

**DR. MCR HUMAN RESOURCE DEVELOPMENT
INSTITUTE OF ANDHRA PRADESH, HYDERABAD**



Revenue Administration



Dear Participant,

The State Government of Andhra Pradesh has launched a major Training and Human Resource Development initiative. For effective and efficient implementation of various programmes taken up by the Government, well trained and well informed official machinery is a must. The Government had been introducing a large number of New Programmes and launched a series of measures aimed at Administrative Reforms with the sole objective of providing SMART (Simple, Moral, Accessible, Responsive, Transparent) Government and for providing satisfaction to the citizen.

No initiative or programme of any organisation can be successfully implemented if the functionaries are not fully involved in the programme. The best way to involve would be to make each functionary aware of his role-functions and responsibilities and making him fully conscious of what is expected of him. To achieve this, it has been considered necessary to assess the training needs of every functionary. An exercise has been launched getting the information through the OMR Formats. I am sure you too might have filled in the OMR format to facilitate our appreciation of your background, your requirements and your training needs.

It has also been felt necessary that every functionary in the department should be provide with booklets giving comprehensive information about the working of his department and also the specific job to be done by him as a functionary of the department. It has also been proposed to conduct various orientation courses, technical update programmes, general administration packages necessary for the day to day working etc. The mandate is that every public functionary should be exposed atleast to one training module every year.

In order to meet the above objectives, Dr. MCR HRD Institute of Andhra Pradesh proposes to bring out a series of booklets (in coordination with the concerned Departments) covering various aspects of administration. This material can be used as course material while conducting training programmes, or general reference material by you during your day to day working.

The present volume on Revenue Administration is one among the series. This volume covers Village Accounts, Record of Rights and Pattadar Pass Books Act, Revenue Recovery Act, Encroachment of Government Lands (Land Encroachment Act, Land Grabbing (Prevention) Act), Assignment of Government Land, Land Acquisition, Executive Magistracy, Protocol Management, Essential Commodities Act & Role of Revenue personnel. Some of them may not directly relevant to the Revenue persons. However as District/Division/Mandal heads, the Revenue personnel have to play certain roles in them. Hence they are also included in this volume. The Institute acknowledges the contributions of various resource persons in preparing the synopsis on various topics. The information given in these series is for training purpose only and cannot be the basis for any litigation or legal action.

Please go through the materials. If you have any suggestions, please send them directly to the Director - General, Dr. MCR HRD Institute of Andhra Pradesh, Road No.25, Jubilee Hills, Hyderabad-33. Please quote the series number and the title of the booklet while sending suggestions.

We propose to update and revise these booklets periodically incorporating the suggestions made by the participants.

P.V.R.K. PRASAD IAS

Director - General

Dr. MCR HRD Institute of
Andhra Pradesh.

&

Principal Secretary to Government (HRD)

Hyderabad

Date : 21-10-1998

*Revenue
Administration*

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Village Accounts

Village Accounts

Prior to formation of Andhra Pradesh there were (39) Village Accounts in Telangana Area and (38) Village Accounts in Andhra Area. In G.O.Ms.No.1474-Rev.(N)Dept., dt. 15.12.79, the Govt. have issued orders reducing the Village Accounts in Andhra Area to (23) from 38. Similarly in G.O.Ms. No. 599-Rev. (N) Dept. dt. 1.7.76, the Government have issued orders reducing the Village Accounts in Telangana Area from 39 to 22. The integration of Village Accounts of Andhra and Telangana Areas was under consideration of the Govt. for some time.

The Govt. have issued orders in G.O.Ms. No. 115 Rev. (N) Dept., dt. 8.2.89 constituting an expert committee under the chairmanship of Commissioner of Land Revenue in order to integrate the Village Accounts of both the regions. The Govt., issued orders in G.O.Ms.No. 265-Rev. (LR) Dept., dt. 10.3.92 approving the Integrated formats of Village Accounts formulated by the Expert Committee with certain modifications.

The Integrated Village Accounts formulated area as shown below:

S.No.	Village Account Number	Description of the Village Account
1	1	Register of govt. Lands, Assignments, Alienations and land available for Assignment
2	2	Transfer of Registry
3	3	Adangal/Pahani
4	3-A	Monthly cultivation account and estimated out - turn
5	4	Holding and Land Revenue Demand
6	4-A	Statement showing the water rate penalties, Miscellaneous Revenue and charges levied
7	4-B	Statement of Remissions
8	4-C	Govt. lands encroachment Register
9	5	Demand collection and Balance Register
10	6	Register of Daily collections
11	7	Remittances
12	8	Register of Irrigation sources
13	8-A	Irrigation Abstract
14		Register 'A' in Andhra Area and Setwar in Telangana Area
15		Enclosure to 'A' Register
16	9	Receipt of Land Revenue and Miscellaneous Revenue
17	10	Register of Births
18	11	Register of Deaths

Necessary instructions for writing village accounts have been issued to the Collectors. Sufficient number of Village Accounts Manuals printed in Telugu have been supplied to the Collectors for distribution among the Village Administrative Officers.

JAMABANDI

The object of the Jamabandi as outlined in B.S.O. 12 is for a detailed scrutiny of Village and Taluk Accounts with an object of ascertaining whether all items of Land Revenue including the demand for permanently settled Estates, Inam Villages and Minor Inams have been properly determined and brought to accounts. Secondly, it is to check up whether the statistical data prescribed for economic and administrative purposes have been correctly gathered and compiled. It also provides an opportunity for the higher Officials of Revenue Department to see that all Mandal Authorities from M.R.O.s downwards have during the fasli, been doing all that is expected of them, particularly, in respect of the following subjects viz., careful inspection of cultivation and porambokes, the prompt and proper disposal of encroachments, and of darkhasts and relinquishments, and transfers of land, the examination of cash accounts, claims to remission, the collection of Kist, as they fall due and adjustment of overpayments. The rotation prescribed for conduct of Jamabandi by the Collectors/Joint Collectors/D.R.Os and by the Divisional Officers provides an opportunity to the district level officers to know the problems of that particular Mandal in a more intimate way.

It gives an opportunity to the ayacutdars to bring their grievances to the notice of Revenue Officials with regard to inadequate supply of water from the Government sources of Irrigation or about the need of repairs to any of the field channels of other Irrigation sources or about the loss of crop due to pests etc.

Though there is every opportunity for the public to approach any officer at any time throughout the year to get their grievances redressed, still there would be certain grievances which can be redressed only at the time of Jamabandi (i.e.) before finalisation of the demand.

The Revenue Inspectors are expected to enquire and give a detailed report on the petitions received at the time of Jamabandi before the date fixed for finalisation of demand of that particular village. So that necessary orders are passed by the Jamabandi officers and effected in the Account.

The demand of Land Revenue of the district has to be arrived at within a specified period before the end of the fasli year. That is why the Jamabandi is to be held every year before the end of the fasli.

In place of erstwhile village officers system, the Govt. have considered the need for introduction of new village administrative set up for effective implementation of welfare measures and appointed the Village Administrative Officers for every village or for a group of villages w.e.f. February, 1992. Besides this, the Govt. have also issued orders integrating the Village Accounts of both the Regions for adoption with effect from 1402 Fasli. The Village Accounts formats have been supplied to all the V.A.Os through the Collectors so as to enable the V.A.Os to produce all the records at the time of Jamabandi. In addition to the Village accounts formats, Stone Registers 'A' and 'B' for proper upkeep of the survey stones are also supplied to the Collectors.

WATER REGULATIONS

In fixing the area for second crop, the Committee constituted to regulate water shall be guided by the following principles, namely :

- a. That the rotation system shall be introduced for supply of water to the second crop subject to the condition that the interest of the ryots of registered double crop wet lands, single wet tabi and single wet lands are not affected.

- b. The survey numbers should as far as possible be in a compact block.

In the Telangana Area the regulation of water and fixation of ayacut for second crop irrigation, prepared by the village committee shall be subject to sanction of M.R.O. and it shall be announced in the village sufficiently before the cultivation for second crop season begins.

In case of unauthorised irrigation during second crop in contravention of the ayacut fixed by the Village Committee and sanctioned by the Tahsildar (now MRO), the persons guilty of such irrigation shall be liable for penalties under any law for the time being in force.

In allocating the area for second crop season, the rotational system shall be followed so that the commandable lands lying in the ayacut may get their turn once in two or three years subject, however, to the conditions that the interest of the double wet or dufasal lands and single wet tabi are not affected. The regulation of water and fixation of ayacut for the second crop irrigation shall be announced in the village sufficiently before the cultivation for second crop season begins following the rotational system as per the guidelines.

In the delta areas of Andhra, following the above principles, the Collector will decide every year in consultation with the Irrigation Department officials, and the peoples representatives and after hearing the ryots of the area concerned, the second crop area under each delta system.

*Quality only happens when you care
enough to do the best*

*The Andhra Pradesh
Record of Rights in
Land and Pattadar
Pass Books Act*

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The Andhra Pradesh Record of Rights in Land and Pattadar Pass Books Act

The A.P. Record of Rights in Land Act, 1971 was amended in Act 11/80 and Act 1/89. Act 1/89 provides for updating of Record of Rights U/s. 3(1) of the Act and for regularisation of unregistered transfers and alienations u/s 5-A of the Act. Because of these amendments the A.P. Record of Rights in Land and Pattadar Passbooks Rules, 1989 were issued in supersession of the A.P. Record of Rights in Land Rules, 1978.

MAIN FEATURES

The main features of the amended Act and the new Rules are:

- (a) New format for the pattadar pass book and title deed in 4 parts, 2 parts will be printed on white paper, one part will be printed on pink paper and the 4th will be printed on green paper.
- (b) Every pattadar, owner, tenant, mortgagee will get a pass book with his photo affixed on the pass book and attested by the Mandal Revenue Officer concerned.

- (c) Credit agencies should take cognizance of the entries in the pattadar passbook and advance loans without insisting for copies of village Revenue Accounts such as Adangal, Pahani, 10 (1) Account/Chowfasla etc.
- (d) All Inams mentioned and their repayments will be entered by the credit Agencies in the Pass Book.
- (e) The land revenue payable, paid and the balance will be noted in the pass book.
- (f) Unregistered alienations and transfers can be validated by following the procedure prescribed in Section 5-A of the Act and Rule 22 of the Rules.

Land is defined in the Act as land which is used or is capable of being used for purposes of agriculture including horticulture but does not include land used exclusively for non-agricultural purposes (Section 2(4)).

The said Act shall not apply to the lands belonging to the State Government or Central Government (Section 12).

Record of Rights are, therefore, to be prepared or updated and maintained for all lands excluding lands belonging to Central and State Governments, and lands which are used exclusively for non-agricultural purposes.

The purposes of Act 26 of 1971 are mainly:

- (a) Preparation or updating of Record of Rights.
- (b) Rectification of Record of Rights prepared under 'a' above.
- (c) Amendment and maintenance of Record of Rights.

The Government of Andhra Pradesh have amended the Record of Rights in Land Act, 1971 as A.P. Record of Rights in Land and Pattadar Pass Books Act, 1971 (Act No. 26 of 1971) as amended in Act 11 of 1980 and Act. No. 1 of 1989 and brought into force with effect from 4-3-1980. The Record of Rights in Land & Pattadar Pass Books Rules 1989 have been framed under the provisions of the Act brought into force with effect from 9-6-1989.

The Commissioner, Survey Settlements & Land Records, A.P., Hyderabad has issued Notification under sub-Rule (ii) of Rule 4 of the A.P. Record of Rights in Land & Pattadar pass books Rules 1989 for making the Record of Rights upto-date for the entire State vide Notification No. ROR/B/457/89, at 10-6-1989.

Further the notices in Form No:II&IX calling for claims and interest over the Lands from the ryots have to be published in all villages of a District and the said notices have to be published in the District Gazette under Rule 5 (ii) and Rule 22 of the A.P. Record of Rights in Land & Pattadar pass books Rules 1989 respectively.

As regards implementation of Record of Rights in Land & Pattadar pass books Act, 1971 and updation of Records of Rights in all villages comprised in Mandals of a District, the Collector, is required to issue Notification under sub-section 10 of Section 2 of the A.P. Record of Rights in Land & Pattadar passbooks Act, 1971 amended Act No. 1/89 appointing Recording - Authorities to make Record of Rights upto-date in the District.

The following functionaries working in District Revenue Administration can be Notified and appointed as Recording Authorities.

1. Mandal Revenue Officers
2. Spl. Dy. Tahsildar (ROR)
3. Senior Assistants (ROR)

4. Spl. U.D. Revenue Inspectors
5. Mandal Revenue Inspectors

In a District the basic record R.O.R. Form-I B prepared on the basis of the entries of the Pahani 1987-88 since the date of commencement of the Act is 9-6-1989. Besides, in order to have a super check with previous records, the following basic records can also be considered.

- 1) Khasra Pahani
- 2) Permanent Register (Earlier ROR)
- 3) Sethwar

Since the land is defined in the Act as land which is used or is capable of being used for the purposes of Agriculture including horticulture but does not include land used exclusively for non-agricultural purposes under section 2(4) and also Act does not apply to the lands belonging to the State and Central Government vide section (12), such lands excluded from the basic Register (part-I).

FIRST GRAMA SABHA

Under Rule 5(2) of the rules requires that the notices in Form-II shall be published in the District Gazette and also in the manner in vogue in Revenue Department.

In all villages of a District the notice referred to in Form-II & IX be published declaring the intention of the Recording Authority to prepare a Record of Rights in lands in the village or to update the Record of Rights in lands and regularisation of unregistered Documents by holding Ist Grama Sabha in the village, call upon all persons claiming any interest in such lands to furnish a statement in writing in Form-IA showing the particulars of the lands and the nature of interest on or before a date specified in the notice, not being earlier than 156 days from the date of publication of the notice, and declare also his intention to hold an enquiry in respect of the above matter in the village on a date specified in the notice, not being earlier than 22 days from the

date of publication of the notice and call upon all persons interested to appear before him at the said enquiry on the date specified.

Any claims if received in Form I-A and Form X in response to the notification, such claims should be entered in the Claim Registers in IIA and XA.

SECOND GRAMA SABHA: FIRST STAGE OF ENQUIRY

First stage of enquiry in respect of the claims received will be conducted by holding second Grama Sabha in the village.

The main object of the enquiry is to :

- (1) Update land registry,
- (2) Splitting of joint pattas, and
- (3) Collect information to prepare Record of Rights in Form-I.

After the enquiry, the Recording Authorities have to ensure that the names of dead persons should not figure in the 'Record of Rights' in any column.

After completion of the enquiry, the Recording Authority shall pass orders in respect of:

- (1) All cases requiring changes of registry necessitated by the death of registered holder.
- (2) All cases requiring change of registry necessitated by sale, gifts, etc., through registered documents.
- (3) All cases requiring splitting of joint pattas.

The Recording Authority after recording the statements on direct enquiry, pass orders on transfer of registry with reference to the provisions of Rule 9 of the Record of Rights in land and Pattadar Pass Books Rules, 1989. After passing the orders on transfer of registry, splitting of joint pattas etc., the

Recording Authorities have to prepare a draft of Rights in land for the village in Form-I Register, while incorporating the changes as well entering the EC loan valuation particulars.

THIRD GRAMA SABHA

The draft ROR so prepared published Under Rule 10(2) requires that a notice in Form - III shall be published in the manner as in vogue in Revenue Department.

After the Draft Publication, any person claims any interest in the lands in the villages should call upon all persons claiming, to rectify any omission or error in the said record, to furnish a statement in writing relating to their claims on or before a date specified in the notice, not being later than 15 days from the date of publication of the notice and declare also his intention to hold a Grama Sabha in the village on a date specified in the notice, not being later than 22 days from the date of publication of the notice to read out the draft R.O.R. or draft R.O.R made upto date and to receive the claims and objections that may be made at the Grama Sabha and further declare his intentions to hold an enquiry in the village in respect of the objections received in writing and the objections received at fourth Grama Sabha on a date specified in the notice, not being later than 40days from the date of publication and call upon all persons interested to appear before him at the said enquiry on the date specified.

The Recording Authority receive, the Statements of claims submitted in response to the notice in Form - III and enter in Register IIIB

FOURTH GRAMA SABHA : SECOND STAGE OF ENQUIRY

Claims received in Form III are enquired by Fourth Grama Sabha on second stage of enquiry. The Recording Authority should decide whether or not the draft R.O.R. requires to be altered in consequence of the claims received for rectification of an error or omission and make a summary order in respect of each claim.

CONFIRMATION OF R.O.R

After 2nd stage enquiry and orders are passed under rules 11 or 12, the draft R.O.R. for the village shall be confirmed after incorporating the orders passed under rules 11 or 12.

The correctness of the entries in the draft R.O.R. and the confirmed R.O.R. should be tested by the Revenue hierarchy on a percentage basis. Test Checking Officers at the Cadre of Deputy Collectors may be appointed in each district.

FIFTH GRAMA SABHA

Form-IV notification should be published by Recording Authorities in all villages in a district. Within 15 days of the publication of the Form-IV notice, the recording Authority should hold Grama Sabhas at which the confirmed R.O.R. shall be read out for the information of the persons present.

PREPARATION (FORM I & IB)

Within 7 days of the publication of the notification in Form-IV, the Mandal Revenue Officer arranges to recast R.O.R. information in Form-I and other information available in the Mandal Revenue Office and Registrar's Office in Form - IB and authenticate the entries in respect of each person.

After the preparation of the register in Form IB, the Mandal Revenue Officer shall arrange to get the Pattadar Pass Books prepared with reference to entries in Form IB and deliver the same to the persons concerned.

RECTIFICATION OF ENTRIES IN RECORD OF RIGHTS:

In order to have a check of 100% accuracy of the ROR, IB extracts may be distributed to ryots and objections called for. Once the Record of Rights has been completed in the manner explained above, the entries of such a Record of Rights should not be altered without an order of the Competent Authority for rectifying such entries.

APPEAL UNDER SECTION 5 OF THE ROR ACT 1971 AS AMENDED IN ACT II OF 1980 AND ACT VII OF 1989

An appeal against every order of the Recording Authority either making an amendment in the Record of Rights or refusing to make such amendment shall lie to the Revenue Division in which the village is situated under subsection 5 of Section 5 of the Act and rule 21(1) of the A.P. Record of Rights in Land & Pattadar Pass Books Rules, 1989 within a period of 60 days from the date of communication of the said order and the decision of the Appellate Authority thereon shall subject to the provisions of the Section 9 of the Act be final. Similarly in respect of validation of un-regd. document u/s. 5-A of the Act, as amended Sec. 5-B- introduced for appeal.

REVISION POWERS U/S. 9 OF THE R.O.R. ACT 1971 AS AMENDED IN ACT 11 OF 1980 AND ACT NO:1 OF 1989

The Collector who is vested with revisional powers may either suo-motu or an application made to him examine the Record of Rights prepared or maintained u/s.3. or any order passed or proceeding taken by any Recording Authority or an Appellate Authority to satisfy himself as to the regularity of such record order or proceeding or the correctness, legality or propriety of any decision passed or order made therein and if in any case it appears to the Collector that any such record, order or proceeding shall be amended, modified, annuled, referred or remitted for re-consideration pass orders accordingly after giving an opportunity to the party for making a representation.

SIXTH GRAMA SABHA

The distribution of Title-deeds / Pass Books will be done in close and personal supervision of the Mandal Revenue Officers concerned by conducting a Grama Sabha in each village in the presence of villagers. For which an advance programme will be chalked-out. The Title-deeds/Pass Books will be distributed among the Pattadars, Owners Pattadars, Mortgagees, Tenants and Occupants in Inam lands.

36. A.P. Record of Rights in Land & Pattadar Pass Books Rules

Name of Claimant and his permanent address		Form I-A [See Rule 5(1) (b)] Proforma for Filling Claims					
Sl. No.	Name of Mandal of Village	Survey No./ Sub-divn. No.	Total extent of which claim is made	Area in respect of which claim is made	Nature of claim/ interest owner, tenant mortgagee, unregistered encumbrances, if any other, specify	Proof in support of claim. Copies of documents if any to be enclosed	
1	2	3	4	5	6	7	8
<p>Certificate : The claimant should certify that he has given a complete list of his interest in land in the entire District.</p> <p style="text-align: center;">FORM I-B [See Rule 14-A]</p>							
Sl. No.	Name of the Pattadar/ tenant/Mortgagee/to be given pass book with father's/husband's name and address.	Patta or Khata Nos. now held by him	S.No./Sub-Divn. Nos. included in the Pattas/Khaatas.	Classification W.D. L.D. A.C. A.G.	Area	Assessment including cesses.	
1	2	3	4	5	6	7	
<p>How acquired by patta, Inheritance, Survivorship, succession, Mortgagee, purchase, others.</p> <p>How cultivated, Pattadar, Tenant, Mortgagee.</p> <p>Details of unregistered encumbrances.</p> <p>Rate per acre as per basic valuation Regr.</p> <p>Name of tenant/ mortgagee/pattadar if applicable with S.No.s in this registr.</p> <p>Details of Registered encumbrances with document No. for preceding 13 years.</p> <p>New Patta No. or Khata No. given.</p>							
8	9	10	11	12	13	14	

*The Andhra Pradesh
Revenue Recovery Act*

The Andhra Pradesh Revenue Recovery Act., 1864

As could be seen from the title itself, this Act is essentially a measure enabling the Government to recover public revenues. Originally this was Madras Act of 1864 but after the formation of the Andhra Pradesh State, it was extended to Andhra Pradesh and subsequently extended to the Telangana Area by the Madras Rent and Revenue Sales and the Madras Revenue Recovery (Andhra Pradesh Extension and amendment) Act 1958.

2. This Act provides three modes of recovering arrears of revenue:
 - i. Distraint and sale of movable property,
 - ii. Attachment and sale of immovable property, and
 - iii. Arrest and detention of the defaulter

3. The first seven sections of the act deal with details of interpretation clause and definitions of arrears of revenue and the interest borne on the arrears of revenue. Under this Act the “land -holders” include all persons forming the land revenue under the State Government. The term includes Zamindars, Jagirdars, Inamdars also.

4. "Public Revenue" is defined as the revenue due on land including cesses or other dues payable to the State Government on account of water supplied for irrigation. An unauthorised occupant or trespasser is not however covered by this definition. Only the Registered Pattadar continues to be the landholder for the purposes of payment of land revenue under this Act, despite the fact that the transfer as between the parties are valid.
5. The arrears of revenue under the fourth section of the Act is defined as the unpaid portion of a kist i.e., when the whole or portion of a kist is not paid that shall be deemed to be an arrear of revenue.

Whenever revenue may be in arrears, it shall be lawful for the Collector or any other officer empowered by the Collector in that behalf, to proceed and recover the arrears together with interest and costs of process by the sale of defaulter's movable and immovable property, or by execution against the person of the defaulter. The expression 'movable property' includes standing crops. The word 'defaulter' is not defined in the Act strictly, but it applies only to the registered pattadar. It also includes a person who is responsible as surety for payment of any arrear or sum recoverable as arrears of land revenue. The Act authorises the sale of movable and immovable property belonging to the defaulter for the recovery of arrears of land revenue and there is no provision under which property belonging to persons other than the defaulter can be proceeded against although these persons may have in their possession property which earlier belonged to the defaulter. There is also no provision in the Act to enable the Collector to attach and sell land which is not registered in the defaulter's name for arrears of revenue due from the defaulter.

7. Arrears of revenue shall bear interest at the rate of 6 percent per annum.
8. In the seizure and sale of movable property for arrears of revenue, the Collector or other Officer empowered by the Collector in that behalf, shall furnish demand in writing to the person employed to distrain the property of a defaulter. The demand should specify the name of the

defaulter, the amount of arrear for which the distress may be issued and the date on which the arrears fell due. The writing shall further set forth that the distrained property will be immediately brought to public sale, unless the amount with interest, batta and all expenses of the distress be previously discharged. When a defaulter is absent, a copy of the writing with the endorsement, shall be fixed at his usual place of residence or on the premises where the property may have been distrained before the expiration of the third day, calculating from the day of the distress.

9. If the amount due is not paid, the distrainer has to transmit the inventory of the property to the nearest public officer empowered to sell the distrained property under the Rent and Revenue Sales Act.
10. Where a defaulter may tender payment of the arrears demanded after his property may have been distrained and prior to the day fixed for sale, together with payment of interest, batta and all necessary expenses attending distress, the distrainer shall receive the amount immediately upon the same being tendered and shall forthwith release the property.
11. The purpose of section 11 of the Act is to attach the crops which are standing or which are ungathered and to watch them for a period when they are ripe to be sold either without cutting them or to cut them and sell them and defray the cost of cutting from out of the proceeds of the sale. This section does not empower the distrainer to attach the property after the same has been cut and taken away. Once the crop is appropriated, it has no further relationship with the land and cannot, therefore, be attached under this section. This section authorises the sale of crops raised by a tenant for recovery of arrears of revenue payable by the landholder.
12. The distrainer shall not work the bullocks or cattle, or make use of the goods or effect distrained, he shall provide the necessary food for the

- cattle or livestock, the expenses shall be defrayed by the owner upon his redeeming the property, or from the proceeds of the sale in the event of its being sold.
13. Where the property distrained is stolen or lost or damaged by reason of the necessary precaution for its due preservation not having been taken or from its having been improperly worked or made use of, the amount of such loss or damage shall be recoverable by summary process by the Collector from the officer whose neglect or act occasioned the loss or damage and the amount when recovered shall be paid to the person damnified.
14. The distress levied shall not be excessive, that is to say, the property distrained shall be as nearly as possible proportionate to the amount of the arrear.
- 14-A The following articles are exempted from distraint:
- a) The necessary wearing apparel, cooking vessels, beds, bedding of the defaulter and such personal ornaments of a woman as in accordance with religious within the meaning of bed or bedding and is therefore exempted from attachment. (Yedla Sriramulu Vs. P. Papyya, (1972) 1 A.P.L.J. 12.
 - b) His ploughs, implements of husbandry, one pair of ploughing cattle, such manure and seed, grain stocked by the defaulter or on his behalf by his cultivator as may be necessary for the cultivation of his lands in the ensuing year, and
 - c) Any other class of articles which may be notified by the Government of Andhra Pradesh in Gazette from time to time.
15. Distress shall be made after sunrise and before sunset and not otherwise.

16. When a defaulter may make a fraudulent conveyance of property to prevent the distress for arrears, any Civil Court of competent jurisdiction, upon proof thereof, shall summarily cause the property to be delivered up to the distrainer. The defaulter will further be liable to the penalties prescribed by section 424 of the Indian Penal Code.
17. Section 7 of the Act is intended to safeguard the interests of a third party whose property is distrained. Such third party is given a right to prefer a claim before the distraining officer and if the officer does not allow the claim but sells the property, the said person will have to establish his right in a Civil Court and it is for the distrainer to prove the liability of the person for the arrears in the Civil Court. If the Officer fails to prove so, the distrainer is made liable for the value of the property, costs and damages.
18. Where it may be proved to the satisfaction of any Civil Court of competent jurisdiction that any person has forcibly or clandestinely taken away property once distrained, the Court may summarily cause such property to be restored to the distrainer. The offender will further be liable to the penalties prescribed by the Indian Penal Code.
19. It shall be lawful for the distrainer to force open any stable, cowhouse, granary, godown, out house, or other building, and he may also enter any dwelling house the outer door of which may be open and may break open the door of any room of such dwelling house for the purpose of attaching property belonging to a defaulter, provided it shall not be lawful for such distrainer to break open or enter such dwelling house earmarked for the Zanana i.e., residence of Woman.
20. Every distrainer may have reason to oppose that the property of a defaulter is lodged within a dwelling house, the outer door of which may be shut or within any apartment to women, is considered private, such distrainer shall represent the same to the officer in charge of the nearest Police Station. On such representation, the officer in charge of the said station

shall send a police officer to the spot, in the presence of whom the distrainer may, force open the outer door of such dwelling house, in like manner as he may break open the door of any room within the house except the 'Zanana' i.e., the residence of Woman.

The distrainer may also in the presence of the police officer after due notice given for the removal of women within a Zanana, in a suitable manner enter the zanana apartments for the purpose of distraining the defaulter's property deposited therein, but such property, if found, shall be immediately removed from such apartments after which they shall be left free to the former occupants.

21. Persons entering the apartments of woman, or forcing open the outer door of dwelling houses, contrary to the provisions of this Act, shall on conviction before a Magistrate, be liable to a fine not exceeding Rs.500/- or to imprisonment of either description for any period not exceeding six months.
22. The public officer, empowered under this Act to sell distrained property shall cause to be affixed to the outer door of the defaulter's house or on the premises where the property may have been distrained, a list of the property to be sold with a notice specifying the place, day and hour at which the distrained property will be sold and shall cause proclamation of the intended sale to be made by beat of tom tom or drum in the village. No sale shall take place until after the expiration of a period of fifteen days from the date on which the notice may be so affixed.
23. At the appointed time, the property shall be disposed off to the highest bidder. When the property may be sold for more than the amount of arrears, the surplus, after deducting expenses of process and interest, shall be paid to the defaulter.

- 23-A Notwithstanding anything in sections 22 and 23, crops or products which are specially perishable shall be sold by the distrainer as early as possible and the sale proceeds shall be deposited with the public officer empowered to do so in the Act.
24. The purchaser shall not be permitted to carry away any part of the property until he has paid for the same in full. Where the purchaser may fail in the payment of the purchase money, the property shall be resold, and the defaulting purchaser shall be liable for any loss arising as well as the expenses incurred on the resale. Where the property may in the second sale sell for a higher price than at the first sale, the difference shall be the property of him on whose account the said first sale was made.
25. Written demand is to be served upon the defaulter before attaching his lands. There are three modes of service:
- i) By delivering a copy of the demand to the defaulter or to some adult member of his family at his usual place of residence, or to his authorised agent.
 - 2) By affixing a copy thereof on some conspicuous part of his last residence.
 - 3) By affixing a copy thereof on some conspicuous part of the land about to be attached.

The failure to serve notice of demand on the defaulter under this section is fatal and vitiates the attachment and sale. (Union of India Vs. Ameenabi - 1978). Land cannot be put to sale unless amount of arrears is correctly determined. (S. Antaiah Vs. Superintendent of Excise - 1970).

26. When the amount due shall not have been paid pursuant to the terms of the demand, the Collector or other officer empowered by the Collector in that behalf, shall proceed to recover the arrears by the attachment and sale of the defaulter's land.
27. The Mode of attachment shall be effected by affixing a notice thereof to some conspicuous part of the land. The notice shall set forth that unless the arrear, with interest and expenses, be paid within the date therein mentioned, the land will be brought to sale in due course of law. The attachment shall be notified by public proclamation on the land, and by publication of the notice in the District Gazette.
- Non-publication of attachment notice in the District Gazette invalidates the sale. (Union of India vs. Ameenabi - 1978).
28. It shall be lawful for the Collector, when attaching the land of a defaulter, or at any time during such attachment to assume the management of the property attached. In such case he shall appoint an agent with a proper establishment of Officers to manage the property, and shall give the agent certificate of appointment with written instructions under his seal and signature, and the expenses of management shall be defrayed out of the income of the property. Where the property may be too inconsiderable to admit of its being charged with the salary of an agent, it shall be committed to the care of such Revenue Officer as the Collector may select, who shall be subject to all the provisions contained with reference to agents.
29. Notice of the assumption of management shall forthwith be served on the defaulter and shall be notified by public proclamation on land and by publication in the District Gazette.

30. The duties of agent are:

- a) To collect the rents and profits due, or accruing due upon the estate according to the engagements subsisting between the defaulter and the parties holding under him or according to established usage where no specific engagements exist.
- b) To keep accounts of all his receipts and disbursements and submit the same and pay over the balance, to the Collector or other officer empowered by the Collector in that behalf monthly, or whenever required and the defaulter shall be at liberty to inspect the accounts at all reasonable times and to take copies of the same at his own expenses without fee.

31. It shall be lawful for the defaulter to proceed by prosecution or suit against the agent, in respect of any criminal or illegal act done by him to the injury of the defaulter or his estate.

32. All engagements entered into between the landholder and his tenants shall be binding upon the Collector during attachment, but all such engagements, collusively with a view to defer or delay the attachments and all leases of land at a rate lower than the rates of assessment and not made bonafide for the selfish purpose shall be null and void against the Collector, if he shall so declare.

33. All payments on account of rent or profits actually due made before public notice of assumption of management to or on behalf of any landholder by any person holding under him, shall be valid against the Collector.

34. All sums received from the property attached, after paying the expenses of attachment and management, shall be carried to the credit of the defaulter in discharge of the arrears due, and interest thereon at the rate of

six percent per annum and as soon as all arrears, interest, costs of attachments and expenses of management shall have been liquidated, the attachment shall be withdrawn and a full account rendered of all receipts and disbursements during its continuance.

35. It shall be lawful for any person claiming an interest in land which has been, or is about to be, attached to obtain its release by paying the arrears, interest and costs incurred and all such sums, if paid by a tenant, may be deducted from any rent due by him to the defaulter. If paid by a bonafide mortgagee or other encumbrancer upon the estate, or by any person not being in possession thereof but bonafide claiming an interest therein adverse to the defaulter shall be a charge upon the land. Such sums when paid by a bonafide mortgagee or other encumbrancer shall further constitute a debt from the defaulter.

36. Procedure in sale of immovable property shall be :

- i) The sale shall be by public auction to the highest bidder. The time and place of sale shall be fixed by the Collector of the District in which the property is situated. The time may be either previous to or after the expiration of the fasli year.
- ii) Previous to the sale, the Collector, or the officer empowered by the Collector in that behalf, shall issue a notice thereof in English and in the language of the District specifying:
 - a) Name of the defaulter.
 - b) The position and extent of land of his buildings thereon.
 - c) The amount of revenue assessed from the land

- d) The proportion of the public revenue due during the remainder of the current fasli.
- e) The time, place and conditions of sale.

This notice shall be fixed up one month at least before the sale in the Collector's office and in the Mandal Office in the nearest police station house and on some conspicuous part of the land.

- iii. A sum of money equal to fifteen percent price of the land shall be deposited by the purchaser in the hands of the Collector, or other officer empowered by the Collector in that behalf, at the time of the purchase, and where the remainder of the purchase money may not be paid within thirty days, the money so deposited shall be liable to forfeiture.
- iv. When the purchaser may refuse or omit to deposit the said sum of money or to complete the payment of the remaining purchase money, the property shall be resold at the expense of such purchaser and the amount of all loss and expenses caused, shall be recoverable from such purchaser.
- v. All persons bidding at a sale may be required to state whether they are bidding on their own behalf or as agents. In case of agents written authority signed by their principals is to be deposited.

In the absence of proper proclamation, it is open to the aggrieved person to file a civil suit for setting aside the revenue sale. The only limitation is that this right to move the civil court should be exercised within six months from the date on which the cause of action arises. (M. AgerRao Vs. Neeralor Bandilingam - 1972).

36-A. The provisions of the third and fourth clauses of section 36 shall not apply to cases where immovable property sold under this Act is purchased by the Government.

37. It shall be competent to the defaulter or to any person acting on his behalf or claiming an interest in the land, to tender the full amount of the arrears of revenue with the interest thereon, and all charges which have been incurred in demanding the arrears, or in attaching or managing the estate or in taking the steps necessary for sale and thereupon the sale shall be stayed provided that such tender must be made before sunset on the day previous to that appointed for sale.

37-A i. Any person owning or claiming an interest in immovable property sold under this Act may at any time within thirty days from the date of sale, deposit in the treasury of the taluk in which the immovable property is situated :

- a) A sum equal to five percent of the purchase-money.
 - b) A sum equal to the arrears of revenue for which the immovable property was sold, together with interest thereon and the expenses of attachment, management and sale and other costs due in aspects of such arrears, and may apply to the Collector to set aside the sale.
- ii. If such deposit and application are made within thirty days from the date of sale, the Collector shall pass an order setting aside the sale, and shall repay to the purchaser the purchase money so far as it has been deposited together with the five percent deposited, by the applicant. Provided that if more persons than one have made deposit and application, the application of the first deposit shall be accepted.

- iii. If a person applies to set aside the sale of immovable property, he shall not, unless he withdraws such application, be entitled to make an application.
38. i. At any time within thirty days from the date of sale of the immovable property, application may be made to the Collector to set aside the sale on the ground of some material irregularity, or mistake or fraud, in publishing or conducting it. No sale shall be set aside on the ground of irregularity or mistake unless the applicant proves such irregularity or mistake to the satisfaction of the Collector that he has sustained substantial injury by reason thereof.
- ii. If the application be allowed, the Collector shall set aside the sale and may direct a fresh one.
 - iii. On the expiration of thirty days from the date of the sale, if no application to have the sale set aside is made under section 37-A or under clause (1) of this section or if such application has been made and rejected, the Collector shall make an order confirming the sale.
 - iv. Whenever the sale of any lands is not so confirmed or set aside, the deposit or the purchase money as the case may be, shall be returned to the purchaser.
 - v. After the confirmation of any such sale, the Collector shall register the lands sold in the name of the person declared to be the purchaser and shall execute and grant a certificate of sale bearing his seal and signature to such purchaser.
 - vi. Certificate of sale thus given by the Collector shall state the property sold and name of the purchaser and it shall be conclusive evidence of the fact of the purchase in all Courts and Tribunals wherever necessary.

39. Where lands may be purchased in a public sale, the Collector or other officer empowered by the Collector in that behalf, shall publish in the villages in which the land sold may be situated, in the cucherry of the taluk, in the head cucherry of the district and in the District Gazette, the name of the purchaser and the date of purchase, together with a declaration of the lawful succession of such purchaser to all the rights and property of the former landholder in the said lands.
40. Where any lawful purchaser of land may be registered and prevented from obtaining possession of his purchased land, any court of competent jurisdiction on application and production of certificate of sale shall cause the proper process to be issued for the purpose of putting such purchaser in possession i.e., the purchaser has almost the same rights as a decree holder enjoys for possession of property. The law of limitation applicable to the execution of decree or order of the civil court does not however apply to these proceedings. In case where the land sold is in possession of tenants, the purchaser is not entitled to actual possession. He is entitled only to symbolic possession.
41. All contracts entered into by the defaulter with his tenants, and all payments to him by them shall be binding upon the purchaser to the same extent and under the same conditions as laid down in sections 32 and 33 of this Act.
42. All lands brought to sale on account of arrears of revenue shall be sold free of all incumbrances, and if any balance shall remain after liquidating the arrears with interest and the expenses of attachment and sale and other costs due in respect to such arrears, shall be paid over costs due in respect to such arrears, it shall be paid over to the defaulter unless such payment be prohibited by the injunction of a Court of competent jurisdiction.

43. This Section 43 is meant for interpreting that the defaulter is entitled to arrears of rent only upto the date of sale and not thereafter.
44. No larger portion of the land should be sold than may be sufficient to discharge the arrears with interest and incidental expenses. The sale of a large plot for small arrears while other smaller plots are available is illegal.
45. There is a provision for the postponement of sale in case the defaulter offers security.
46. Under section 48 of the Act, when arrears of revenue, with interest and other charges as aforesaid cannot be liquidated by the sale of the property of the defaulter, or his surety, the Collector shall have reason to believe that the defaulter or his surety is wilfully withholding payment of the arrears, or has been guilty of fraudulent conduct in order to evade payment. It shall be lawful for him to cause the arrest and imprisonment of the defaulter, or his surety not being a female, but such person shall be imprisoned on account of arrears of revenue for a longer period than two years, or for a longer period than three months, if arrears does not exceed Rs. 500/- or for a longer period than three months, if the arrear does not exceed Rs. 50/- provided that such imprisonment shall not extinguish the debt due to the State Government by the defaulter, or his surety.

The Collector need not give opportunity of being heard to the defaulter before arresting him. No notice need be given to the defaulter before the issue of arrest warrant.

47. The collector shall issue his warrant for the arrest of the defaulter, his surety or both not being females, which shall specify his or their names, the amount of revenue due and the date on which it becomes payable, and the warrant shall be signed and sealed by the Authority by whom it was issued. The officer charged with the execution of the warrant shall thereupon arrest the defaulter, or his surety, or both and convey him or

them to the district jail and deliver the warrant to the jailer, to receive the prisoner or prisoners. A copy of such warrant shall be retained by the jailer, who shall forthwith despatch the original to the officer in charge of the jail.

48. All arrears of revenue other than land-revenue due to the State Government, all advances made by the State Government for cultivation or other purposes connected with the revenue, and all fees or other dues payable by any person to or on behalf of the village servants employed in revenue or police duties, and all cesses lawfully imposed upon land and all sums due to the State Government, including compensation for any loss or damage sustained by them in consequence of a breach of contract, may be recovered in the same manner as arrears of land-revenue under the provisions of this Act, unless the recovery thereof shall have been or may hereafter be otherwise specially provided for.

49. 1. (Section 52-A)

Without prejudice to any other mode of recovery which is being taken or may be taken, all loans granted and all advances made to any person:

i) by any bank to which the re-payment of the said loans and advances is guaranteed by the State Government,

or

ii) by such corporation established by or under a Central or Provincial or State Act or Government company as defined in Section 617 of the Companies Act, 1956 or such other public body, as may be notified in this behalf by the State Government in the Andhra Pradesh Gazette

together with interest on such loans and advances and all sums, such as rents, margin money and the like, due to the bodies mentioned aforesaid may be recovered in the same manner as arrears of land revenue under the provisions of this Act.

Provided that the State Government may, by notification in Andhra Pradesh Gazette specify the loans and advances together with interest thereon, and other sum due to the bodies mentioned in item (ii) above which may be recoverable under the provisions of this section.

Section 52-B

- (i). The Collector or any other officer empowered in this behalf may at any time from time to time by notice in writing require any person after being satisfied, that money is due or may become due to the defaulter from such person or that such person has held or may subsequently hold money, for or an account of the defaulter to pay to the Collector.
- (ii). The Collector or other officer from time to time may amend or revoke any such notice or extend the time for making any payment in pursuance of the notice.
- (iii). Every person to whom a notice is issued under subsection (1) shall be bound to comply with such notice.
- (iv). The Collector or other officer shall grant a receipt for any amount paid in compliance with a notice issued.
- (v). Any person discharging any liability to the defaulter after receipt of the notice shall be personally liable to the Collector to the extent of liability discharged or to the extent of the liability of the defaulter for the amount due under this Act, whichever is less.

- (vi). Where any person to whom a notice under sub-section (1) is sent, fails to pay to the Collector or other officer the sum demanded or any part thereof as required in the said notice, such sum shall be recoverable from such person as if it were an arrear of land revenue due from him.
50. Persons employed in serving notices, or other process under this Act, shall be entitled to batta at such rates as may, from time to time, be fixed by the Commissioner of Land Revenue with the sanction of the State Government and published in the District Gazette. The Batta as well as interest and all costs and charges incurred under the authority of this Act, shall be recoverable from the defaulter and his sureties in the same manner as arrears of revenue.
51. Where property having been attached or distrained may be ordered to be put up for sale, and the sale may be countermanded, the proprietor shall nevertheless be responsible for the expenses incurred in consequence of the attachment or distraint, in the same manner as if the sale had taken place, and in the event of such proprietor omitting to discharge the amount, it shall be recoverable by the process under which the original demand would have been recoverable.
52. Every person making a payment of revenue shall be entitled to a receipt for the same, and the receipt shall be signed by such officer or person authorised under the Act.
53. Under Section 57 of the Act, where a defaulter or his surety may reside or hold property out of the District wherein default shall have been made, the Collector of the District in which such defaulter or surety resides or holds property shall, on the written application of the Collector in whose District such default has been made, proceed in all respects against the defaulter and his surety, and his or her property in the same manner as if the default had been made in his own district. Every such application

shall be signed and sealed by the Collector making it and shall be conclusive as to the amount due, and the party, in arrear in all proceedings against the Collector action upon such application, or any person acting under his authority and no proof of the seal, or signature or official character of the Collector making the application shall be required, unless the Court shall see reason to doubt its genuineness; provided always, that nothing herein contained shall effect the right of any party to sue in his own district the Collector who made the application. The Collector may delegate all or any of his powers and duties to any subordinate Revenue Officer not below the rank of a Deputy Tahsildar.

Section 57-A

1. The State Government, may either sue motu or on application made to them, call for and examine the record relating to any decision or order passed or proceedings taken by any authority or officer subordinate to them under this Act for the purposes of satisfying themselves as to the legality or propriety of such proceeding and pass such order in reference thereto as they think fit.
 2. The State Government may stay the execution of any such decision, order or proceeding pending the exercise of their powers under sub-section (1) in respect thereof.
 3. Powers of the nature referred to in sub-sections(1) and (2) may also be exercised by the Commissioner of Land Revenue, in the case of any decision or order passed or proceeding taken by any authority or officer subordinate to it.
54. No Court of Civil Juricature shall have authority to take into consideration or decide any question as to rate of land-revenue payable to the State Government or as to the amount of assessment fixed on the portions of a divided estate.

55. Nothing contained in this Act shall be held to prevent parties deeming themselves aggrieved by any proceedings under this Act, except as herein before provided, from applying to the Civil Courts for redress, provided, that Civil Courts shall not take cognizance of any suit instituted by such parties for any such cause of action, unless such suit shall be instituted within six months from the time at which the cause of action arose.
56. No suit brought against any Collector by any person deeming himself by anything done or purporting to be done under this Act, shall abate by reason of the departure from his district of the Collector against whom such suit shall have been brought, but the suit shall be continued against the successor of such Collector in all respects as though it had been instituted against himself. A suit may be brought against any Collector in his official capacity on account of anything done or purporting to have been done under this Act by his predecessor subject to the limitation prescribed in the section provided that no Collector shall be personally liable for any official act of his predecessor.

We judge ourselves by what we feel capable of doing,

while others judge us by what we have already done.

-Henry Wadsworth Longfellow

*Encroachment
on Government Land*

Encroachment on Government Land

1. GENERAL

- i) There is a tendency among a certain class of the public to unauthorisedly occupy the lands which are the property of the Government. Occupation by any person without authority for such occupation or continued occupation after the authority under which he was allowed to occupy has expired, constitutes unauthorised occupation.
- ii) Under B.S.O. 26(i) the term 'occupation' must be taken to have the meaning attached to it in common parlance :

there must be an intention to appropriate land either temporarily or permanently in order to constitute occupation. As an example, it was mentioned therein - that when earth and rubbish was dumped on Government land, even though there is no intention of utilising it afterwards the person doing this act takes possession of the land for the purpose of depositing earth or rubbish on it. If a man puts a dam across a stream or digs a channel across a path takes possession of that portion of the bed of the stream or the path for his own, even if only temporarily.

- iii) In order to check unauthorised occupation of Government lands the following measures were enacted.
- I) Land Encroachment Act, 1905
 - II) A.P. Land Grabbing (Prohibiting) Act, 1982.
 - III) A.P. Public premisses (Eviction of unauthorised occupants) Act, 1968.

LAND ENCROACHMENT ACT 1905

- 1.i) Under sec. 2 of the Land Encroachment Act, the lands which are considered to be the property of the Government are public roads, streets, lawns and paths, the bridges, ditches, dikes and fences, on or besides the same bed of the sea and the harbours and creeks below high water mark and of rivers, streams, valleys, lakes, and tanks and all canals and water courses and all standing and flowing water and all lands, wherever situated, except as may otherwise be provided by law for the time being in force. Subject always to all rights of way and other public rights and to the natural and easement rights of other land owners and all customary rights legally subsisting. All Public roads and streets vested in any local authority are also deemed to be the property of the Government.
- ii) The High Court of A.P. held that the definition of Government property covers communal lands though such lands may for the time being vest in the Gram Panchayat under the Gram Panchayat Act.
- iii) Under Section 2 (d) and (e) of the A.P. Public Premises (Eviction of unauthorised occupants) Act, Public Premises means any premises belonging to or taken on lease or requisitioned by or on behalf of, or otherwise in the

possession of the Government, any building or part of a building and includes:

- a) Out houses gardens, grounds and vacant sites, if any, appertaining to such building or part of a building.
- b) Any fittings affixed to such building or part of the building for more beneficial enjoyment thereof .

2.i) In B.S.O. 26(4) unauthorised occupation of Government Land has been arranged into the following classes :

- a) Cases in which occupation, whether temporary or permanent is unobjectionable (Assessment is collected, if the land is assessed, HWR/ HDR collected).
- b) Cases in which temporary occupation is unobjectionable but permanent occupation is objectionable (Recourse to penal Provisions will ordinarily be unnecessary unless it is decided to put an end to the occupation at once).
- c) Cases in which occupation, whether permanent or temporary is objectionable (penal provision of eviction to be implemented).

(ii) Any person who unauthorisedly occupies the Government Land shall be liable to pay by way of assessment as provided for in section 3.

3.i) Under B.S.O. 26(2) in dealing with unauthorised occupation of Government Land, the Collector (including Divisional Officer) or the MRO may adopt one of the following courses.

- (a) He may simply levy assessment according to the provisions of the sub.sections (i) and (ii) of section 3 of the Land Encroachment Act.

- (b) He may impose a penalty in addition to the assessment (under Sec. 5).
- (c) He may in addition to the imposition of assessment and penalty, summarily evict the person in occupation (under Sec. 6).
- (d) In cases where eviction is ordered, he may also direct forfeiture of any crop or other product raised on the land and of any building or other construction erected or anything deposited thereon, if such building or construction or thing is not removed within the time specified in the notice issued under section 6(i) of the Act.

BAR OF JURISDICTION OF CIVIL COURTS

- ii) Under Section 4 of the Act the decision as to the rate or amount of assessment, rent or fee payable under Sec. 3 shall not be questioned in any Civil Court. Section 14 of the Act deals with the rights of a person to question the action of the authorities by which he is aggrieved in an appropriate suit, which should be confined to matters other than the rate of assessment or the amount of assessment payable by a person.
- (4) Before taking proceedings u/s 5 or 6, the person in unauthorised occupation of the Government Land shall be served with a notice in the manner provided in Sec. 7 calling on such person to vacate the land before certain date and if such notice is not obeyed, by removing or deputing a subordinate to remove any person who may refuse to vacate the land. If the officer removing any such person is obstructed/resisted by any person, the Collector shall hold a summary enquiry into the facts of the case, and if satisfied that obstruction or resistance was without any just cause and that such resistance or obstruction still continues may issue a warrant for the arrest of the said person and on his appearance commit him to close custody in the office of the Collector or any M.R.O. or Dy. Thasildar for such period not exceeding 30 days as may be necessary to prevent the continuance of such obstruction

or resistance or may send him with a warrant in the prescribed proforma for imprisonment in the Civil jail or the district for the like period as aforesaid.

ENCHROACHMENT BY A GROUP OF PERSONS ON GOVERNMENT LANDS AND THEIR EVICTION (SEC.7-A)

5.i) It was introduced by means of an amendment in 1980. When a group of persons without entitlement and with a common object of occupying any Government Land and if they have not vacated on demand by the Collector or any authorised by him in this behalf, the Collector shall order without notice the immediate vacation of the encroacher and the taking possession of the land.

Thereupon it shall be lawful for any officer authorised by the Collector to evict the encroachers from the land by force, taking such police assistance as may be necessary and take possession of the land. An order of eviction so passed by the Collector shall be final and shall not be questioned in any court.

ii)a) If any dispute arises as to whether any land is the property of the Government, such land shall be presumed to be the property of the Government until the contrary is proved.

The Act being of a penal nature the Collectors including Divisional Officers, Thasildars and Dy. Thasildars in whom the power to enforce the provisions under the Act is vested, should be careful to note the limitations prescribed under the Act, more particularly those in Section (3) as to the amount of assessment to be imposed on the occupation of assessed waste, and those in section (5) as to the exemption of such occupation ordinarily from penalty if it does not extend beyond a period of one year and those in section 6 and 7 as to notice.

- b) Detailed instructions were issued in B.S.O. (26) regarding the procedure to be followed in carrying out evictions, which should be followed.

RECOVERY OF THE LEVY

6. The amount of assessment rent, fee and penalty imposed under this Act shall be deemed to be land revenue and may be recovered from the person concerned as arrears of land revenue under the provisions of the Revenue Recovery Act (Sec. 9)

APPEAL AND REVISION

7. The channel of appeal and limitation of appeal are provided for in Section 10 to 12A.

II.A.P. LAND GRABBING (PROHIBITION) ACT, 1982

GENERAL

- 1.i) The intention of this Act is mainly to arrest and curb the unlawful activity of grabbing Government land or that belonging to a local authority etc. widely now being resorted to by certain unlawful persons operating individually or in groups either by force or deceit or otherwise.
- ii) A land grabber means a person or group of persons who commit land grabbing or includes any person who gives financial aid to any person for taking illegal possession of lands or for construction of unauthorised structures thereon or who collects or attempts to collect from any occupiers of such lands rent, compensation and other charges by criminal intimidation or who abets the doing of any of the above mentioned acts, and also includes the successors in interest.

iii) Land grabbing means every activity of grabbing of any land (whether belonging to the Government, a local authority, a religious or charitable institution or endowment including wakf or any other private person) by a person or group of persons without any lawful entitlement and with a view to taking illegal possession of such lands or enter into or create illegal tenancies or lease and licences, agreements or any other illegal agreements in respect of such lands, or to construct unauthorised structures thereon for sale or hire or give such lands to any person on rental or lease and licence basis for construction or use and occupation of unauthorised structures, and the term 'to grab land' shall be construed accordingly (Sec.2).

2. Under Section 3 of the Act land grabbing in any form is declared as unlawful and any activity connected with or arising out of land grabbing is an offence punishable under the Act.

PUNISHMENT

3. Land grabbing in any of the above form, on conviction is punishable with imprisonment for a term which shall not be less than six months, but which may extend to 5 years and with fine upto five thousand rupees (Sec. 4 and 5).

OFFENCES BY COMPANIES

4. Offences by companies (any corporate body or firm) have to be dealt in the manner provided for in Section 6.

SPECIAL COURTS

5. i) for speedy enquiry and trial of cases of land grabbing, the Government may constitute Special Courts, as many as are necessary which will consist of a chairman (a judge of the High Court or Dt. Judge) and not more than two members (who hold the post of Joint Collector) (Sec. 7).

- ii) Special Court may suo-moto or on application made by any person take cognizance of and try every case arising out of land grabbing or with respect to the ownership and title to or lawful possession of the land grabbed. The decision of the Special Court shall be final. For this purpose the special court is deemed to be a civil court with all its powers. The special court is also competent to award compensation by the land grabber to the rightful owner (Sec. 8).

IMPLEMENTATION OF ORDER BY COMPETENT AUTHORITY

6. The Competent Authority (if such authority is already notified and appointed by the Government or else the R.D.O. concerned) has to implement the order of the special court, by restoring possession to the rightful owner. If, for any reason, possession of land cannot be restored, the competent authority may either take possession and keep it under its control or provide for its proper management, till it is duly restored to the rightful person or authority (Sec. 9).

PROTECTION OF PERSONS ACTING UNDER THE ACT

7. No suit, prosecution or other legal proceedings shall be against the competent authority or any Government officer for anything done in good faith or intended to be done under the Act or the rules thereunder (Sec. 14).
8. No Court shall take cognizance of an offence punishable under the Act except with the sanction of the Special Court, such sanction will be accorded having regard to the circumstances of each case (Sec. 12).
9. This Act overrides other laws for the time being in force or custom or usage or agreement or decree or order of a court or any other tribunal or authority (Sec. 15).

10. Any transaction relating to an alienation of land grabbed or any part thereof by way of sale, lease, gift, exchange, settlement, surrender, usufructuary mortgage or otherwise or any partition affect or a trust created in respect of such land, except to the extent ordered by the special court, is null and void. (Sec.7).

III. A.P. PUBLIC PREMISES

(EVICTION OF UNAUTHORISED OCCUPANTS) ACT 1968

GENERAL

1. i) What constitutes Public Premises has been mentioned in para 1 (iii) in the note under the Land Encroachment Act.
- ii) Unauthorised occupation in relation to public premises means the occupation by any person of the public premises without, authority for such occupation and includes the continuance in occupation by any person of the public premises after the authority (whether by way of grant or any other mode of transfer) under which he was allowed to occupy the premises has expired or has been determined for any reason whatsoever.

ESTATE OFFICER :

2. i) A Gazetted Officer has to be appointed as Estate Officer for the purpose of this Act and the local limits within which or the categories of Public Premises in respect of which he shall exercise the powers conferred and perform the duties imposed on him by Act (Sec. 3).

EVICTION :

- ii) If the Estate Officer is of the opinion that any person is in unauthorised occupation of any public premises and that he should be evicted, he should issue a notice in the prescribed manner, calling upon him to

show cause against eviction. If the order of eviction is not complied with within 30 days of the date of its publication, the Estate Officer or any other officer authorised by him may evict that person and take possession of the Public Premises. He may for such purpose use such force as may be necessary (Sec. 4 and 5)

iii) If any property of the occupier remains on such premises taken over, the Estate Officer may dispose it of by public auction after giving 14 days notice to the evicted person. The proceeds of the property so sold may be paid to such person after deducting the expenses of the sale and any amounts due to the Government on account of arrears of rent or damages or costs to be paid by him. If the Estate Officer cannot decide as to the person or persons to whom the balance amount payable or its apportionment, he may refer the dispute to the competent Civil Court (Sec.6).

iv) The Estate Officer have the same powers as are vested in a Civil Court under the C.P.C. for the purpose of holding an inquiry viz.,

a) Summoning and enforcing the attendance of a person and examining him on oath.

b) requiring the discovery and production of documents, and

c) any other matter which may be prescribed.

APPEALS

3) Against every order made by the Estate Officer an appeal will be to an appellate officer, within 15 days of the publication of the orders, to Dt. Judge, of the district in which Public Premises is situated or any other judicial officer of the district of not less than 10 years standing as the Dt. Judge may designate in this behalf. The appeal has to be dealt with in the manner prescribed in Sec. 9 of the Act.

BAR OF SUITS FOR EVICTION

- 4) The ordinary procedure of eviction by suit shall not be applicable to the eviction of unauthorised occupants under the Act.
- 5) If the person evicted again occupies the said public premises without authority, such occupation shall be punished with imprisonment which may extend upto one year or with fine upto one thousand rupees or both. Besides such conviction order, the Magistrate should also order eviction of the premises (Sec. 12).

RECOVERY OF RENT ETC.

- 6) If any person refuses or fails to pay the arrears, rent, damages or costs payable within the specified time, the Estate Officer may issue a certificate for the amount due to the Dt. Collector, who shall proceed to recover the amount as an arrears of land revenue.
- 7) The provisions of the A.P. Land Encroachment Act, 1905 will not be applicable to the gardens, ground or vacant site appertaining to any Public Premises.
- 8) Notices/orders to be issued under the Act are available in A.P. Public Premises (Eviction of unauthorised occupants) Rules 1968.

He who wrestles with us strengthens our nerves

and sharpens our skills.

Our Antagonist is our helper.

Assignment of Land

Department of Health

Assignment of Land

The assignment of Government Waste Lands to landless poor persons in Telangana Area is governed by G.O.Ms.No.1406 Revenue, dt:25-7-1958, and also subsequent instructions issued by the Government from time to time. In respect of Andhra Area the Assignment rules are issued in G.O.Ms.No.1407, Revenue Dt:25-7-58. The extent of Land that can be assigned to a landless poor person is 2 1/2 Acres of Wet or 5-00 acres of dry land and whose annual income does not exceed Rs:1,800/- (G.O.Ms.No.900 Revenue (B) Department, dt:11-7-1980). Subsequently the Annual income was increased to Rs.6,000/- vide G.O.Ms.No.700 revenue (D) Department, dt:20-6-1986.

The Tahsildar/Mandal Revenue officer of an independent charge of a Sub-Taluk/Mandal is empowered to assign the land to landless poor persons free of Market Value.

The following categories of persons are also eligible for assignment of Government Waste lands in addition to the landless poor persons.

1. Political sufferers.
2. Ex-servicemen & Serving soldiers.

POLITICAL SUFFERERS

The Political Sufferers are entitled for assignment of Government Waste lands to an extent of 5-00 Acres of Wet or 10-00 Acres of dry land irrespective of the landed property held by them (G.O.Ms.No.1110 Revenue dt:26-5-1960). The persons, who had gone to jail for a period of (6) months and those participated in the Movements indicated in para-I of G.O.Ms.No.946 Revenue dt:26-7-1979 are called as Political Sufferers. The political sufferers are permitted to sell away the lands assigned to them (G.O.Ms.No.1743 Revenue dt:28-8-1959).

SERVING SOLDIERS & EX-SERVICE PERSONNEL

All Jawans domiciled in Andhra Pradesh and serving in Defence Force including Ex-Service personnel are eligible for assignment of Government Waste lands to an extent of 2 1/2 Acres Wet or 5-00 Acres dry inclusive of land already held by them. The Jawans, who are dismissed from service for misconduct or inefficiency are not eligible for grant of land. The rules for assignment of lands to Serving Soldiers and Ex-Service Personnel are issued in G.O.Ms.No.743, Revenue, dt:30-4-63.

The Tankbed lands, Reserve Forest lands and other lands, which are preserved for public purpose i.e. Schools, Hospitals, burrial grounds etc., are prohibited from Assignment such lands are entered in Prohibitory Order Book.

PROCEDURE OF ASSIGNMENT

On receipt of an application from a landless poor person, the Assignment proposals are prepared by the Revenue Inspector after inspecting the land Sy. No, extent etc., in the village. If the land is in possession of applicant, the land shall be got demarcated by the Surveyor and sketch prepared. The landed particulars already owned by the Applicant shall also be verified. A1-Notice shall be issued calling for objections, if any. The assignment proposals thus prepared shall be

placed before the Assignment Review Committee and approval obtained. Patta Certificate shall be issued in "D" Form subject to the conditions referred to therein.

The Tahsildars/Mandal Revenue Officers are competent to resume the land in favour of Government if the assignee isolates the conditions of assignment (G.O.Ms.No.1562 Revenue dt:19-9-1963).

ISOLATED PLOTS

Isolated Plots of land not exceeding 25 cents of Wet or 50 cents of dry land continuous to and necessary for convenient enjoyment of lands privately owned by a ryot may be assigned to him on payment of full market value though he may not be a landless poor person (G.O.Ms.No.1725 Revenue, dtd:26-8-1959 as ammended in Government Memo No.4220/N1/65-1, dt:16-2-1966).

WELL LANDS

The lands containing irrigation wells shall also be assigned on payment of Market value to the ryots enjoying irrigation rights under the well (Circular No.35/100/10/54-1, dt:17-1-1955).

A.P. ASSIGNED LANDS (PROHIBITION OF TRANSFER) ACT 1977

The Assigned lands are heritable, but not alienable and transferable. This act prohibits the Transfer of Assigned Land by way of sale, gift, lease, mortgage with or without possession. The provisions of section 3 of the Act shall have retrospective effect in respect of not only assignments, but also transfers made prior to the commencement of the Act. The Division Bench of High Court of Andhra Pradesh issued Rulings in W.P.No.2500 of 1978, dt: 8-8-1980 and also in batch of W.Ps Nos.3972, 5164 &5649 of 1977 & 5709, 5841 of (9)8, dt:9-10-1980 in this regard. The Government also issued suitable instructions in their Memo No.5101/B1/78-1, dt:6-3-1979 to follow the provisions of Act No.3 of 77 scrupulously.

Here in lies the tragedy of the age,

Not that men are poor - all men new

something of poverty;

Not that men are wicked -who is good ?

Not that men are ignorant - What is truth ?

Nay, but that men KNOW SO LITTLE OF

OTHER MEN.

- Web Dubois

Land Acquisition

Land Acquisition

LAND ACQUISITION CENTRAL ACT (1) OF 1984

SCOPE OF THE ACT

By Act 1 of 1894, State Governments are empowered to acquire compulsorily land which is not already property of the Government and which is required for the public purpose under the special circumstances described in Part-VII of the Act for a company.

Thus the acquisition would be for public purpose if Government were to acquire land for a Housing Scheme of any kind (not for a private enterprise), for Local bodies for construction of Bus Shelters, Reading Rooms, Lavatories, Burial Grounds etc. While acquiring the land for a public purpose, the Land Acquisition Officer should invariably keep in mind that the Land so acquired is useful for public purpose. After confirming the necessity of the acquisition of land for public purpose, the process of land acquisition starts.

REQUISITION

Whenever any private land is required for any public purpose either by the State or Central Government Departments, Public Bodies or private institutions, companies etc., the Authority which so required the land has to

send requisition in Form-I (Appendix.II) to the District Collector. The requisition should indicate the location of the land with as much precision as possible viz., name of the village, S.No. and extent, purpose, boundaries of land with the sketch of the land and the particulars of the requisitioning authority. Above all, the requisition should specifically state that provision has actually been made in the Budget for the cost of acquisition.

4(1) STAGE

After receiving a proper requisition from the Collector i.e., the Land Acquisition Officer, the first thing to be done is identification and inspection of site. The Collector is expected to enquire into the bonafides of the purpose for which the land is required, whether the land applied for is well suited for the purpose, whether the acquisition of land in the locality is desirable and expeditious (P.45 L.A. Manual B.S.O.90 (2)).

After satisfying all the aspects, the Collector should then proceed with the publication of a notification under Section 4(1) in the Official Gazette and two daily newspapers circulating in that locality of which at least one shall be in the regional language. According to the amendment issued by Act 9 of 1983, the Collector shall cause public notice of the substance of Sec. 4(1) Notification at convenient places in the local area within 40 days from the date of Publication of the said Notification in the Official Gazette. This notification is only intended to declare the intention of the Government to acquire such land for a Public purpose giving the particulars of the land such as the S.Nos., extent (approximately) if it is not possible to give its actual extent, boundaries etc., so as to enable the identification of location of the land. This is mainly intended to serve the dual purpose of (i) to confer power on the officers to enter on the land and to do all acts necessary for the purpose of Land Acquisition and (ii) to restrict boosting up of land value by the owner after coming to know the intended acquisition. The Land Acquisition Officer has to send all the 4(1) notifications to the District Collector for publication in A.P. Gazette and locally.

A notification not specifying the locality where lands were needed does not comply with essential requirements and this defect cannot be rectified by giving particulars in later notification under Section 6.

After publication of this notification, the substance of the notification has to be got published at convenient places in the locality within forty days from the date of publication of such notification and copy/copies of such notices shall be kept on the Notice Board in the office of the Collector and the Tahsildar (now Mandal Revenue Officer) and in the nearest Police Station. It should also be served on all the persons known to be or believed to have interest in the land. Non service of such notices on some of them does not however vitiate the Land Acquisition Proceedings.

It is seen that unnecessary delays are caused at the stage of publication of Draft Notification U/s. 4(1). The delays can broadly be categorised into two categories :

1. Lapse on the part of the Requisitioning Authority.
2. Lapses on the part of the land Acquisition Officer.

Lapses under first category are due to improper filing of Requisition in Form-I without furnishing the particulars regarding (a) the description of the land (b) certificate of availability of or provision of funds (c) certificate of whether there is possibility of any further land being required in near future for expansion of the project, which should be essentially furnished in the requisition. In the absence of these particulars, the matter may prolong for a long period in correspondence and naturally such correspondence may cause considerable delay. The lapses of the second category are that the land Acquisition Officers engage themselves in correspondence for information, which is not required at this stage i.e.,

1. Boundaries of land mentioned in Form-I.
2. Sub-division Record, and

3. Much time is lost in correspondence with Tahsildars (now Mandal Revenue Officers) for submission of proposals for publication of Notification U/s. 4(1). In fact these aspects could be looked into by the L.A.O. himself without referring to any other officer while mentioning the boundaries in the case of surveyed villages. The Sub-division record is not required at all at the stage of D.N.

SUB-DIVISION RECORDS

Immediately after publication of the Notification U/s.4(1), the Land Acquisition Officer shall initiate action for the preparation of Sub-Division record, if it could not be attended to earlier i.e. immediately after sending the 4(1) for publication.

Sub-division record is required only where a part of the Survey number is under acquisition. Sub-division Record is not required when the entire Survey number is under acquisition, unless during personal inspection any error in measurement in original survey is noticed. Sub-division record should essentially comprise of sketch of Sub-division indicating the extents, measurements i.e. independent plottable data and notices issued U/s. 6 of the Survey and Boundaries Act. The Sub-division record should be scrutinised by the District Surveyors before the notice of Award enquiry is issued by the Land Acquisition Officer.

5-A ENQUIRY AND INVOKING URGENCY CLAUSE UNDER SECTION 17 (4)

During Normal course, the land in question will not be taken possession of, until award is passed and compensation is paid. But in case of urgency, possession of the land is taken on the expiration of this period of fifteen days from the date of Publication of notices U/s. 9(1). The requirements of invoking urgency provisions are enumerated in Section 7 of the Act. Government under Section 17(4) may dispense with 5-A enquiry and Draft Declaration be proceeded

with. In such cases Draft Declaration U/s.6 can be published in the Gazette after the Public notice was issued U/s. 4(1) of the Act. Otherwise 5-A enquiry is a must. If emergency provisions of the Act are invoked dispensing with 5-A enquiry, the land shall be taken possession within 3 months from the date of giving direction under Sub-section (4) of Section 17 of the L.A. Act. If the possession of land is not taken within 3 months, the provisions of section 5-A shall apply as if there is no direction U/s. 17(4) of the Act. In all such cases, the period of 30 days referred to in Section 5-A shall be reckoned from the date of giving direction U/s. 17(4) of the said Act (Vide amendment issued by Act 9 of 1983).

After having got published 4(1) Notification, the Land Acquisition Officer proceeds with the 5-A enquiry. Notices required under Section 5-A of the Act will be issued calling on the persons known or believed to be interested in the land to file the objection on such a date. The notices are required to be published at conspicuous places, in the office of the Tahsildar (Now Mandal Revenue Officer), Police Station, Land Acquisition Office and is to be served on the persons known or believed to be interested in the land. The scope of 5-A enquiry should be limited to the following issues:

1. Whether the purpose for which the land is notified is not a bonafide public purpose.
2. Whether the particular land notified is not the best adopted to the purpose intended.
3. Whether the area notified is greater than is required.
4. Whether the acquisition of the land in the locality is not desirable for any reason.

On the appointed date, the Collector and L.A.O. shall proceed to enquire into the objections, consider their validity and then submit the D.D.U/s.6 of the District Collector with his specific remarks on each of the objections

together with the objection petitions and the Sub-division Record. On receipt of the Land Acquisition Officer's report, the District Collector shall examine them and communicate the remarks of the Requisitioning Authority and with his remarks to the Government through the Commissioner of Land Revenue. Where no objections have been received then D.D. can be submitted to the Government direct. Where there is any variation between the extent notified in the D.N. and that in the D.D., the Land Acquisition Officer should reconcile it while sending D.Ds, provided the boundaries notified in the D.N. remain the same. Where there are any Religious Institutions, Temples etc., the acquisition of which would affect the religious sentiments in the public, the Land Acquisition Officer should send a special report to the District Collector. An enquiry under section 5-A is administrative and not quasi-judicial. The decision of the Government is substantive and is clearly an administrative act (Patil Gandadal Somanatha-Vs-State of Gujarath).

The draft declaration under Section 6 should be clear and unambiguous in respect of the location, area and extent of the land. The Notification under Section 6 above determines the identity of the property to be acquired, and it should be published only after the publication of notification U/s. 4(1) of L.A. Act.

Soon after the D.D. is published in the State Gazette, the Collector should compare it with the office copy of D.D. and if any mistakes are noticed, an erratum should be got published immediately. The D.D. is binding on the Government and so every care should be taken to see that all the particulars are accurately notified.

(P.V.) PRELIMINARY VALUATION STATEMENT

The P.V. Statement should be submitted alongwith the notification U/s. 4(1) and 6 where emergency provisions are invoked. Where emergency provisions are not invoked, P.V. should be submitted with the least practicable delay, unless it has already been submitted along with the notification U/s. 4(1).

Immediately after sending the D.N. for publication, the Collector should endeavour, by friendly persuasion, to enter upon the land, take measurements and gather all the information that is required for publication of D.D.

MARKET VALUE

The Land Acquisition officer has to arrive at the market value of the land with great care. Ultimately the quantum of compensation may even be settled in a Civil Court. The Land Acquisition Manual contains detailed instructions in this regard. Time and again attention of the land Acquisition officer is drawn to those instructions.

The fact that should be taken into consideration for determining the market value are detailed in Section 23 of the Act, Chapter IX of the L.A. Manual (P.96). "Market Value" is the price which the property fetches in the open market as on date with reference to its present conditions (para -3). Market value has to be determined with reference to the price which a willing vendor might reasonably expect to obtain from a willing purchaser in the normal course of the things. In addition to the market value of the land, the court in every case awarded an amount calculated at the rate of twelve per cent on such market value for the period commencing on and from the date of the publication of notification U/s. 4(1) in respect of such land to the date of the award of the Collector or the date of taking possession of the land whichever is earlier (Section 23(1-A). In the amended Act of 68/84 the solatium has been increased from 15% to 30% (Section 23(2). Interest at 9% per annum from the date of taking possession and at 15% per annum from the date of expiry of the period of the one year on the amount of compensation or part thereof which has not been paid or deposited before the date of such expiry (Section 34) of L.A. Act).

Further it is also a matter of common knowledge & experience that the Land Acquisition Officers are concerned about the use to which the land is put at the time of notification, though para-4 of the Chapter-IX of part-III of

the manual clearly lays down that land is not to be valued merely by reference to the use to which it is being put at the time of the notification under Section 4(1), but also by reference to the uses to which it is reasonably capable of being put in the near future though not its realised possibilities.

If the land proposed for acquisition is juxtaposed or surrounded by other lands wherein there is building activity, naturally the potentiality of the land under acquisition of being put to construction purpose is a factor to be considered by the Land Acquisition Officer even though the land is under agricultural use or arable as on the date.

B.S.O.90(8) (3), (P-43) lays down that in valuing the land, details should always be obtained from Sub-Registrar of Land sales in the locality within the preceding three years of the date of notification U/s. 4(1) and these should be carefully verified on ground to see how they can safely be adopted by the L.A.Os with utter disregard to later clause. Many of the L.A.Os, adopted the values as laid down in Basic Registers without considering whether they can safely be adopted. For instance a particular land in the vicinity of the land under acquisition was sold in 1974 for Rs. 2,000/- per acre. Subsequently there was building activity and also certain industrial units were located nearby and consequently civil amenities like water, electricity, telephone communication links become available there. Naturally the L.A.O has to take all these into account while fixing the market value of the land under acquisition in 1976 or 1977 and not simply adopt the rate of Rs. 2,000 per acre as evidence by the Registration Statistics.

The Land Acquisition officer should personally inspect the adjoining lands where sales have been recorded and specify the reasons for rejecting each of the sales. The sales of such lands be accepted for reasons to be specified. Lands where sales have been recorded for huge amounts may involve very small extents or may have taken place because of the special characteristics or facilitate that those particular lands enjoy or may have been entered into with a malafide

intention of boosting the sales the interested Pattadars having come to know of the acquisition of the land. In the last of the above said cases, particulars of the dates when preliminary action was taken for acquisition of the land and the dates of sales should be clearly brought out to establish the malafide interest of the ryots. The L.A.O should therefore be very careful in arriving at the compensation payable for the lands under acquisition and while according the prevailing market value at the time of Draft Notification to the land owner. The LAO should also ensure that the compensation is not inflated unreasonably affecting the Govt. interest.

The Land Acquisition Officer should pass an award and the compensation so awarded should be just and fair, based on correct and accurate statistics of the land values.

In certain cases, it is noticed that the Land Acquisition officers adopted the valuation as assessed by their subordinate staff without inspecting the land themselves. It should be noted that they are not responsible for the correctness of the valuation assessed. As such he should not depend on the subordinate staff. The Land Acquisition Officer should himself inspect the land, conduct enquiries and then only assess its value so as to ensure that all interests capable of valuation are valued correctly so that there may not be any scope for complaints at a later date, leading to avoidable litigation.

Of course, there are very many categories of land and lands containing other interests viz., (1) Agricultural Land (2) Building land (3) Agricultural lands fit for quarrying (4) Building lands with buildings (5) Land with trees and topes (6) Lands with standing crops etc. The damage sustained by the person interested by reason for taking of any standing crops or trees which may be on the land at the time of Collector's taking possession thereof should be completed. Value of the standing crop such as paddy etc., is normally got done by the Officers of Agricultural Department. Chapter X to XV of Part-III of Land Acquisition Manual contains detailed instructions with regard to the

fixation of market value of all these categories of lands. If the Land Acquisition Officers are thorough with the instructions in B.S.O. 90(8) and chapters IX to XV in Part - III of the L.A. Manual and if they evince some interest to examine some of the court decisions both in the past and present, there should be little or no scope for them to err in any manner, in fixing the value of the lands acquired.

General Principles and procedure for the payment of compensation in respect of trees and topes are laid down in Chapter-XV of Part III of L.A. Manual. When there is no proper evidence of the market value of the similar tope lands in neighbourhood, the market value has to be fixed by the capitalisation method. No value need be given separately for structures like wells under capitalisation method. "The State Government instructions on these matters have to be followed".

As per rules, Government lands are assigned to landless poor, subject to the condition that they will be resumed by the Government when they are required for public purpose without payment of compensation. The Government in G.O.Ms.No. 43, Revenue (B) Department, dt. 23-1-1988 have issued the following order directing:

- 1) that where lands which have been assigned either under any instructions of Government or under Land Ceiling laws are being resumed by the Government for Public purpose, the question of paying compensation will arise only if the assignee had entered into the land and made improvements to the same, at considerable cost and effort. If there are such verifiable improvements of the land made by the assignees, the compensation should be commensurate with the improvements made. Even in such cases it should be the endeavour of the field officers of the Revenue Department to provide alternative lands.

- 2) in case where Government lands including land rendered surplus under ceiling laws were assigned on concessional market value, such concessional value paid by the assignees could also be refunded when such lands are resumed. The Government have also ordered that the above orders shall apply when lands are resumed for purposes of providing house sites etc., to weaker sections.

The Government in their Memo No. 61301/Assn.I(1)88-6 Revenue (Assign.I) Dept., dt. 22.5.1989, in modification of the orders issued in G.O.Ms.No.43, Revenue, dt. 23.1.1988 have clarified that G.O.Ms.No.43 Revenue dt : 23.1.1988 is applicable only to cases where resumption orders were issued after the date of G.O. and it will not be applicable to cases wherein orders were issued prior to the G.O.Ms.No.43, Revenue dt. 23.1.1988.

AWARD NOTICES UNDER SECTION (9)(1) AND (2)

Soon after the D.N. DD is published, a notice shall be issued under Section 9(2), stating that the Government intends to take possession of the land and that claims/be compensation for all interests in such land may be made to him. In this notice all particulars of the land so needed be stated and all persons interested in the land should be required to state the nature of their interests before the Collector at a time and place. Such time should not be less than 15 days after the publication of such notice. Such notice shall be served not only on the pattadar of the land but also on the occupier of the land and all persons known or believed to be interested in the land in any manner. If any of the persons so interested resides where, the notice shall be sent by R.P. to such persons.

NOTICE UNDER SECTION 10(2)

Simultaneously the Collector may require any such person to state or deliver to him at a time and place (not earlier than 15 days after such requisition) a statement showing the name of every other person possessing any interest in the

land in any capacity viz., Co-proprietor, Mortgagee, tenant or other-wise and the nature of such interest of rents and profits received during the proceeding 3 years from the date of such statement.

On the day so fixed or on any other day to which the enquiry has been adjourned, the Land Acquisition Officer shall examine the respective interests of all the persons who filed them in pursuance of the Notice under Section 11. As per section 11-A of the Amended Act the Collector shall make an award within a period of 2 years from the date of publication of the declaration U/s 6 and if no award is made within that period the entire proceedings for the acquisition of the land shall lapse.

The Award should contain (a) the true area of the land (b) the compensation allowed and (c) the appointment thereof, and (d) the names of persons to whom compensation is awarded. Such award shall be filled in the Collectors Office and it should then become final. Then the Land Acquisition Officer shall immediately give a notice of his award to such of those interested persons who are not present. It is only after the award is made under the Act and possession is taken that the title vests in the Government. It is enough if notice of the award U/s 12 (2) is served on the awardees instead of communicating a copy of the award to the awardees according to judgement of the High Court dt.12.9.1990 in W.P.Nos. 1320,3,11940 of 1985.

An award once passed is final and cannot be either revised or modified or corrected in any manner by either the Collector himself or by any other authority. However clerical mistakes, if any, could be corrected. Seperate awards for different interests in the same land should not be passed.

The Application U/s 18 shall state the grounds in which objection to the award is taken provided that every such application be made :

- (a) if the person making it was present or represented before the Collector at the time when he made his award within six weeks from the date of the Collector's award;
- (b) in other cases, within two months (as per A.P. Amendment Act XX of 1956) of the receipt to the notice from the Collector under Section 12, Sub-Section (2) or within six months from the date of the Collector's award which ever period shall first expire.

All time barred applications shall summarily be rejected. Prompt action should be taken to refer the references U/s 18 to the Court and every care should be taken to produce documentary evidence in all such cases while keeping the files pending.

Every award list of persons present of notice served shall contain the particulars of the Land acquired, how the market value is estimated, claims made by the land holders whether they are accepted and if not, the reasons therefor, the nature of interests for which compensation was allotted and the particulars of apportionment made. The Land acquisition Officers should furnish all the particulars of Land acquired and see that the award is made very precisely with caution since in case of reference under Section 18 of the Act, the Civil Court primarily goes by what is recorded in this document. So every care should be taken in drafting the award order.

Under section 18 of the Act any person interested may apply for a reference to the Civil Court on any of the following grounds and the reference must then be made :

- i) that the area of the land as stated in the award is not correct.
- ii) that the amount of compensation is not sufficient.
- iii) that it has been ordered to be paid to a wrong party, and
- iv) that it has not been correctly apportioned among the persons interested.

Normally applications are filed under item (ii) above, claiming for more compensation. For this purpose, the award should be self explanatory and give full facts about the sales taken into consideration and the reasons for discarding the irrelevant sales and justifying the awarded amount.

- I. Under Section 28-A wherein an award under this part, Court allows to the applicant any amount of compensation in excess of the amount awarded by the Collector U/s.11, the person interested in all the other land covered by the same notification U/s. 4(1) and who are also aggrieved by the award of the Collector may notwithstanding that they had not made an application to the Collector U/s. 18 by written application to the Collector within three months from the date of the award of the Court require that the amount of compensation payable to them may be redetermined by the basis of the amount of compensation awarded by the Court.
- II. Under Section 30, the Collector may suo-moto make a reference to the Court, if there is a dispute concerning the apportionment of the compensation, or any part of it of concerning the person to whom the compensation or any part of it is payable. He should always do so when the questions involved in the dispute are too difficult to be satisfactorily decided by him.
- III. Under Section 31 (2), a reference must be made by the Collector to the Court if there be no person competent to alienate the land.
- IV. Under Section 35 (3), the Collector must refer to Court, disputes concerning the sufficiency of the compensation for lands occupied temporarily or concerning its apportionment.
- V. Under Section 37, when there is a difference between the Collector and the person interested concerning the temporary occupation of the term concerning any letter connected with the agreement entered into under Section 32(2), the Collector must refer such difference for the decision of the Court.

- VI. Under Section 48, when the Government withdraw from any acquisition, the Collector determines the amount of compensation due from damages if any suffered by the owner in consequence of the proceedings under the Act and must pay him the amount. He may ask for a reference to the Court and the reference must then be made by the Collector.
- VII. Under Section 49, the owner of a house, factory or other buildings may insist that the whole of such premises shall be acquired and not only a part thereof. If any question arises whether any land proposed to be acquired does not form part of a house, factory or building, the Collector must refer for the determination of such question to the Court (Sections 18,30,35,48 and 49 of L.A.Act).

Under Section 48 (1) of the Act, the Government shall be at liberty to withdraw from the acquisition of any land of which possession has not been taken. When there are grave defects in the award which cannot be cured except by withdrawal from the acquisition of the land can be withdrawn even after passing the award, for instance :

- (a) a Govt. land is acquired under the Act and it is realised only after the award is passed, then the only remedy is to withdraw the land from acquisition under Section 48 (1).
- (b) Under Section 48 (2), whenever the Government withdraw from any such acquisition, the Collector shall determine the amount of compensation due for the damage suffered by the owner in consequence of the notice or of any proceedings thereunder and shall pay such amount to the person interested together with all costs reasonably incurred by him in the prosecution of the proceedings under this Act relating to the said land.

- (c) According to para 3 chapter XXIX of L.A.manual, Government may withdraw even after payment of the compensation provided that possession has not been taken. In such cases the amount already paid will have to be recovered by a Civil suit, if it cannot be recovered by private arrangement.
- (d) According to para 5(1) Chapter XXIX of L.A.Manual, whenever possession is taken by the Government before the declaration under section 6 has been published such possession was not taken under the Act and Govt. could therefore withdraw from the acquisition.

POST AWARD ACTION

It is common experience that the Land Acquisition Officers have a sigh of relief, the moment the award is passed and payment of compensation made as if their business is over, unfortunately they forget for the time being, that there is an important item of work that is post award action. This is very important item of L.A. which is unfortunately neglected by the Land Acquisition Officers.

This post award action can be broadly be divided into two parts:

- i) Accounting procedure to be followed.
- ii) Affecting the changes in the village accounts.

Accounting procedure is explained in detail in Appendix. II pages 149 to 153 of the Manual and it is the responsibility of the L.A.O.to follow the procedure scrupulously.

The second part of the post Award Action also mainly consists of two aspects :

- II. i) Scrutiny of sub-division records and observation of formalities under Survey and Boundaries Act, and

ii) Effecting changes in the Village Accounts of the Land Acquired.

The procedure of effecting changes in Village Accounts varies in both the regions of the state. The changes are to be effected in the Village Accounts in vogue in the region concerned.

When this action of effecting changes in village accounts is over, the land acquisition officer should send a final check memo to the Collector and close the file.

Immediately after the award is passed and possession of the land is taken, a notice under Section 15 of the Survey & Boundaries act has to be got published and necessary changes got effected in the concerned Taluk (Now Mandal) and Village Accounts, viz., Taluk Register No.7, Revenue Map, Town survey Register and the other pending Village Accounts.

Unless necessary changes are effected in the village and Taluk (Mandal) Accounts, field maps are prepared there is every likelihood of several complications against at a later date. Until the changes are effected in the relevant revenue records, the absolute right of Government over the land acquired cannot be considered to have been completely established. This may lead to several legal complications at a future date.

DISPOSAL OF LAND WHICH IS NO LONGER REQUIRED FOR PUBLIC PURPOSE

When the land acquired for a public purpose is subsequently relinquished, it should be disposed off in the manner prescribed in para 32 of B.S.O. as amended in G.O. Ms. No. 628, revenue dated. 19.5.1975. There is a provision to offer land thus relinquished first to the parties to whom the proprietary right and the right of occupancy, if any, in the land. Original owners or their heirs if do not accept the offer and when the land is useless to any one other than the adjacent owner with the full enjoyment of the adjoining property be offered to the adjoining owner at full market value.

SUMMING UP

Over the years the Land Acquisition Act has proved its utility as an effective instrument of social and economic changes that have been taking place in the country. It may be argued some times that compensation awarded under L.A.Act, does not fully meet the requirements of those who have deprived of their landed property. But even for this under the L.A.Act provision has been made for going in appeal to the courts for judicious determination. It can be said that the Land Acquisition Act has not encroached upon the Fundamental Rights of the individual as provided in the Constitution, because Judicial remedies are open to them and also compensation whenever awarded is supposed to be after a fair determination of all the factors without prejudice to the personal claims. But there is no doubt that there is an element of truth that some times lands are acquired in a hurry which may cause some temporary inconvenience to the normal citizen. But such acts of state are always conducted after a very careful scrutiny of the intended purpose. Therefore, it will not be too much to say that there is practically no other substitute procedure for the Land acquisition Act and it continues to serve for larger interests of the Society.

SPECIAL COLLECTORS ORGANISATIONS FUNCTIONING IN A.P. STATE FOR ACQUISITION OF LANDS FOR THE PROJECTS

Vast areas have to be acquired for construction of Major Irrigation and Hydro Electric Projects like Nagarjuna Sagar Project, Srisailem Project, Sriramsagar Project etc. As it is not possible to acquire such huge areas involving some thousands of acres of land, many villages etc., by the Collectors, Government have created Special Collectors organisation for the purpose of Land Acquisition for Major Projects delegating necessary powers to the Special Collectors on par with Collectors. There are three Special Collectors Organisation in Andhra Pradesh. Each Special Collector Organisations is having some units headed by the Special Deputy collectors at appropriate places in their jurisdiction depending upon the work load. The three special

Collectors organisation in the State are (1) Special Collector, N.S. & S.S. Projects, Kurnool (2) Special Collector, Sriramsagar Project, Pochampad at Hyderabad, and (3) Special Collector, Telugu Ganga Project, Nellore are attending to the L.A. work relating to the projects of Nagarjunasagar and Srisailam Projects, Sriramsagar Project and Telugu Ganga and Somasila Projects respectively. These are all temporary units. The sanction is for lone year. The continuance of these units are being renewed every year by the Government depending upon the work load.

LOK ADALATS

In order to reduce civil litigation in Courts, the Government have contemplated for disposing some of the cases relating to Sriramsagar project, Srisailam project and Somasila Project through Lok Adalats.

*Always design a thing
by considering it in its next larger context -
a chair in a room, a room in a house, a house in
an environment, an environment in a city plan.*

- Eliel Saarinen



Courtesy : The Management Jungle,

By C. Northcote Parkinson &

M.K. Rustomji & S.A. Sapre

Executive Magistracy

Executive Magistracy

CLASSES OF CRIMINAL COURTS (SECTION 6)

Besides the High Courts and the Courts constituted under any law, other than the Code, there shall be, in every State, the following classes of Criminal Courts, namely :

- i) Courts of Session
- ii) Judicial Magistrate of the first class and in any metropolitan area, Metropolitan Magistrates
- iii) Judicial Magistrates of the second class and
- iv) Executive Magistrates.

EXECUTIVE MAGISTRATES (SECTION 20)

- (1) In every district and in every metropolitan area, the State Government may appoint as many persons as it thinks fit to be Executive Magistrates and shall appoint one of them to be the District Magistrate.
- (2) The State Government may appoint any Executive Magistrate to be an Additional District Magistrate, and such Magistrate shall have such of the

powers of a District Magistrate under this Code, or under any other law for the time being in force, as may be directed by the State Government.

- (3) Whenever, in consequence of the office of a District Magistrate becoming vacant, any officer succeeds temporarily to the executive administration of the district, such officer shall, pending the orders of the State Government exercise all the powers and perform all the duties respectively conferred and imposed by this code on the District Magistrate.
- (4) The State Government may place an Executive Magistrate in charge of a sub-division and may relieve him of the charge as occasion requires, and the Magistrate so placed in charge of the Sub-Division shall be called the Sub-Divisional Magistrate.
- (5) Nothing in this Section shall preclude the State Government from conferring, under any law for the time being in force, on a Commissioner of Police, all or any of the powers of an Executive Magistrate in relation to a metropolitan area.

SPECIAL EXECUTIVE MAGISTRATE (SECTION 21)

The State Government may appoint, for such term as it may think fit, Executive Magistrates, to be known as Special Executive Magistrates, for Particular areas or for the performance of particular functions and confer on such Special Executive Magistrates such of the powers as are conferrable under this Code on Executive Magistrates, as it may deem fit.

LOCAL JURISDICTION OF EXECUTIVE MAGISTRATES (SECTION 22)

- (1) Subject to the control of the State Government, the District Magistrate may, from time to time, define the local limits of the areas within which the Executive Magistrates may exercise all or any of the powers with which they may be invested under this code.

- (2) Except as otherwise provided by such definition, the jurisdiction and powers of every such Magistrate shall extend throughout the district.

SUBORDINATION OF EXECUTIVE MAGISTRATES (SECTION 23)

- (1) All Executive Magistrates, other than the Additional District Magistrate, shall be subordinate to the District Magistrate, and every Executive Magistrate (other than the subdivisional Magistrate) exercising powers in a sub-division shall also be subordinate to the Sub-Divisional Magistrate, subject, however, to the general control of the District Magistrate.
- (2) The District Magistrate may, from time to time, make rules or give special orders, consistent with this Code, as to the distribution of business among the Executive Magistrates subordinate to him and as to the allocation of business to an Additional District Magistrate.

EXECUTIVE MAGISTRACY

- I. Security for keeping the peace and for good Behaviour
(Sections 107 to 124)
- II. Maintenance of public order and Tranquility
- A) Un-Lawful Assemblies (Sections 129, 130, 131 and 132)
- B) Public Nuisances (Sections 133, 135 and 136 to 143)
- C) Urgent cases of nuisance or apprehended danger (Section 144)
- D) Dispute as to immovable property (Section 145)
- III) Inquests & inquiries into unnatural deaths (Sections 174, 176)
- IV) Dying Declarations (Section 32 clause (1) of Indian evidence Act.)
(Sub-section (1) of Section 107 of the Criminal Procedure code)

SECURITY FOR KEEPING PEACE AND GOOD BEHAVIOUR

“When an Executive Magistrate receives information that any person is likely to commit a breach of the peace or disturb the public tranquility, or to do any wrongful act that may probably occasion a breach of the peace, or disturb the public tranquility and is of opinion that there is sufficient ground for proceeding, he may, in the manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, for keeping the peace for such period, not exceeding one year, as the Magistrate thinks fit”.

INGREDIENTS OF SEC. 107(1)

The above provision contains the following ingredients:

- i) An Executive Magistrate receives information,
- ii) That a person is likely to commit a breach of the peace or disturb the public tranquility, or
- iii) That a person is likely to commit any wrongful act that may probably occasion a breach of the peace or disturb the public tranquility, and
- iv) The Magistrate forms the opinion that there is sufficient ground to proceed,
- v) Then the Magistrate may require such person to show cause why he should not be ordered to execute a bond for keeping the peace for such period not exceeding one year as the Magistrate thinks fit.

SECTION 107 (2)

Under Sub-section (2) of Section 107 an Executive Magistrate can initiate proceedings when :

- i) either the place where the breach of the peace or disturbance of public tranquility is apprehended is within his local jurisdiction; or
- ii) the person who is either to commit the breach of the peace beyond such jurisdiction is residing within his jurisdiction.

SECURITY FOR GOOD BEHAVIOUR FROM PERSONS DISSEMINATING SEDITIOUS MATTERS (SECTION 108)

- (1) When an Executive Magistrate receives information that there is within his local jurisdiction any person who, within or without such jurisdiction:
 - i) either orally or in writing or in any other manner, intentionally disseminates or attempts to disseminate or abets the dissemination of:
 - a) any matter the publication of which is punishable under Section 124-A or Section 153-A or Section 153-B or Section 295-A of the Indian Penal Code (45 of 1860), or
 - b) any matter concerning a judge acting or purporting to act in the discharge of his official duties which amounts to criminal intimidation or defamation under the Indian Penal Code (45 of 1860),

and the Magistrate is of opinion that there is sufficient ground for proceeding, require such person to show cause why he should not be ordered to execute a bond, with or without sureties, for his good behaviour for such period, not exceeding one year, as the Magistrate thinks fit.

- (2) No proceedings shall be taken under the section against the editor, proprietor, printer or publisher of any publication registered under, and

edited, printed and published in conformity with, the rules laid down in the Press and Registration of Books Act, 1867(25 of 1867), with reference to any matter contained in such publication except by the order or under the authority of the State Government of some officer empowered by the State Government in his behalf.

SECURITY FOR GOOD BEHAVIOUR FROM SUSPECTED PERSONS (SECTION 109)

When an Executive Magistrate receives information that there is within his local jurisdiction a person taking precautions to conceal his presence and that there is reason to believe that he is doing so with a view to committing a cognizable offence, the Magistrate may, in the manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with or without sureties, for his good behaviour for such period, not exceeding one year, as the Magistrate thinks fit.

SECURITY FOR GOOD BEHAVIOUR FORM HABITUAL OFFENDERS (SECTION 110)

When an Executive Magistrate receives information that there is within his local jurisdiction a person who :

- a) is by habit a robber, house-breaker, thief, or forger, or
- b) is by habit a receiver or stolen property knowing the same to have been stolen, or
- c) habitually protects or harbours thieves or aids in the concealment or disposal of stolen property, or
- d) habitually commits, or attempts to commit, or abets the commission of, the offence of kidnapping, abduction, extortion, cheating or

- mischief, or any offence punishable under section 489-A, Section 489-B, Section 489-C or Section 489-D of that Code, or
- e) habitually commits, or attempts to commit, or abets the commission of, offences, involving a breach of the peace, or
 - f) Habitually commits, or attempts to commit, or abets the commission of
 - i) any offence under one or more of the following Acts, namely :
 - a) the Drugs and Cosmetics Act, 1940 (23 of 1940), the Foreign Exchange Regulation Act, 1973 (46 of 1973)
 - b) the Employees' Provident Funds (and Family pension fund) Act, 1952 (19 of 1952)
 - c) the Prevention of Food Adulteration Act, 1954 (37 of 1954)
 - d) the Essential Commodities Act, 1955 (10 of 1955)
 - e) the Untouchability (Offences) Act, 1955 (22 of 1955)
 - f) the Customs Act, 1962 (52 of 1962), or
 - ii) any offence punishable under any other law providing for the prevention of hoarding or profiteering or of adulteration of food or drugs or of corruption, or
 - g) is so desperate and dangerous as to render his being at large without security hazardous to the community,

such Magistrate may, in the manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond with or without sureties, for his good behaviour for such period, not exceeding three years, as the Magistrate thinks fit.

SECTION 111

When a Magistrate gets information as shown in Sec. 107(1) and he is of the opinion that there is sufficient ground for proceeding further the first thing he has to do, is to pass an order in writing under sec. 111, setting forth :

- i) the substance of the information received ,
- ii) the amount of the bond to be executed,
- iii) the term for which it has to be in force, and
- iv) the number, character and class of sureties, if any, required.

The order under Sec. 111 is of the nature of a charge and it can be amended if found expedient on a subsequent date. The only condition is that a copy of such amended order shall be served on the person proceeded against and if any cause is shown by him against such amended order it can be taken into account.

UN-LAWFUL ASSEMBLIES

DISPERSAL OF ASSEMBLY BY USE OF CIVIL FORCE

(SECTION 129)

- (1) Any Executive Magistrate or officer-in-charge of police station or, in the absence of such officer-in-charge, any police officer, not below the rank of a sub-inspector, may command any unlawful assembly or any assembly of five or more persons likely to cause a disturbance of the public peace, to

disperse; and it shall thereupon be the duty of the members of such assembly to disperse accordingly.

- (2) If, upon being so commanded, any such assembly does not disperse, or if, without being so commanded, it conducts itself in such a manner as to show a determination not to disperse, any Executive Magistrate or Police Officer referred to in sub-section (1), may proceed to disperse such assembly by force, and may require the assistance of any male person, not being an officer or member of the armed forces and acting as such, for the purpose of dispersing such assembly, and, if necessary, arresting and confining the persons who form part of it, in order to disperse such assembly or that they may be punished according to law.

UNLAWFUL ASSEMBLY DISPERSAL : POINTS TO BE REMEMBERED

- a) The police must secure the presence of a Magistrate where a breach of peace is anticipated.
- b) The Magistrate has got powers to give an order to police to assist him in handling the situation.
- c) The senior most Police Officer shall assist the Magistrate.
- d) The Police shall act as ordered by the Magistrate.
- e) The Magistrate is responsible to take a decision as to when the unlawful assemblies has to be dispersed.
- f) The Magistrate shall wear armed band in red colour with letter "M".
- g) The Magistrate shall have definite opinion for the dispersal of unlawful assembly.
- h) If the force is not adequate, the use of force should be attempted to

control the unlawful assembly.

- i) The Magistrate shall order the kind of force to be used.
- j) Firing shall be ordered only as a last resort.
- k) Police party to be formed with 2 or more for dispersing unlawful assembly.
- l) Firing shall be done by the order in command of the party.
- m) The Magistrate shall communicate orders to the force.
- n) The police will give order when necessary.
- o) To disperse the mob, the officer shall give clear warning before use of tear gas or lathis.
- p) If the mob fail to disperse, initiate of warning, firing may be given.
- q) The police officer shall decide the minimum rounds to be fired.
- r) Firing aim should be kept low and directed against the most threatening part of the crowd.
- s) Files ordered to fire shall unload immediately after firing.
- t) Firing should be ceased the movement the mob disperse from the scene.
- u) Firing should be carried out from a distance sufficient to obviate the risk of being rushed on and to enable strict fire control to be maintained.
- v) Station Home Officer has no power to disperse the unlawful mob and but he may arrest any person.
- w) Permission of Magistrate is necessary in case the police are compelled to disperse the mob in different places of the same village.

- x) Riot flags should be taken when Armed Reserves are called out in apprehension of disturbance and before firing or any other means of dispersal is resorted to should be hoisted before the mob in a position in which the inscriptions on them are clearly visible.
- y) The Magistrate or Police Officer shall make adequate arrangements to shift the wounded persons to the Hospital for Medical aid. Dead persons should be sent to Mortuary.
- z) The Superintendent of Hqs. Hospital to ensure that the Police see demonstrations of mob disperse from time to time.

PUBLIC NUISANCES (SECTION - 133)

Sec. 133 of Criminal Procedure Code enables a District Magistrate/Sub-Divisional Magistrate or any other Executive Magistrate specially empowered by the State Government to deal with public nuisances. This power can be exercised either on receipt of a police report or other information. Public nuisances which can be readdressed under this section fall under the following six categories :

CATEGORIES OF PUBLIC NUISANCE

- a) The unlawful obstruction or nuisance to any public place or to any way, river or channel which is or may be lawfully used by the public.
- b) The conduct of any trade or occupation, or keeping of any goods or merchandise, injurious to the health or physical comfort of the community.
- c) The construction of any building or disposal of any substance, as is likely to occasion conflagration or explosion.
- d) Any building, tent, structure, or tree which is likely to fall and thereby cause injury to persons.

- e) Any tank, well or excavation adjacent to any such way or public place.
- f) Any dangerous animal which requires to be destroyed, confined or otherwise disposed.

A Magistrate may take a conditional order requiring the person causing such obstruction or nuisance, or carrying on such trade or occupation, or keeping any such goods or merchandise, or owing or possession or controlling such building, tent, structure, substance, tank well or excavation or owing or possessing such animal or tree, within a time to be fixed in order to remove such obstruction or nuisance, etc., or if he objects to do so, to appear before him or some other Executive Magistrate subordinate to him at a time and place to be fixed by the order and show cause in the manner provided why the order should not be made absolute.

URGENT CASES OF NUISANCE OR APPREHENDED DANGER (SEC. 144 OF CRIMINAL PROCEDURE CODE)

Sec. 144 of the Criminal Procedure Code confers very wide powers on the District Magistrate, Sub-Divisional Magistrate or any other Executive Magistrate specially empowered by the State Government in this behalf to pass order on occasions of emergency. The provisions contained in Sec. 144 can be invoked only in urgent cases of nuisance or apprehended danger. Two conditions are necessary to be fulfilled before an order can be passed under this Section, viz.,

- 1) The Magistrate must be satisfied that immediate prevention or speedy remedy is necessary. Urgent prevention or speedy remedy is necessary. Urgency of the action to be taken gives, jurisdiction to the Magistrate to exercise the powers conferred by this Section. A mere statement that he considers the case to be an urgent one is not sufficient. He shall have to mention the grounds which made him conclude that there is urgent necessary for action.

- 2) The Magistrate must be satisfied that the direction to abstain from certain act or to take certain order in respect to certain property is likely to prevent or tends to prevent obstruction as shown in the Section. It is not necessary that the provision should be invoked only when the alleged acts would constitute an offence if allowed to be completed. It is sufficient even if the acts alleged are such, when completed would furnish grounds for a civil action only.

DISPUTES AS TO IMMOVABLE PROPERTY

Sec. 145 deals with disputes concerning land or water likely to cause breach of peace. An executive Magistrate may proceed under this Section if he is satisfied that :

- (1) a dispute exists concerning any land or water or the boundaries thereof within his local jurisdiction, and
- (2) such dispute is likely to cause a breach of the peace. After satisfying himself, the Magistrate must first pass a preliminary order Sub-sec.(1) of Sec. 145 and then hold an inquiry as provided under Sub-sec.(4).

POWERS TO ENQUIRE AND REPORT ON SUICIDE, ETC. (SECTION 174(4))

The following Magistrates are empowered to hold inquests, namely, any District Magistrate or Sub-Divisional Magistrate and any other Executive Magistrate specially empowered in this behalf by the State Government or the District Magistrate.

INQUIRY BY MAGISTRATE INTO CAUSE OF DEATH (SECTION 176)

- (1) When any person dies while in the custody of the police 'or when the case is of the nature referred to in clause (1) or clause (ii) of sub-section (3) of Section 174', the nearest Magistrate empowered to hold inquests shall, and in any other case mentioned in sub-section (1) of Section 174, any Magistrate so empowered may hold an inquiry into the cause of death either instead of, or in addition to, the investigation held by the circumstances of the case.
- (2) The Magistrate holding such an inquiry shall record the evidence taken by him in connection therewith in any manner hereinafter prescribed according to the circumstances of the case.
- (3) Whenever such Magistrate considers it expedient to make an examination of the dead body of any person who has been already interred, in order to discover the cause of his death, the Magistrate may cause the body to be disinterred and examined.
- (4) Where an inquiry is to be held under this section, the Magistrate shall, wherever practicable, inform the relatives of the deceased whose names and addresses are known, and shall allow them to remain present at the inquiry.

DYING DECLARATION ADMISSIBLE IN EVIDENCE

A dying declaration is a statement made by a person as to the cause of his death or as to any of the circumstances of the transaction which resulted in his death. It is admissible in evidence under clause (1) of Sec.32 of Indian Evidence Act in cases in which the cause of that persons death comes into question. such a statement is relevant whether the person who made it was or was not at the time when it was made under expectation of death.

WHO CAN RECORD

1. There is no hard and fast rule that a dying declaration should be recorded by a competent Magistrate alone. It can be recorded by any Magistrate, Medical Officer or under special circumstances by Police Officers.
2. Since a dying declaration which is free from doubt can be the sole basis of conviction, it is the bounded duty of the Investigating Officer to request a competent Magistrate to record the dying declaration of the victim. Such dying declaration recorded by a Magistrate form a part of the record of investigation.

DYING DECLARATION
(Specimen Form)

Dying declaration of Sri/Smt.....recorded
by (name and address of the person recording the statement) on (date) at
(Place) on the requisition made by (designation of the Police Officer) of
(place) through his letter No. dated.....

Name of the declarant:

Name of the father/husband:

Age:

Occupation:

Caste:

Residence:

Ques. 1. Are you in a fit state of mind and conscious?

Ans.:

Ques. 2. Are you in a position to speak?

Ans.:

Ques. 3. Where are you at present?

Ans.:

Ques. 4. Who brought you here, when and by what means?

Ans.:

Ques. 5. Who were the assailants?

Ans.:

Ques. 6. What are their names and addresses?

Ans.:

Ques. 7. How do you identify them?

Ans.:

Ques. 8. How did you sustain injuries ?

Ques. 9. What were the weapons used. Point out their nature and size?

Ans.:

Ques. 10. Which is the place of assault?

Ans.:

Ques. 11. Are you in a position to locate the injuries on your body, if so, locate them?

Ans.:

Ques. 12. How did you sustain injuries and in what manner?

Ans.:

Ques. 13. What is the motive for assault?

Ans.:

Signature/Thumb impression of the Declarant.

Note: If declarant is not in his senses and not in a position to speak, his statement need not be recorded. A note to this effect should be made.

Certificate to be entered to during Declaration (Forms) (i) Certificate*

I certify that the declaration is read over and explained to the maker in his language and admitted to be correct.

Signature of the person recording the declaration

*Note: If it is necessary to remove the injured immediately for operation and reading over the statement and explaining it causes delay, the reading over of the statement and explaining it may be dispensed with.

(ii) Certificate

I certify that the above declaration was recorded by me in presence of the Medical Officer who has signed the statement.

Signature of the person recording the declaration.

(iii) Certificate*

The above declaration was recorded by (name and address of the person recording the statement) in my presence at (Place) on (Date) at (Time)

Signature of the Medical Officer

*Note: If the person recording the statement is the Medical Officer himself, this certificate can be dispensed with.

(iv) Certificate

I certify that the declarant was conscious but as he was not in a position to speak, he answered the question by gestures and their significance is ascertained and recorded faithfully.

Signature of the person recording the declaration

*Note: This certificate should be appended only if the significance of the gesture is commonly understandable

(v) Certificate

I certify that the answers given to questions by gesture were got interpreted by the person (name and address of the person) who understood them.

*Note : This certificate should be appended only in case of dumb persons and if the significance of the gesture is not commonly understandable.

Signature of the person recording the declaration.

(vi) Certificate

I further certify that I have taken the following precautions :

1. I have satisfied myself that the declarant is in a fit state of mind and is conscious.
2. That the declarant is in a position to speak.
3. That unauthorised persons are not allowed to crowd round the declarant.
4. That no outside influence is brought to bear on the declarant.
5. Friends and relatives of the declarant are not allowed to influence the declarant by prompting or otherwise, and
6. That the declaration is recorded faithfully.

Signature of the person recording the declaration.

Protocol Duties

The arrangements for all VVIPS/VIPS and others who are State Guests are looked after by the protocol Branch of General Administration Department.

The list of dignitaries of the Government of India, of other State Governments and others who are normally treated as State Guests during their visits to any part of the State of Andhra Pradesh are given below :

- (i) the following dignitaries are treated as State Guests during their official and Non-official visits to this State.
1. The President of India.
 2. The Vice-President of India.
 3. The Prime Minister of India.
 4. The Chief Justice of India.
 5. Governors of other states including Lieutenant Governor of Union Territories.
 6. The Ex-Presidents of India.
 7. The Ex-Vice Presidents of India.
 8. The Ex-Prime Ministers of India.

9. The Judges of Supreme Court of India.
 10. The Speaker, Lok Sabha, Deputy Speaker, Lok Sabha and Deputy Chairman, Rajya Sabha.
 11. The Union Ministers, Ministers of State and Deputy Ministers of Union Cabinet.
 12. The Deputy Chairman and Members of Planning Commission.
 13. The Chief Ministers, Ministers, Ministers of State and Deputy Ministers of other States.
 14. The Personal Staff accompanying the President of India, Vice-President of India and Prime Minister of India
 15. The Chief Justice of High Court of other States-(Vide G.O.Ms.No.713, G.A. (Poll.A)Dept., Dt: 17-12-1991)
 16. The Speakers of Legislative Assemblies of other States.
(Vide G.O.Ms. 280 G.A.(Poll.A)Dept., dt:16-5-1994.
 17. The Chief Election Commissioner (Vide G.O.Ms.No. 335 S.A. (Poll.A) Dept., Date: 5-7-1994.)
- ii) The following dignitaries are treated as State Guests during their official visits only:
1. The Judges of High Courts of other States.
 2. The Chairman and Deputy Chairman, Deputy Speakers of Legislatures of other States.
 3. The Chiefs of Staff of Armed Forces.
 4. The Area Commander not below the rank of Lieutenant General on first visit to the State Capital on assumption of charge.
 5. The Chairman, Union Public Service Commission.

6. The Comptroller and Auditor General of India.
7. The Secretaries to Government of India including those holding equivalent posts in Government.
8. The Chief Secretaries of other State Governments.
9. The Leader of opposition in Lok Sabha/Rajya Sabha.
10. The Chairman of
 - a. The National Commission for S.Cs/S.Ts.
 - b. The National Commission for Backward Classes.
 - c. The National Commission for Minorities.
 - d. The National Commission for Women.
 - e. The National Commission for Safai Karamcharis.
 - f. The National Human Rights Commission.
 - g. The National Commission for Weavers.
 - h. The Press Council of India.
(G.O.Ms.No. 438, G.A (Poll. A) Department Dt: 17-10-1996)
 - i. First National Judicial Pay Commission, Chairman.
(G.O.Ms.No.433,G.A (Poll.A) Department, Dt: 11-10-1996)
 - j. Law Commission of India, Chairman.
(Vide G.O.Ms. No.3, G.A (Poll.A)Dept., dt:301-1997)

ARRANGEMENTS FOR ACCOMMODATION AND BOARDING -

State Guests are provided, free of charge, accommodation and boarding. They are normally accommodated in the State Guest House/Circuit House/Inspection Bungalows/Travellers Bungalow. In case sufficient accommodation is not available therein or sufficient

accommodation of appropriate standard is not available, State Guests may be accommodated in suitable hotels.

TRANSPORT

- (i) Free Government transport is provided to the State Guests and their accompanying family members. If suitable Government cars are not available for the purpose required cars may be hired. Provision of such service through hired cars, where the Government cars are not available, should be limited to really very important persons like the Union and State Ministers etc.,
- (ii) Transport to State Guests listed under category (ii) in para 2 ante will be for local use and for road journeys to the places which are not connected by air and/or rail (Vide G.O.Ms. No. 438, G.A.(Poll.A) Department, Dated: 17-10-1996).

TELEPHONE FACILITY

Entire expenditure on casual telephones installed during the visits of the President of India. Vice-President of India and the Prime Minister of India will be borne by the State Government. No charges will be payable for the local telephone call made for official purpose by the other State Guests. However, trunk calls bills will be sent to them for payment immediately on receipt from the Telephone Department.

Expenditure towards arrangements for the State Guests as mentioned in Para 9 above is debitable to the Head of Account 2052-Secretariat General Services-M.H.090- Secretariat-S.H.(04)-G.A.D-130-Hospitality expenses which is operated from General Administration (Poll.A) Department. The procedure for meeting the expenditure towards arrangements for the visits of VVIP/VIPs and other State Guests is as laid down in the G.O. Ms.No. 258, G.A. (Poll A) Department, dt.22.5.1986 and, is enclosed to this Chapter as amended in G.O.Ms.No.330 G.A.(Poll,A) Department, Dt:17-7-1986.

VISIT OF PRESIDENT OF INDIA

The visits of the President of India fall into two categories viz., (i) Public visit and (ii) official visit. Unless otherwise stated Public visit is the one when the President visits State Capital for the first time after assumption of office.

2. PROTOCOL DURING THE VISIT TO STATE CAPITAL

The President of India during the visit to State Capital is accorded ceremonial reception on arrival and ceremonial send off at the time of departure on conclusion of the visit to the State with the following dignitaries and officers being present on both occasions.

The Governor, the Chief Minister and others included upto Article 21 of the Warrant of Precedence-Order of Precedence in Andhra Pradesh and the following:

- i) The Chief Secretary to Government.
- ii) The Director-General and Inspector -General of Police.
- iii) The Secretary to Government (Political), General administration Department.
- iv) The Commissioner of Police.
- v) The Joint/Deputy Secretary to Government, General Administration Department and Director of Protocol.
- vi) The Collector and District Magistrate, Hyderabad.
- vii) The Senior most Officers of the Defence Services.
- viii) The Commander, Andhra Sub-Area.
- ix) The Station Commandant, India Air Force Station, Begumpet.

OTHER NON-OFFICIALS

- x) The Ex-Governors.
- xi) The Ex-Chief Ministers.
- xii) The Honorary personal Staff of the President at State Capital.
- xiii) The Members of the Press.

The above list is subject to such changes as may be ordered on the occasion of each visit due to such changes as are made in warrant of Precedence-order of Precedence of Andhra Pradesh or through any executive orders and for the time being in force.

The President, after alighting from the aircraft (or the saloon as the case may be) is received by the Governor and garlanded. Thereafter the Governor introduces the Chief Minister. The Chief Minister also garlands the President and then introduces the Minister-in-waiting, the Mayor and the following officers to the President, near the aircraft/saloon.

1. The Chief Secretary to Government.
2. The Director-General and Inspector General of Police.
3. The Secretary to Government (Political), General Administration Department.
4. The Commissioner of police, Hyderabad.
5. The Joint/Deputy Secretary to Government General Administration Department and Director of Protocol.
6. The Collector and District Magistrate, Hyderabad.
7. The Senior most Officer of each of the Defence Services.
8. The Commander, Andhra Sub-Area, Secunderabad.
9. Station Commandant Indian Air Force Station, Begumpet.

VISIT OF PRESIDENT OF INDIA

Arrangements will generally, be the same as for the visit of President of India.

VISIT OF PRIME MINISTER OF INDIA

1. OFFICIAL VISITS

The Scale of reception/send off to be accorded to the Prime Minister of Indian during the visits to the State Capital and to the places outside the State Capital will generally be the same as for the President of India except that the Defence Services Officers and the Honorary Personal Staff of the Presidents, who are also invited for the reception/send off to the President of India at State Capital, need not be invited for the reception/send off to the Prime Minister.

2. TRANSIT HALT

- (a) If the Prime Minister is making a transit halt at State Capital, the Chief Minister may, if he so desires be present though it should normally not be necessary for him to do so. It is not necessary for the Governor to be present unless the Prime Minister or the Governor wish to have a few minutes talk with each other. An Executive and one Police Officer deputed for the purpose may be present to render such assistance as may be necessary.
- (b) If the Prime Minister is making a transit halt in a town outside the State capital, there is no need for the Chief Minister or any other Minister to be present. One Executive and one Police officer of the District only should be present.

VISIT OF GOVERNOR OF ANDHRA PRADESH WITHIN THE STATE: IN DISTRICTS

1. The Collector and the Superintendent of Police concerned will be present at the Railway Station or the Aerodrome, as the case may be, to receive/see of the Governor at the time of arrival/departure.
2. The instructions in para 1 above are subject to such instructions as may be issued from the Governor's Secretariat from time to time in general or on the occasion of each visit. The general instructions issued by the Governor's Secretariat regarding arrangements to be made and protocol to be observed during the visits of the Governor.
3. The G.O.Ms. No. 353, General administration (Political-a) Department, dated 18th May, 1991 contains the procedure for meeting the expenditure towards arrangements during the visits of the Governor of Andhra Pradesh to Districts.

VISIT OF CHIEF MINISTER, MINISTERS AND OTHER DIGNITARIES OF STATE GOVERNMENT TO THE DISTRICT

1. Visits of the Chief Minister, Ministers and the Speaker, Andhra Pradesh Legislative Assembly.

Instructions were earlier issued in the form of a booklet viz., Hand Book of Courtesies and Facilities to be shown in connection with the visits of High Personages, regarding the Protocol to be observed during the visits of High Personages. Instructions contained in Chapter-VII thereof regarding the visits of the Chief Minister, Ministers and the Speaker, Andhra Pradesh Legislative Assembly to the districts within the State, are given below:

“Ministers of Andhra Pradesh Government (including Chief Minister).

CHIEF MINISTER

Whenever the Chief Minister visits a District, the District Collector and the Superintendent of Police should receive him. For this Purpose they should break camp, if necessary. However, if there are adequate reasons owing to which they are unable to receive the Chief Minister they should take the earliest opportunity to explain the position to the Chief Minister and also ensure that adequate arrangements are made for the reception of the visiting Chief Minister by deputing the Senior most subordinate officials.

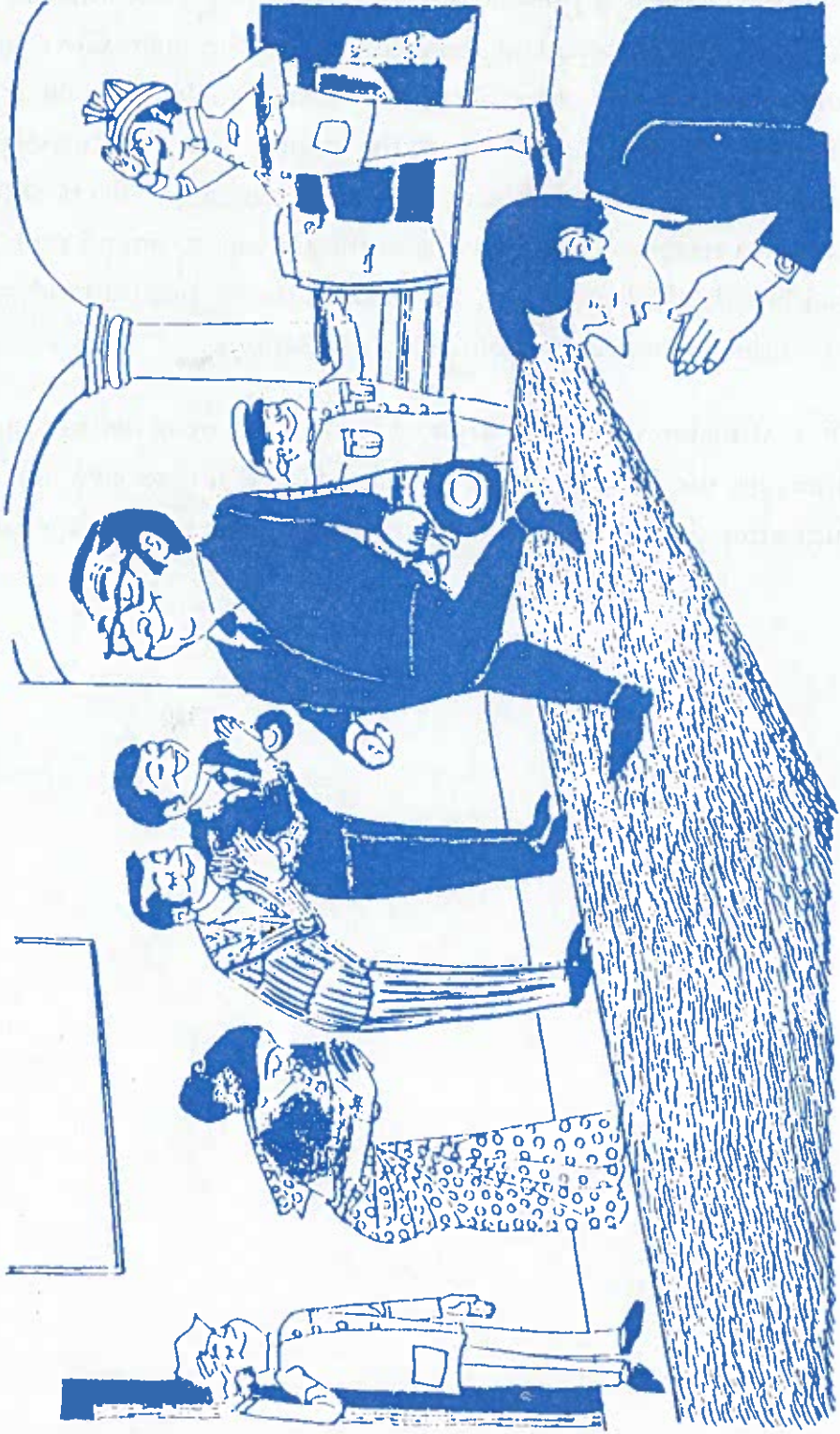
OTHER MINISTERS

- (i) The above instructions will apply to the first visit of all Ministers.
- ii) During subsequent visits of the same Minister to District Headquarters, the Collector and the Superintendent of Police may depute the Senior most Gazetted Revenue or Police Officer as the case may be to receive and see off the Minister concerned on their behalf and ensure that the prescribed courtesies and facilities are extended to him. They should however call on the Minister soon after his arrival, but need not break camp for this purpose, if they are on tour, unless the Minister specifically desires to meet him.
- iii) The Revenue Divisional Officer should normally attend to the protocol work within his jurisdiction in all other cases.
- iv) Except for the first time when a Minister visits places other than the headquarters of a district, it will not be necessary for the Collector and the Superintendent of Police concerned to leave Headquarters in order to meet the Minister. But if the Collector or the Superintendent of Police, happen to be camping at the same place as that visited by the Minister, then they should meet the Minister on arrival.

- v) In either case referred to in (i) above, the Collector or the Superintendent of Police or their Gazetted Subordinate Officers should take leave of the Minister in case they have other immediate work to attend to.
- vi) If a Minister visiting a district wishes to discuss any matter with the Collector of the District or with the Superior Officer or Officers of the department he administers, he will inform the Collector and the Officers concerned in advance of the dates on which he proposes to visit the district and the subjects he wishes to discuss with them. The Collector or the officers concerned should then invariably arrange to meet him at the appointed time and place.
- vii) If a Minister visits headquarters of the district, the Principal Departmental Officers in the head-quarters of those departments incharge of the Ministers should call on the Minister whether they have received intimation from him as above or not. If such Officers happen to be on tour they are not expected to break camp to see the Minister unless the tour programme indicates that he wishes to see them.
- viii) If a Minister visits a place to attend a State function as representative of the whole Government and therefore of the Government himself, the Collector and the Superintendent of Police should receive him at the station of arrival.
- ix) When a Minister is visiting a mofussil station partly for public and partly for private purposes, the entire visit should be deemed to be a public one and arrangements made accordingly.
- x) When Ministers are on tour in the district in their private capacity and they desire the same to be treated as such, their tour programmes would clearly indicate the same. The P.Ss/P.As to the Ministers would be specifically instructed in this regard to indicate clearly in tour programmes the nature of Ministers's visit.

- xi) Where civic receptions are organised in honour of a visiting Minister or a civic address is presented to him and where functions are organised in which a department or departments of the State Government take part, Collector and other District Officers should normally attend such functions if they are present at the station. For this purpose, it is not proposed that the Collectors and other District Officers should break camp on travel to other stations in the District to attend such functions. Neither the Collector nor the other Officers need attend meeting or functions arranged by political organisations.

- xii) If a Minister visits a district, which is his own district, at frequent intervals, the Dist. Officers concerned need not receive him or call on him after the first visit unless specifically asked to by the Minister.



Status Symbols

Essential Commodities Act

Essential Commodities Act

Earlier the legislation covering the field of Essential Commodities was Defence of India Act, 1939.

Due to scarcity conditions as a result of second World War, Government of India considered necessary to bring out a comprehensive legislation to control production, supply and distribution of certain essential commodities and enacted the Essential Supplies (Temporary Powers) Act, 1946 replacing Defence of India Act, 1939 which was in force till 26.1.1955 (i.e. Essential Supplies Temporary powers Act, 1946). It covered coal, textiles, iron and steel, paper etc., which are products of industries under Union control and food stuffs, cattle fodder etc. which are not products of industries.

On 26.1.1955 Essential Commodities Ordinance, 1955 came into force in place of Act, 1946 and this was limited in the first instance to wheat, raw cotton and sugar cane.

This is replaced by Essential Commodities Act, 1955 with effect from 1-4-1955. Initially ten commodities were covered and later on some more are added and thus the total number gone upto (71). However sub-sequently (17) commodities are deleted and the net existing are about (54).

The important amendments brought into the Act are in the years 1981, 1987, 1993 and 1997.

Section (3) of the Act provides powers to issue orders by the Central Government or by the State Government with the prior approval of the Central Government for maintaining or increasing supply of any essential commodities for its equitable distribution and availability at fair prices, providing for regulating or prohibiting the production, supply and distribution thereof, and trade, and commerce thereon.

So far, Central Government issued (168) and odd Control Orders and in the A.P.State, the number issued i.e. Control Orders or Orders is around (100). Of this the Revenue and Civil Supplies Department are administering (11) Central Control Orders and (20) State Control Orders.

IMPORTANT ORDERS

- i) The A.P. Exhibition of Price List of Goods Order, 1966
- ii) The A.P. Prevention of Hoarding of Food Grains Order, 1973
- iii) The A.P. Scheduled Commodities (RDSCS) Order, 1973
- iv) The A.P.Scheduled Commodities Regulations, 1973
- v) The Scheduled Commodities Dealer (L&D) Order, 1982
- vi) The A.P. Rice Procurement (Levy) Order, 1984
- vii) The A.P. Petroleum Products (L&R of S) Order, 1980.

The A.P.Exhibition of Price List of Goods Order, is for ensuring display of prices by the trade in general in respect of scheduled items. The A.P.Scheduled Commodities (RDSCS) Order, 1973 and the A.P. Scheduled Commodities Regulations, 1973 are the orders covering the fair price shops and distribution of commodities through cards etc. The Scheduled Commodities Dealers (Licensing & Distribution) Order, 1982 and the A.P. Petroleum Products (LR Of S)

Order, 1980 is for regulation of open market trade of food grains, sugar, edible oils, and edible oil seeds including vanaspathi and also petroleum products i.e. Diesel (HSD), Petrol (MS), LP Gas, Kerosene, either in wholesale or in retail. The fair price shop dealers are also required to take licences under these orders.

The stock exceeding (20) Qtls. of one foodgrain, or all foodgrains (50) quintals, 10 Qtls. pulses, 05 Qtls. edible oils, 30 Qtls. edible oil seeds, 05 Qtls.sugar, 100 Ltrs. kerosene, 200 Ltrs. diesel and 07 cylinders of 14.2 Kg. each (99.4 Kg. OR 100 Kg.) being kept by any person is deemed to be a dealer unless contrary is proved, requires a licence.

Licensing, Appellate and Revision Authorities.

Item	Licensing/appointing authority/original	Appeal	Revision
seizure under Sec.6-A : above Rs.1,00000/- or seizure in trading Rice Mill :	Collector	Previously Commissioner (Appeals), now District Sessions Judge.	No Revision.
Below one lakh seizure	Joint Collector	-do-	No Revision
A.P.S.C.(RDCS) Order, 1973. (Authorisation of F.P. Shop). A.P.Petroleum Products (L&RS) Order, 1980.	R.D.O	Joint Collector	Collector
a) wholesale	Collector/J.C.	Director(CS)	No Revision.
b) Retail	M.R.O.	R.D.O.	No Revision.
A.P.S.C.(L&D) Order, 1982			
a) wholesale	D.S.O.	Joint Collector	Commissioner (CS)
b) Retail	M.R.O.	-do-	-do-

Section 6-A empowers seizure of stock for contravention of Licensing Orders or other Orders issued under E.C.Act. Panchanama to be drafted duly handing over a copy to the respondent. All the details, violations to be indicated. Without unreasonable delay, report to be filed to the Collector/Joint Collector with covering letter, indicating sections violated, details of addresses of respondents, witness etc. in the format. Under Section 6-B, notice to be issued clearly indicating the sections violated. After hearing, the original authority, U/s 6-A can either confiscate full/part of the stock seized or release the stock if violations not proved. Issue of notice should be under 6-B of E.C.Act. Appeal provided under 6-C. The Appellate Authority is Government i.e.Commissioner, Civil Supplies is now the District and Sessions Judge. Every care should be taken while booking cases indicating sections and also framing charges. Any technical violation will result in allowing the appeal filed under section 6-C of E.C.Act.

Section 7 provides penalties. On a report, the Collector can authorise any officer to file prosecution in competent Court. Even there is no seizure and violation of provisions of order or Control Order is proved. Even the Revenue/Civil Supplies officers can file prosecution. Therefore, the Vigilance Cell Officers i.e. Police Officers are only competent to file prosecution is not correct.

THE DOCUMENTS REQUIRED FOR OBTAINING LICENCES

either wholesale or retail in foodgrains/edible oils/pulses/sugar and various petroleum products, the minimum licence fee, National Savings to be deposited as security, trade deposit for fair price shop, fee to be remitted for duplicate licences to be explained.

OTHER IMPORTANT CONTROL ORDERS

- i) **The Prevention of Black Marketing and Maintenance of Supplies Act, 1980:** To prevent black marketing and maintenance of supplies to prevent any one from acting in a manner prejudicial for the maintenance of supplies - black marketeers etc. Advisory board to approve - intimation to

Government, approval by Government within 15 days- approval or rejection by the Advisory Board on placing before them within 3 weeks - Advisory Board decision within (5) weeks. Collector is the authority for passing detention order at district level.

- ii) **The A.P. Essential Commodities Distribution & Movement (requisitioning of vehicles at fixed freight) Order, 1983:** Provides requisitioning of vehicles by Collector for utilising when there is strike and in such circumstances for movement of foodgrains, petroleum products, L.P.Gas and other essential commodities.
- iii) **The A.P.Storage of Essential Commodities (Requisitioning of Godowns) Order, 1986 :** Empowers Collector /Joint Collector or Officers authorised by Collector for requisitioning of godowns for storage of essential commodities to be distributed under P.D.S. (except Central Government undertaking godowns).

PUNISHMENTS UNDER E.C.ACT OR CONTROL ORDERS

- i) confiscation of stocks seized and also vehicle or vessel in which it is transported.
- ii) Under Section 7(i) (ii) - minimum imprisonment (3) months, maximum (7) years and fine.
- iii) Under section 7(2) - for repeated offences not less than 6 months and upto 7 years imprisonment and fine.
- iv) Under section 7(3) - Court can order that the person should not do business in that trade for such period not less than (6) months - to the specified period.

POSITION OF REVENUE PERSONNEL VILLAGE ADMINISTRATIVE OFFICER

Ensuring proper functioning of P.D.S. i.e. fair price shops/kerosene shops, lifting in time, distribution of quantities announced by Government at fixed rates, ensuring meetings at fair price shop level, identification of bogus cards and also information on misuse of cards, information to be passed on to M.R.O. either directly or through Revenue Inspector.

In respect of open market rate, passing on information to M.R.O. regarding hoarding, black marketing, or unlicensed dealer.

REVENUE INSPECTOR

- i). Ensuring timely filing of D.Ds., receipt of stocks in village through corporation and kerosene by wholesale dealer.
- ii) Ensuring proper distribution at control rate, quantum and quality.
- iii) Ensuring functioning of fair price shop and maintaining of timings (7.00 A.M. to 11 A.M., 4.00 P.M. to 8 P.M.).
- iv) Ensuring meetings of all F.P. shop Dealers in the Mandal.
- v) Collecting market information on availability and prices.
- vi) Dehoarding operation - booking of unlicensed dealer, ensuring exhibition of price list by retail dealers.
- vii) Enquiring complaints received by him or specifically marked to him.

DEPUTY TAHSILDARS (CIVIL SUPPLIES)

- i) Ensuring timely filing of D.Ds. by F.P. shop dealers.
- ii) Ensuring proper distribution by F.P. shop dealer i.e. rate, quantum, quality.
- iii) Booking of cases on diversion, hoarding and black marketing.
- iv) Ensuring Mill Levy.
- v) Collecting market information on availability and prices.
- vi) Inspection of fair price shop and dealers in kerosene wholesale and retail and petroleum products.
- vii) Inspection of Mandal Level Stock points.

MANDAL REVENUE OFFICER

- i) Ensuring lifting by all F.P. shop dealers in time and if necessary by making alternate arrangements for shops vacant or failed, with the prior approval of R.D.O.
- ii) Ensuring proper distribution at fixed rates, ensuring quantum and ensuring quality.
- iii) Issue of retail licences after proper enquiry in respect of foodgrains, sugar, pulses, edible oils, oil seeds and P.D.S. kerosene.
- iv) Convening Mandal Level Food Advisory Committee meetings and ensuring service of intimation in time to members.
- v) Sending of minutes of Mandal level to R.D.O. and Collector (CS), consolidating and reporting minutes of village level F.A.C. meeting.
- vi) Convening Municipal, ward level meetings.
- vii) Ensuring repayment of bank loans taken by dealers.

- viii) Sending required periodical reports, particularly, on opening balances, offtake, prices, cards weeded out, mill levy and ensuring proper functioning of mills.
- ix) Inspection of M.L.S. Points every month.
- x) Inspection of F.P. shops personally and also all other shops atleast once in a month.
- xi) Ceiling of stock registers and sale registers, collecting used sale registers of the previous month on 1st after distribution.

REVENUE DIVISIONAL OFFICER: (AUTHORITY EMPOWERS UNDER CLAUSE 3 OF A.P.S.C.(RDCE) ORDER)

- i) Ensuring timely lifting and getting alternate arrangements in case of failure. Taking action for non lifting, diversion by dealers. Conduct of Food Advisory Committee meetings at Mandal level and Municipal level.
- ii) Inspection of F.P. shops, M.L.S.points, levy rice mills and other wholesale dealers in petroleum products, food grains.
- iii) Sending periodical reports to Collector on inspection of F.P. shops, filling up of vacancies, bank loans, action taken on dealers etc.
- iv) Issue of authorisations to F.P.shops and renewal.
- v) Proposals for creation of new shops examining all facts.

All offences under E.C.Act are cognizable and non-bailable, till 1997 amendment.

Under the various Control Orders issued by State Government and delegation issued under Central Government order in almost all the Control Orders, the authority empowered for booking cases is the officer not below the rank of Revenue Inspector in the District.

*If your plan is for one year, plant rice,
If your plan is for ten years, plant trees,
If your plan is for hundred years,
EDUCATE PEOPLE.*

- Edmond Burke



Resolving differences

EXCELLENCE

**"Excellence is the gradual result of
always striving to do better"**

-Pat Riley