

(3) For the purpose of this section land may be presumed to be habitually, sublet, if it is sublet for a total period exceeding seven years during any consecutive period of ten years after the commencement of this Law, but such a presumption shall not necessarily be made in the case of land of a minor or any other person subject to a legal disability or physical infirmity or a woman.

63. Any person holding land under a ryot or tenant or person recorded as a ryot or tenant, on whom rights of permanent occupation have been conferred before the commencement of this Law, may apply to a revenue officer to be declared as the ryot or tenant of such land and the revenue officer shall issue such a declaration on deposit by the applicant of five times the proper assessment of the land for payment to the original holder of the land whose rights shall thereupon be extinguished :

Provided that no such deposit shall be necessary unless the applicant is paying to the original holder for the Land an amount greater than the normal land revenue or proper assessment imposed on lands in the locality.

64. Any person recorded as a ryot or tenant, or deemed, or declared to be, a ryot or tenant under section 49, may apply to a revenue officer for the reduction of the amount payable by him on the ground that it is higher than the proper assessment or normal land revenue of lands in the locality, and the revenue officer may reduce the amount accordingly.

CHAPTER VI.—VILLAGE HEADMEN.

65. (1) There shall be appointed for each village a headman under this Law.

(2) More than one headman shall not be appointed unless the duties of the office cannot be efficiently performed by one.

(3) If the village is held by a *gaontia* on the date of the commencement of this Law such *gaontia* shall be the headman unless he does not wish to accept the office :

Provided that if in any village there is more than one person recognised or recorded as a *gaontia* responsible for the revenue or any portion of the revenue of the village, such persons may be appointed as headmen and they shall be liable to perform such duties and in such manner as may be prescribed.

(4) Notwithstanding any previous practice or the terms of any contract between the State or the tenure-holder and himself as *gaontia*, a headman under this Law shall not be liable to be proceeded against personally for the revenue of the village but it shall be his duty to collect the revenue assessed upon the ryots or tenants and to pay it at such places and in such manner as may, by order of the Dewan, be appointed for the purpose.

(5) A headman who is not a tenure-holder shall be remunerated at a rate to be prescribed having regard to the circumstances and the amount of land revenue of the village but not higher than 10 per centum of the land revenue of the village, excluding cesses, if the village has a land revenue in excess of twelve hundred rupees :

Provided that where the *gaontia* is enjoying at present a higher percentage, his remuneration shall not be reduced except in three equal steps at intervals of five years.

66. (1) Notwithstanding any custom or anything in the terms of an agreement between himself and the State or tenure-holder, no *gaontia* (other than a tenure-holder having such rights) or headman shall, after the commencement of this Law, have the right (a) to allot waste land for cultivation by others or to bring such land under cultivation by himself ; (b) to accept relinquishment of land or to take possession of abandoned or surrendered land or the land of persons dying without heirs.

(2) The consent of the headman shall not be necessary for the transfer of his rights in land by a ryot or a tenant by sale, mortgage, gift, exchange or lease or in any other manner.

67. (1) Where a person at the commencement of this Law has held *bhogra* lands as a *gaontia* continuously either by himself or through persons

from whom he would have inherited immovable property for a period of 20 years or more, such person shall have the same rights as a ryot or tenant in the *bhogra* lands of the village and shall not be liable to make any payment therefor.

(2) Where a person has held the *bhogra* lands as *gaontia* for a period less than twenty years but more than twelve years in manner stated in sub-section (1), he shall have the right to acquire the *bhogra* lands in the rights of a ryot or tenant on payment of half the present value of the land :

Provided that in estimating the present value the value of any improvements effected by him or persons from whom he would have inherited shall be deducted :

Provided further that any payment made by him for the acquisition of the right to the village shall be set off against the amount payable by him.

(3) If a *gaontia* has held the lands in manner aforesaid for a period less than twelve years he shall acquire the rights of a ryot or tenant in the *bhogra* lands on payment of the present value (excluding the value of all improvements, if any, effected by him, or by persons from whom he would have inherited) of land : provided that any payment made by him for the acquisition of his right shall be deducted from the payment he has to make.

(4) Land in the possession of a person holding a village as *gaontia* at the commencement of this Law by virtue of his office, but which was taken into his possession on relinquishment or abandonment by a ryot or tenant or on account of a ryot or tenant dying without heirs within a period of twenty years before the commencement of this Law, shall not be regarded as land held as an incident of the office and the State or the tenure-holder shall have the right to dispose of such lands under the provisions of this Law :

Provided that the *gaontia* shall have the right to purchase rights in such lands on payment of the present value.

(5) Nothing in this section shall affect the land held by the *gaontia* in the right of a ryot or tenant.

(6) The burden of proving that the *gaontia* has not held the village or land for more than twenty years in the manner stated in sub-section (1) shall be upon the tenure-holder or the State, as the case may be.

(7) If it is found that the payment made by a *gaontia* at the time of the acquisition of his right to the village is higher than the present value of the *bhogra* land the Durbar may, if such a course is considered equitable in the circumstances, make a refund but the *gaontia* shall not be entitled as of right to a refund.

Explanation I—For the purposes of this section ‘present value’ shall mean the estimated *salam* the land would fetch if disposed of under the provisions of section 11 or section 34.

Explanation II.—A *gaontia* shall be deemed to have held the *bhogra* lands notwithstanding that they, or any portion of them, are in the possession of co-sharers.

68. (1) Any *gaontia* aggrieved by a decision of the revenue courts regarding the valuation of the *bhogra* land previously held by him as an incident of his office or the amount payable by him, may bring a civil suit within a period of six months from the date of the decision of the revenue court to determine the valuation.

(2) When *bhogra* lands held by a person as *gaontia* before the commencement of this Law are settled with him under the provisions of the previous section, the lands shall be recorded in the Land records in his name in the rights of a ryot or tenant :

Provided that co-sharers whose possession has already been recorded in the revenue records may be recorded as ryots or tenants of the portions held by them :

Provided also that entries may be made in the revenue records in the name of such persons as may be agreed upon between the *gaontia* and the co-sharers.

(3) Nothing in this section shall affect the right of any co-sharer to establish by a civil suit his rights to any portion of the lands settled with the *gaontia*.

(4) For the purposes of this section and section 67, "gaontia" shall not include a tenure-holder unless the tenure has been terminated, in which case the period of possession shall be reckoned up to the date of termination of the tenure.

69. (1) Notwithstanding any custom or previous decision to the contrary or anything contained in any enactment, rule, or order in force before the commencement of this Law the remuneration of a headman shall be received by him for the discharge of his duties under this Law and no other person shall have any claim to it or any share of it.

(2) A headman shall not be entitled to deduct his remuneration from the land revenue or rent collected by him and the whole amount collected shall be payable to the State treasury or to the tenure-holder as the case may be.

(3) The remuneration of the headman shall be payable on such date or dates or such instalments as may be prescribed by rules under this section.

70. (1) The remuneration, or any portion of the remuneration, payable by a tenure-holder to a headman, shall, on the application of the headman, be recovered by the Dewan as an arrear of land revenue due from the tenure-holder.

(2) If any tenure-holder withholds payment of the remuneration due to a headman, or any portion of it, except under the provisions of section 71, the Dewan may inflict a penalty which may extend to one hundred rupees on the tenure-holder, and such penalty or any portion of it, may, if recovered, be paid as compensation to the headman.

71. (1) Where there is reason to believe that a headman has not performed his duties in respect of collection of land revenue satisfactorily, and there is reason to believe that but for his failure to exert himself the collection would have been better, a revenue officer may, after recording his reasons, order payment of the headman's remuneration according to the percentage fixed by the rules under section 65, sub-section (4) only upon the amount actually collected by the headman.

(2) The headman shall not be liable to pay the whole of the revenue of the village by himself but he shall report within seven days of the date on which payment was due by a ryot or a tenant to such revenue officer as may be appointed in this behalf, or to the tenure-holder, the names of all defaulters together with an affidavit in such form as may be prescribed for the purpose of proceedings for the recovery of arrears from them.

72. (1) If in any village at the commencement of this Law the *gaontia* has leased out his right and such lease is valid under the provisions of any enactment or rules or orders prevailing before the commencement of this Law, the lessee may be recognised as the headman under this Law till the expiry of the lease.

(2) On the expiry of the lease the *gaontia* shall be eligible for appointment under section 65.

(3) No lease shall be permitted under this Law and a village headman who leases out his rights shall be liable to be dismissed.

(4) The provisions of sections 67 and 68 shall not apply to a lessee and for the purpose of reckoning the period of possession under those sections the *gaontia* shall be regarded as having been in possession of the *bhogra* lands during the period of a lease.

73. (1) If in any village before the commencement of this Law a permanent sub-lease (*shikmi theka*) has been recognised by the State, the holder of such right (*shikmi-thekeदार*) shall be deemed to be a *gaontia* for the purposes of this chapter.

(2) The principal (*asli-thekeदार*) of such a sub-lease shall, notwithstanding any previous custom, enactment or rule to the contrary, have no duties under this Law nor shall he be responsible for the land revenue of the village or be entitled to receive any remuneration :

Provided that nothing in this section shall affect his right in any *bhogra* lands held by him by virtue of his right and such lands shall be settled with him as if he was a *gaontia*.

74. If it is found that any person has been collecting or crediting the revenue or any portion of the revenue of a village without any definite authorisation or practice recognised as valid at the commencement of this Law, the Dewan may terminate the arrangement and appoint only one headman for the whole village.

75. (1) Nothing in section 65 shall be interpreted as compelling any person holding the village in the right of a *gaontia* to continue to be a headman under this Law and nothing in that section shall affect his right to hold the lands settled with him in the right of a ryot or tenant in which such rights are recognised under section 67.

(2) If a *gaontia* has not acquired the rights of a ryot or tenant under section 67, sub-section (1) and does not take steps to acquire rights in the *bhogra* or other lands in his possession within a period of one year from the commencement of this Law he shall be liable to be ejected from the lands which shall be at the disposal of the State or tenure-holder as the case may be :

Provided that the Durbar may extend the period mentioned in this sub-section by a further period not exceeding one year, in any case :

Provided further that the period allowed under this sub-section shall not be counted towards the period of possession for the purposes of section 67.

(3) If a *gaontia* does not wish to be appointed headman under this Law, or having been appointed resigns his office, the Dewan shall take action to appoint a new headman fit for the post within the meaning of section 77.

76. (1) A headman shall hold his office so long as he is physically and mentally able to perform his duties efficiently, and, if a headman has attained the age of 60 he may apply to the Dewan to be relieved, from the personal discharge of his duties and he may nominate an agent who shall ordinarily be a member of his family.

(2) Such person shall, if found fit to discharge the duties of a village headman, be appointed by the Dewan.

77. (1) On the death of a headman, the post shall descend to the senior-most person among his heirs subject to his personal fitness to perform the duties of the headman satisfactorily.

Explanation.—Seniormost in this section means seniormost from the point of view of relationship.

(2) No person shall be considered fit for the post of headman (i) if he has undergone imprisonment for an offence under the Indian Penal Code involving moral turpitude, (ii) if he has been adjudged an insolvent, (iii) if he is mentally unsound, (iv) if he is suffering from leprosy or other contagious disease, (v) if he is not a resident of the village and is not prepared to take up residence there or within five miles thereof, and is not exempted, (vi) if the residents of his village are opposed to his appointment or (vii) he is not physically fit.

(3) No woman shall be appointed if there is a male relative of the headman living.

(4) A literate person among the heirs shall be given preference over an illiterate person notwithstanding that he is not the seniormost in relationship.

(5) In the absence of heirs or relatives as aforesaid, any other person holding lands as a ryot or tenant in the village considered fit for the performance of the duties of the post, may be appointed headman.

(6) A headman shall reside in his village unless he is exempted by reason of his holding another village in which he is resident or other adequate ground.

(7) Rules may be made regarding the appointment of agents on behalf of women or minors during minority, about the appointment of agents to work on behalf of illiterate headman, or headmen holding more than one village or exempted from residence, the remuneration of agents, the educational qualifications which may be regarded as giving a preferential right to the post and such other matters as the Durbar may consider necessary.

78. (1) No charge shall be made for the appointment of a headman nor shall the right to hold the post be offered in auction or sale by any other means.

(2) A fee not exceeding two rupees may be charged in court-fee stamps from the person appointed as headman for the issue of an order of appointment.

79. (1) If before the commencement of this Law any tenure-holder or other person had the right to appoint or nominate a *gaontia* or headman of a village such tenure-holder or other person may be permitted to nominate a headman on the occurrence of a vacancy but no person shall be appointed who would not be appointed under the provisions of section 77 if the tenure-holder had no right of nomination.

(2) If the tenure-holder or other person having the right of nomination under sub-section (1) does not nominate a suitable person within 15 days of being required to do so the Dewan shall appoint a headman as if the right did not exist.

80. Rules may be made regarding the procedure to be followed by revenue officers in connection with the appointment of a headman and the enquiries to be made.

81. (1) The Dewan may suspend a headman from office during enquiry into alleged misconduct and may punish him for misconduct or neglect in the performance of his duties by suspension from office for a period not exceeding six months or by fine not exceeding one-fourth of the remuneration of his office.

(2) A fine inflicted under this section may be recovered from the remuneration payable to the village headman.

(3) A vacancy caused by the suspension of a village headman shall be filled by the appointment of a person who is not a member of the headman's family.

82. (1) A headman may be dismissed by the Dewan on the ground of misappropriation of money, or fraud or conviction of an offence for which he has been sentenced to imprisonment, habitual neglect of duty, or other grave misconduct.

(2) If a headman is dismissed under sub-section (1) the Dewan shall appoint a person who is not a member of the family of the headman, for a period not exceeding three years, provided that if it is considered that it is not desirable to appoint a member of the same family in the public interest, the Dewan may, with the approval of the Durbar, appoint a person who is not a member of the family, permanently.

83. (1) In addition to the duties imposed specifically by any section of this Law, it shall be the duty of a headman to look after matters concerning the village such as village sanitation, the reporting of offences, and unnatural deaths, the recording of births and deaths, the reporting of the presence of habitual offenders or the presence of suspicious strangers, the outbreak of contagious diseases among human beings or cattle, the condition of crops and prevalence of scarcity of food or fodder, the preservation of boundary marks, or the reporting of encroachments on State or communal lands, and the enforcement of rules meant for the preservation of the village forests, in such manner and to such extent as may be prescribed.

(2) Rules may be made under this section prescribing such other duties for the village headman as may be considered necessary in the interests of the village and general administration.

84. (1) "Group headman" means any person responsible for the land revenue, or the supervision of the *gaontias*, of villages for which they have been appointed or recognised.

Note.—This section applies to officials known *bera pradhan*, *mallik*, *umrao*, *head-ganjhu*, *sardar* or *garhnaik*, if any, appointed for a group of villages.

(2) The rights, liabilities, duties, remuneration, appointment, punishment or dismissal of group headmen shall be prescribed by rules.

(3) Unless there is a recognised hereditary right of succession the Durbar may, after the death or removal of the present incumbent terminate the post.

CHAPTER VII.—THE RECOVERY OF LAND REVENUE.

85. (1) The land revenue assessed on any land shall be the first charge on that land and on the crops, rents and profits thereof.

(2) The primary liability for the land revenue assessed on any land shall be on the person in whose name the land is recorded as ryot, tenant or grantee, as the case may be.

(3) When there are more than one ryot tenant, grantee or co-sharer in a holding, all such ryots, tenants, grantees or co-sharers, as the case may be, shall be jointly and severally liable for the payment of the land revenue assessed on such holding.

86. The land revenue or *takoli* payable on account of any agricultural year shall be levied in such instalments not less than two or more than three may be prescribed and on such dates not earlier than 15th January, or later than 15th August of the following agricultural year, as may be prescribed :

Provided that the interval between any two instalments shall not be less than six weeks.

87. (1) Any land revenue or *takoli* due and not paid on or before the prescribed date becomes therefrom an arrear and the persons responsible for it become defaulters.

(2) Land revenue shall be paid to the headman of the village who shall grant a receipt for such sum in the form prescribed by rules and the granting of such receipts in the prescribed form shall be deemed to be a duty of the headman under this Law.

(3) If any instalment of land revenue is not paid on or before the prescribed date and the revenue officer is satisfied that the default has been made wilfully by the ryot he may, after recording his reasons in writing, impose a penalty not exceeding an amount equal to the land revenue payable but no interest shall be chargeable : provided that no penalty shall be charged for the non-payment of any instalment, the payment of which has been suspended by the order of the State in respect of the period during which the payment remained suspended.

(4) When land revenue is recovered under section 89 on behalf of a tenure-holder, he may apply to the revenue officer for the imposition of a penalty on the tenant who has made wilful default, and the revenue officer may proceed as in the case of a ryot under sub-section (3); and the amount of the penalty, if imposed, shall be payable to the tenure-holder.

88. The Durbar may accord remission or suspension of land revenue in years in which crops have failed in any area and such remission or suspension shall be determined in accordance with the rules made under this law.

(2) Every order by a revenue officer under such rules shall be final.

89. (1) A statement of account certified by a revenue officer, or filed by a village headman or a tenure-holder, with an affidavit in such form as may be prescribed, shall be conclusive evidence of the existence of arrears and of the person who is the defaulter until the contrary is proved.

(2) The Dewan may recover an arrear of land revenue or an amount recoverable as an arrear of land revenue by any one or more of the following processes, namely—

- (a) by service of a written notice of demand on the defaulter ;
- (b) by attachment and sale of the defaulter's movable property ;
- (c) by attaching and leasing out for a period not exceeding three years, the holding on which the arrear is due ;
- (d) if the defaulter is not a grantee, by attachment and sale of the whole or a portion of the defaulter's holding : provided that if the full arrear is likely to be discharged by sale of a portion of the holding the