CHAPTER – V

Land Legislation

The greatest social and economic question before the British Government of Oudh was that of the Land legislation for the agricultural classes. Throughout the nineteenth century the interest of the landlords pre-dominated the agricultural scene. Little attention was paid to the welfare of the peasantry. Any legislation concerning the agricultural classes and their interest proved to be very difficult and contentious. The strongly organized body of the landlords and taluqdars made it exceedingly difficult for the government to pass any legislation which favoured the peasants. With the result the tenancy legislation had always been a compromise in which the tenants have been the greatest sufferers.

Original Acts and Subsequent Legislation:

The Acts were to be passed in order to safeguard the interest of the peasants, who were in a very bad and poor condition. The proprietary rights were to be ascertained in order to protect the interest of the majority of the people who were tilling the soil. But the Oudh officials were more inclined to safeguard the interests of the taluqdars and at the same time also provide a thin veil of protection to the peasants.

The Chief Commissioner of Oudh, Mr. Winfield, was zealous on behalf of the landlords. Sir John Lawrence succeeded Lord Elgin as
Viceroy. He had been noted in the Punjab for the staunch support he gave to the cause of the tenantry. In January, 1861, Lord Canning approved in general terms, to the instructions issued by Mr. Wingfield to Settlement Officers bidding them to “make no distinction in the records between cultivators at fixed rates and cultivators-at-will”.\(^1\) Afterwards Sir George Campbell, Judicial Commissioner averted to the judicial power of the taluqdars and wrote that “under all systems and all tenures, in every part of India, at the bottom of all, a strong tenant right existed, which had survived everything in Lower Bengal and most other provinces, and that very much indeed depends on the maintenance of these indigenous rights of the masses”.\(^2\) Mr. Campbell doubted whether Settlement Officers would discover in Oudh or in any part of India that the rents of the cultivators were permanently fixed at a definite amount.

Mr. Wingfield did not wish any record to be made of the ‘maurus’ or ancestral cultivators.\(^3\) Lord Elgin drew the attention of the Chief Commissioner to the omission from the records, of mention of this type

\(^1\) Circular regarding maintenance of Talukdar’s rights in Land Settlements Circular No. 7/218 of 17\(^{th}\) January, 1861, Oudh General File No. 743

\(^2\) India Political Collections No. 322. August, 1861

\(^3\) Circular regarding maintenance of Talukdar’s rights in the Land Settlement. No. 34, Dt. 24.3.62 from Secretary, British India Association to Chief Commissioner, Oudh General File No. 743, Page 1-2
of tenant, but failed to draw a reply on the point. The attention of Sir Charles Wood, then Secretary of State, was drawn to this matter and in 1863 he called for an early report upon it.¹

The death of Lord Elgin² in 1864 led to the assumption of the Viceroyalty by Sir John Lawrence. He lost no time in inquiring about occupancy rights in Oudh. He instructed the Settlement Commissioner, Mr. Charles Currie that no hereditary tenant rights whatever, were to be recognized. In March 1864, Mr. Wingfield furnished the Government of India with his views on occupancy rights, along with a minute on "Tenant right occupation", by Mr. Currie. Mr. Currie was also of the same thinking as Mr. Wingfield himself. In April, 1864, the Viceroy, Mr. Henery Maine, Chief advisor to the Governor General, and Mr. Wingfield met at Kanpur to discuss the proprietary rights and subsequent legislation. Mr. Wingfield after the consultations with the taluqdaras informed the government that the taluqdaras strongly objected to the records of non-proprietary cultivators as possessed of right of occupancy.³ Sir John Lawrence commenting upon his policy regarding the occupancy rights of the tenants said that he himself did not consider

² Lord Elgin died on 20th November, 1863
³ Records of rights of ex-proprietary cultivators in Talukdari Estates; Circular to all Commissioner, Year 1864-67, Oudh General File No. 1804, Page 2
that the admission of “ancient tenants of land, the old hereditary cultivators and the broken down, ill treated descendants of former proprietors, to the right of occupancy.” He further made it clear that while he was desirous to maintain the just rights of cultivators, he also complied with Lord Canning’s single reservation that “however he (taluqdar) may have acquired the land, should continue to be the head proprietor”. The reply of the Viceroy led to the resignation of Mr. Wingfield as Commissioner. He suggested that a Financial Commissioner should be appointed.\(^1\) In September, 1864 Mr. Davies was appointed Financial Commissioner with instructions “to lose no time in revising the revenue circulars so as to bring them in accordance with orders in council for recognizing and registering whatever rights of cultivators could be proved to exist and to make provisions for the impartial hearing of all such claims.”\(^2\) In October, 1864 the new Financial Commissioner issued a circular repeating the wishes of the Viceroy that the rights of cultivators, other than tenants at will, should be carefully investigated and if judicially proved to exist, noted on the settlement record.\(^3\) The Secretary of State, Sir Charles Wood in a dispatch dated

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\(^1\) Parliamentary Papers relating to Oudh, Vol. 40, Paper 62, 1865, Page 167-68

\(^2\) Letter No. 284, India Political Collections to Despatches, Vol. 75, Collection 1. 1864, Page 167-73

\(^3\) Raj, J. The Mutiny and British Land Policy in North India, 1856-1868, New Delhi, 1965, Page 153
February 10th, 1865,第二 the action of Sir John Lawrence. But he also cautioned him to proceed only to the extent, necessary to satisfy justice. He suggested not to take any measures which may lower the dignity of the taluqdars. An inquiry was to begin in all the Oudh districts under Settlement. The information in the enquiry was to be collected under following heads: (1) the 'Khasra' or field book (2) whether occupancy of the same piece of land had been continuous. (3) duration of occupancy rights (4) how occupancy arose (5) whether the proprietor has ever evicted a claimant, the mode in which the rent had been paid, variations in the amount and in the terms claimed. Mean while taluqdars confronted the attacks which they, considered an infringement of the conditions of their ‘sanads’.

Lord Lawrence was not in favour to withdraw the protection provided to the cultivators by the Oudh Rules. He objected to the suggestion of Sir Charles Wingfield that in respect of non-proprietary cultivators the Revenue Courts should be confined to hearing complaints of breach of contract or of eviction in the middle of the agricultural year.

1 Raj, J. The Mutiny and British Land Policy in North India, 1856-1868, New Delhi,1965, Page 153
He was of the opinion that the most expedient and just course, was to maintain the system as it prevailed.\footnote{Letter to the Chief Commissioner, No. 61 of 16\textsuperscript{th} January, 1866, India Foreign Proceedings (Rev.) No. 126, February, 1866}

Many members of the Governor General’s Council raised objections to the Lawrence’s letter. W. Grey, member of the Governor General’s council in particular, denounced it as an attempt to reopen the question of the tenant’s right. He was of the opinion that no occupancy rights had existed at the time of annexation. So the idea of holding at customary rates as opposed to full market rates was to show that occupancy rights had existed.\footnote{Minute by Grey, 31\textsuperscript{st} January, 1866, India Foreign Proceedings (Rev.) No. 28\textsuperscript{th} June, 1867} Wingfield also supported the view of W. Grey. He urged the Government of India to declare whether or not it accepted the result of Financial Commissioner R. H. Davies enquiry? If government accepted Davies’ first condition that occupancy rights did not exist then his recommendations “to confine the jurisdiction of the Revenue Courts to complaints of breach of contract or of eviction in the middle of the agricultural year should be adopted”.\footnote{Letter to the Government of India, No. 793 of 1\textsuperscript{st} March, 1866. India Foreign Proceedings (Rev.) No. 33, June 1867. See also Misra, B.R. Land Revenue Policy in the United Provinces Under British Rule, Benares, 1942, Page 156}
The Government of India, however, did not come to any decision. It asked Davies for his comments on the matter. Davies was also given a copy of Sir Charles Wingfield’s letter. Davies, very elaborately commented on the letter. He began by observing that the support given by the Courts to the old cultivators was based on the belief entertained by Wingfield that a hereditary right of some sort was enjoyed by certain classes of cultivators. He said that the relationship between the landlord and the cultivator was very different from the contract relationship between landlord and tenant in England; and that an immense additional value had been given to proprietor’s rights by the fiscal measures of the government.¹

He was of the opinion that if the ‘sanads’ barred all government intervention, the taluqdar could do so as he pleased. He can vary his demands according to the harvest or through any other extraneous means. He said that the proposals in the government’s letters to maintain the rules in force since 1858 were just and lawful and they could be made more acceptable by incorporating certain amendments which were experienced by the officers.²

Davies’ letter was forwarded to the Government of India by Sir John Strachey.³ He requested the Government to delay the final decision

¹ Letter to the Chief Commissioner, No. 581 A of 28th March 1866, India Foreign Proceedings (Rev.) No. 42, June 1867
² Ibid.
³ Strachey, John. Appointed Chief Commissioner in 1866
as he had recently assumed the office and would take some time to understand the matter.

From the very beginning Lawrence was trying to secure some measure which would give protection to the ex-proprietor cultivators. He proposed to Charles Wood, Secretary of State, that all tenant rights which might be proved to exist from time to time should be recognized.¹ He pleaded the case of the ryots who could show ex-proprietorial possession, extending over several generations. He was of the opinion that the taluqdar would not object to the claim of such cultivators. He consulted over the problem with William Grey, who was member of the Governor-General’s Council (1862-67).

Grey asked Wingfield to seek the probability of the taluqdar on the matter. Wingfield agreed to put the matter before the taluqdar, but with certain concessions. He said that first the taluqdar should be assured that the government would renounce all intentions of giving countenance to claims for other non-proprietary cultivators; to depose finally the tenant right question in Oudh, Secondly, only those should be conferred proprietary right who themselves possessed the land or were their descendants. He insisted that each case should be decided on its merits after judicial investigation by the European officer.

Wingfield proposed that the occupancy tenants can be secured in the occupation of the land they held since the loss of their proprietary

¹ Letter to the Government of India, No. 1313 of 4th April, 1866, India Foreign Proceedings (Rev.) No. 44, June 1867
rights, at a rent lesser than that of the ordinary non-privileged cultivator. He suggested that the privilege amount could be two annas in a Rupee. Act X of 1859 allowed a reduction of 20 per cent in the rent of occupancy tenants, but Wingfield thought it to be too high.

Wingfield was willing to make these proposals to the taluqdar. He was happy that without any serious sacrifice on the part of the landlords the question of occupancy rights would be finally disposed off.¹

But Lawrence rejected the proposals as inconsistent with the dignity and duty of the government. Accepting the proposals made by Charles Wingfield would have meant renouncing the rights of the cultivators and to leave them unprotected against serious oppression. He did not agree to waive the condition which Lord Canning had laid down at the time ‘Sanads’ were issued.²


² Wingfield commented that since the last enquiry established that all ryots in Oudh not holding under special agreement were tenants-at-will, they could have no ‘locus standi’ in the Summary Court. And again he proceeded to the same old conclusion that all rules and circular pertaining to occupancy rights should be withdrawn. This was the last of the Wingfield’s official efforts on the Oudh land question. He had already made over the charge to Sir John Strachey. Thus he finally disappeared from the politics of Oudh, which he had completely dominated for nearly seven years.
Lawrence was still anxious to save what he could. He asked Sir Charles Wood, while reporting his failure to secure a compromise through the mediation of Wingfield that he wanted to save the old cultivators, descendants of the men who had been deprived of their proprietary rights, or who had first settled and reclaimed the waste, from slipping into the category of mere tenants-at-will. To make that effort he felt was 'a matter of duty'. He therefore brought Strachey’s help in securing a reasonable remedy.

Strachey promptly started to work on this problem. He soon came out with a “Note on Tenants right in Oudh.” He proposed that the jurisdiction of Summary Suit Courts should not cover occupancy tenants. It should only extend in respect of tenants-at-will, to complaints of illegal distraint, breach of contract, exaction or eviction in the middle of the agricultural year. He recommended that former proprietors or their descendants who still retained possession of their fields as cultivators should be exempted.

Strachey observed that the bad feeling which these questions had generated between the landlords and the cultivators was harmful to the tenants. He therefore suggested to bring these controversies to a close, though not by any undue sacrifice of the tenants rights.¹

Strachey followed up his note with another letter in which the process of achieving a compromise can be seen going a step further. He

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¹ Mookerjee R.R., Occupancy Rights, Calcutta, 1919, Page 59
approved William Muir's\(^1\) proposal for a modified Act X of 1859.\(^2\) He did not approve Wingfield's 'two anna in a rupee' stipulation. He also rejected Lawrence's idea of extending the concessions proposed for ex-proprietors to those who had reclaimed jungles, settled villages etc. He rejected this idea of Lawrence because such claims were protected by Oudh Rules under the head of sub-proprietary interests. He requested Lawrence that if they will insist on concessions for yet wider classes, it would shake the confidence of the taluqdar. Therefore he pressed for the approval of his own plan. He believed that if it was approved the ex-proprietors will be settled at very favourable terms.

Lawrence was still hesitant to take any decision and he consulted Wood on the matter. Lawrence was hopeful that during the settlement the taluqdar may modify their views on tenant's rights. Strachey also shared the views of Lawrence. He commented that the main cause of the failure of Wingfield's compromise was that the taluqdar were afraid that their consent might lead to serious injury to their interests in the matter of sub-settlement. If they could be assured that the sub-settlement will not

\(^1\) Muir, Sir William, Member, Governor General's Legislative Council 1864-65

\(^2\) The modification proposed was to extend the period giving a right of occupancy from 12 years to 20 years, the occupancy to extend over at least two generations, and to fix the rates of rents at those prevailing in the neighbourhood. The Act gave a right of occupancy, entitling the ryot to hold his land as long as he paid his rent.
infringe their interest they might agree to reasonable terms in favour of the tenants.

Strachey laid down the following proposals with the help of Sir Henry Davies and Col. L. Barrow, Commissioner of Settlement and also Man Singh.¹ These proposals were submitted on 20th August, 1866.² First it was declared that as no rights of occupancy had been found during the enquiry no new rights would be created. He suggested that taluqdars should be asked to confer on old proprietors, as a right, the advantages which they had held as a favour only.

It was decided that every ex-proprietor who had held proprietary rights in a village within the thirty years, preceding annexation should be deemed to possess a hereditary right of occupancy. The right should be limited to the land which he now cultivated in that village.

His possession of that land, either personal or inherited, must have lasted either from his loss of such proprietary rights or continuously for twenty years.

The rent of an ex-proprietor with right of occupancy, once fixed in accordance with rules, would not normally be liable to further enhancement for five years, and no cultivator could claim abatement within that period of rent.

¹ Man Singh Taluqdar, he denied all inferior rights.
² Misra, B.R. Land Revenue Policy in the United Provinces Under British Rule, Benares, 1942, Page 118
A landlord who evicted a tenant not having a right of occupancy will have to pay compensation for the un-exhausted improvements, made by tenants. This compensation was to be paid in cash. But it was also open to the landlord to offer a lease on terms which may compensate the value of the improvement made by him.

As all improvements were generally made by the tenants, it was supposed that it will provide sufficient protection to every tenant who deserved any protection.

Strachey believed that with these propositions carried into effect there would be an immediate termination of the dissensions and discussions. He believed that the taluqdar's deserved considerable credit for these proposals and concessions.

Thus there were many undercurrents flowing before the Act could be passed and the legislation could be applied. Taluqdar's were very cautious of their position and the government was not willing in any case to interfere strongly with the agricultural community and system as a whole. The discussions and controversies took a long time to settle without any forceful result. The protection provided to the tenants was merely an eye wash. The scope and coverage of the Acts and their subsequent legislation shows many loopholes, which the government deliberately left for future policies to be formed and decided.

**Scope and Coverage:**

The government felt that the arrangements were quite fair and just to all the parties concerned. It hoped that the suggestions thus approved
will have enough scope to cover a large body of the cultivators and especially the classes which claimed the attention and sympathy of the British Government. The Government of India therefore sanctioned these measures and authorized Chief Commissioner to promulgate them as the basis of settlement. He was instructed by the government that all rules and circulars which were inconsistent with the sanctioned measures should be cut off or modified.¹

There were variety of comments upon the settlement. Lawrence expressed his satisfaction that he could settle the Oudh land question in a satisfactory manner. He said that the settlement had been as good as the circumstances of the case permitted. He wrote to Edward Henry Stanely, Secretary of State for India, that the matter was set at rest forever.² Lawrence was hopeful that this settlement had the scope which would cover and protect the interest of all the classes, and thereby lead to the consolidation and security of British influence in Oudh.³

It was now the time to see how much scope the settlement had to cover the interest of the agricultural classes. The other officers involved with this settlement did not comply with Lawrence conclusion. They were critical of the clause that no suit would be heard in the Summary

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¹ Letter to the Government of India dated 20th August, 1866. India Foreign Proceedings (Rev.) No. 43, June 1867
² Stanely, Edward Henry. Secretary of State for India, 1858-59
³ Minute dated 18th September, 1866. India Foreign Proceedings (Rev.) No. 59, June 1867
Court for eviction based only on length of occupancy or residence. Excriptive cultivators were granted occupancy rights. But other cultivators if evicted were to be given compensation only for improvements. Grey was critical of the compromise because he felt that the "revenue officers in Oudh, who might hold diverse views, were vested with judicial powers, and might use them contrary to the intentions of the compromise."¹ Chief Commissioner Strachey was satisfied with the work he had done. But he did not feel it necessary to make the rules regarding the occupancy rights into law.

But gradually the need for a suitable law for tenants was becoming quite apparent. Strachey was incorporated into the Viceroy’s council for the particular reason. In this Bill Strachey introduced those provisions of Act X of 1859 and of Act XIV of 1863 which appeared applicable to Oudh. The Bill was finally brought in on 17th July, 1867. One of the main changes effected in the arrangements reached in 1866, was in the conditions for obtaining a right of occupancy.² Now every ex-proprietor, who, within the thirty years before annexation, had possessed a proprietary right, would have a right of occupancy in the land in his possession. The Bill also laid down that the Courts will not be competent to enquire into the rents, which were to be paid by a tenant not having a

¹ Minute by Grey, 28th September, 1866. India Foreign Proceedings (Rev.) No. 60 June 1867
² Misra, B.R. Land Revenue Policy in the United Provinces Under British Rule, Benares, 1942, Page 156
right of occupancy. Section 22 to 27 of the Bill provided an important protection to all tenants through compensation for un-exhausted improvements.¹ The Bill proposed to maintain the power of the landlord to distrain the crops of the tenants, but it did not give him the power to sell them. After the distrain had been made the landlord was to institute a suit within ten days for the recovery of the arrears of rent. The landlord could also apply to the court to order security to be taken from the defendant. In case of a default the distrained property could be attached to the landlord. The Bill also settled the jurisdiction of the Courts and the procedure to be followed by them. Chief Commissioner did not present the Bill as perfect. He asked for its improvement by suggestions, examination and discussion. The Bill laid down that the rent to be paid by the occupancy tenant was to be adjusted according to the neighbouring fields. But if most of the tenants, in a village do not have an occupancy right or if the rent paid by the occupancy tenants differed from village to village then by what standards the rent was to be fixed. In order to make some improvements on the Bill a committee was set up which submitted its report in June 1868. Some very important questions were raised by the Secretary Foreign Department. He pointed out that the clause in the Bill about the payment of rent by occupancy tenants was unjust. He suggested that to make the tenant pay the rent paid by others around him, or even in

¹ Proceedings of the Legislative Council of the Governor General of India, Vol. VI, 1867, Page 271-72
the neighbouring village was not fair. He commented that only the ‘pargana’ rate can be set as standard rate.\footnote{India Foreign Proceedings (Rev.) No. 1 of September, 1867}

Despite these criticisms the amended Bill was finally placed before the Council. It was passed by the Viceregal Council on 22\textsuperscript{nd} July, under the title of the Oudh Rent Act XIX of 1868. This brought an end for some time to the most difficult and complicated land problem in Oudh.

Lawrence in his attempt to save the tenantry from the taluqdars only succeeded in protecting a few ex-proprietors. The taluqdars agreed to minor concessions because by doing so they solved in their own interest the problem of sub-settlement. This was done at the expense of cultivators. Nowhere in any discussion is there a mention of representatives of the cultivators being called to give their views.\footnote{Ibid.} The ‘Compromise’ was a fatal blow to the Oudh tenantry. The tenants’ rights were driven to the farthest margin of the agrarian scene. It did not have any parallel in the Indian agrarian history. Even the twelve years rule about occupancy rights was denied to them.\footnote{Misra, B.R. Land Revenue Policy in the United Provinces Under British Rule, Benares, 1942, Page 157} The report of the Famine Commission\footnote{Report of the Famine Commission, 1880, part II, Page 117-22} stated that although the intention of the legislation of recent years had been to define and protect the rights of the tenants, “it had been proved by evidence, before the commission that the effects produced had
been very different from the objects aimed at”. The relations between landlord and occupancy tenants were not in a satisfactory state and they were becoming even more strained. The landlord brought suit after suit for increasing the rent and thus harassed the poor tenant. The Famine Commission further observed that through the practice of sub-letting, the occupancy tenant was turned into middle man. He lived on the difference between the rent he extracted and the privileged rate which he paid. The tenants-at-will were kept in a situation of absolute dependence on the landlord. This killed any incentive in the tenant to improve the land. He could never raise himself to a better position he lived in. Thus we find that the scope of the tenancy legislation was wide but the coverage was terribly low.

Late in 1880’s an enquiry was ordered into the relations between tenants and landlords. The Report observed that nothing could be more miserable than the condition of the Oudh tenantry. It commented that their condition has even more deteriorated due to the mistakes made by the government. The very spirit of the relation between the landlord and tenants was missing in the efforts made by the government. It was commented in the report that the Oudh rent Act of 1868, has literally left undone that which it ought to have done and done that which it ought not to have done.

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2 The Pioneer, 1st December 1882

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The provisions of the tenancy legislation which left the peasants to such a hopeless condition will be discussed later in the Chapter. Meanwhile the agrarian tensions were ripping apart the socio-economic fabric of the agrarian society.¹

On 29th November, 1882 Lord Ripon visited Lucknow. He reassured the taluqdars that the government had every desire to maintain their position, but he also made it clear that the government was quite alive to the depressed state of agricultural population in India. He further said that if the direct measures taken through the landlord did not succeed, new and direct means would be adopted.² Ripon explained that the primary and essential condition of the agricultural prosperity was the well being of the cultivators of the soil. He said that it was very important for him that the tenantry is protected from all kind of oppression.³ Lord Ripon was of the opinion that the landlords’ estate can only be

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¹ Note by Major W.E. Forbes dated 29th June, 1881, Oudh General File No. 1010, 1881-82
² The Pioneer Mail, 15th November, 1882
The most prevalent form of oppression on the part of the landlords was their habit of breaking up the holdings of their tenants and compelling them to change the fields they cultivated. The aim was to destroy any claim to occupancy rights and to prevent their accrual in case of tenants-at-will. H. B. Harington, Memo of 20th June 1881, Oudh General file No. 1010, 1881-82
³ The Pioneer Mail, 15th November, 1882
A prosperous when it is cultivated by a thriving and contended tenantry. He said that the relations between the landlord and tenant should be at a level where they are reciprocal to each other and also reap mutual advantage. They should be supplementary to each other rather than oppressive from the landlords’ side. He expected the taluqdars will cooperate with the government in their “maintenance, extension and advancement.”

The Viceroy’s visit however, had an important consequence in bringing the question of Oudh tenant right to the forefront of political controversies. The ‘Pioneer Mail’ commented that the Oudh Rent Act was “doomed” like all other “compromises.” There was an urgent requirement for the revision of the Rent Act of 1868, because in Oudh there were “few trades, factories, or other extra rural sources of relief to an overburdened soil.” The majority of the population in Oudh depended on agriculture in one way or the other. The exposure of the oppression to which the tenants were subjected to by the landlords, was made several times by the press and also by some British officers. But the situation was not improving inspite of the fact that the Rent Act of 1868 did not provide any protection to the tenants-at-will. The most important question again was what should be the form of tenant protection most

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1 The Pioneer, 1st December, 1882
2 The Pioneer Mail, 13th December, 1882
3 Ibid.
suitable for the introduction in Oudh, so that it can cover the maximum interest of the agrarian classes.

In December, 1882 A.C. Lyall the Chief Commissioner issued instructions for detailed enquiry as to the “actual progress of rents in the different districts of Oudh and the range and incidents of recent enhancements.”¹ The letter included detailed instruction which would show how far the area in cultivation and the gross rental of the village had changed since the settlement. The Deputy Commissioners were to compare rental and average rent – rate at the time of settlement with the current rent – rates. Separate investigations were to be made for the land brought under cultivation after the settlement. The class and quality of land were to be taken into consideration as well as the caste and descent of the cultivators. The neighbouring Deputy Commissioners were to be approached to compare rent-rates existing in Oudh and in North Western Provinces.

The points on which the enquiry was to be done were: (1) what was the advance on rents of holding of tenants at will during the last ten or twelve years? (2) were these enhancements of rents general or special i.e. leading to levelling up of rents to prevailing standards or had the enhancement raised the rents all around? (3) were there many cases where the rents had been raised so rapidly or so high that they pressed severely on tenants? Chief Commissioner instructed the Deputy

¹ Circular letter No. 3624 of 20th December, 1882 to all Commissioner, Revenue and Agricultural (Rev. Proceedings)
Commissioners to take utmost care during these investigations in the interest of all classes whose living depended on land. Chief Commissioner Lyall was unhappy with those who had concentrated only on the subjects of granting occupancy rights to hereditary cultivators and adjusting their rents. The subject of tenants-at- will had not received due attention of the officers till now. In Oudh the only principle accepted was the protection of the occupancy tenants. In the thirteen years that had passed since the Rent Act came into force, prices had risen considerably, railways had opened and population had increased. The Oudh landlords were well aware of their unlimited proprietary rights over the land cultivated by tenants-at-will. There was a rapid increase in the notices of ejectment, which Chief Commissioner believed was due to the ‘natural and inevitable’ circumstances of the relations between landlords and tenants created by the Rent Act of 1868. The law empowered the landlords to make their own terms with the tenants. The government could not take any action against them unless it was not proved. It was difficult to draw a line between where “reasonable enhancement ended and unjustifiable rack-renting began.”

2 Minute by A.C. Lyall, 28th December, 1882, Rev. & Agricultural (Rev.) Proceedings.
3 Ibid.
The Chief Commissioner, A.C. Lyall was of the opinion that before drawing up any legislation the government must “clear the ground by assuring the taluqdars that there was no intention of conferring on tenants-at-will rights of occupancy.” The Oudh Rent Law of 1868 left the rents of tenants-at-will to be determined by competition. He was of the opinion that the government must interfere in one way or the other to protect the tenant from incessant disturbance and enhancement. Chief Commissioner believed that it was not necessary to determine whether the tenants had suffered from the arbitrary powers given to the landlords. The important point was that the Rent Act of 1868 not only gave these powers to the landlords but also encouraged them to exercise them by a process very disadvantageous to tenants.

The Chief Commissioner found enough evidence to the fact that the Oudh Rent Act of 1868 was misused by the landlords to unlawfully oppress the tenant in any form. It also discouraged the tenant from making any improvement in the land. Lyall felt that these conditions provided enough ground to alter the law. He suggested some ways in which the government might interfere to check and restrict the “existing powers of the landlords in the matter of enhancement and ouster. Firstly he proposed that special officers might be appointed to settle rents and

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1 Minute by A.C. Lyall, 28th December, 1882, Rev. & Agricultural (Rev.) Proceedings.
2 Ibid.
3 Ibid.
draw up rent rolls for the period of revenue settlement. Secondly, special courts might be appointed to decide the rent disputes and no enhancement or reduction of rent should be made until it had been sanctioned by the court. The third method that he suggested was the system of compensation for disturbance as well as for improvements which tenant must receive before being evicted.\(^1\)

Before forming any legislation it was essential to have the correct information regarding the rise in rents and their causes. Here again it was of the utmost concern to the government to find a method that was “most convenient and most acceptable” to both parties concerned. The Chief Commissioner said that there was a strong need to “carry the landlords with us.”\(^2\)

As it was from the very beginning of the Oudh land question the government could not neglect the landlords due to its own interest and thus insisted to know the more of the feelings and wishes of both sides. The government was not willing to interfere in such a way which might create animosity between landlord and tenant. Sir Alfred Lyall in his discussions with the landlords found that most of the taluqdars were ready to go for 5 years long lease for their tenants, but the problem was

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\(^1\) Minute by A.C. Lyall, 28\(^{th}\) December, 1882, Rev. & Agricultural (Rev.) Proceedings.

\(^2\) Ibid.
how to revise the rent periodically. More ground work and enquiry was required to amend the Rent Act of 1868 effectively.¹

To approach and settle the problem amicably the Chief Commissioner issued instructions to make further enquiry into rent rates and also to depute Major Erskine² to personally visit the districts and guide the officers. As Lyall has put it that it was important to let the taluqdars know what the government was doing and to “prevent them from taking alarm.”³ On the appointment of Major Erskine the Lucknow Express ⁴ commented “no better appointment could have been made to an office calling for such delicate tact, and thorough experience and intimacy with the subject.”

Lord Ripon had welcomed the enquiry but instructed Sir A. C. Lyall that it should be “real, searching and impartial.” Here it is

¹ Minute by A.C. Lyall, 28th December, 1882, Rev. & Agricultural (Rev.) Proceedings.

² Erskine Major, G.E. On special duty in 1883 to conduct an enquiry into the condition of the cultivating classes. He was well known to taluqdars and it was expected that he would explain to them satisfactorily the object and scope of the investigation.

³ Ibid.

⁴ Quoted in ‘The Pioneer’ 4th January, 1883, Since the wheels of legislative coach resolve slowly, and a great question cannot be settled off hand an interim measure was suggested, prohibiting the eviction of any tenant except for a decreed arrear of rent. Letter to the Editor.
necessary to mention that Lord Ripon did not approve the idea of Sir A.C. Lyall regarding giving any general assurance to the taluqdars which may tie their hands in future. He also objected to the idea of leases for five years as very short one, but agreed with the idea of compensation for disturbance as well as for improvement.

Thus Major Erskine was given detailed instructions to conduct an enquiry. He had to visit various districts, with Commissioners and Deputy Commissioners and see if the investigations were carried on with promptitude, sincerity and honesty. He was to report whether, under the Rent Act of 1868 the rents had been enhanced in Oudh "so rapidly and heavily as to press seriously upon the cultivating classes, to a degree that materially affects, or threatens to effect, their condition, and the agricultural prosperity of the province." He was also instructed to give suggestions to check the rise in numbers of ejectment notices. He was also allowed to use his personal influence to solve the matter successfully. All the Deputy Commissioner had to report to him their remarks on the subject. Ten villages from each tahsil were selected for enquiry. The object was to ascertain as to what progress had been made

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1 Letter No. 26, 5th January, 1883, From Secretary N.W. P. & Oudh, Oudh Rev. Dept., Oudh General File No. 394, 1882-83, Part V

2 Ibid.
towards prosperity or what deterioration had occurred in the agricultural condition of the villages etc.  

The Taluqdars were aware of the rent enquiry being conducted in the province. They informed the government about the measures they had adopted to improve the cultivating conditions in their holdings.  

The first report of the enquiry showed that tenants as a body were unprotected and the system of notices of ejectment was misused to the maximum level. In general the opinion expressed in the report recommended an amendment in the Rent Act of 1868. The main points to be decided were in what way the law should be amended so as to place some restriction on landlord’s power to enhance and eject. The matter of compensation for improvement was another issue to be treated effectively. It was believed that security of tenure would guarantee punctual payment of rent and improved cultivation. It was observed in ‘The Pioneer’ “without security for agricultural industry, agricultural improvement is not to be looked for.”  

J.B. Lyall who was the President

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2 Letter No. 994 of 26th March, 1883 to Sec., Govt. N.W.P. & Oudh, Oudh General File No. 394, 1882-83, Part V  
3 A Native View of Oudh Land Question, The Pioneer Mail. 29th July, 1883  
4 Brother of A.C. Lyall, Formerly Financial Commissioner in Punjab.
of the Rent Law committee observed that the condition of great insecurity which has developed in Oudh was more alarming to the prosperity of the tenants and improvement of agriculture than a "high general pitch of rent rates would be."

The reports of the district officers clearly mentioned that "in the late years on many estates, particularly on those of the smaller landowners" rents had been largely and rapidly increased. It was now evident that the reform of the rent law was inevitable. Again it was made clear that on "general ground of policy, the object of the legislation should be the minimum disturbance of the existing relations between landlord and tenant consistent with due protection to the latter." In his memorandum J.B. Lyall expressed his disagreement with the idea of fixation of 'fair rent' by the courts and also against any attempt to limit the rate of enhancement to any per centage of the rent paid.

After receiving the report from the district officers and finally from J.B. Lyall, Major Erskine submitted his report to the government. The investigations, under his supervision, were conducted in every district of Oudh. The district officers had different opinions and suggestions

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1 Memorandum by J.B. Lyall, 7th May, 1883, Oudh General File No. 394, 1882-83, Part V
2 Ibid.
3 Ibid.
4 Ibid.
regarding security of tenure, enhancement of rent, compensation for improvement and so on.

The officers maintained that the general condition of the tenant was very bad. Some of them suggested that the tenants should be protected from enhancement of rents from time to time; they should be given higher compensation for the improvements made by them in the land. They also suggested that if the landlords’ power of eviction was to be maintained, landlords’ should give a longer notice to the tenant. The Deputy Commissioners of Hardoi & Kheri were in favour of ‘fair rents.’ The Deputy Commissioner of Lucknow admitted that the rents pressed heavily on the tenants in bad season. In Unao the rent rates were reported to be at their highest limit. In Sitapur the Deputy Commissioner reported that the increase in rent was not justified because the productive power of the soil was diminishing.

Inspite of the facts which spoke for themselves Erskine commented in his report that “any reform should be moderate and confined to the real necessities of the case.”\footnote{Erskine’s letter No. 135 of 1\textsuperscript{st} June, 1883, Oudh General File No. 394, 1882-83, Part II} He rejected the ‘fair rent’ theory saying that it should involve a lot of work for revenue officials, which might lead to excessive litigation. He gave some suggestions as to put some check on landlords’ power for enhancement and eviction. He suggested fixity of tenure and fixity of rent for seven years or for longer period if both the parties felt so. After the expiry of this period the
landlord could enhance the rent or evict the tenant. In case of eviction the landlord had to give a notice of six months. The tenant was to receive a compensation of year’s rent subject to a maximum of 36 rupees.¹

Sir Alfred Lyall found it most difficult to reach to any decision. He commented that the “contentment and confidence of the landowning classes were essential elements in the stability of the British Government.”²

The general comment on the feasibility of rent law reform varied between two divergent views: “It is a matter of the first political importance that landlords’ responsibility and control over his estate should be maintained”³ and the other. “The aim of that legislation should be to give as much security to the actual tiller of the soil as possible, that he shall reap the fruits of his own toil.”⁴

¹ Erskine’s letter No. 135 of 1st June, 1883, Oudh General File No. 394, 1882-83, Part II
² Ibid.
An attempt was made to devise a self-acting system of regulating the contracts between landlords and tenants. The main features of the scheme submitted by Lyall were as follows:

First, the sitting tenant to be given in all cases a statutory period of occupation for seven years from the date of the last settlement of his rent or holdings.

Second, the enhancement of rent at the end of the statutory period to be limited to 6½ per cent of the rent paid during that period.

Third, the local government was to be given the power to vary the limit of enhancement from time to time within periods of not less than seven years, in any district or a part of district.

Fourth, at the end of the statutory period, a landlord could issue a notice of enhancement or a notice of ejectment. In case of a notice of enhancement, the increase in the rent was to be within the prescribed limit, and if this offer was rejected by the tenant and the holding became vacant, the landlord could only get 6½ per cent more than the previous rent. In case of an ejectment the tenant was to receive a year’s rent as compensation for disturbance, and the landlord was to get only 6½ per cent more rent from the newcomer. In both cases, the tenant was entitled to receive compensation for improvements.

Fifth, after the expiry of a statutory period of occupation, and before the beginning of the new period, the landlord was to be given the paper to eject the tenant from one fourth of his holding by bringing a suit in the court. Such ejectment could take place without compensation for disturbance on grounds to be regarded as sufficient by the court.
Sixth, the right of renewal to be personal to the sitting tenants.

Seventh, on deterioration of agricultural condition, including the condition of the tenancy, the local government was to be empowered to appoint an officer for revision of the rents and their “authoritative settlement” for a period of ten years.

Considered from the landlords’ point of view the scheme was on the whole favourable. It gave them opportunity to raise rents four times in the course of a thirty years’ settlement, obtaining on each occasion an enhancement of 6¼ per cent. It also preserved the power of the landlord to eject a tenant after paying him compensation for disturbance and given the right to evict the tenant from one fourth of the holding. From the tenant’s point of view, the scheme though not without its weak points, was reasonable. It provided the tenant with a seven years’ lease and allowed him the option of re-entry at a moderate enhancement. It entitled him to compensation for disturbance and improvements. Sir Alfred Lyall believed that the scheme offers protection to almost the entire body of the tenantry and it represent a fair endeavour to secure for them substantial encouragement to improve their holdings and a material strengthening of their position.

A final decision on these issues could not be reached immediately. The scheme had to be approved by the Government of India and by the Secretary of State before any legislation could be introduced.

‘The Pioneer Mail’ hoped that very soon the legislation would be passed to protect the tenantry from the oppression. It commented that the
“delay in settling the questions would be disastrous to cultivators in whose interest the enquiry was undertaken.”

However even after much speculation the proposals were not approved by the Secretary of State, Mr. Kimberlay on the ground that they would cause grave discontent among the landowners. The Pioneer Mail, commenting on the Secretary of States’ decision lamented that the suffering of the Oudh tenants has to wait a little longer. Lord Ripon was much disappointed as his tenure was about to be over. He was replaced by Lord Dufferin in December, 1885. The question of tenancy legislation was once again opened. Kimberlay was replaced by Lord Randolph Churchill as Secretary of State. So a fresh new scene was ready for the Lyall to cope up with the problem. Lyall drew the attention of the Secretary of State to the problem. He was known for his conservative view on the political significance of supporting the taluqdar, but he was also inclined to moderate reforms. Lyall pointed out that some amendment of the rent Act of 1868 was necessary. In order to put the landlord-tenant relationship on a better footing he suggested that the main object of the legislation in Oudh should be the abolition of the yearly tenure, and introduction of a system under which the tenants would hold for a longer term so long as they paid their rents. He maintained that such a scheme would be beneficial to both landlords and tenants. The question of land reform was very contentious. Ultimately Lyall’s proposals were

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1 The Pioneer Mail, 23rd January, 1884
2 The Pioneer Mail, 17th December, 1884
accepted with the understanding that the proposal would be “open to any modifications of details which might be found expedient after discussion with the parties concerned”.¹

It was hoped that taluqdars will co-operate with Lyall.² The Pioneer Mail commented that the taluqdars would agree to any reasonable scheme of reform and would exempt the tenants from arbitrary ejectment. It also expressed hope that some restraint will be put on the power of unlimited enhancement.³ Thus after much consideration and discussions it was finally agreed that the land legislation should have wider scope and coverage so that it could meet the interest of the wider section of the agrarian community. So the stage was all set for a new set of provisions.

**Main Provisions:**

The draft of the Bill to amend the Oudh Rent Law was submitted by Sir A.C. Lyall. The principles on which the Bill was based were explained by Sir Lyall in his letters of 21st December, 1883 and 12th May.

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¹ Letter No. 14 of 22nd September 1885, from Governor General in Council to the Secretary of State, Revenue and Agriculture (Revenue) Proceedings.

² Government of India’s letter No. 822 of 9th December 1885, Revenue and Agriculture (Revenue) Proceedings.

³ The Pioneer Mail, 16th December, 1885
1884. The Bill followed the lines of the Rent Act of 1868. The Bill proposed to repeal and re-enact the provision of the Rent Act of 1868. It was mainly in Chapter IV and V on the Rent Act of 1868 that some necessary changes were to be made. It was also suggested to remove the difficulties that had been found by the courts in interpreting certain parts of the Rent Act of 1868. The Bill dealt with some of the important questions regarding compensation for improvement and disturbance and enhancement and settlement of rent.

Sections 22 to 26 of the Bill dealt with compensation for improvements. Some sections of the Rent Act of 1868 relating to compensation for improvement were removed. The Bill gave a statutory period of tenancy and also put a limit on all enhancements. The procedure regarding to calculation of compensation was amended. Protection was given to the tenant against the refusal of the landlord to allow an improvement.²

¹ Letter No. 177/208-11R of 15th January, 1886, From Secretary N.W.P. & Oudh, Oudh Revenue Dept. to Secretary, Government of India, Revenue and Agriculture Dept., Rev. and Agricultural (Rev.) Proceedings.

² This was based on the Irish Land Act of 1870 which had laid down that the tenant could make amendments without the approval of his landlord.
Section 24 entitled a tenant to apply to the Deputy Commissioner for such permission. Section 26 gave protection to a landlord for improving his tenants' estate.

Chapter VI of the Oudh Rent Act of 1868 was also changed considerably. Sections 35 and 36 of the Act were replaced by sections 35 to 36 of the Bill. The taluqdars also helped in drafting some of these sections of the Bill. They provided every tenant with a statutory lease of seven years. At the end of this term the tenant was to be given a preferential claim to continue holding his field at a rent not exceeding 6¼ per cent of the old rent. In case he was ejected from his fields at the end of seven years' lease, the landlord would pay him compensation equal to one year's rent. Under any circumstances the enhancement of rent was not to exceed 6¼ per cent of the old rent. This clause was to be followed irrespective of the fact whether the old tenant continued or was replaced by the new one. In case the sitting tenant refused to accept the 6¼ per cent increase, he was to quit without compensation. The provision was laid down in the Bill that in the case if tenant dies, his heir could hold his field only until the expiry of the lease.

Chapter V of the Bill dealt with the problem of ejectments. Some important changes were made (a) the procedure relating to ejectment for arrears was simplified (b) a provision was laid down that in cases of ejectment by notice, the landlord will have to deposit compensation, for disturbance; (c) a provision for longer period was provided for the issue of the notices of ejectment; (d) a provision was laid down that a compensation for disturbance should precede ejectment; (e) a section of
the Bill enabled the courts to assist a landlord in ousting a tenant who had unsuccessfully contested a notice (f) grounds were specified on which the notice of the ejectment could be passed.  

In Chapter X section 129, the provision was made under which the local government, with the sanction of Governor General in Council had the right to appoint an officer for the revision of the rents. This was especially for the estates from where the complaints of serious mismanagement were received or where the condition of the tenantry has alarmingly deteriorated or where the area of cultivation has diminished.  

Explaining the section relating to compensation for disturbance Sir Lyall pointed out that this payment as compensation was not intended to represent the damages due to cultivator, but it was to be used as a device which may check the arbitrary power of the landlord to evict. It was also hoped that it may strengthen the bargaining power of the tenant and he

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1 Letter No. 177/208-11R of 15th January, 1886, From Secretary N.W.P. & Oudh, Oudh Revenue Department to Secretary, Government of India, Revenue and Agriculture Dept., Rev. and Agricultural (Rev.) Proceedings.

2 Ibid
may use it for a renewal of the seven years lease.\(^1\)

Sir Lyall had the inclination that taluqdar will object on two points, firstly compensation for disturbance, section 38 and secondly, section 129 reserving power of interference with the government in cases of gross oppression and mismanagement in any estate. In order to avoid speculations and rumours the Bill was formally referred to the ‘Taluqdar’ Association. The result was that the taluqdar agreed to the clause of seven years’ lease and the limitation of rent enhancement. But as speculated they objected to Section 38 and Section 129 of the Bill as derogatory to the position and rights of taluqdar and requested that these be removed from the Bill. Sir Lyall was again in a pressure to rethink over the objections made by taluqdar. The fear and political necessities convinced Lyall to the need to revise Bill in a conciliatory manner which may not weaken the interest of the tenants too much. In India there was no political party or association to represent the cause of tenants. If there was any objection, it was from the taluqdar against certain provisions of the Bill. The taluqdar were not concerned about the tenants’ problems, they were worried about the infringement of their rights. Sir A.C. Lyall forwarded the memorandum of the taluqdar to the Government of India. He supported the objections of taluqdar. He argued that as the taluqdar

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\(^1\) Letter No. 177/208-11R of 15th January, 1886, From Secretary N.W.P. & Oudh, Oudh Revenue Department to Secretary, Government of India, Lyalls minute 15th January, 1886, Revenue and Agriculture (Rev.) Proceedings.
were against section 38 of the Bill it should be altered to suit them. The taluqdar wanted this section to be expunged. In its place they agreed to a section by which they would pay half a year’s rental, subject to a maximum of Rs. 25 in the form of stamp duty. Lyall accepted this “as an admissible compromise upon an important and closely-debated provision of the Bill.”

Lyall also recommended that section 129 empowering the local government to interfere in any mismanaged estate should be removed.

The Bill became law as Act XXII of 1886 in October 1886 after it was sanctioned by the Governor General. The law came into force on 1st January, 1887. The imposition of the law was deliberately delayed. The idea behind its delayed enforcement was that it would give time to the rent courts to examine the details of the new law before bringing it into operation. It was also argued that delayed enforcement of the law would prevent the issue of ejectment notices in November, 1886 for the agricultural season of 1887. Thus the Act was enforced after a very long and tedious process. Lyall was hopeful that the Act would be of ‘permanent benefit to the country at large.’

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1 Letter No.2456 R-208-60 of 6th September, 1886, to Secretary, Government of India, Legislative Department, India Legislative Proceedings.

2 Oudh General File No. 1950, Part IV
Shortcomings:

The main features of the Act seemed to favour the tenants because it gave them fixity of tenures for seven years and a limitation on the enhancement of rent. Heavy cost had been paid to achieve these concessions. All the references to the question of tenant’s right were sacrificed. The Act confirmed the hold of the landlords over their tenants. The role played by the representatives of the taluqdar showed their determination to fight every attempt to reduce their power. The Act seemed to be an alliance between the administration and the landed aristocracy that led to the cutting down of the original proposals. The taluqdar were the powerful magnates. They had the support of the government and of their own association. Taluqdar thanked Lyall “for the care and patronage with which our rights in connection with the Oudh Rent Act were treated.”¹ The Act remained in operation from 1886 to 1921. The most important provision of the Act was that while it checked the power of the taluqdar to enhance rents, it did not provide a better security of tenure to the statutory tenants. The result of this was that the practice of exacting ‘nazrana’ was started to defeat the provisions of the Act.

¹ Taluqdar’s address welcoming Lyall, 30th November, 1886, See also The Pioneer Mail, 8th December, 1886
Misuse of the Shortcomings in Legislation by the Landlords and their Effect upon Peasants:

As it is clear throughout the history of land relations in Oudh, the government never wanted to part with the taluqdar’s interest. The Provisions of the Rent Act of 1886 were good enough in appearance but they provided a loop-hole. The Act had provided protection to tenants by giving them lease for seven years. After the expiry of this lease their rents could not be enhanced by more than an anna in the rupee. Under the provisions of ejectment the new cultivators could not also be made to pay more than 6¼ per cent over the rent of the ejected tenants. The landlords asked for heavy ‘nazrana’ to renew the lease and if the sitting tenant refused to pay he was ejected and the land was given to another tenant who was prepared to pay the ‘nazrana’. So the ‘nazrana’ was nothing but the concealment of high rents.¹

The Revenue Administration Reports of 1888 and 1889 give some idea of the loop holes in the working of the Oudh Rent Act of 1886. Since the Act of 1886 came into force from January 1887 and the notices of ejectment could not be issued before November 18, 1887 the Revenue Administration Report of 1888 contained the number of such notices for

¹ Misra, B.R. Land Revenue Policy in the United Province Under British Rule, Benares, 1942, Page 162
two agricultural years. The number of notices amounted to 2,369 under various clauses of the Act.¹

Cases of notices of relinquishment rose sharply to 8,874. The number of the notices of relinquishment was highest in Unnao district, and the next largest number was from Lucknow district. In Hardoi, it was pointed out that these notices were forced by landlords as a means of evading ejectments. On 26th February, 1892, ‘The Pioneer’ reported the oppressive measures adopted by landlords. The landlords used the loopholes in the Act to exploit the tenantry. The major reason for the exploitation of the peasants was that they were too illiterate and timid so as to learn the provisions of the Act. In many parts of Oudh even when the peasants were told about their rights they preferred the will of the landlord.² The traditional bindings did not allow them to come out of their cover of submissiveness. But this was not to be, and because of this they remained at the mercy of the landlord until the next 30 to 35 years when peasants protested against the illegal exactions.

¹ Revenue Administration Report for the year ending 30th September, 1889, Page 27-28
² Currie, Fendall. Commentaries on the Oudh Rent Act, Lucknow, 1891, Page 3