given which the loss measured in annas per rupee of the normal produce amounts to 6 annas but does not amount to 8 annas.

(2) When the whole or a part of a holding is sublet, relief shall be given to the sub-tenant in accordance with the scale applied to such holding and shall be separate from, and independent of the relief given to his land-holder which shall be calculated as if no part of the holding were sublet.

(3) Nominal relief in valuation of sir or khudkasht and of holdings the rent of which is paid by division of the produce or by an estimate or appraisement of the standing crops, shall be given on the same scale as the relief in rent.

(4) If the whole or a portion of sir is let to a tenant, relief shall be given to such tenant in accordance with the scale applied to such sir and shall be separate from, and independent of, the nominal relief in valuation given to the sir holder which shall be calculated as if no part of such sir were let.

3. The relief in rent payable by under-proprietor, permanent lessee, permanent tenure-holder or thekedar shall be calculated in accordance with the provisions of paragraph 2 and paragraph 4 as if the rent payable by such under-proprietor, permanent lessee, permanent tenure-holder or thekedar were revenue and as if the rent payable to such under-proprietor, permanent lessee, permanent tenure-holder or thekedar were payable to the landlord, and as if the sir or khudkasht of such under-

proprietor, permanent lessee, permanent tenure-holder or thekedar were the sir or khudkasht of the landlord.

4. The valuation of sir and khudkasht and of holdings the rent to which is payable in kind or by an estimate or appraisement of the crop shall be made in accordance with the sanctioned rates applicable to occupancy tenants :

Provided that if special rates are sanctioned for the commutation of rents in kind, such rates shall be used for the valuation of such holdings :

Provided further that the Collector may order that the valuation may be made at the average rate of rent payable by hereditary tenants for land in the village, less two annas in the rupee or at the average rate paid by occupancy tenants for such land :

Provided also that holdings the rent of which is payable by division of the produce or by an estimate or appraisement of the crops may be valued at the average rate payable for such holdings in the most recent normal year.

5. In any mahal or portion of mahal in which relief is given in rental, the relief to be given in revenue shall be of the same kind as the relief in rental and shall bear the same proportion to the revenue of such mahal or of such portion as the relief given in rental bears to the rental of such mahal or such portion.