

Uttar Pradesh Land Revenue Act, 1901

3 of 1901

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CONTENTS

CHAPTER 1 :- Preliminary

1. Title, extent and commencement
2. Repeal
3. Savings
4. Definitions

CHAPTER 2 :- Appoint ments and Jurisdiction

5. Chief Controlling revenue authority
6. Appointment and removal of members of the Board
7. Power to distribute business
8. Alteration or reversal of a judicial order
- 9 . Reference to 1[State Government] in case of difference of opinion
10. Power to authorize member or exercise power of Board
11. Power to create, alter and abolish divisions, districts, tahsils and subdivision
12. Commissioners of divisions
13. Appointment, powers, and duties of Additional Commissioner
14. Collector of the district
- 14A. Appointment, powers, and duties of Additional Collector
15. Assistant Collector
17. Tahsildars and Naib Tahsildars
18. Assistant Collector incharge
19. Subordination of Revenue Officers
20. Collector of the district in case of temporary vacancy

CHAPTER 3 :- Maintenance of Maps and Records

21. Power to form and alter patwaris, circles
22. .
23. Appointment of Patwaris
24. .
25. Appointment of Kanungos
26. .
27. Kanungos and patwaris to be public servants, and their records public records

28. Maintenance of map and field book
29. Obligations of owners as to boundary marks
30. Penalty for injury to or removal of marks
31. Registers of revenue-paying and revenue-free mahals
32. Record-of-rights
33. Annual registers
34. Report of succession or transaction of possession
35. Procedure on report
36. Collector to specify land held by ex-proprietary tenant and fix its rent
37. Power to prescribe fees for mutation
38. Fine for neglect to reports
39. Record of transferers of non-proprietary interest in land
40. Settlement of disputes as to entries in annual registers
41. Settlement of boundary disputes
42. Determination of class of tenant
43. Procedure when rent payable is disputed
44. Presumption as to entries; and decisions binding on Revenue Courts
45. Appointment of lambardars
46. Obligation to furnish information necessary for the preparation of records
47. Inspection of records

CHAPTER 4 :- Revision of Maps and Records

48. Notification of record operation
49. Record Officers
50. Powers of Record Officer as to erection of boundary-marks
51. Decision of disputes
52. Records to be prepared in re-survey
53. Preparation of new record of rights
54. Attestation of entries and decision of disputes
55. Particulars to be stated in list of tenants
56. Cess payable as rent to be recorded in 2[Province of Agra]
57. Presumption as to entries

CHAPTER 5 :- Settlement of the Revenue

58. Assessment of revenue
59. Notification as to settlement to be deemed in progress until closing notified
60. Appointment and powers of Settlement Officers
61. Transfer of duties of Collector to Settlement Officer
62. Government to issue rules as to mode of assessment
63. Rent-rates and proposals of assessment
64. Declaration of assessment
65. With whom settlement to be made
66. Effect of agreement assessment declared
67. Enforcement of custom as to re-distribution of land and adjustment of Revenue shares

68. Exclusion of person refusing or failing to accept settlement
69. Officer of farm to under-proprietor
70. Allowance to excluded taluqdar
71. Offer of settlement to excluded proprietor
72. Procedure in case of some of several proprietors
73. Offer of share to co-sharere where share has been transferred
74. Allowance to excluded proprietor or to co-sharer whose share has been transferred
75. Power in 2[Province of agra] to direct which of several parties having separate and different interests shall be admitted to settlement and to prescribe distribution
76. Power to make sub-settlement with inferior proprietor on behalf of superior proprietor of mahal coming under Section 75
77. Assessment on inferior proprietor when settlement made with him
78. Power in 2[Province of agra] to make arrangements for the benefit of persons possessing rights which do not entitle them to settlement
79. Determination in Oudh of amount payable to proprietor
80. Procedure in 1[Province of agra] as to waste land not included in any mahal at previous settlement
81. Proclamation to be held an advertisement under Act XXIII of 1863
82. Procedure as to waste land unclaimed or adjudged to belong to Government
83. Settlement of waste land adjudged to belong to claimant
84. Arrangements agreed to by co-sharers to be recorded
85. Arrangement to be determined and recorded
86. Cesses to be recorded
87. Determination of rent of ex-proprietary and occupancy tenants
88. Power to commute rent in kind etc. to fixed money rents
89. Procedure on receiving application to commute
90. Joinder of tenants in applications relating to rent
91. Rent from what date payable
92. Inquiry in certain cases of land held revenue-free
93. Title to hold revenue-free to be proved. Report to Government when title proved
94. Confirmation of settlement and revision of assessment
95. Tenure of land under expired settlement until new settlement is made

CHAPTER 6 :-Revision of assessment and other proceeding during currency of settlement

96. Short-term settlements
97. Powers to invest any officer with powers of a Settlement Officer
98. Annual inquiry as to revenue-free grants
99. Settlement of land added by alluvion, and revision of assessment when culturable area reduced by fluvial action
100. Determination in Oudh of rent payable by under-proprietor or

lessee

101. Reduction suspension or remission of amount payable by an inferior proprietor or under-proprietor or lessee

102. Collector to have powers of a Settlement Officer

103. Power to determine revenue of specific areas transferred during settlement

104. Commutation of rent and joinder of tenants in applications relating to rent during the currency of settlement

105. Application and proceedings pending before Record or Settlement Officer when operations are closed

CHAPTER 7 :- Partition and Union of Mahals

106. Meaning of "partition"

107. Application for partition

108. Partition of mahal in several districts

109. Power to stop a partition

110. Proclamation of application for partition

111. Objection raising question of title

112. Collectors decrees equivalent to decrees of Civil Court

113. Partition by whom to be made

114. Partition proceedings

115. Power to hold mahal under direct management pending completion of partition

116. Estimate and levy of costs

117. Partition of lands held in severalty or in common

118. Building of one sharer on land allotted in another

119. Rule contained in the last preceding section applicable to gardens etc

120. Tanks, wells, water-courses and embankments

121. Places of worship and burial-grounds

122. Exchange of sir and severalty by consent

123. In imperfect partitions transfer of sir and severalty, barred without consent

124. In compactness a reason for disallowing perfect partition

125. Transfer of sir and severalty perfect partitions

126. Sir of one sharer included in portion allotted to another

127. Certain other land to be treated as sir

128. Division of tenants holding

129. When perfect partition has been disallowed imperfect partition may be granted

130. Distribution of revenue on partition

131. Confirmation of partition

132. Appeals in cases of partition

133. Orders appealable

134. Partition of two or more mahals belonging to the same proprietors

135. Division of complex mahals

136. Fraudulent or erroneous distribution of revenue

137. Under-assessed estates to refund to over assessed estates

- 138. Partition of taluqdari and under-proprietary mahals, etc
- 139. Union of mahals forming part of the same viliage
- 140. Partition and union of revenue free mahals

CHAPTER 8 :- Collector of Revenue

- 141. Revenue the first charge on a mahal
- 142. Responsibility for revenue
- 143. Rules as to payment of revenue arrears and defaulters
- 144. Payment through lambardars
- 145. Certified account to be evidence as to arrear
- 146. Process for recovery of revenue
- 147. Writ of demand and citation to appear
- 148. Arrest and detention
- 149. Attachment and sale of movable property
- 150. Attachment of land
- 151. Powers and obligations of manager
- 152. Transfer of defaulters share
- 153. When settlement may be annulled
- 154. Management during annulment
- 155. Proclamation of attachment or annulment of settlement
- 156. Payments to defaulter thereafter or in anticipation of due date not to air charge payee
- 157. Recovery of balance due by farmer
- 158. Joint responsibility for revenue suspended during annulment
- 159. Settlement on expiry of period for which land is farmed or taken under management
- 160. Sale of defaulters specific area, patti or mahal
- 161. Land to be sold free of incumbrances
- 162. Power to proceed against interest of defaulter in property other than that in respect of which default is made
- 163. Proclamation of sale
- 164. Sale when and by whom to be made
- 165. Prohibit Jon to bid for or acquire the property sold
- 166. When sale may be stayed
- 167. Deposit by purchaser, re-sale in default of deposit
- 168. Purchase-money when to be paid
- 169. Liability of purchaser for loss by re-sale
- 170. Profiamat ion before re-sale
- 171. Sale to be reported to Commissioner
- 172. Application to set aside sale on deposit of arrear, etc
- 173. Application to set aside for irregularity, etc
- 174. Order confirming or setting aside sale
- 175. Bar of claims founded on irregularity or mistake
- 176. Refund of Purchase money when sale set aside
- 177. Purchaser to be put in possession, Certificate of purchase
- 178. Brief suit against certified purchaser
- 179. Application of proceeds of sale
- 180. Surplus not to be paid to creditors nor retained by Government except under order of court

- 181. Liability of purchaser for revenue
- 182. Pre-emption by co-sharers
- 183. Payment under protest and suit for recovery
- 184. Recovery of arrears due from co-sharers paid by a lambardar
- 185. In Oudh rent of under-proprietor recoverable as revenue
- 186. Rent of land held by proprietor of mahal attached, etc. as expropriatory tenant, to be fixed by Collector
- 187. Rent of land held by under proprietor in Oudh as expropriatory tenants
- 188. Provisions applied in arrears due at commencement of Act

CHAPTER 9 :- Procedure of revenue courts and revenue officer

- 189. Place for holding court
- 190. Power to enter upon and survey land
- 191. Power of Board or Commissioner to transfer cases
- 192. Power to transfer cases to and from subordinates
- 193. Power to summon persons to give evidence and produce documents
- 194. Procedure in case of non-compliance with summons
- 195. Summons to be in writing, signed, and sealed
- 196. Mode of serving summons
- 197. Mode of issuing proclamations
- 198. Notice and proclamation not void for error
- 199. Procedure for procuring attendance of witnesses
- 200. Hearing in absence of party
- 201. No appeal from orders passed ex-parte or by default
- 202. Correction of errors or omissions
- 203. Power to refer disputes to arbitration
- 204. Procedure in cases referred to arbitration
- 205. Application to set aside award
- 206. Decision according to award
- 207. Bar to appeal any suit in Civil Court
- 208. Recovery of fines and costs
- 209. Delivery of possession of immovable property

CHAPTER 10 :- Appeals, Reference and Revision

- 210. Courts to which appeals lie
- 211. First appeals
- 212. Second appeals
- 213. Third appeals
- 214. Limitation for appeals
- 215. Appeal against order admitting an appeal
- 216. Powers of Appellate Court
- 217. Power to suspend execution of order of lower Court
- 218. Power of Commissioner, etc. to call for records and proceedings, and reference to Board
- 219. Power of Board to call for files of subordinate officers and to revise order
- 220. Powers of Board to review and alter its orders and decrees

CHAPTER 11 :- Miscellaneous

221. Conferring of powers

222. Powers of officers transferred to another district

223. Investment of Assistant Collector with powers of Collector

224. Conferring of powers on Tahsildars and Naib-Tahsildars

225. Collector to have all powers of an Assistant Collector

226. In vesting of settlement officer with powers of Collector and Assistant Collector

227. Powers of an Assistant Collector in charge of sub-division

228. Powers of Assistant Collector of first class not in charge of sub-division

229. Powers of Assistant Collectors of second class

230. Powers of Assistant Record Officer

231. Special powers of Assistant Settlement Officer

232. Powers of Assistant Settlement Officers

233. Matters excepted from cognizance of Civil Courts

234. Power to Board to make rules

SCHEDULE 1 :- First Schedule

SCHEDULE 2 :- Schedule

Uttar Pradesh Land Revenue Act, 1901

3 of 1901

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CHAPTER 1

Preliminary

1. Title, extent and commencement :-

(1) This Act may be called the ¹ [Uttar Pradesh Land Revenue Act, 1901].

(2) It extends to the whole of the area specified in the Schedule I of Delhi Laws Act, 1915.

(3) It shall come into force on the first day of January 1902.

1. Substituted by A.O. 1950 for "United Provinces".

2. Repeal :-

(1) The enactments specified in the second schedule are repealed to the extent mentioned in the third column thereof.

(2) When this Act or any portion thereof is extended to any of the areas excepted in the first schedule, so much of any Act or Regulation in force therein as is inconsistent with this Act, or the

portion thereof so extended, as the case may be, shall be thereby repealed.

(3) The repeal of any enactment by this Act shall not legalize any practice which immediately before the passing of such enactment was illegal, and shall not revive any right, privilege, matter or thing not in force or existing at the commencement of this Act.

3. Savings :-

(1) All rules, appointments, assessments, partitions, and transfers made, notifications, proclamations, and orders issued, authorities and powers conferred, farms granted, records-of-rights and other records framed, rights acquired and liabilities incurred, rents fixed, places and times appointed, and other things done under any of the enactments hereby repealed shall, so far as may be, deemed to have been respectively made, issued, conferred, granted framed, acquired incurred fixed, appointed, and done under this Act.

(2) Any enactment or document referring to any enactment hereby repealed shall be construed to refer to this Act, or to the corresponding portion thereof.

4. Definitions :-

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

(1) "Board" means the Board of Revenue.

(2) "Incumbrance" means a charge upon or claim against land arising out of private contract.

(3) "Lambardar" means a co-sharer of a mahal appointed under this Act to represent all or any of the co-sharers in that mahal.

(4) "Mahal" means

(a) any local area held under a separate engagement for the payment of the land revenue; provided that

(i) If such area consists of a single village or portion of a village, a separate record-of-rights has been framed for such village or portion;

(ii) if such area consists of two or more villages or portions of villages, a separate record-of-rights has been framed either for the entire area, or for each of the villages or portions of villages

included therein;

(b) any revenue-free area for which a separate record-of-rights has been framed;

(c) for such purposes as the ¹[State Government] may determine, any grant of land made heretofore or hereafter under the waste land rules; and

(d) any other local area which the ¹[State Government] may by general or; special order declare to be a mahal.

(5) "Minor" means a person who, under Section 3 of the Indian Majority Act, 1875, IX of 1875 has not attained his majority.

(6) "Rent" and "tenant" shall have the same II of 1901 meaning as they have in the ³[Agra Tenancy Act, XII of 1886], or the Oudh Rent Act, 1886, as the case may be.

(7) "Revenue" means land-revenue.

(8) "Revenue Court" means all or any of the following authorities (that is to say), the Board and all members thereof, Commissioners, Additional Commissioners, Collectors, Assistant Collectors, Settlement Officers, Assistant Settlement Officers, Record Officers, and Assistant Record Officers and Tehsildars.

(9) "Revenue Officer" means any officer employed under this Act in maintaining revenue records, or in the business of the land-revenue.

(10) "Revenue-free," when applied to land, means land whereof the revenue has either wholly or in part been released, compounded for, redeemed or assigned.

(11) "Settlement" means settlement of the land revenue.

(12) "Sir" means in the ⁴ [Province of agra].

(a) land recorded as sir in the last record-of-rights framed before the commencement of this Act and continuously so recorded since, or which but for error or omission would have been so continuously recorded, or

(b) land cultivated continuously for twelve years immediately before the commencement of this Act by the proprietor himself with his own stock, or by his servants or, by hired labour; or

(c) land recognised by village custom as the special holding of a co-sharer, and treated as such in the distribution of profits or charges among the cosharers.

Provided that land which is sir under sub-clauses (a), (b), or (c) shall cease to be sir when it becomes the subject of an ex-proprietory tenancy:

Provided also that if an ex-proprietory tenant regains his proprietary right in the land

(13) "Sir" means in Oudh

(a) land which for the seven years immediately preceding the passing of the Oudh Rem Act, 1886, had been continuously dealt with as sir in the distribution of proprietary or under proprietary profits and charges;

(b) land which for the seven years immediately preceding the passing of the said Act had been continuously cultivated by the proprietor or under-proprietor himself, or by his servants, or by hired labour.

Provided that land which was recorded as sir at the last settlement prior to the passing of the Oudh Rent Act, 1886, and has been continuously so recorded since shall be presumed to be land of the class mentioned in sub-clause (a) till the contrary is proved:

Provided further that if an ex-proprietory tenant regains his proprietary right in the land held by him as ex-proprietory tenant, the land mentioned in the second proviso shall again become his sir,

(14) "Taluka" or "Taluqdari Mahal" means an estate in Oudh to which the provisions of the Oudh Estate Act, I of 1869, apply; and "Taluqdar" means the proprietor of such an estate.

(15) "Under-proprietor" means in Oudh a person possessing a heritable and transferable right in land who is, or but for a judicial decision or contract would be, liable to pay rent therefor.

1. Substituted by A.O. 1950 for "Provincial Government".

3. Substituted by the United Provinces General Clauses Act, 1904 (U.P. Act, I of 1904).

4. Substituted by proclamation No. 996-P dated the 23.3.1902 and the United Provinces (Designation Act 1902).

5. Chief Controlling revenue authority :-

The control of all matters connected with the land-revenue in the ¹[United Provinces of agra and Oudh] is vested in the Board, subject to the orders of the ² [State Government].

1. Substitute by A.O. 1950 for "Provincial Government."
2. Omitted by A.O. 1937.

6. Appointment and removal of members of the Board :-

¹[State Government] with the previous sanction of the ² [Central Government] shall, appoint [* * * *], the members of the Board.

1. Omitted by A.O. 1937.
2. Substituted by A.O. 1937.

7. Power to distribute business :-

(1) Subject to such rules or orders as the ²[State Government] may prescribe or issue, the Board may distribute its business and make such territorial division of its Jurisdiction amongst its members as to the Board may deem fit.

(2) All orders made or decrees passed by a member of the Board in accordance with such distribution or division shall be held to be the orders or decrees (as the case may be) of the Board.

8. Alteration or reversal of a judicial order :-

No decree or order in a judicial proceeding coming under the consideration of the Board on appeal, on a reference under Section 218, or in revision under Section 219, shall be altered or reversed without the concurrent judgement of two members of the Board.

9. Reference to ¹[State Government] in case of difference of opinion :-

When the members of the Board are equally divided in opinion as to any order to be made in the course of its non-judicial business, the question regarding which there is such division of opinion shall be referred for decision to the ¹ [State Government].

1. Substitute by A.O. 1950 for "Provincial Government."

10. Power to authorize member or exercise power of Board :-

Notwithstanding anything contained in this Act the ¹ [State Government] may authorize any member of the Board to perform

or exercise, either generally or in respect of any particular locality, all or any of the duties and powers imposed and conferred on the Board.

1. Substitute by A.O. 1950 for "Provincial Government."

11. Power to create, alter and abolish divisions, districts, tahsils and subdivision :-

(1) The ¹[State Government] may ²[* * *] create new or abolish existing divisions or districts.

(2) The ¹[State Government] may alter the limits of any division, district or tahsil, and may create new or abolish existing tahsils, and may divide any district into sub-divisions, and may alter the limits of sub-divisions.

(3) Subject to the orders of the ¹ [State Government] under subsection (2), all tahsils shall be deemed to be sub-divisions of districts.

1. Substitute by A.O. 1950 for "Provincial Government."

2. Omitted by A.O. 1937.

12. Commissioners of divisions :-

The ¹ [State Government] shall appoint in each division a Commissioner, who shall within his division exercise the powers and discharge the duties conferred and imposed on a Commissioner under this Act or under any other law for the time being in force, and who shall, subject to the control of the Board, exercise authority over all the revenue officers in his division.

1. Substitute by A.O. 1950 for "Provincial Government."

13. Appointment, powers, and duties of Additional Commissioner :-

(1) The ¹[State Government] may, with the previous sanction of the ²[Central Government], appoint an Additional Commissioner in a division, or in two or more divisions combined.

(2) An Additional Commissioner shall hold his office during the pleasure of the ¹[State Government].

(3) An Additional Commissioner shall exercise such powers and discharge such ⁴[State Government] or, in the absence of orders from the ³ [State Government] the Commissioner concerned, may

direct.

(4) This Act and every other law for the time being applicable to a Commissioner shall apply to the Additional Commissioner, when exercising any powers or discharging any duties under sub-section (3) as if he were the Commissioner of the division.

1. Substitute by A.O. 1950 for "Provincial Government."

2. Substituted by A.O. 1937.

4. Substituted by A.O.1950 for "Provincial Government".

14. Collector of the district :-

The ¹ [State Government] shall appoint in each district an officer who shall be the Collector of the district, and who shall, throughout his district, exercise all the powers and discharge all the duties conferred and imposed on a Collector by this Act or any other law for the time being in force.

1. Substituted by A.O.1950 for "Provincial Government".

14A. Appointment, powers, and duties of Additional Collector :-

(1) The State Government may appoint an additional Collector in a district or in two or more districts combined.

(2) An Additional Collector shall hold his office during the pleasure of the State Government.

(3) An Additional Collector shall exercise such powers and perform such duties of a Collector in such cases or classes of cases as the State Government or, in the absence of orders from the State Government, the Commissioner concerned, may direct.

(4) This Act and every other law for the time being applicable to a Collector shall apply to every Additional Collector, when exercising any powers or discharging any duties under sub-section (3) as if he were the Collector of the district.

15. Assistant Collector :-

(1) The ¹ [State Government] may appoint to each district as many other persons as it thinks fit to be Assistant Collectors of the first or second class.

(2) All such Assistant Collectors, and all other revenue officers in the district, shall be subordinate to the Collector.

1. Substituted by A.O.1950 for "Provincial Government".

17. Tahsildars and Naib Tahsildars :-

The ¹[State Government] may appoint to each district as many persons as it may think fit to be Tahsildars and Naib Tahsildars. ² [* *]

1. Substituted by A.O.1950 for "Provincial Government".

2. Omitted by A.O.1937.

18. Assistant Collector incharge :-

(1) The ¹ [State Government] may place any Assistant Collector of the first class in charge of one or more sub-divisions of a district, and may remove him therefrom.

(2) Such Assistant Collector shall be called an Assistant Collector in charge of sub-division of a district, and shall exercise all the powers and discharge all the duties conferred and imposed upon him by this Act, or by any other law for the time being in force, subject to the control of the Collector.

(3) The State Government may delegate its powers under this action to the Collector of the district, and may revoke such delegation.

1. Substituted by A.O.1950 for "Provincial Government".

19. Subordination of Revenue Officers :-

Every Revenue Officer of a sub-division of a district shall be subordinate to the Assistant Collector (if any) in charge of such sub-division, subject to the general control of the Collector.

20. Collector of the district in case of temporary vacancy :-

If the Collector dies, or is disabled from performing his duties, the officer who succeeds temporarily to the chief executive administration of the district in revenue matters shall be held to be the Collector under this Act until the ¹ (State Government] appoints a successor to the Collector so dying or disabled, and such successor takes charge of his appointment.

1. Substituted by A.O. 1950 for "Provincial Government".

CHAPTER 3

Maintenance of Maps and Records

21. Power to form and alter patwaris, circles :-

The Collector, with the previous sanction of the Board, may arrange

the mahals of the district in patwaris' circles, and may, from time to time, alter the number and limits of such circles. But no such arrangement or alteration shall be final unless and until it has been sanctioned by the Board.

22. . :-
*****]

23. Appointment of Patwaris :-

The ¹ [State Government] shall appoint a patwari to each circle.

1. Substituted by A.O. 1950 for "Provincial Government".

24. . :-
*****]

25. Appointment of Kanungos :-

One or more kanungos may, subject to rules made under Section 234, be appointed in each district for the proper supervision, maintenance, and correction of the annual registers, and for such other duties as the Board may from time to time prescribe.

26. . :-
*****]

27. Kanungos and patwaris to be public servants, and their records public records :-

Every kanungo and patwari, and every person appointed temporarily to discharge the duties of any such officer, shall be deemed to be a public servant within the meaning of the Indian Penal Code, [XLV of 1860], and all official records and papers kept by any such officer shall be held to be public records and the property of Government.

28. Maintenance of map and field book :-

The Collector shall, in accordance with rules under Section 234, maintain a map and field-book of each viliage in his district, and shall cause annually, or at such longer intervals as the Board may prescribe, to be recorded therein all changes in the boundaries of each viliage, mahal or field, and shall correct any errors which are shown to have been made in such map or field-book.

29. Obligations of owners as to boundary marks :-

All owners of villages, mahals or fields are bound to maintain and keep in repair, at their own cost, the permanent bound v marks lawfully erected thereon, and the Collector may at any time order

such owners-

(a) to erect proper boundary marks on such villages, mahals or fields;

(b) to repair or renew in such form and material as he may prescribe all boundary marks lawfully erected thereon.

If such order is not complied with within thirty days from the communication thereof, the Collector shall cause such boundary marks to be erected repaired or renewed, and shall recover the charges incurred from the owners concerned in such proportion as he thinks fit.

Explanation The term "owners" in this and the following section includes also under-proprietors, lessees, mortgagees or other persons in possession of the land referred to.

30. Penalty for injury to or removal of marks :-

The Collector may order any person convicted before him of wilfully erasing, removing or damaging a boundary or survey mark to pay such sum, not exceeding fifty rupees, for each mark so erased, removed or damaged as may be necessary to restore it, and to reward the informer through whom the conviction was obtained. When such sum cannot be recovered, or if the offender cannot be discovered, the Collector shall restore the mark and recover the cost thereof from such of the owners of the conterminous villages, mahals, or fields as he thinks fit.

31. Registers of revenue-paying and revenue-free mahals :-

The Collector shall prepare and maintain

(a) a list of all revenue-paying mahals, specifying the revenue-assessed on each and the lambardar or other person through whom it is payable;

(b) a list of all revenue-free mahals specifying the authority and conditions under which they are exempt from the payment of revenue.

32. Record-of-rights :-

There shall be a record-of-rights for each mahal or, if a mahal consists of two or more villages, or portions of villages the record may be prepared for each such village or portion separately. The record-of-rights shall include the following registers:

(a) a register of all the proprietors in the mahal, including the

proprietors of specific areas, specifying the nature and extent of the interest of each;

(b) in Oudh, for all mahals or pattis held in sub-settlement or under a heritable non-transferable lease, the rent payable under which has been fixed by the Settlement Officer or other competent authority, a register of all the under-proprietary co-shareses or co-lessees, specifying the nature and extent of the interest of each of them;

(c) in Oudh, a register of all under-proprietors in a mahal, and all other lessees whose rents have been fixed by a Settlement Officer, or other competent authority, specifying the nature and extent of the interest of each of them;

(d) a register of all persons holding land-revenue-free, specifying the nature and extent of the interest of each;

(e) a register of all persons cultivating or otherwise occupying land specifying the particulars required by Section 55.

Until a new record-of-rights is framed under Section 53, the existing record-of-rights shall be the record of rights prescribed by this section.

Explanation-In this section the words 'proprietor' and 'under-proprietor' include a person in possession of proprietary or under-proprietary rights under a mortgage or lease.

33. Annual registers :-

(1) The Collector shall maintain the record-of-rights, and for that purpose shall annually or at such longer intervals as the Board may prescribe, cause to be prepared an amended set of the registers enumerated in Section 32. The registers so prepared shall be called the annual registers.

(2) The Collector shall cause to be recorded in the annual registers all changes that may take place and any transaction that may affect any of the rights or interests recorded. and shall therein correct any errors proved to have been made in the record-of-rights or in any annual register previously prepared.

(3) No such change or transaction affecting the registers prescribed by clauses (a) to (d) of Section 32 shall be recorded without the order of the Collector, or, as hereinafter provided, of the Tahsildar.

34. Report of succession or transaction of possession :-

(1) Every person obtaining possession, by succession or transfer, of any proprietary or other right in a mahal, or part of a mahal, or the profits thereof, or in any specific area therein, which is required to be recorded in the registers prescribed by clauses (a) to (d) of Section 32, shall report such succession or transfer to the Tahsildar of the tahsil in which the mahal or any part thereof is situated.

(2) In the case of a succession or transfer, other than a mortgage or lease, the report shall be made immediately after it has taken place.

(3) in the case of a mortgage or lease, the report shall be made immediately after the mortgagee or lessee has obtained possession thereunder.

(4) If the person so succeeding, or otherwise obtaining possession is a minor or otherwise disqualified, the guardian or other person who has charge of his property shall make the report required by this section.

(5) No Revenue Court shall entertain a suit or application by the person so succeeding or otherwise obtaining possession until such person has made the report required by this section.

35. Procedure on report :-

The Tahsildar, on receiving such report, or upon the facts coming otherwise to his knowledge, shall make such inquiry as appears necessary, and in undisputed cases, if the succession or transfer appears to have taken place, shall record the same in the annual register. If the succession or transfer is disputed, the Tahsildar shall refer the case to the Collector, who shall dispose of it after deciding the dispute in accordance with the provisions of Section 40.

36. Collector to specify land held by ex-proprietary tenant and fix its rent :-

(1) When a right of occupancy has been created under the provisions of Section 10 of the ¹ [Agra Tenancy Act, 1901], or Section 7-A of the Oudh Rent Act, 1886, as the case may be, in favour of an ex-proprietary tenant, the Collector shall, in the course of the mutation proceedings under Section 35, or if, more convenient, in a separate proceeding, pass an order specifying the land in which such occupancy rights has been created, and fixing

the rent payable therefor in accordance with the provisions of those sections.

(2) The rent so fixed shall be payable from the date the exproprietary tenancy arose, subject to the law of limitation as to arrears of rent, and, save as provided by Section 41 of the 1[agra Tenancy Act, 1901], or Section 35-B of the Oudh Rent Act, 1886, shall not be liable to enhancement or abatement for a period of ten years, except by order of a Settlement Officer under Section 187 of this Act.

(3) If the case is one in which the Tahsildar would otherwise be empowered to order mutation of names under Section 35, he shall refer it to the Collector.

(4) If for any reason an order specifying the land and fixing the rent payable has not been passed under sub-section(1), the landholder or tenant, or any co-sharer directly interested in such matter, may at any time during the continuance of an exproprietary tenancy apply for the issue of such order.

1. Substituted by United Provinces General Clauses Act, 1904.

37. Power to prescribe fees for mutation :-

(1) The¹[State Government] may prescribe proper fees for mutations in the registers:

Provided that no fee for a single mutation shall exceed one hundred rupees.

(2) Such fees shall be levied from the person in whose favour the mutation is made, ² [State Government] thinks fit.

1. Substituted by A.O. 1950 for "Provincial Government".

2. Substituted by A.O. 1950 for "Provincial Government".

38. Fine for neglect to reports :-

Any person neglecting to make the report required by Section 34 within three months from the date obtaining possession under a mortgage or lease, or from the date of the succession or other transfer, shall be liable to a fine not exceeding five times the amount of the fee which would otherwise have been payable under Section 37, or when no fee is leviable then not exceeding such amount as the Board may by rule prescribe.

39. Record of transferers of non-proprietary interest in land

:-

(1) All transfers and changes affecting interests in land other than those referred to in Section 34 shall be recorded according to rules made under Section 234.

(2) No division of a holding occupied by two or more tenants, and no distribution of the rent payable in respect thereof, shall be recorded, unless the consent of the landholder and of all the tenants concerned has been attested before a Revenue Court or the Kanungo.

(3) All disputed cases shall be reported to the Tahsildar, who shall make such inquiry as appears necessary, and shall submit his proceedings to the Collector, who after such further inquiry as may be necessary, shall, subject to the provisions of the ¹ [Agra Tenancy Act, 1901] or the Oudh Rent Act, 1886 as the case may be pass orders, and, if necessary cause the annual registers to be amended.

1. Substituted by United Provinces General Clauses Act, 1904.

40. Settlement of disputes as to entries in annual registers

:-

(1) All disputes regarding entries in the annual registers shall be decided on the basis of possession.

(2) If, in the course of inquiry into a dispute under this section, the Collector is unable to satisfy himself as to which party is in possession, he shall ascertain by summary inquiry who is the person best entitled to the property, and shall put such person in possession.

(3) No order as to possession passed under this section shall debar any person from establishing his right to the property in any Civil or Revenue Court having the jurisdiction.

41. Settlement of boundary disputes :-

(1) All disputes regarding boundaries shall be decided, as far as possible, on the basis of existing survey maps; but if this is not possible, the boundaries shall be fixed on the basis of actual possession.

(2) If, in the course of an inquiry into a dispute under this section, the Collector is unable to satisfy himself as to which party is in

possession, or if it is shown that possession has been obtained by wrongful dispossession of the lawful occupants of the property within a period of three months previous to the commencement of the inquiry, the Collector-

(a) in the first case, shall ascertain by summary inquiry who is the person best entitled to property, and shall put such person in possession;

(b) in the second case, shall put the person so dispossessed in possession; and shall then fix the boundary accordingly.

42. Determination of class of tenant :-

(1) On case of any dispute respecting the class or tenure of any tenant, the Collector shall decide according to the principles laid down in the ¹[Agra Tenancy Act, 1901], or the Oudh Rent Act, 1886, as the case may be.

(2) In the trial of disputes under this section, the Collector shall observe the procedure prescribed for the trial of cases of a similar kind under the ¹ [Agra Tenancy Act, 1901], or for the trial of suits under the Oudh Rent Act, 1886, as the case may be.

1. Substituted by United Provinces General Clauses Act, 1904.

43. Procedure when rent payable is disputed :-

In case of any dispute regarding the rent payable by any tenant, the Collector shall not decide the dispute, but shall record as payable for the year to which the annual register refers the rent payable for the previous year, unless it has been enhanced or abated by an order or agreement under this Act, or the ¹[Agra Tenancy Act, 1901], or the Oudh Rent Act, 1886, as the case may be.

44. Presumption as to entries; and decisions binding on Revenue Courts :-

All entries in the annual registers made under sub-section (3) of Section 33 shall be presumed to be true until the contrary is proved and subject to the provisions of sub-section (3) of Section 40, all decisions under Sections 40, 41 and 42 shall be binding on all Revenue Courts in respect of the subject matter of the dispute; but no such entry or decision shall affect the right of any person to claim and establish in the Civil Court any interest in land which requires to be recorded in the registers prescribed by clauses (a) to

(d) of Section 32.

45. Appointment of lambardars :-

(1) If during the currency of a settlement the office of lambardar in any mahal or part of a mahal becomes vacant, or if at any time the Collector decides that one or more additional lambardars should be appointed, he shall issue a proclamation calling on the co-sharers concerned to nominate a lambardar, and, subject to rules made under Section 234, such nominee shall be appointed.

(2) If no nomination is made within one month from the issue of the notice or if the nominee is not qualified or refuses to act, the Collector may attach the mahal, or part thereof, and hold it under direct management until a qualified nominee is appointed. The collections of the mahal, or part thereof, so attached shall be applied to the payment of the revenue, the cost of management, and any expenses with which the mahal, or part thereof, is chargeable, and any surplus shall be divided amongst the recorded co-sharers in proportion to their respective shares at such times as the profits are ordinarily divisible.

46. Obligation to furnish information necessary for the preparation of records :-

Any person whose rights, interests or liabilities are required by any enactments, for the time being in force or by any rule made under any such enactment, to be entered, in any official register by a kanungo or patwari, shall be bound to furnish, on the requisition of the kanungo or patwari or of any revenue officer engaged in compiling the register, all information necessary for the correct compilation thereof.

47. Inspection of records :-

All maps, field-books, and registers kept under this Act shall be open to public inspection at such hours and on such conditions as to fees or otherwise as the ¹ [State Government] may prescribe.

1. Substituted by A.O. for "Provincial Government".

CHAPTER 4

Revision of Maps and Records

48. Notification of record operation :-

If the ¹ [State Government] thinks that, in any district or other local area a general or partial revision of the records, or a resurvey, or both, should be made, it shall publish a notification to that

effect; Effect of notification and every such local area shall be held to be under record or survey operations, or both as the case may be, from the date of the notification until the issue of another notification declaring the operations to be closed therein.

1. Substituted by A.O. 1950 for "Provincial Government".

49. Record Officers :-

The State Government may appoint an officer, hereinafter called the Record Officer, to be in charge of the record operations or the survey, or both, as the case may be, in any local area and as many Assistant Record Officers as to it may seem fit, and such officers shall exercise all the powers conferred on them by this Act so long as such local area is under record or survey operations, as the case may be.

50. Powers of Record Officer as to erection of boundary-marks :-

When any local area is under survey operations the Record Officer may issue proclamation directing all owners of villages, mahals and fields, to erect, within fifteen days, such boundary marks as he may think necessary to define the limits of their villages, mahals or fields, and in default of their compliance within the time specified in the proclamation, he may cause such boundary marks to be erected, and the Collector shall recover the cost of their erection from the owners.

Explanation-The term "owners" in this section includes also under-proprietors, lessees, mortgagees or other persons in possession of the land referred to.

51. Decision of disputes :-

In case of any dispute concerning any boundaries, the Record Officer shall decide such dispute in the manner prescribed in Section 41.

52. Records to be prepared in re-survey :-

When any local area is under survey operations the Record Officer shall prepare for each village therein a map and field-book, which shall thereafter be maintained by the Collector as provided by Section 28, instead of the map and field-book previously existing.

53. Preparation of new record of rights :-

When any local area is under record operations, the Record Officer shall frame, for each mahal therein, a record containing the

registers enumerated in Section 32 or such of them as the ¹ [State Government] may direct, and the record or portion thereof so framed shall thereafter be maintained by the Collector, instead of the record or portion of the record previously maintained under Section 33.

1. Substituted by A.O. 1950 for "Provincial Government".

54. Attestation of entries and decision of disputes :-

All undisputed entries in the record-of-rights shall be attested by the parties interested, and all disputes regarding such entries, whether taken up by the Record Officer of his own motion or upon application by any party interested, shall be disposed of by him in accordance with the provisions of Sections 40,41,42 and 43.

55. Particulars to be stated in list of tenants :-

The register of persons cultivating or otherwise occupying land prescribed by clause (e) of Section 32 shall specify as to each tenant the following particulars:-

(a) the nature and class of his tenure as determined by the ¹[Agra Tenancy Act, 1901], or the Oudh Rent Act, 1886, as the case may be;

(b) the rent payable by the tenant;

(c) in the ¹ [Province of agra] if he be a tenant without a right of occupancy, the number of completed years during which he has held the land then in his possession; and subject to rules made by the Board under Section 234;

(d) any other condition of the tenure, whether contained in a written lease or otherwise. The register shall also specify the proprietors or under-proprietors (if any) holding land as sir, or cultivating land not being sir, otherwise than as tenants, and shall state with respect to the latter class of land the number of completed years during which they have so cultivated.

Explanation-For the purposes of this section, the year for which the register is prepared shall be reckoned as a completed year.

1. Substituted by the United Provinces General Clauses Act, 1904.

56. Cesses payable as rent to be recorded in ²[Province ofAgra] :-

In the ¹ [Province of agra] all cesses which are payable by tenants

on account of the occupation of land and which are of the nature of rent payable in addition to the rent of tenants, or in lieu of which proprietary rights may be assigned under Section 78, clause (b), shall be recorded by the Recorded Officer under the appellations by which they are known, and no cesses not so recorded shall be recoverable in any Civil or Revenue Court.

1. Substituted by Proclamation No 996-P dated the 22.3.1902 and the United Provinces (Designation) Act, 1902

57. Presumption as to entries :-

All entries in the record of rights prepared in accordance with the provisions of this Chapter shall be presumed to be true until the contrary is proved, and all decisions under this Chapter in cases of dispute shall, subject to the provisions of sub-section (3) of Section 40, be binding on all Revenue Courts in respect of the subject matter of such disputes; but no such entry or decision shall affect the right of any person to claim and establish in the Civil Court any interest in land which requires to be recorded in the registers prescribed by clauses (a) to (d) of Section 32.

CHAPTER 5

Settlement of the Revenue

58. Assessment of revenue :-

(1) All land, to whatever purpose applied and wherever situate, is liable, to the payment of revenue to the Government except such land as has been wholly exempted from such liability by special grant of, or contract with, the Government or by the provisions of any law for the time being in force.

(2) Revenue may be assessed on land, notwithstanding that that revenue, by reason of its having been assigned, released, compounded for or redeemed, is not payable to the Government.

(3) Saving of liability for revenue--No length of occupancy of any land; nor any grant of land made by the proprietor, shall release such land from the liability to pay revenue.

59. Notification as to settlement to be deemed in progress until closing notified :-

Whenever the ¹ [State Government] thinks that any district or other local area liable to be brought under settlement should be so brought, it shall publish a notification to that effect, and every such local area shall be held to be under settlement from the date of the

notification until the issue of another notification declaring settlement operations to be closed therein.

1. Substituted by the United Provinces General Clauses Act.

60. Appointment and powers of Settlement Officers :-

The ¹ [State Government] may appoint an officer, hereinafter called the Settlement Officer, to be in charge of the settlement of any district or other local area, and as many Assistant Settlement Officers, as to it may seem fit; and such officers shall, while so employed, exercise the powers conferred upon them by this Act so long as such local area is under settlement.

1. Substituted by the United Provinces General Clauses Act.

61. Transfer of duties of Collector to Settlement Officer :-

When a local area is under settlement the duty of maintaining the maps and field-books, and preparing the annual registers, may be transferred under the orders of the Board from the Collector to the Settlement Officer, who shall hereupon exercise all the powers conferred on the Collector by Chapter III.

62. Government to issue rules as to mode of assessment :-

The ¹[State Government] shall, in accordance with general principles sanctioned by the ² [Central Government] make rules for the guidance of the Settlement Officer in assessing the revenue.

1. Substituted by the United Provinces General Clauses Act.

2. Substituted by proclamation No. 996-P dated the 22.3.1902 and the United Provinces (Designation) Act, 1902.

63. Rent-rates and proposals of assessment :-

The Settlement Officer, in accordance with the rules made under Section 62, shall select rent-rates for the purpose of assessment, and report them for the sanction of the Board, and on receipt of such sanction shall frame proposals of assessment and report them for the orders of the Board.

64. Declaration of assessment :-

After the receipt of, and subject to, the orders of the Board on such proposals, the Settlement Officer shall declare the assessment of each mahal to the person with whom the settlement thereof is to be made. If any mahal comprises of two or more villages or portions of villages, the Settlement Officer shall declare the assessment of each such village or portion of village and also the aggregate amount of assessment of the whole mahal. Such

declaration shall be made at a time and place to be notified by the Settlement Officer.

65. With whom settlement to be made :-

(1) Subject to the provisions of Section 75, the settlement shall be made-

(a) in the case of a taluqdari mahal, with the taluqdar;

(b) in the case of other mahals, with the proprietor of the mahal, or when there are two or more proprietors with the lambardars unless for special reasons the Settlement Officer decides to make the settlement with all the proprietors.

(2) If any taluqdar or other proprietor with whom settlement would otherwise have been made-

(a) has transferred possession of his mahal or share to a mortgagee, the settlement may be made with such mortgagee;

(b) is a lunatic, minor, or other person incapable of making a contract, the settlement shall be made on his behalf with his legal representative.

66. Effect of agreement assessment declared :-

If the persons entitled to settlement agree to the assessment so declared, they and those whom they represent shall be able to pay such assessment-

(a) if the term of the former settlement has not expired, from the date on which it expires;

(b) if such term has expired, from the date of such agreement or from such subsequent date as the Board may direct;

Distribution of assessment--and in mahals in which the land or part of land is held in severalty, the Settlement Officer shall distribute such assessment on the land so held.

67. Enforcement of custom as to re-distribution of land and adjustment of Revenue shares :-

In any mahal where, by the established custom, the land or the amount of revenue payable by each sharer is subject to periodical re-distribution or re-adjustment, the Settlement Officer may, on application of the co-sharers, enforce such re-distribution or re-adjustment according to such established custom.

68. Exclusion of person refusing or failing to accept settlement :-

If the person to be settled with refuses to accept the assessment declared by the Settlement Officer, or fails to accept such assessment within thirty days from the date of declaration by the Settlement Officer under Section 64, the Settlement Officer shall report the case through the Commissioner to the Board. and the Board may direct that the person so refusing or failing be excluded from the settlement for such term, not exceeding fifteen years from the date of such direction, as the Board thinks fit, and the Collector may, with the previous sanction of the Board, either farm the mahal or hold it under direct management during such term, or any part thereof, and shall pay to the person so excluded any annual allowance to which he may be entitled under Section 74:

Provided that if the mahal is taluqdari mahal, the taluqdar shall not be excluded from the settlement of his entire mahal without the previous sanction of the ¹[Central Government] or from the settlement of a portion thereof without the sanction of the ² [State Government].

1. Substituted by the United Provinces General Clauses Act.
2. Substituted by proclamation No. 996-P dated the 22.3.1902 and the United Provinces (Designation) Act, 1902.

69. Officer of farm to under-proprietor :-

If a taluqdar is excluded from the settlement of any portion of his taluqa under Section 68, and if such portion is held in sub-settlement by an under-proprietor, the farm of such portion shall be offered to such under-proprietor on such terms as the Board may in each case direct.

70. Allowance to excluded taluqdar :-

If such under-proprietor accepts the assessment so offered, the taluqdar so excluded shall be entitled to an allowance out of the profits of such portion to be fixed by the Board, not exceeding the share of the gross assets, (if any) to which he would have been entitled had he accepted the assessment. in other cases the taluqdar so excluded shall (subject to the orders of the Board) be entitled to an allowance out of the profits of such portion of not less than five or more than fifteen per cent on the amount proposed to be assessed thereon.

71. Offer of settlement to excluded proprietor :-

When the term fixed under Section 68 expires, the Collector shall offer settlement of the mahal to the person then entitled to settlement at such assessment as the Board may direct for the remainder of the term of settlement of the local area in which the mahal is situated. If such person refuses to accept the offer, he may, with the sanction of the Board and subject to the provisions of Section 68 as they are applicable, be excluded from settlement for such period not exceeding the remainder of the term of the settlement local area as the Board may direct.

72. Procedure in case of some of several proprietors :-

If, in a mahal in which the land or a part of the land is held in severality, the Settlement Officer has decided to make the settlement with all the proprietors under Section 65, any co-sharer refuses or fails, within thirty days from the date of the declaration by the Settlement Officer under Section 64, to accept the assessment so declared, the Settlement Officer may transfer the share of the person so refusing or failing, for a term not exceeding fifteen years, to all or any of the remaining co-sharers in the mahal who may be willing to accept the transfer. The co-sharers accepting the transfer shall pay to the proprietor any annual allowance to which he is entitled under Section 74. If no co-sharer accepts such transfer, the entire mahal shall be dealt with under Section 68, as if all the co-sharers had refused or failed to accept the assessment.

73. Offer of share to co-sharere where share has been transferred :-

When the term fixed under Section 72 expires, if the co-sharer whose share has been transferred then accepts the assessment declared by the Settlement Officer, the Collector shall put such co-sharer in possession of his share. If such co-sharer does not so accept, the transfer shall be maintained for the remainder of the term of the settlement of mahal.

74. Allowance to excluded proprietor or to co-sharer whose share has been transferred :-

Any proprietor who has been excluded from settlement under Section 68, or whose share has been transferred under Section 72, shall be entitled, during the term of such exclusion or transfer,-

(a) if he has no land which he would be entitled to hold upon a transfer of his proprietary rights, as an ex-proprietary tenant under Section 10 of the ¹[Agra Tenancy Act, 1901], or Section 7A of the Oudh Rent Act, 1886, as the case may be, to receive an annual

allowance of not less than five and not more than fifteen per cent on the revenue assessed upon the mahal or share; or

(b) if he has such land, to hold it at a rent to be fixed by the Settlement Officer in accordance with the provisions of Section 10 of the ¹ [Agra Tenancy Act, 1901], or Section 7-A of the Oudh Rent Act, 1886, as the case may be, and if one-third of the rent so fixed is less than fifteen per cent on the revenue of the mahal or share, to receive such annual allowance, when added to one-third aforesaid, shall be not less than five and not more than fifteen per cent on such revenue.

1. Substituted by the United Provinces General Clauses Act.

75. Power in 2[Province of agra] to direct which of several parties having separate and different interests shall be admitted to settlement and to prescribe distribution :-

In any mahal in the 2[Province or agra] whenever several persons possess separate heritable and transferable proprietary interests, such interests being of different kinds, the Settlement Officer shall, under the rules for the time being in force, determine-

(a) which of such persons shall be admitted to engage for the payment of the revenue, due provision being made for securing the rights of the others; and

(b) the manner and proportion in which the net profits of the mahal shall be allotted to the several persons possessing separate interests as aforesaid for the term of the settlement.

76. Power to make sub-settlement with inferior proprietor on behalf of superior proprietor of mahal coming under Section 75 :-

(1) If in any mahal coming under the provisions of Section 75 the separate properties bear to each other the relation of superior and inferior, and the settlement be made with the party possessing the superior right, the Settlement Officer may make, on behalf of the superior proprietary, a sub-settlement with the inferior proprietor by which such inferior shall be bound to pay to the superior an amount equal to the Government demand in respect of the mahal, together with the share of the profits thereof allotted to the superior proprietor under Section 75.

(2) Exclusion of inferior proprietor If the inferior proprietor refuses

to agree to the sub-settlement, the mahal shall be made over to the superior proprietor for the term of settlement, and the inferior proprietor shall hold as an ex-proprietary tenant the land (if any) cultivated by him at the date of such refusal at a rent to be fixed by the Settlement Officer in accordance with the provisions of the ¹ [Agra Tenancy Act, 1901].

(3) If one-third of the rent so fixed is less than fifteen per cent of the profits allotted to the inferior proprietor under Section 75, the superior proprietor shall pay to the inferior proprietor an annual allowance, which, when added to the one-third aforesaid shall be not less than five and not more than fifteen percent of such profits.

(4) If the inferior proprietor cultivated no land at the date of such refusal, the superior proprietor shall pay him an annual allowance of not less than five or more than fifteen per cent of the profits allotted to him as the Board may direct.

1. Substituted by United Provinces General Clauses Act 1904.

77. Assessment on inferior proprietor when settlement made with him :-

If the settlement of such a mahal is made with the inferior proprietor, the amount to be paid by him shall be fixed by the Settlement Officer at such a sum as may be equal to the assessment of such mahal, together with the share of the profits allowed to the superior proprietor; and in this case the share of the superior proprietor shall be realized as revenue, and paid to him by the Collector.

78. Power in ²[Province of agra] to make arrangements for the benefit of persons possessing rights which do not entitle them to settlement :-

(a) If in any mahal in the ¹ [Province of agra] there exist persons possessing proprietary rights therein which are not of such a nature as to entitle their possessors to settlement, the Settlement Officer may make such arrangements as shall secure such persons in possession of their existing rights, or of an equivalent thereto, This may be done (a) by the formation of a sub-settlement on behalf of the proprietors with such persons for any lands actually in their possession; or

(b) in mahals held as joint undivided property and when the said rights are rights to receive from the tenants any money payment or

portion of the agricultural produce, by assigning, in lieu thereof the proprietary right in a certain portion of the mahal, the profits of which are equivalent, in the opinion of the Settlement Officer, to the said payment or portion; or

(c) in such other way as shall maintain the persons referred to in the first clause of this section in the enjoyment of, or of an, equivalent to their existing rights.

1. Substituted by Proclamation No. 996-P dated 22.3.1903 and the United (Designation) Act, 1902.

79. Determination in Oudh of amount payable to proprietor

:-

In Oudh, after declaring the assessment of a mahal, the Settlement Officer shall, in accordance with the provisions of the Oudh Sub-Settlement Act, 1866, so far as they are applicable, and subject to rules made under Section 234, determine the rent to be paid by all under-proprietors in a mahal whether holding a sub-settlement or not, and by all holders of heritable, non-transferable leases holding under a judicial decision. When the rent is so determined the co-sharers may agree that the rent shall be paid by one of them as their representative, and the Settlement Officer shall record such agreement, but no such agreement, shall affect the joint and several responsibility of all co-sharers for the rent. Nothing in this section shall apply to rent payable by a tenant with a right of occupancy under the provisions of the Oudh Rent Act, 1886.

80. Procedure in 1[Province of agra] as to waste land not included in any mahal at previous settlement :-

Waste land in the ¹ [Province of agra] which has neither been judicially declared to be part of any mahal, nor included within the boundaries of any mahal at any previous settlement, shall be marked off by the Settlement Officer. And he shall record a proceeding declaring such land to be the property of Government and issue a Proclamation to that effect calling on all persons having any claims on such land to make the same within three months from the date of he proclamation.

1. Substituted by Proclamation No. 996-P dated the 22.3.1902 and the United Provinces (Designation) Act, 1902.

81. Proclamation to be held an advertisement under Act XXIII of 1863 :-

Such proclamation shall be held to be an advertisement of the

disposal of such land within the meaning of Act XXIII of 1863 (an Act to provide for the adjudication of claims to waste lands), Section I, and any person having claims to such land must proceed according to the provisions of that Act; and for the adjudication of such claims, the Settlement Officer shall have the powers of a Collector under that Act.

82. Procedure as to waste land unclaimed or adjudged to belong to Government :-

If no claim is made to the proprietary right of such waste land, or if such waste land is decided to be the property of Government but the proprietor of the adjoining mahal proves that he has theretofore enjoyed the use of such land for pastoral or agricultural purposes, the Settlement Officer may assign to such mahal so much of such waste land as he may consider requisite for such purposes; and he shall mark off the remainder and declare it to be property of Government

83. Settlement of waste land adjudged to belong to claimant :-

If the claimant obtains a decree under the provisions of the said Act, XXIII of 1863, for the whole or part of such waste land, the Settlement Officer shall make the settlement of the land to which a title is so established under the provisions of this Chapter.

84. Arrangements agreed to by co-sharers to be recorded :-

(1) In mahals in which there are more than one proprietor, the Settlement Officer shall record the arrangement agreed to by the persons concerned-

(a) for the distribution of the profits derived from sources common to the proprietary body;

(b) as to the nature and apportionment of the village expenses;

(c) when a mahal, patti, or other sub-division of a mahal is held in joint ownership, as to the manner in which the co-sharers shall contribute to the payment of the revenue fixed on such mahal or distribute on such patti or sub-division by the Settlement Officer;

(d) as to the manner in which lambardars or co-sharers are to collect from the cultivators.

(2) Decision of disputes-If no arrangement is agreed to, the Settlement Officer shall decide all disputes concerning any of the

matters aforesaid in accordance with the existing village custom and frame the record accordingly.

(3) Record of customs--The Settlement Officer shall also ascertain and record the existing village custom in regard to any other which he may be directed to record by rules made under Section 234.

(4) Presumption as to entries-All entries in the record made under this section shall be presumed to be true until the contrary is proved.

85. Arrangement to be determined and recorded :-

The Settlement Officer shall, subject to rules made under Section 234, determine and record-

(a) the amounts of instalments of rent and the respective dates for their payment;

(b) the dates for the payment of any amount payable by inferior to superior proprietor under Section 75;

(c) the dates on which profits shall be divisible by lambardars; and

(d) any other matter which he may be directed by such rules to determine and record.

86. Cesses to be recorded :-

(1) A list of all cesses other than those referred to in Section 56 levied in accordance with village custom shall, if generally or specially sanctioned by the ¹[State Government] be recorded by the Settlement Officer, and no cesses not so recorded shall be recoverable in any Civil or Revenue Court; and no such ¹ shall be altered or added to during the currency of settlement.

(2) Conditions on collection of cesses-The ²[State Government] may, from time to time impose on the collection of any cesses so sanctioned such conditions as to conservancy, police or other establishments connected with the village, bazar, or fair in or on account of which the cesses are levied as it thinks fit.

(3) The ³ [Central Government] may, in case of doubt, declare what shall be a cess within the meaning of this section.

(4) This section shall not apply to Oudh, unless and until a list of cesses as afore-said has been recorded by the Settlement Officer at a revision of settlement in the manner prescribed in this Section.

1. Substituted by A.O. 1950 "Provincial Government".
2. Substituted by A,O. 1950 "Provincial Government".
3. Substituted by A,O.1937 for "Govenor-General in Council".

87. Determination of rent of ex-proprietary and occupancy tenants :-

(1) The Settlement Officer shall, on the application of the landholder or of an exproprietary or occupancy tenant, and may, of his own motion, determine and fix the rents payable by such tenants whether by way of enhancement, abatement or otherwise.

(2) In fixing such rents, the Settlement Officer shall have regard-

(a) in the case of ex-proprietary tenants to the provisions of Section 10 of the ¹[Agra Tenancy Act, 1901], or Section 7-A of the Oudh Rent Act, 1886, as the case may be;

(b) in the case of occupancy tenants-

(i) to the provisions of the ¹[Agra Tenancy Act, 1901], or the Oudh Rent Act, 1886, as the case may be, for the enhancement or abatement of such rents; or

(iii) with the previous sanction of the ³ [State Government] to the rent-rates sanctioned by the Boardan passing orders on the report submitted under Section 63, for similar land with similar advantages in the circle in which the holding of the tenants is situate, or to the special rent-rates (if any) employed for the assessment of the mahal in which such holding is situate:

Provided that when it is proved that by local custom or practice.-

(a) caste is taken into account in determining the rent payable by tenants, or

(b) any elass of persons hold land on favourable rates of rent,

1. Substituted by the United Provinces General Clauses Act, 1904.
3. Substituted by A,O. 1950 "Provincial Government".

88. Power to commute rent in kind etc. to fixed money rents :-

in cases in which rents have heretofore been paid in kind, or on the estimated value of a portion of the crop, or by rates varying with the crop, or partly in one of such ways, and partly in another or others of such ways, application to commute such rent to a fixed money rent may be made to the Settlement Officer either by the

landholder or by any ex-proprietary tenant, or occupancy tenant, or, in Oudh, by any under proprietor or lessee whose rent has been fixed by a Settlement Officer.

89. Procedure on receiving application to commute :-

on receipt of such application, the Settlement Officer shall deal with the case as if it were an application under Section 87, and shall determine the sum to be paid in commutation in accordance with provisions of that section so far as it may be applicable. Provided that the 1[State Government] may empower any Settlement Officer, when any such application made before him is opposed, to refuse, for reason to be recorded by him in writing, to grant the same.

90. Joinder of tenants in applications relating to rent :-

(1) An application for enhancement or abatement or commutation of rent may be brought before a Settlement Officer against or by any number of tenants collectively provided that all such tenants are tenants to the same landholder and all the holdings in respect of which the application is made are situated in the same mahal.

(2) No order shall be passed in any such suit affecting the interests of any person unless the Settlement Officer is satisfied that he has had an opportunity of appearing and being heard.

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

91. Rent from what date payable :-

Any rent fixed by order of the Settlement Officer under this Act shall in the case of an ex-proprietary tenant be payable from the date such ex-proprietary tenancy arose, subject to the law of limitation as to arrears of rent, and in other cases from the first day of July next following the date of such order, unless for some reason to be recorded the Settlement Officer thinks fit to direct that it shall be payable from some earlier date.

92. Inquiry in certain cases of land held revenue-free :-

The Settlement Officer shall inquire into the case of all lands released, conditionally or for a term from the payment of revenue, and shall assess such lands if it appears to him that the conditions have been transgressed or the term has expired.

93. Title to hold revenue-free to be proved. Report to

Government when title proved :-

(1) Any person claiming land free of revenue not recorded as revenue free shall be bound to prove his title to hold such land free of revenue.

(2) If the proves his title to the satisfaction of the Settlement Officer, the case shall be reported to the ¹ [State Government] whose orders thereon shall be final.

(3) Assessment and settlement on failure of proof-- If the title is not so proved, the Settlement Officer shall proceed to assess the land, and to make the settlement of it with the person in actual possession as proprietor.

1. Substituted by A.O. 1950 for "Provincial Government".

94. Confirmation of settlement and revision of assessment :-

(1) No settlement under this Chapter shall be final until it has been confirmed by the ¹[StateGovernment].

(2) Period for which settlement is to be made-The ¹[State Government] shall, when confirming the settlements fix the term thereof.

(3) Revision of assessment before confirmation~Any assessment may be revised, if the ¹ [State Government] so directs at any time before the settlement is confirmed, and in such case the revised assessment shall be declared, and the provisions of Sections 64 to 79 (both inclusive) shall apply.

1. Substituted by A.O.1950 for "Provincial Government".

95. Tenure of land under expired settlement until new settlement is made :-

All persons with whom a settlement of land has been made, shall, if they continue to hold the land after the term of such settlement has expired, hold upon the conditions of such settlement until a new settlement is made.

CHAPTER 6

Revision of assessment and other proceeding during currency of settlement

96. Short-term settlements :-

When the term of settlement fixed for any mahal or class of mahals is less than that fixed for the local area in which they are situated

and such term expires, the Collector shall assess and settle such mahals in accordance with rules made under Section 234.

97. Powers to invest any officer with powers of a Settlement Officer :-

At any time during the currency of a settlement, the ¹[State Government] may invest any officer with the powers of a Settlement Officer under Chapter V within such limits, with such restrictions, and for such period as it thinks fit, but not so as to enable him to enhance the revenue of a mahal.

98. Annual inquiry as to revenue-free grants :-

The Collector shall inquire annually into the case of all lands released conditionally or for a term from the payment of revenue. If the condition is broken, he shall report the case to the Commissioner for orders; and if the term has expired or (where the grant is for the life of the grantee) if the grantee has died, he shall assess the land and report his proceedings to the Commissioner for sanction.

99. Settlement of land added by alluvion, and revision of assessment when culturable area reduced by fluvial action :-

(1) Land added by alluvion to a mahal may be assessed and settled by the Collector in accordance with rules made under Section 234.

(2) When the culturable area of any mahal has been diminished by fluvial action, the Collector may, in the case of a mahal under permanent settlement, grant, suspension of revenue, and in the case of a mahal not under permanent settlement revise the assessment.

100. Determination in Oudh of rent payable by under-proprietor or lessee :-

When such assessment or revision of assessment is made in a holding in Oudh, to which the provisions of Section 79 apply, the Collector shall determine the rent payable by the under-proprietor or lessee in accordance with the provisions of Section 79.

101. Reduction suspension or remission of amount payable by an inferior proprietor or under-proprietor or lessee :-

When the revenue assessed on land held in the ¹ [Province of agra] by an inferior proprietor or in Oudh by a person to whom the provisions of Section 79 apply has reduced or in part suspended or

remitted, the Collector may, subject to rules made under Section 234, make a proportionate reduction, suspension or remission in the amount payable by such inferior proprietor or such person for such land.

1. Substituted by Proclamation No. 996-P dated 22.3.1902 and the United Provinces (Designation) Act, 1902.

102. Collector to have powers of a Settlement Officer :-

(1) For the purpose of making settlements or revising assessments under Sections 96, 98 and 99 the Collector shall have the powers of a Settlement Officer.

(2) No settlement, revision of assessment or suspension of revenue made under the foregoing sections of this Chapter shall be final until it has been sanctioned by the Commissioner.

103. Power to determine revenue of specific areas transferred during settlement :-

If during the currency of a settlement the proprietary possession of any specific area other than a definite share in a mahal is transferred, the Collector may determine the proportion of the revenue payable thereon.

104. Commutation of rent and joinder of tenants in applications relating to rent during the currency of settlement :-

The ¹ [State Government] may, from time to time by notification in the Gazette,-

(a) declare the provisions of Section 88 to 90, in cases of commutation of rent, applicable to any district or portion of a district not under settlement;

(b) declare what officers are empowered to hear and decide applications under Section 88 in such district or portion of a district, and lay down rules for their guidance;

(c) withdraw any notification previously published under this section.

1. Substituted by A.O. 1950 for "Provincial Government."

105. Application and proceedings pending before Record or Settlement Officer when operations are closed :-

When the record or settlement operations are closed by notification

under Section 59, all applications and proceedings then pending before the Record or Settlement Officer shall be transferred to the Collector, who shall have powers of a Record or Settlement Officer for the disposal thereof.

CHAPTER 7

Partition and Union of Mahals

106. Meaning of "partition" :-

"Partition" means the division of a mahal or a part of a mahal into two or more portions, each consisting of one or more shares. In "imperfect partition" the several portions remain jointly responsible for the revenue assessed on the whole mahal. In "perfect partition" the whole mahal is divided and the several portions become separate mahals, each severally responsible for the revenue distributed thereon. The procedure prescribed in this Chapter shall be followed in all partitions, whether imperfect or perfect, except where it is otherwise expressly declared.

107. Application for partition :-

An application for partition shall be accompanied by a certified copy of the annual register of proprietors prescribed by Section 33, and may be presented by one or jointly by two or more of the recorded co-sharers of a mahal: Provided that when a share is in possession of a mortgagee, no application for partition by either mortgagor or mortgagee shall be entertained unless both have joined in such application.

108. Partition of mahal in several districts :-

When a mahal is situated in two or more districts, the partition shall be made in such one of the districts as, if they are in the same division the Commissioner, or, if in different divisions, the Board, may direct.

109. Power to stop a partition :-

(1) If on receipt of the application, or at any other stage of a partition before confirmation, there appears to be any sufficient reason for refusing or stopping the partition, the Collector may, of his own motion or on the report of the Assistant Collector making the partition, stay the partition, and order the proceedings to be quashed.

(2) No mahal shall be formed by perfect partition unless the area thereof is at least one hundred acres, or unless, if the area is less

than one hundred acres the revenue thereof is at least one hundred rupees, and if the application for perfect partition involves the formation of a mahal infringing these conditions it shall be disallowed.

110. Proclamation of application for partition :-

(1) The Collector on receiving an application for partition, shall, if it is in order and not open to objection on the face of it, issue 3 proclandnation cafling on such of the recorded co-sharers in the mahal as have not joined in the application to appear before him either in person or by a duly authorized agent on a day not less than thirty or more than sixty days from the date of the issue thereof, and to state their objections (if any) to the partition. A copy of the proclamation shall, if possible, be served on each co-sharer personally.

(2) Any recorded co-sharer not joining in the original application may, at any time before the date fixed by the proclamation issued under this section, apply for partition, in which case such co-sharer shall be deemed to have joined in the original application: Provided that any such application shall be disallowed if it would involve the formation of a mahal prohibited by sub-section (2) of Section 109.

111. Objection raising question of title :-

(1) If, on or before the day so fixed, any objection is made by a recorded co-sharer, involving a question of proprietary title which has not been already determined by a court of competent jurisdiction, the Collector may either-

(a) decline to grant the application until the question in dispute has been determined by competent court, or

(b) require any party to the case to institute within three months a suit in the Civil Court for the determination of such question, or

(c) proceed to enquire into the merits of the objection.

(2) When the proceedings have been postponed under clause (b), if such party fails to comply with the requisition, the Collector shall decide the question against him. If he institutes the suit the Collector shall deal with the case in accordance with the decision of the Civil Court.

(3) If the Collector decides to enquire into the merits of the

objection, he shall follow the procedure laid down in the Code of Civil Procedure for the trial of original suit.

112. Collectors decrees equivalent to decrees of Civil Court

:-

All decrees passed under sub-section (3) of the preceding section shall be held to be decrees of a Court of Civil Judicature of the first instance, and shall be open to appeal to the District Judge or High Court or the Judicial Commissioner, as the case may be, under the rules applicable to appeals to those Courts, and the Appellate Court may issue a precept to the Collector, desiring him to stay the partition pending the decision of the appeal.

113. Partition by whom to be made :-

When it has been decided to make a partition, the Collector may allow the parties to make the partition themselves, or appoint arbitrators for the purpose, or he may make the partition himself, or cause it to be made by an Assistant Collector. If the partition is made by arbitrators, they shall not be bound by the provisions of Section 117, but they shall deliver an award specifying the portions into which the mahal has been divided, and the names of the parties to whom such portions have been allotted.

114. Partition proceedings :-

If the Collector makes the partition himself, or cause it to be made by an Assistant Collector, the Collector or Assistant Collector shall record a proceeding- declaring the, nature and extent of the interests of the persons applying for the partition and of any other persons who may be affected thereby, detailing how the partition is to be made, and deciding all disputed questions that may have arisen in connection therewith. If such proceeding is recorded by an Assistant Collector, it shall be submitted to the Collector for confirmation.

115. Power to hold mahal under direct management pending completion of partition :-

When it has been decided to make a partition the Collector may, with the sanction of the Commissioner, hold the mahal under direct management pending the completion of the partition. The collections of the mahal shall be applied to the payment of the revenue, the expenses of management, the costs of partition, and any other expenses with which the mahal is chargeable, and any surplus shall be divided amongst the recorded co-sharers in proportion to their respective shares at such times as the profits are

ordinary divisible.

116. Estimate and levy of costs :-

When the partition proceeding has been confirmed under Section 114, the Collector shall cause the cost of making the partition to be estimated, and shall direct that the cost be levied in the first instance from the applicant for partition or from all the co-sharers in the mahal, in such instalments and at such times during the progress of the partition as may be prescribed by rules under Section 234. If the amount first estimated is found insufficient, supplementary estimates may be made from time to time, and the additional amount may be levied as above provided. The Board shall make rules for determining the costs of partitions under this Act and the mode in which such costs are to be apportioned:

Provided that the cost of surveying a mahal, when such survey is necessary for the purpose of partition, shall be paid rateably by all the co-shares of the mahal, according to their shares therein.

117. Partition of lands held in severalty or in common :-

in making a partition the Collector shall subject to the provisions of Sections 122, 123 and 125, first allot to the applicant such lands (if any) as are held by him as his sir or in severalty and then so much of the lands held in common (if any) as shall give him, as far as may be, a portion of the mahal proportionate in value to his share therein, unless there is any viliage custom to the contrary or the parties otherwise agrees.

118. Building of one sharer on land allotted in another :-

If, in making a partition, it is necessary to include in the portion allotted to one co-sharer the land occupied by a dwelling-house or other building in the possession of another co-sharer, the latter shall be allowed to retain it with the buildings thereon, on condition of his paying for it a reasonable ground rent to the co-sharer in whose portion it may be included. The limits of such land and the rent to be paid for it shall be fixed by the Collector. in such cases a defined pathway shall, as far as possible, be secured to the owner of the house, leading from his house to some public highway or some portion of the separate estate allotted to him.

119. Rule contained in the last preceding section applicable to gardens etc :-

The rule contained in the last preceding section may be applied to gardens, orchards or any other lands of special value to the

proprietor in occupation thereof, in consequences of improvements made by him or of the particular use to which such lands are put.

120. Tanks, wells, water-courses and embankments :-

Tanks, wells, water-courses and embankments shall be considered as attached to the land for the benefit of which they were originally made. When, from the extent, situation or construction of such works, it is necessary that they should continue the joint property of the proprietors of two or more of the portions into which the mahal may be divided, the Collector shall determine the extent to which the proprietors of each portion may use the said works and the proportion in which the charges for repairs thereof shall be borne by such proprietors and the manner in which the profits (if any) derived therefrom shall be divided.

121. Places of worship and burial-grounds :-

Places of worship and burial-grounds held in common before the partition shall continue to be so held, unless the persons holding them otherwise decide, by an agreement, which shall be filed with the record.

122. Exchange of sir and severalty by consent :-

The Collector shall, unless there be any reasonable objection thereto, give effect to any exchange of lands held as sir or in severalty, and forming part of the mahal, agreed to by the parties before the confirming of the partition.

123. In imperfect partitions transfer of sir and severalty, barred without consent :-

In making an imperfect partition no land held as sir or in severalty by one co-sharer shall, without his consent, be included in the portion allotted to another co-sharer: Provided that when any co-sharer holds more land as his sir than the area of his share, the excess may be so included without his consent.

124. In compactness a reason for disallowing perfect partition :-

In making a perfect partition the several portions shall be made as compact as possible, provided that except with the sanction of the Board, no partition shall be disallowed solely on the ground of incompactness.

125. Transfer of sir and severalty perfect partitions :-

in making a perfect partition, if the partition cannot otherwise be conveniently carried out, or the portions cannot otherwise be made

compact the Collector or with the sanction of the Collector, the Assistant Collector making the partition may, without the cc ,sent of the parties concerned, including the portion allotted to one co-sharer land held as sir or in severalty by another co-sharer, provided no reasonable objection thereto is shown.

126. Sir of one sharer included in portion allotted to another :-

When any exchange of sir has been effected such sir shall become the sir of the co-sharer in whose portion it is included; and when any land held as sir by any co-sharer is included in the portion allotted to another co-sharer, othenwise than by exchange of sir, and the former continues to cultivate it after partition, he shall be an ex-proprietary tenant thereof, and the rent to be paid therefore shall be fixed by the Collector before the partition is confirmed.

127. Certain other land to be treated as sir :-

For the purposes of allotment under Sections 117,123 and 125, land cultivated by a co-sharer, which if his proprietary rights were transferred, he would be entitled to hold as an ex-proprietary tenant under the provisions of Section 10 of the ¹ [agra Tenancy Act, 1901], or Section 7-A of the Oudh Rent Act, 1886, as the case may be, shall be treated as sir; and when such land is included in the portion allotted to another co-sharer, the provisions of Section 126 shall apply.

1. Substituted by the United Provinces General Clauses Act, 1904.

128. Division of tenants holding :-

When in the course of partition the holding of any tenant is divided, the Collector shall distribute the rent of the holding over the parts divided off.

129. When perfect partition has bee disallowed imperfect partition may be granted :-

When a perfect partition has been disallowed under Sections 109, or 124, the Collector may, if the applicant for partition so desire, make an imperfect partition without a fresh application.

130. Distribution of revenue on partition :-

In all cases, whether partition has been made by arbitrators or othenwise, the revenue of the mahal shall be. distributed by the Collector over the several portions into which the mahal is divided.

131. Confirmation of partition :-

A partition shall not be complete until the Collector has passed an order confirming it. When the partition has been confirmed the Collector shall issue a proclamation thereof, and the partition shall take effect from the first day of July next following the date of such proclamation.

132. Appeals in cases of partition :-

(1) Partition shall not be stayed by reason of any appeal against any order passed by an Assistant Collector other than an order under Section 111.

(2) When a partition-proceeding has been submitted to the Collector for confirmation under Section 114 he shall proceed, after the expiry of the period allowed for appeal against a partition-proceeding, to decide all appeals against orders previously passed by the Assistant Collector, and all appeals against the partition-proceeding itself, and shall then confirm the partition-proceeding or pass such other orders as he thinks fit.

(3) When a partition has been submitted to the Collector for confirmation under Section 131 he shall proceed to decide all appeals against orders of the Assistant Collector passed since the partition-proceeding was confirmed and shall then confirm the partition or pass such other orders as he thinks fit.

133. Orders appealable :-

(1) Subject to the provisions of Section 112 an appeal shall lie from the following orders by a Collector passed in course of a partition and from no other such orders:

(a) Orders under Section 109, staying a partition and quashing proceedings, or disallowing partition.

(b) Orders under Section 114, recording a partition-proceeding.

(c) Orders under Section 132, sub-section (2), relating to partition proceeding.

(d) Orders under Section 132, sub-section (3) relating to the confirmation or otherwise of a partition.

(2) An appeal against the decision of the Collector confirming a partition under Section 131 shall lie to the Commissioner of the division within six months from the date on which such partition takes effects.

134. Partition of two or more mahals belonging to the same proprietors :-

When applications for the partition of two or more mahals belonging to the same proprietors are made, the Collector may proceed to make a partition as if the mahals in question were a single mahal. Such partition shall be made in accordance with the provisions of this Chapter so far as they are applicable, and, if possible, in such manner as to allot to the applicant one or more of the existing mahals.

135. Division of complex mahals :-

When a mahal consists of two or more villages or portions of villages, the ¹ [State Government] may direct its division into as many mahals as may be necessary for administrative convenience. On receipt of such direction the Collector shall, after considering any representations made by the proprietors distribute the revenue of the whole mahal over the several mahals into which it is divided, in accordance with rules made under Section 234, and shall correct the annual registers accordingly. The mahals so formed shall be severally responsible for the revenue distributed thereon.

1. Substituted by A.O.1950 for "Provincial Government."

136. Fraudulent or erroneous distribution of revenue :-

When in making a division under the last section or in making a perfect partition the revenue has, owing to fraud error, been wrongly distributed, the Board may, within twelve years from the date of an order under Section 35 or of confirmation of partition by the Collector, order such a distribution of the revenue of the original mahal over the several mahals into which it is divided as but for the error or fraud would have been made at the time of partition.

137. Under-assessed estates to refund to over assessed estates :-

The Board may in any case under Section 136 direct that any proprietor whose mahal has been found to have been under-assessed shall for each year, not exceeding three years in all, in which he has held possession, of his separate mahal be required to pay to the recorded proprietor of any mahal which has been over-assessed a sum equal to the annual amount in which the latter shall be found to have been over-assessed, and in default of payment the amount shall be recovered as an arrear of revenue and paid to the proprietor to whom it is due. No order passed under

this section shall be questioned in any Civil or Revenue Court.

138. Partition of taluqdari and under-proprietary mahals, etc :-

(1) The partition of taluqdari and under-proprietary mahals, and of mahals held by lessees whose rent has been fixed by the Settlement Officer or other competent authority shall be carried out according to the provisions of this Chapter, so far as they are applicable.

(2) In the partition of taluqdari mahals all mahals whether under-proprietary or held by lessees whose rent has been fixed by the Settlement Officer or other competent authority shall, if practicable, be allotted to one or other of the new taluqas to be formed by the partition.

(3) If such allotment cannot be made the division shall be made as far as possible by existing sub-divisions, and each portion so divided off shall be deemed a separate mahal and the joint responsibility of the co-sharers shall be limited to such portion.

(4) The rent payable on each portion so divided off shall be fixed by the Collector and all objections to the distribution shall be decided by him.

(5) No partition of a taluqdari mahal under (his section shall be proceeded with without the sanction of the ¹ [State Government] previously obtained.

1. Substituted by A.O.1950 for "Provincial Government."

139. Union of mahals forming part of the same viliage :-

If two or more revenue-paying mahals form portions of the same viliage, the proprietor may apply to the Collector for the union of the same into a single mahal, and the Collector may, at his discretion, grant such application, and in such case shall correct the annual registers accordingly.

140. Partition and union of revenue free mahals :-

The provisions of this Chapter so far as they are applicable, may, at the discretion of the Collector, be applied to the partition or union of revenue-free mahals.

CHAPTER 8

Collector of Revenue

141. Revenue the first charge on a mahal :-

in the case of every mahal the revenue assessed thereon shall be the first charge on the entire mahal, and on the rents, profits or produce thereof. The rents, profits or produce of a mahal shall not be applied in satisfaction of a decree or order of any Civil Court until all arrears of revenue due in respect of the mahal have been paid.

142. Responsibility for revenue :-

All the proprietors of a mahal are jointly and severally responsible to Government for the revenue for the time being assessed thereon, and all persons succeeding to proprietary possession therein, otherwise than by purchase under Section 160, shall be responsible for all arrears of revenue due at the time of their succession. Explanation-"Propnetoi" in this Chapter means a person in proprietary possession for his own benefit and includes a mortgagee and a lessee of proprietary rights.

143. Rules as to payment of revenue arrears and defaulters

:-

The Revenue shall be paid in such instalments to such persons and at such times and places as may be prescribed by rules made under Section 234, and any sum not so paid becomes an arrear of revenue, and the persons responsible for it whether as co-sharers or as lambardars, become defaulters. Interest not chargeable- No interest shall be demanded on any arrears of revenue.

144. Payment through lambardars :-

The revenue shall be paid through the lambardar, who subject to rules made under Section 234, shall be remunerated by such fees, to be paid by the other proprietors, not exceeding five per cent on the revenue payable in respect of their shares, as the Board may prescribe.

145. Certified account to be evidence as to arrear :-

A statement of account, certified by the Tahsildar shall; for the purposes of this Chapter, be conclusive evidence of the existence of the arrear, of its amount, and of the person who is the defaulter.

146. Process for recovery of revenue :-

An arrears of revenue may be recovered by one or more of the following processes;

(a) by serving a writ of demand or a citation to appear on any of the defaulters;

- (b) by arrest and detention of his person;
- (c) by attachment and sale of his movable property;
- (d) by attachment of the specific area, share, pattior mahal in respect of which the arrear is due;
- (e) by transfer of such share or patti to a solvent co-sharer in the mahal;
- (f) by annulment of the settlement of such pattior of the whole mahal;
- (g) by sale of such specific area of pattior of the whole mahal;
- (h) by sale of other immovable property of the defaulter.

147. Writ of demand and citation to appear :-

When an arrear of revenue becomes due, a writ of demand calling on the defaulter to pay the amount within a time therein stated, or a citation to appear, may issue.

148. Arrest and detention :-

The defaulter may be arrested and detained in custody for fifteen days, unless the arrear, and the costs of arrest and detention are sooner paid;

149. Attachment and sale of movable property :-

The Collector may, whether the defaulter has been arrested or not attach and sell his movable property. Every attachment and sale ordered under this section shall be made according to the law in force for the time being for the attachment and sale of movable property under the decree of a Civil Court. In addition to the particulars mentioned in clauses (a) to (n) of Section 266 of the Code of Civil Procedure articles set aside exclusively for the use of religious endowments shall be exempt from attachment and sale under this section. The costs of the attachment and sale shall be added to the arrear of revenue, and shall be recoverable by the same procedure.

150. Attachment of land :-

The Collector may, in addition to, or instead of any of the other processes hereinbefore specified attach, and take under his own management, any specific area, share, patti or mahal in respect of which an arrear is due, but no land shall be held under attachment for the same arrear for a term exceeding three years from the first

day of July next following the attachment:

Provided that if the arrear is sooner liquidated, the land shall be released and the surplus receipts (if any) made over to the defaulter or his legal representative.

151. Powers and obligations of manager :-

While any land is so held under direct management the Collector shall be bound by any engagement which at the time of attachment existed between the defaulter and the inferior proprietors, under-proprietors, or tenants, and shall be entitled to manage the property so attached and to receive all rents and profits accruing therefrom. The collections of the property so attached shall be applied to the payment of any instalment of revenue which may become due after attachment and of the cost of attachment and management, and any surplus shall be applied to discharging the arrear on account of which the attachment was made.

152. Transfer of defaulters share :-

When the arrear is due in respect of share or patti or a mahal, the Collector may, in addition to, or instead of, any of the processes hereinbefore specified, with the previous sanction of the Commissioner, transfer such shares or patti for a term not exceeding fifteen years from the first day of July next after the date of the sanction, to all or any of the co-sharers of the mahal other than the proprietors of such share or patti on condition of their paying the arrear, and on such as the Commissioner in each case may prescribe. Such transfer shall not affect the joint and several liability of the co-sharers of the mahal in which it is enforced. When the term of transfer has expired the share or patti shall be restored to the proprietors thereof free of any claim on the part of Government or the transferee for any arrear in respect of such share or patti.

153. When settlement may be annulled :-

When the Collector is of opinion that the processes hereinbefore specified are not sufficient for the recovery of such arrear, he may in addition to or instead of all or any of such processes, report the matter, and the Board in the case of a taluqa or part of a taluqa in Oudh the ¹ [State Government] may thereupon order the existing settlement of the patti or mahal in respect of which the arrear is due to be annulled. The provisions of this section shall not be put in force for the recovery of any arrear of revenue which may have

accrued on land

(a) while under attachment;

(b) while under the charge of the Court of Wards; or

(c) which is permanently settled.

1. Substituted by A.O. 1950 for "Provincia! Government".

154. Management during annulment :-

When the settlement of any land has been annulled the Collector may, with the previous sanction of the Commissioner, either manage the land himself or he may let it inform, for such term and on such conditions as may be sanctioned by the Commissioner: Provided that no land may be so managed or let for a term exceeding fifteen years from the first day of July next after the date of such annulment: All contracts relating to such land previously made by the defaulter, or any person through whom he claims, and all grants liable to resumption under the law for the time being in force, shall become voidable at the option of the Collector or the farmer.

155. Proclamation of attachment or annulment of settlement :-

When the Collector attaches any land under Section 50, or transfers it under Section 152, or when the settlement of any land has been annulled under Section 153, he shall issue a proclamation thereof.

156. Payments to defaulter thereafter or in anticipation of due date not to air charge payee :-

No payment on account of rent or any other asset of the land, made after the date of such proclamation, or in anticipation of due date, to any person other than the Collector, the transferee or the farmer, shall relieve him from liability for payment to the Collector, the transferee or the farmer, as the case may be.

157. Recovery of balance due by farmer :-

When any land has been let in farm under Section 154 or Section 159, any sum due by- the farmer under his lease may be recovered from him or his surety (if any) as if it were an arrear of revenue.

158. Joint responsibility for revenue suspended during annulment :-

When the settlement of any patti is annulled under Section 153, the joint responsibility of the co-sharers of the mahal for the

revenue of such patti shall be in abeyance from the date of such annulment until a new settlement of such patti is made under Section 159.

159. Settlement on expiry of period for which land is farmed or taken under management :-

When the period for which any land has been managed or framed under Section 154 has expired the Collector shall offer to the person entitled to settlement under Section 65 a new settlement on such conditions as the Board or in the case of a taluqa or part of a taluqa the ¹ [State Government] may direct for the remainder of the term of the original settlement. If such offer is refused, the Collector may, with the sanction of the Commissioner, deal with the land for the remainder of the term of the original settlement in accordance with the provisions of Sections 68 to 74 (inclusive) so far as they are applicable.

1. Substituted by A.O. 1950 for "Provincia! Government".

160. Sale of defaulters specific area, patti or mahal :-

When the Collector is of opinion that the other processes hereinbefore specified are not sufficient for the recovery of an arrear he may, in addition to, or instead of, all or any such other processes, with the previous sanction of the Board, or, in the case of a taluqa or part of a taluqa in Oudh, the ¹ [State Government], sell by auction the specific area, patti or mahal in respect of which such arrear is due;

Provided that no specific area, patti or mahal shall be sold for any arrear which may have accrued while it was

- (a) under the management of the Court of Wards;
- (b) under direct management by the Collector; or
- (c) in farm under the provisions of this Act.

1. Substituted by A.O. 1950 for "Provincia! Government".

161. Land to be sold free of incumbrances :-

(1) Land sold under the last preceding section shall be sold free of incumbrances; and all grants liable to resumption under the law for the time being in force, and all contracts previously made by any person other than the purchaser in respect of such land, shall become voidable at the option of the purchaser at the auction sale.

(2) Nothing in sub-section (1) applies

(a) in mahals permanently settled, to lands held under written leases duly registered, granted in good faith at fair rents and for specified areas, by a former proprietor for terms not exceeding twenty years;

(b) in all mahals to lands held under bonafide leases at fair rents, temporary or perpetual, for the erection of dwelling houses or manufactories or for mines, gardens, tanks, canals, places of worship, burying-grounds such lands continuing to be used for the purposes specified in such leases.

(3) Notwithstanding anything contained in sub-section (11), the Board with the sanction of the [State Government] may, at any time before the sale has been made, direct that it be made subject to such interests or rights in land created by the proprietor in possession thereof, or any person through whom he claims, as it thinks fit.

162. Power to proceed against interest of defaulter in property other than that in respect of which default is made

:-

(1) If an arrear cannot be recovered by any of the above processes and the defaulter owns, or is in possession of any other mahal, or any share in any other mahal, or any other immovable property, the Collector may proceed against such mahal, or share or

Provided that no interests save those of the defaulter alone shall be affected by such process, and when such property is sold, the provisions of Section 161 shall not apply to such sale.

(2) Sums of money recoverable as arrears of revenue, but not due in respect of any specific land, may be recovered by process under this section against any immovable property of the defaulter.

163. Proclamation of sale :-

When the sale of any land or other immovable property has been sanctioned under Section 160 or Section 162, the Collector shall issue a proclamation of the intended sale, specifying the land to be sold, and the revenue (if any) assessed thereon, the arrears, for which it is to be sold, the time and place of sale, whether or not the land is to be sold free of incumbrances under Section 161, and any other particulars the Collector may think necessary. A copy of the

proclamation shall be served on the defaulter.

164. Sale when and by whom to be made :-

Every sale under this chapter shall be made either by the Collector in person or by an Assistant Collector specially appointed by him in this behalf. No such sale shall take place on a Sunday or other authorized holiday, or until after the expiration of at least thirty days from the date on which the proclamation thereof was issued. The Collector may from time to time postpone the sale.

165. Prohibition to bid for or acquire the property sold :-

No offer having any duty to perform in connection with any such sale, and no persons employed by or subordinate to such officer shall, either directly or indirectly, bid for, acquire or attempt to acquire, except on behalf of the Government or the Court of Wards, the property sold or any interest therein.

166. When sale may be stayed :-

If the defaulter pay the arrear in respect of which the land is to be sold, at any time before the day fixed for the sale, to the person appointed under Section 143 to receive payment of the revenue assessed on such land, or to the Collector, or the Assistant Collector in charge of the sub-division in which the land is situated, the sale shall be stayed.

167. Deposit by purchaser, re-sale in default of deposit :-

The person declared to be the purchaser shall be required to deposit immediately twenty-five per cent of the amount of his bid and in default of such deposit the land shall forthwith be again put up and sold; and such person shall be liable for the expenses attending the first sale and any deficiency of price which may occur on the re- sale, which may be recovered from him by the Collector as if the same were an arrear of revenue.

168. Purchase-money when to be paid :-

The full amount of purchase-money shall be paid by the purchaser at the Collector's office on or before the fifteenth day from the date of the sale. Effect of default.-And if the purchase-money is not so paid the deposit, after the expenses of the sale have been defrayed therefrom, shall be forfeited to Government and the property shall be re-sold and the defaulting purchaser shall forfeit all claims to the property, or to any part of the sum for which it may be subsequently sold.

169. Liability of purchaser for loss by re-sale :-

If the proceed of the sale which is eventually made are less than the price bid by such defaulting purchaser, the difference shall be recoverable from him as if it were an arrear of revenue:

170. Proclamation before re-sale :-

No sale after postponement under Section 164, and on re-sale under Section 167 in default of payment of the purchase-money, shall be made until a fresh proclamation has been issued as prescribed for the original sale.

171. Sale to be reported to Commissioner :-

Every sale of land or other immovable property under this Act shall be reported by the Collector to the Commissioner.

172. Application to set aside sale on deposit of arrear, etc :-

(1) Any person whose land or other immovable property has been sold under this Act may, at any time within thirty days from the date of sale, apply to have the sale set aside on his depositing in the Collector's office

(a) For payment to the purchaser, a sum equal to five per cent, of the purchase-money;

(b) For payment on account of the arrear, the amount specified in the proclamation of sales as that for the recovery of which the sale was ordered, less any amount which may, since the date of such proclamation of sale, have been paid on that account; and

(c) The costs of the sale. If such deposit is made within thirty days, the Collector shall pass an order setting aside the sale:

Provided that if a person applies under Section 173 to set aside such sale, he shall not be entitled to make an application under this section:

Provided also that if the land has been sold free of incumbrances under Section 161, the incumbrances shall be revived as soon as the sale is set aside under this section.

(2) Every application to set aside a sale under this section, and the final order passed thereon, shall be immediately reported by the Collector to the Commissioner.

173. Application to set aside for irregularity, etc :-

at any time within thirty days from the date of the sale, application may be made to the Commissioner to set aside the sale on the

ground of some material irregularity or mistakes in published or conducting it; But no sale shall be set aside on such ground unless the applicant proves to the satisfaction of the Commissioner that he has sustained substantial injury by reason of irregularity or mistake.

174. Order confirming or setting aside sale :-

on the expiration of thirty days from the date of the sale, if no such application as is mentioned in Section 172 or 173 has been made, or if such application has been made and rejected, the Commissioner shall pass an order confirming the sale; and if such application under Section 173 is made and allowed, the Commissioner shall pass an order setting aside the sale. Every order under this section shall be final.

175. Bar of claims founded on irregularity or mistake :-

If no application under Section 173 is made within the time allowed therefor, all claims on the ground of irregularity or mistake in publishing or conducting the sale shall be barred. Nothing herein contained shall bar the institution of a suit in the Civil Court for the purpose of setting aside a sale on the ground of fraud.

176. Refund of Purchase money when sale set aside :-

Whenever the sale of any land or other immovable property is set aside under Section 174, the purchaser shall be entitled to receive back his purchase-money, with interest at such rate not exceeding six per cent per annum, or without interest, as the Commissioner, thinks fit.

177. Purchaser to be put in possession, Certificate of purchase :-

After a sale of land or other immovable property under this Act has been confirmed in the manner aforesaid the Collector shall put the person declared to be purchaser into possession of such property, and shall grant him a certificate to the effect that he has purchased the property to which the certificate refers, and such certificate shall be deemed to be a valid transfer of such property, but need not be registered as a conveyance except as provided by Section 89 of the Registration Act, 1877. If land has been sold under Section 160 on account of an arrear of revenue due in respect thereof, the certificate shall also state that the purchaser has purchased the land to which the certificate refers free of every incumbrance other than the leases mentioned in sub-section (2) of Section 161 and the interests or rights specified by the Board under sub-section (3) of Section 161.

178. Brief suit against certified purchaser :-

The certificate shall state the name of the person declared at the time of sale to be actual purchaser, and any suit brought or application made in a Civil or Revenue Court against the certified purchaser on the ground that the purchase was made on behalf of another person not the certified purchaser, though by agreement the name of the certified purchaser was used, shall be dismissed with costs.

179. Application of proceeds of sale :-

When a sale of land under this Act has been confirmed, the proceeds of the sale shall be applied in the first place to the payment of any arrears, including costs incurred for the recovery thereof, due to the Government from the defaulter at the date of the confirmation of the sale, whether the arrears are of revenue, or of sums recoverable as arrears of revenue; and in the second place, if the sale took place for the recovery of an amount recoverable as an arrear of revenue, but not due to Government, to the payment of that amount including costs as aforesaid. and the surplus (if any) shall be paid to the person whose land has been sold; or, if the land sold was held in shares, then to the co-sharer collectively, or according to the amount of their recorded interest, at the discretion of the Collector.

180. Surplus not to be paid to creditors nor retained by Government except under order of court :-

Such surplus shall not, except under an order of a Civil or Revenue Court, be paid to any creditor of the person whose land has been sold, nor shall it (except under a like order) be retained by the Collector.

181. Liability of purchaser for revenue :-

The person named in the certificate of title as purchaser of any land shall be liable for all instalments of revenue becoming due in respect of such land after the date of the confirmation of the sale.

182. Pre-emption by co-sharers :-

When any land sold under Section 160 or 162 is a portion of a mahal, any recorded co-sharer in the mahal other than the person whose land has been sold, may, if the lot has been knocked down to a stranger, claim to take the said land at the sum last bid:

Provided that the said demand of pre-emption be made on the day of sale, and before the officer conducting the sale has left the office

for the day; and provided that the claimant fulfils all the other conditions of the sale:

Provided also, that, in Oudh, a demand of pre-emption may be made by a proprietor or under proprietor, subject to the same conditions as in Section 155 of the Oudh Rent Act, 1886.

183. Payment under protest and suit for recovery :-

Whenever proceedings are taken under this chapter against any person for the recovery of any arrear of revenue, he may pay the amount claimed under protest to the officer taking such proceedings, and upon such payment the proceedings shall be stayed and the person against whom such proceedings were taken may sue the ¹ [State Government] in the Civil Court for the amount so paid. and in such suit the plaintiff may, notwithstanding anything contained in Section 145, give evidence of the amount (if any) which he alleges to be due from him. No protest under this section shall enable the person making the same to sue in the Civil Court, unless it is made at the time of payment in writing and signed by such person or by an agent duly authorized on his behalf.

1. Substituted by A.O. 1950 for "Provincia! Government".

184. Recovery of arrears due ff om co-sharers paid by a lambardar :-

Any lambardar who has paid an arrear of revenue due on account of the share of any co-sharer whom he represents may, within six months from the date of such payment, apply in writing to the Collector to recover such arrear together with any fees due under Section 144 on his behalf as if it were an arrear of revenue payable to Government. The Collector shall on receipt of such application satisfy himself that the amount claimed is due to the lambardar and may then subject to rules made under Section 234, proceed to record, as if it were an arrear of revenue, such amount with costs and interests from the said co-sharer or any person in possession of his share. The Collector shall not be made a defendant to any suit in respect of an amount for the recovery of which an order has been passed under this section. No appeal shall lie from an order of a Collector under this section; but nothing herein contained, and order passed under this section, shall debar a lambardar or a cosharer from maintaining a suit under Chapter XT, ¹ [agra Tenancy Act, 1901] or Section 108, Oudh Rent Act, 1986, as the case may be.

1. Substituted by the United Provinces General Clause Act, 1904 (I of 1904).

185. In Oudh rent of under-proprietor recoverable as revenue :-

in Oudh whenever a mahal or patti is held sub-settlement, or under a heritable, non-transferable lease, the rent payable under which has been fixed by the Settlement Officer or other competent authority, and the rent of such mahal or patti falls into arrear the proprietor instead of suing under the Oudh Rent Act, 1886, may, within one year from the accrual of such arrear, apply in writing to the Collector to realize the same, Collector and the shall, after satisfying himself that the amount claimed is due, proceed, subject to rules made under Section 234, to recover such amount with costs, but without interest, as an arrear of revenue. If a sub-settlement has been annulled under this section, a new sub-settlement shall be made on the expiration of the period of such annulment in accordance with Section 79.

186. Rent of land held by proprietor of mahal attached, etc. as expropriary tenant, to be fixed by Collector :-

When any mahal or portion of a mahal is attached, transferred, taken under direct management, or farmed under the provisions of Chapter V or of this chapter, the Collector shall fix a rent to be paid by any proprietor or co-sharer of such mahal or portion of a mahal on account of the land which, if his proprietary rights were transferred, he would be entitled to hold as an ex-proprietary tenant, in accordance with the provisions of Section 10¹ [Agra Tenancy Act, 1901], or Section 7-A, Oudh Rent Act, 1887, as the case may be.

1. Substituted by the United Provinces General Clause Act, 1904 (I of 1904).

187. Rent of land held by under proprietor in Oudh as expropriary tenants :-

When in Oudh any mahal or portion of a mahal, held by an under-proprietor is attached, transferred, held under direct management, or farmed, under the provisions of Chapter V or of this Chapter the Collector shall fix the rent to be paid by such underproprietor on account of the land which, if his under-proprietary rights were transferred he would be entitled to hold as an ex-proprietary tenant in accordance with the provisions of Section 7-A of the Oudh Rent Act, 1886.

188. Provisions applied in arrears due at commencement of Act :-

The provisions of this Act with regard to the recovery of arrears of revenue shall apply to all arrears or revenue and sums of money recoverable as arrears of revenue due at the commencement of this Act.

CHAPTER 9

Procedure of revenue courts and revenue officer

189. Place for holding court :-

A Commissioner may hold his Court at any place within his division. An Additional Commissioner may hold his Court at any place within the division or divisions to which he is appointed. A Collector, an Assistant Collector (whether in Charge or not of a sub-division of a district), a Record Officer, an Assistant Record Officer a Settlement Officer, or an Assistant Settlement Officer, may hold his Court at any place within the district to which he is appointed. A Tahsildar may hold his Court at any place within his tahsil.

190. Power to enter upon and survey land :-

The Collector, Settlement Officer, Record Officer, and their assistants, subordinates, servants, agents and workmen may enter upon and survey land, and demarcate boundaries and do all acts necessary for any purpose connected with their duties under this or any other Act.

191. Power of Board or Commissioner to transfer cases :-

The Board or a Commissioner may transfer any case or class of cases, whether judicial or non-judicial, from any subordinate Revenue Court or Revenue Officer to any other such Court or officer competent to deal therewith.

192. Power to transfer cases to and from subordinates :-

The Collector, an Assistant Collector in charge of a sub-division of a district, a Tahsildar, a Record Officer, or a Settlement Officer may make over any case or class of cases, arising under the provisions of this Act or otherwise for inquiry or decision, from his own file to any of his subordinates competent to deal with such case or class of cases; or may withdraw, any case or class of cases from any Revenue Officer, subordinate to him, and may deal with such case or class of cases himself or refer the same for disposal to any other such Revenue Officer competent to deal therewith.

193. Power to summon persons to give evidence and

produce documents :-

Any Revenue Court may summon any person whose attendance it considers necessary for the purpose of any investigation, suit or other business before it. All persons so summoned shall be bound to attend, either in person or by an authorised agent, as such court may direct, and to state the truth upon any subject respecting which they are examined or make statements, and to produce such documents and other things as maybe required:

Provided that persons exempt from personal attendance in the Civil Court under Sections 640 and 641 of the Code of Civil procedure 1882 shall subject to the provisions of those sections be exempt from personal attendance under this section.

194. Procedure in case of non-compliance with summons :-

If any person, on whom a summons to give evidence or produce a document has been served, fails to comply with the summons, the officer by whom the summons has been issued may exercise the powers conferred on Civil Courts by Section 174 of the Code of Civil Procedure, 1882.

195. Summons to be in writing, signed, and sealed :-

Every summons shall be in writing in duplicate, and shall be signed and sealed by the officer issuing it, or by such person as he empowers in this behalf. [Mode of serving notices. Service in district other than that of issue].-- and shall be served by tendering or delivering a copy of it to the person summoned, or, if he cannot be found, by affixing a copy of it to some conspicuous part of his usual residence, and if such person resides in another district, the summons may be sent by post to the Collector of that district for service.

196. Mode of serving summons :-

Every notice under this Act may be served either by tendering, delivering, or sending a copy thereof by post, in a cover registered under the Indian Post Office Act, 1898, to the person on whom it is to be served or, if such person is a proprietor of land to his agent; or by affixing a copy thereof at some place of public resort on or adjacent to the land to which such notice refers.

197. Mode of issuing proclamations :-

Whenever a proclamation is issued under this Act copies thereof shall be pasted in the Court-house of the officer issuing it, at the headquarters of the tahsil the land to which it refers is situated,

and at some place of public resort on or adjacent to the land to which it refers, and if the officer issuing it so direct, the proclamation shall be further published by beat of drum on or near the land to which it refers.

198. Notice and proclamation not void for error :-

No notice or proclamation shall be deemed void on account of any error in the name or designation of any person or in the description of any land referred to therein, unless such error has produced substantial injustice.

199. Procedure for procuring attendance of witnesses :-

If in any proceeding of a judicial nature pending before any Revenue Court, either party desires the attendance of witnesses, he shall follow the procedure prescribed by the Code of Civil Procedure. (Sections 160,161, and 162).

200. Hearing in absence of party :-

Whenever any party to such proceeding neglects to attend on the day specified in the summons, the case may be heard and determined in his absence.

201. No appeal from orders passed ex-parte or by default :-

No appeal shall lie from an order passed under Section 200 ex-parte or by default. Rehearing on proof of good cause for non-appearance.-- But in all such cases, if the party against whom judgment has been given appears either in person or by agent (if a plaintiff, within fifteen days from the date of such order, and if a defendant, within fifteen days after such order has been communicated to him, or after any process for enforcing the judgment has been executed or at any earlier period), and shows good cause for his non-appearance, and satisfies the officer making the order that there has been a failure of justice, such officer may, upon such terms as to costs or otherwise as he thinks proper, revive the case and alter or rescind the order according to the justice of the case: Order not to be altered without summons to adverse party Provided that no such order, shall be reversed or altered without previously summoning the party in whose favour judgment has been given to appear and be heard in support of it.

202. Correction of errors or omissions :-

Any Court or officer by whom an order has been passed in any proceeding under this Act may, within ninety days of such order, either of his own motion or on the application of a party, correct

any error or omission, not affecting a material part of the case, after such notice to the parties as may be necessary.

203. Power to refer disputes to arbitration :-

The Board, a Commissioner, a Collector, an Assistant Collector of the first class, a Record Officer or an Assistant Record Officer, a Settlement Officer or an Assistant Settlement Officer, may, with the consent of the parties, by order, refer any dispute before it, or him, to arbitration.

204. Procedure in cases referred to arbitration :-

In all cases of reference to arbitration under Section 203, the provisions of Sections 507 to 521 of the Code of Civil Procedure shall apply so far as they are not inconsistent with anything in this Act.

205. Application to set aside award :-

Any application to set aside an award shall be made within ten days after the day appointed for hearing the award.

206. Decision according to award :-

If the officer making the reference does not see cause to remit the award or any of the matters referred to arbitration for reconsideration, and if no application has been made to set aside the award, or if he has refused such application, he shall decide in accordance with the award, or if the award has been submitted to him in the form of a special case, according to his own opinion in such case.

207. Bar to appeal any suit in Civil Court :-

Such decision shall be at once carried out, and shall not be open to appeal unless the decision is in excess of, or not in accordance with, the award, or unless the decision is impugned on the ground that there is no valid award in law, or in fact: and no person shall institute any suit in the Civil Court for the purpose of setting it aside or against the arbitrators on account of their award.

208. Recovery of fines and costs :-

AH fees, fines, costs, other than costs between party and party and other moneys ordered to be paid under this Act, shall be recoverable as if they were an arrear of revenue. A Revenue Court shall have power, subject to any special provisions in this Act, to give and apportion costs due under this Act in any proceedings before it in such manner as it thinks fit:

Provided that when land is sold under this section for moneys not payable to Government the provisions of Section 161 shall not apply to such sale.

209. Delivery of possession of immovable property :-

When possession of immovable property is adjudged, the officer making the order may deliver over possession in the same manner, and with the same powers in regard to all contempts, resistance, and the like, as may be lawfully exercised by the Civil Courts, in execution of their own decrees.

CHAPTER 10

Appeals, Reference and Revision

210. Courts to which appeals lie :-

(1) Appeals shall lie under this Act as follows:

(a) to the Collector, Record Officer, or Settlement Officer, from orders passed by any Assistant Collector or Tahsildar, Assistant Record Officer, or Assistant Settlement Officer, respectively;

(b) to the Commissioner from orders passed by a Collector, Record Officer, or Settlement Officer;

(c) to the Board from orders passed by a Commissioner.

(2) For the purposes of this Chapter the word "order" includes a declaration of assessment under Section 64 and a partition-proceeding under Section 114.

(3) An appeal against a declaration or assessment made by an Assistant Settlement Officer shall lie to the Commissioner.

211. First appeals :-

Unless an order is expressly made final by this Act, an appeal shall lie to the Court authorized under Section 210 to hear the same from every original order passed in any proceedings held under the provisions of this Act.

212. Second appeals :-

A second appeal shall lie to the Commissioner or to the Board as the case may be:

(a) when the order of the Commissioner or an order in appeal from a declaration of assessment under Section 64;

(b) when the original order has in appeal been varied, cancelled, or

(c) on any of the following grounds (namely);

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

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

(iii) a substantial error or defect in the procedure as prescribed by this Act, which may have produced error or defect in the decision of the case upon the merits.

Explanation. A variation of the original order in the matter of costs only is not a variation within the meaning of clause (b). Save as above provided, no second appeal shall be allowed.

213. Third appeals :-

A third appeal shall lie to the Board on the following ground and no other (namely): The decision being contrary to some specified law, or usage having the force of law.

214. Limitation for appeals :-

(1) No appeal to the Collector, Record Officer, or Settlement Officer shall be brought after the expiration of thirty days from the date of the order complained of.

(2) No appeal or second appeal to the Commissioner shall be brought after the expiration of sixty days from the date of the order complained of, unless otherwise specially provided in this Act.

(3) No appeal, second appeal, or third appeal to the Board shall be brought after the expiration of ninety from the date of the order complained of.

215. Appeal against order admitting an appeal :-

No appellate shall lie against an order admitting an appeal on the grounds specified in Section 5 of the Indian Limitation Act, 1877.

216. Powers of Appellate Court :-

(1) The Appeal Court may either admit or summarily reject the appeal.

(2) If it admits the appeal, it may reverse, vary, or confirm the order appealed against; or may direct such further investigation to be made or such additional evidence to be taken as it may think necessary; or it may itself take such additional evidence; or it may

remand the case for disposal with such directions as it thinks fit.

217. Power to suspend execution of order of lower Court :-

When an appeal is admitted the Appellate Court may, pending the result of the appeal, direct the execution of the order of the lower Court to be stayed.

218. Power of Commissioner, etc. to call for records and proceedings, and reference to Board :-

The Commissioner, the Collector, the Record Officer, or Settlement Officer may call for and examine the record of any case decided or proceedings held by any officer subordinate to him for the purpose of satisfying himself as to the legality or propriety of the order passed and as to the regularity of the proceedings; and if he is of opinion that the proceedings taken or order passed by such subordinate officer should be varied, cancelled; or reversed, he shall refer the case with his opinion thereon for the orders of the Board; and the Board shall there-upon pass such orders as it thinks fit.

219. Power of Board to call for files of subordinate officers and to revise order :-

The Board may call for the record of any non-judicial proceeding held by an officer subordinate to it, and may pass thereon such orders as it thinks fit. The Board may call for the record of any case of a judicial nature in which no appeal lies to the Board, if the officer by whom the case was decided appears to have exercised a jurisdiction not vested in him by law, or to have failed to exercise a jurisdiction so vested, or to have acted in the exercise of his jurisdiction illegally or with substantial irregularity, and may pass such orders in the case as it thinks fit.

220. Powers of Board to review and alter its orders and decrees :-

(1) The Board may review and may rescind, alter or confirm any order made by itself or by any of its members in the course of its non-judicial business.

(2) No decree or order passed judicially by it or by any of its members shall be so reviewed except on the application of a party to the case made within a period of ninety days from the passing of the decree or order, or made after such period if the applicant satisfied the Board that he had sufficient cause for not making the application within such period.

(3) Members not empowered to alter each other orders A single member vested with all or any of the powers of the Board shall not have power to alter or reverse a decree or order passed by the Board or by any member other than himself.

CHAPTER 11

Miscellaneous

221. Conferring of powers :-

In conferring powers under this Act, the ¹ [State Government] may empower persons by name or classes of official titles, and may vary or cancel any such order.

1. Substituted by A.O.1950 for "Provincial Government."

222. Powers of officers transferred to another district :-

Whenever any person holding an office in the service of Government who has been invested with any powers under this Act in any district in the ¹[United Provinces of Agra and Oudh], is transferred to an equal or higher office of the same nature in any Other district in the said provinces, he shall unless the ² [State Government] otherwise directs, be held to be invested with the same powers under this Act in the district to which he is transferred.

1. Omitted by A.O.1937.

2. Substituted by A.O.1950 for "Provincial Government."

223. Investment of Assistant Collector with powers of Collector :-

The ¹ [State Government] may confer on any Assistant Collector of the first class all or any of the powers of a Collector and all powers so conferred shall be exercised subject to control of the Collector of the district.

1. Substituted by A.O.1950 for "Provincial Government."

224. Conferring of powers on Tahsildars and Naib-Tahsildars :-

The [State Government] may confer on any Tahsildar all or any of the powers of any Assistant Collector of the second class, and on any Naib-Tahsildar all or any of the powers of a Tahsildar.

225. Collector to have all powers of an Assistant Collector :-

The Collector may exercise all or any of the powers of an Assistant Collector under this or any other Act for the time being in force.

226. In vesting of settlement officer with powers of Collector and Assistant Collector :-

The ¹ [State Government] may invest any officer in charge of a settlement with all or any of the powers of a Collector under this or any other Act for the time being in force, and any Assistant Settlement Officer with all or any of the powers conferable on an Assistant Collector under this or any other Act for the time being in force, within such limits and with such restrictions and for such period as it thinks fit.

1. Substituted by A.O.1950 for "Provincial Government."

227. Powers of an Assistant Collector in charge of sub-division :-

(1) An Assistant Collector in charge of a sub-division of a district shall, as such, have the following powers;

1 [*****]

(2) to call on powers to erect or repair boundary marks, and, in default, to erect or repair and charge the cost to owners, under Section 29;

(3) to fine for injuries to boundary or survey marks, and in certain cases apportion the charges of repairing boundary or survey marks, under Section 30;

(4) to order alterations in the annual registers, under Section 33;

(5) to enquire into and decide cases of reported transfers, under Sections 35 and 39;

(6) to fix the rent of ex-proprietary tenants, under Section 36;

(7) to levy fees for mutations, under Section 37 and fines, under Section 38;

(8) to decide disputes and to pass orders, under Sections 40 to 43;

(9) to appoint lambardars duly nominated, under Section 45;

(10) to make settlements, under Section 96;

(11) to report on revenue-free holdings and to assess them to revenue, under Section 98;

(12) to assess alluvial lands, and revise assessments, under Section 99;

(13) to dispose of such of the applications or proceedings referred to in Section 105 as may be made over to him by the Collector;

(14) to exercise the powers conferred on a Collector in partition cases, under Sections 110, 111, 113, 117 to 123, 126 to 130 and 134;

(15) to receive applications for any carry out, the union of mahals under Section 139;

(16) to attach and sell movable property of defaulters, under Section 149;

(17) to fix rents, under Sections 36, 186 and 187;

(18) to exercise any other jurisdiction or authority which by this Act is expressly conferred on Assistant Collectors;

1. Omitted by A.O.1937.

228. Powers of Assistant Collector of first class not in charge of sub-division :-

An Assistant Collector of the first class not in charge of a sub-division of a district shall exercise all or any of the; powers conferred on an Assistant Collector of the first class in charge of a sub-division in such cases or classes of cases as the Collector may, from time to time, refer to him for disposal.

229. Powers of Assistant Collectors of second class :-

Assistant Collectors of the second class shall have power to investigate and report on such cases as the Collector or Assistant Collector in charge of a sub-division of a district may, from time to time, commit to them for investigation and report.

230. Powers of Assistant Record Officer :-

An Assistant Record Officer may, subject to the control of the Record Officer, exercise all or any of the powers conferred by this Act on Record Officers.

231. Special powers of Assistant Settlement Officer :-

An Assistant Settlement Officer when specially empowered by the ¹ [State Government] shall have power.

(1) to select rent-rates and frame proposals for assessment, under Section 63;

(2) to declare assessment, under Section 64;

- (3) to report regarding exclusion of proprietors from settlement for refusal to engage, under Section 68, and to transfer shares, under Section 72;
 - (4) to determine which of several parties having separate and different interests shall be admitted to settlement, and to prescribe distribution of profits, under Section 75;
 - (5) to make a sub-settlement, under Section 76 and a settlement, under Section 77;
 - (6) to make arrangements for securing the rights of persons not entitled to settlement, under Section 78;
 - (7) to deal with waste land, under Sections 80 to 83;
 - (8) to determine and record matters referred to in Sections 84 and 85;
 - (9) to determine, enhance, abate or commute rents, under Sections 87 and 88;
 - (10) to enquire into and assess revenue-free land, under Section 92;
 - (11) to decide claims to hold land revenue-free, under Section 93;
1. Substituted by A.O. 1950 for "Provincial Government".

232. Powers of Assistant Settlement Officers :-

All other powers conferred on Settlement Officers by this Act shall be exercised by Assistant Settlement Officers under such restrictions as the officer in charge of a settlement may, from time to time, impose.

233. Matters excepted from cognizance of Civil Courts :-

No person shall institute any suit or other proceeding in the Civil Court with respect to any of the following matters;

- (a) the arrangement of patwaris circles;
- (b) claims by any person to any of the offices mentioned in Sections 23, 25 or 45, or to any emolument or fees appertaining to such office or in respect of any injury caused by his exclusion therefrom, or claims by any person to nominate persons to such offices;
- (c) the liability of any land not excepted under the provisions of

Section 58 to be assessed to the payment of revenue or to be notified as under settlement or record operations;

(d) the formation of the record-of rights, or the preparation, signing, or attestation of any of the documents contained therein, or the preparation of the annual registers;

(e) the claim of any person to engage for the payment of revenue, or the validity of any engagement with Government for the payment of revenue, or the amount of revenue, cess, or rate assessed or to be assessed, or distributed or to be distributed, on any mahal, or portion of a mahal, or specific area under this or any other Act for the time being in force, or the amount to be paid to a proprietor by an inferior proprietor when that amount has been fixed by the Settlement Officer, or the declaration of assessment, under Section 64 or the term of any settlement.

(f) any claims connected with, or arising out of any process enforced on account of neglect or refusal to accept the assessment or terms of sub-settlement proposed by the Settlement Officer;

(g) any matters provided for in Sections 75 to 83 (both inclusive);

(h) the preparation of the record referred to in Sections 84 and 85;

(i) save as provided in Section 44, the determination of the class of a tenant, or of the rent payable by him, or the period for which such rent is fixed under this Act;

(j) any matters provided for in Sections 92,93 and 98;

(k) partition or union of mahals except as provided in Sections 111 and 112;

(l) claims to set aside a sale for arrears of revenue except on the ground of fraud under Section 175;

(m) claims connected with or arising out of, the collection of revenue (other than claims under Section 183), or any process enforced on account of an arrear of revenue, or on account of any sum which is by this or any other Act realizable as revenue.

234. Power to Board to make rules :-

The Board may from time to time, subject to the sanction of the ¹ [State Government] make rules, consistent with this Act

(a) prescribing the duties of tahsildars and naib-tahsildars, and

regulating their postings and transfers and their appointment in temporary vacancies;

(b) regulating the appointment of kanungos and patwaris, their salaries, qualifications, duties, removal, punishment, suspension, and dismissal;

(c) regulating the extent to which preference may be given in the appointment of Kanungos to persons of families in which the office of kanungo is hereditary;

(d) prescribing the form, contents, method of preparation, attestation, and maintenance of the record-of-rights and other records, maps, field-books, registers, and list made or kept under this Act;

(e) regulating the imposition of fines, under Section 38, for failure to notify successions and transfers;

(f) regulating the appointment, duties, and dismissal of lambardars;

(g) prescribing the manner in which Settlement Officers shall report proposals of assessment for the mahals of any area;

(h) regulating the distribution of assessments;

(i) directing with regard to what matters the Settlement Officer is to ascertain and record the village custom, under Section 84, and what matters are to be determined and recorded, under Section 85;

(j) for the guidance of Collectors and Settlement Officer in fixing rents under this Act;

(k) regulating the assessment of resumed revenue free grants or of land gained by alluvion, or the reduction of the assessment or the suspension of revenue of a mahal in consequence of fluvial action;

(l) for the guidance of Collectors in making settlement under Section 96, and in making remission, suspension, or reduction of rent, under Section 101;

(m) regulating the cost of partition and the instalments and times of payment thereof under Section 116;

(n) regulating the division of complex mahals and the distribution of the revenue thereof, under Section 135;

(o) regulating the instalments in which, and the persons to whom places and times at which the revenue shall be paid;

(p) providing for the payment of the revenue through lambardars and for their remuneration;

(q) regulating the issue of writs of demand and citations to appear, under Section 147, and the exercise of powers of arrest and detention in custody, under Section 148, and directing by what officers or class of officers such process shall be issued or powers exercised, and fixing the costs to be recovered from defaulters;

(r) regulating the method of attachment and sale of movable property, under Section 149;

(s) regulating the procedure to be adopted when a share or patti is transferred, the settlement of a patti or mahal is annulled, or any immovable property is attached and sold;

(t) regulating the recovery of arrears due to lambardars under Section 184;

(u) regulating the recovery of rent from under proprietors, under Section 185;

(v) regulating the costs which may be recovered in or in respect of any proceeding under this Act;

(w) regulating the procedure to be followed by any officer (or other person) who under any provision of this Act is required or empowered to take action in any matter; and

(x) generally for the guidance of all persons in all proceeding under this Act and for carrying out the provisions of this Act.

1. Substituted by A.O.1950 for "Provincial Government".

SCHEDULE 1

First Schedule

(See Section 1)
SCHEDULES
The First Schedule
(See Section 1)
Serial number Areas
1. The Kumaun Division, consisting of the districts of Naini Tal, Almora, and

Garhwal (exclusive of the settled tracts of the Tarai Sub-division of the Naini Tal district).

2. In the Mirzapur district

1. The tappas of Agori Khas and South Kon, in the pargana of Agori.
2. The tappa of British Singrauli, in the pargana of Singrauli.
3. The tappas of Phulwa Dudhi and Barha, in the pargana of Bechipar.
4. The Dudhi Kham estate.

3. The Family Domains of the Maharaja of Benaras, comprising the following parganas;

Bhadohi and Khera Mangror, in the Mirzapur district, Kaswar Raja, in the Benaras district.

4. The tract of country known as Jaunsar-Bawar, in the Dehra Dun district.

SCHEDULE 2

Schedule

(See Section 2)		
The Second Schedule		
(See Section 2)		
	Act repealed	Extent of repeal
Act No. XIX of 1873	The North-Western Provinces Land Revenue Act.	The whole, so far as not already repealed.
Act No. XVII of 1876	The Oudh Land Revenue Act.	The whole so far as not already repealed.
Act No. VIII of 1879	The North-Western Provinces Land Revenue Act, 1879.	Sections 2 to 17 and 25 to 27 inclusive.
Act No IX of 1889	The North-Western Province and Oudh Kanungos' and Patwaris' Act 1889.	Sections 10, 11, 12, 17 and 19.
Act No. XX of 1890	The North-Western Provinces and Oudh Act, 1890.	Sections 3, 4, 12 to 16, 18 to 20, 21 (so far as not already repealed) 22 to 27, 32 to 34, and 64.